
**AMENDED AND RESTATED BRUCE POWER
REFURBISHMENT IMPLEMENTATION AGREEMENT**

Between

BRUCE POWER L.P.

- and -

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

DATED as of the 3rd day of December, 2015

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AMENDED AND RESTATED BRUCE POWER REFURBISHMENT IMPLEMENTATION AGREEMENT

This Amended and Restated Bruce Power Refurbishment Implementation Agreement is dated as of the 3rd day of December, 2015 between Bruce Power L.P. (the “**Generator**”), a limited partnership created under the laws of the Province of Ontario and as represented by its general partner, Bruce Power Inc., and the Independent Electricity System Operator (the “**Counterparty**”), a corporation without share capital existing under the *Electricity Act*.

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, among other things, the Refurbishment of, and Asset Management Work on, Units 3 to 8 of the Facility;

AND WHEREAS since May 12, 2001 the Generator has leased the Facility and operated and maintained the Facility, and has supplied Electricity therefrom to the IESO-Administered Markets;

AND WHEREAS the Generator, Bruce Power A L.P. (“**BALP**”) and the Ontario Power Authority (the “**OPA**”) entered into the Bruce Power Refurbishment Implementation Agreement dated as of the 17th day of October, 2005 (the “**Original BPRIA**”) as amended by the First Amending Agreement dated as of the 28th day of August, 2007, the Second Amending Agreement dated as of the 6th day of July, 2009, the Third Amending Agreement dated as of the 3rd day of February, 2011 and the Fourth Amending Agreement dated as of April 3, 2013 (the Original BPRIA, as so amended, is hereinafter referred to as the “**BPRIA**”);

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

AND WHEREAS prior to the Effective Date BALP will transfer substantially all of its assets, including all of its right, title and interest in the BPRIA, to the Generator, and the Generator will assume 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;

AND WHEREAS the Parties wish to amend and restate the BPRIA;

AND WHEREAS BALP has consented to such amendment and restatement;

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

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

In addition to the terms defined elsewhere herein, the following capitalized terms shall have the meanings stated below when used in this Agreement:

“AACE” means AACE International Inc. (formerly the Association for the Advancement of Cost Engineering) or its successors, which successors may include such Person that is determined by the Parties, each acting reasonably and in good faith, to be the preeminent, independent authority on cost and schedule management of projects.

“Abandonment” has the meaning ascribed to it in Section 11.2(a)(iii).

“Accelerated Asset Management Work” has the meaning ascribed to it in Exhibit 4.10.

“Accelerated Asset Management Costs” has the meaning ascribed to it in Exhibit 4.10.

“Accelerated Dispute Resolution” has the meaning ascribed to it in Exhibit 2.4(d).

“Acknowledgement and Consent” has the meaning ascribed to it in Section 13.3.

“Actual Annual Generation” has the meaning ascribed to it in Exhibit 4.3.

“Actual Annual Operating Costs” has the meaning ascribed to it in Exhibit 4.3.

“Actual Hourly Energy Payment” means the average hourly price in \$/MWh, determined on a sales weighted average basis by reference to the price that the Generator actually receives in respect of the Electricity from the Facility in an hour, including sales pursuant to Physical Delivery Contracts permitted pursuant to Section 1.10(b) and Financial Contracts in respect of Bruce Energy that are permitted pursuant to Section 1.10(b).

“Actual Planning Period per MWh Operating Costs” has the meaning ascribed to it in Exhibit 4.3.

“Adjusted Expected Annual Operating Costs” has the meaning ascribed to it in Exhibit 4.3.

“Adjusted Prior Unit Cost” means, in respect of a Unit to be Refurbished and as at the Refurbishment Lock-in Date of such Unit, the actual total Refurbishment Costs of the Unit, if any, that was Refurbished and that achieved Commercial Operation most recently before such Refurbishment Lock-in Date, as such actual Refurbishment Costs may be adjusted to reflect the following (without duplication):

- (a) increases or decreases in cost due to Unit-specific physical differences (including differences in radiation levels, differences in the design, location, layout or other characteristics of the Unit, and changes in the scope of enabling, associated and other work described in Exhibit 2.1) and differences in the means and methods of performing the work arising therefrom between the Unit to be Refurbished and such prior Refurbished Unit;

- (b) other than increases arising from a change in the means and methods of performing the work or the quantum or volume of work, increases in cost due to increases in the costs of labour, materials, equipment, machinery, supplies, services, contracted work, and subcontracted work, since the time of the Refurbishment Work of such prior Refurbished Unit that arise due to: (i) inflation, currency fluctuation, scarcity of supply, or any other cost escalation (including labour rate or wage increases); or (ii) increases in pricing from third-party contractors and suppliers for any reason;
- (c) increases in costs of particular work for the Unit to be Refurbished over the comparable work on such prior Refurbished Unit due to changes in any supplier, contractor or subcontractor of any tier undertaking such particular work or changes in the contracting strategy for the Unit to be Refurbished from the approach used on such prior Refurbished Unit, for any reason that is beyond the Generator's reasonable control;
- (d) increases in costs due to changes proposed by the Generator that are Beneficial to the Ratepayer;
- (e) decreases in costs due to Force Majeure events occurring during the Refurbishment Work of such prior Refurbished Unit;
- (f) increases in costs due to the inclusion of Contingency determined in accordance with Section 2.6 to the cost of the Refurbishment Work of the Unit to be Refurbished;
- (g) increases or decreases in costs due to differences in One-Time Costs for the Unit to be Refurbished from those on such prior Refurbished Unit;
- (h) subject to the Counterparty's approval to be provided in accordance with Section 2.4, increases in the expected Refurbishment Costs for the Unit to be Refurbished due to any other reason that is beyond the Generator's reasonable control, including increases in the costs to the Generator of performing the Refurbishment Work for the Unit to be Refurbished due to: (i) a Change of Law (including a Change of Law that constituted Force Majeure on a prior Unit); or (ii) the issuance of terms or conditions of any permit, certificate, impact assessment, licence, registration, authorization, consent or approval held or necessary to be held on behalf of the Generator; except where, and to the extent, in the case of either (i) or (ii) such Change of Law or issuance of terms or conditions was (x) in response to, or was implemented specifically to address, an act or omission on the part of the Generator that is contrary to Laws and Regulations (as such Laws and Regulations existed prior to such change) or (y) caused by the Generator's negligence or willful misconduct; and
- (i) an increase in the cost of the Unit to be Refurbished due to inclusion of Discriminatory Action Refurbishment Cost Increase to the extent same was not included in the payment of Discriminatory Action Compensation by virtue of Section 14.2(a)(i)(B);

where such increases or decreases in costs for the Unit to be Refurbished are determined by the Generator, acting in good faith, in accordance with Section 2.6.

“Adjusted Prior Unit Duration” means, in respect of a Unit to be Refurbished and as at the Refurbishment Lock-in Date of such Unit, the actual Refurbishment Duration of the Unit, if any, that was Refurbished and that achieved Commercial Operation most recently before such Refurbishment Lock-in Date, as such actual Refurbishment Duration may be adjusted to reflect the following (without duplication):

- (a) increases or decreases in duration due to unit-specific physical differences (including differences in radiation levels, differences in the design, location, layout or other characteristics of the Unit, and changes in the scope of enabling, associated and other work described in Exhibit 2.1) and differences in the means and methods of performing the work arising therefrom, between the Unit to be Refurbished and such prior Refurbished Unit;
- (b) decreases in duration due to Force Majeure events occurring during the Refurbishment Work of such prior Refurbished Unit;
- (c) increases in duration of particular work for the Unit to be Refurbished over the comparable work on such prior Refurbished Unit due to changes in any supplier, contractor or subcontractor of any tier undertaking such particular work or changes in the contracting strategy for the Unit to be Refurbished from the approach used on such prior Refurbished Unit for any reason that is beyond the Generator’s reasonable control;
- (d) increases in duration proposed by the Generator that are Beneficial to the Ratepayer;
- (e) increases in duration due to the inclusion of Contingency determined in accordance with Section 2.6 to the duration of the Refurbishment Outage required for the Unit to be Refurbished;
- (f) increases or decreases in duration due to differences in duration associated with One-Time Costs for the Unit to be Refurbished from those on such prior Refurbished Unit;
- (g) subject to the Counterparty’s approval to be provided in accordance with Section 2.4, increases in the duration of performing the Refurbishment Work due to any other reason that is beyond the Generator’s reasonable control, including increases in the Refurbishment Duration due to: (i) a Change of Law (including a Change of Law that constituted Force Majeure on a prior Unit); or (ii) the issuance of terms or conditions of any permit, certificate, impact assessment, licence, registration, authorization, consent or approval held or necessary to be held by or on behalf of the Generator; except where, and to the extent, in the case of either (i) or (ii), such Change of Law or issuance of terms or conditions was (x) in response to, or was implemented specifically to address, an act or omission on the part of the Generator that is contrary to Laws and Regulations (as such Laws and Regulations existed prior to such change) or (y) caused by the Generator’s negligence or willful misconduct; and
- (h) an increase in duration of the Unit to be Refurbished due to the inclusion of Discriminatory Action Refurbishment Duration;

where such increase or decrease in duration for the Unit to be Refurbished are determined by the Generator, acting in good faith, in accordance with Section 2.6.

“Adjustment Date” means April 1 of each Contract Year.

“Adjustment Event” means any event referred to in Article 4 or Section 15.2 that requires a Contract Price Adjustment.

“Adjustment to Generation Profile” means a Financial Model Adjustment to reflect a change in the expected generation of Electricity over the Term as a result of an Adjustment Event and that specifically redetermines the expected total Electricity generation of Bruce A and Bruce B over the remainder of the Term as a result of the applicable Adjustment Event.

“ADR Extension Period” has the meaning ascribed to it in Exhibit 2.4(d).

“Administrative Price” means the price established by the System Operator applicable for the Facility in the circumstances referred to, and in accordance with, the IESO Market Rules, or the equivalent price made available by the System Operator if the System Operator does not establish such price, which price is a substitute for HOEP during any period of time during which HOEP is temporarily unavailable or cannot otherwise be determined by the System Operator on an interim basis.

“Affiliate” means, in respect of any Person, any other Person that: (i) Controls such Person; (ii) is Controlled by such Person; or (iii) is Controlled by the same Person that Controls such Person; and, for the purposes of this definition, in the case of BPC Generation Infrastructure Trust, in its capacity as a Limited Partner, includes OMERS Administration Corporation (**“OMERS”**) and any Person in which OMERS, directly or indirectly, has an ownership interest or beneficiary's interest representing more than 50% of the economic value of such Person, but excluding Bruce Power Inc., the Generator's general partner, and the Generator.

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

“Ancillary Agreements” means the HWAS Agreement, the Used Fuel Agreement and the L&ILW Agreement.

“Ancillary Service” has the meaning ascribed to it in the IESO Market Rules, and shall, in any event, include frequency control, voltage control, reactive power and operating reserve.

“Applicable Discount Rate” means, at a particular time of determination and with respect to certain cash in-flows and cash out-flows of the Generator, the following discount rates:

- (a) for cash in-flows and cash out-flows of the Generator relating to or associated with the Return Period 2 Adjustments, a discount rate equal to the Rate of Return determined in accordance with Exhibit 4.6 on the Refurbishment Lock-in Date for the Third Unit or the First ARR Date, as the case may be;
- (b) for cash in-flows and cash out-flows of the Generator relating to or associated with the Return Period 3 Adjustments, a discount rate equal to the Rate of Return

determined in accordance with Exhibit 4.6 on the Refurbishment Lock-in Date for the Fifth Unit or the Second ARR Date, as the case may be; and

- (c) for all other cash in-flows and cash out-flows of the Generator, the figure set forth in Section 1.1(1) of the Technical Schedule.

“Applicable Impairment Discount Rate” means, at a particular time of determination and with respect to certain cash in-flows and cash out-flows of the Generator, the following discount rates:

- (a) for cash in-flows and cash out-flows of the Generator relating to or associated with the Return Period 2 Adjustments, a discount rate equal to the Rate of Return determined in accordance with Exhibit 4.6 on the Refurbishment Lock-in Date for the Third Unit or the First ARR Date, as the case may be, minus 475 bps;
- (b) for cash in-flows and cash out-flows of the Generator relating to or associated with the Return Period 3 Adjustments, a discount rate equal to the Rate of Return determined in accordance with Exhibit 4.6 on the Refurbishment Lock-in Date for the Fifth Unit or the Second ARR Date, as the case may be, minus 475 bps; and
- (c) for all other cash in-flows and cash out-flows of the Generator, the figure set forth in Section 1.1(2) of the Technical Schedule;

“Approved Procurement Strategy” has the meaning ascribed to it in Section 2.18(a).

“Arbitral Tribunal” has the meaning ascribed to it in Exhibit 18.2.

“Arm’s Length” means, with respect to two or more Persons, that such Persons are not related to each other within the meaning of subsections 251(2)(b), 251(2)(c), (3), (3.1), (3.2), (4) and (5) of the ITA or that such Persons, as a matter of fact, deal with each other at a particular time at arm’s length.

“Asset Management Costs” means, in respect of Units 3 to 8, inclusive, all costs and expenses of the Generator, whether direct or indirect, of any nature or kind, incurred in connection with, arising from, or related to the Asset Management Work of such Units, determined on an accrual basis in accordance with GAAP, and including development, design, engineering, procurement, project management, construction, installation, hedging for currency relating solely to Asset Management Costs and materials to be used in the Asset Management Work (but, for certainty, not for speculative purposes), commissioning, inspection, refurbishment, upgrade, testing and replacement costs and expenses, whether capitalized or expensed by the Generator, but excluding staff costs of employees of the Generator whose compensation has previously been included as staff costs for the purposes of determining Base Operating Costs, except to the extent that such employees have been replaced by one or more individuals performing substantially similar duties, and excluding other Base Operating Costs that would have been incurred at the same time such Asset Management Work is undertaken irrespective of whether or not the Asset Management Work was undertaken.

“Asset Management Work” means the activities specified in Exhibit 2.11(a) which are to be undertaken by the Generator only once on each of Units 3 to 8 and on the Facility-Specific Common Assets during the time period for each such Unit as specified in Exhibit 2.11(a) in order to manage the lives of each of such Units until its respective Refurbishment and

thereafter. **“Asset Management Work”** has a corresponding meaning when used to refer to multiple Units. For certainty, Asset Management Work on a Unit may occur during the Refurbishment Outage for such Unit.

“Assignee” has the meaning ascribed to it in Section 18.7(d).

“Assignor” has the meaning ascribed to it in Section 18.7(d).

“Average Base Salary” means, in respect of a calendar year, the average annual base salary of the Generator’s employees calculated as at the end of such calendar year. Such amount will be calculated by dividing the aggregate amount paid by the Generator as base salary to all of its employees in such calendar year by the number of employees that the Generator had (in full time equivalents) in such year. For greater certainty, base salary does not include pension, Other Post-Employment Benefits, overtime, “your Share” bonuses, management bonuses, employer contributions to source deductions, or long-term incentive plans. The average base salary for the calendar year 2014 was the amount set forth in Section 1.1(3) of the Technical Schedule.

“BALP” has the meaning ascribed to it in the recitals.

“Base Estimate” means: (i) in respect of the costs of a Refurbishment, the Generator’s estimate of the Refurbishment Costs before adding any Contingency; (ii) in respect of any Asset Management Work for any Planning Period N or Planning Period N+1, the Generator’s estimate of the Asset Management Costs for such Planning Period N or Planning Period N+1, as the case may be, in either case before adding any Contingency; and (iii) in respect of the Refurbishment Duration, the Generator’s estimate of the Refurbishment Duration before adding any Contingency.

“Base Operating Costs” has the meaning ascribed to it in Schedule B to Exhibit 4.3.

“Base Rent” means the Base Rent, as defined in the OPG Lease, payable by the Generator pursuant to the OPG Lease.

“Base Rent Adjustment” has the meaning ascribed to it in Section 2.20(a).

“Basis of Estimate Report” means a report issued by the Generator containing detailed information to support its estimates of Refurbishment Costs, Refurbishment Duration, Adjusted Prior Unit Cost and Adjusted Prior Unit Duration, if applicable for a Unit, such report to be substantially in the form of the template attached hereto as Exhibit 1.1(a).

“BAR” means, for any given Month during the Term, the revenue from Bruce Energy actually receivable by the Generator in respect of such Month as calculated in accordance with Exhibit 4.2.

“BCR” means, for any given Month during the Term, the Facility contract revenue as calculated in accordance with Exhibit 4.2.

“Beneficial to the Ratepayer” means that at the time such determination is being made in respect to a particular Unit:

- (a) the proposed increase in the cost of the Refurbishment of such Unit as a result of the subject change will be offset by a shorter Refurbishment Duration for such Unit, or reduced Operating Costs in respect of such Unit over the life of the Unit, or extended life of such Unit, or increased generation over the life of the Unit, or any combination thereof; or
- (b) a proposed increase in the Refurbishment Duration as a result of the subject change will be offset by lower Refurbishment Costs of such Unit, or reduced Operating Costs in respect of such Unit over the life of the Unit, or extended life of such Unit, or increased generation over the life of the Unit, or any combination thereof;

in either case contemplated by the foregoing clause (a) or clause (b), or both, that result in a smaller Contract Price Adjustment in respect of the Refurbishment, Operating Costs and generation of such Unit in accordance with the provisions of Section 4.8 than otherwise would have been the case without such increase in cost or duration. For greater certainty, the determination of whether a change proposed by the Generator is “Beneficial to the Ratepayer” is made at the time of consideration and is not retested, re-examined or reviewed thereafter.

“**BP EPRB**” means the management group established by the Generator to provide oversight, guidance and review of each Refurbishment and to support and assist the Generator’s Chief Executive Officer in his accountability for each Refurbishment, known as at the date hereof as the “**Bruce Power Executive Project Review Board**”, and any successor committee.

“**BP Project Management Guidelines**” means the Generator’s internal project estimating guidelines known as BP-PROC-14448, BP-PROC-14447, BP-PROC-14446, BP-PROC-14445, BP-PROC-14442 and BP-PROC-14460 as at the date hereof, as such guidelines may be updated or otherwise modified or replaced from time to time, provided that such updates or modifications or replacements are not materially inconsistent with the guidelines of the AACE.

“**BPRIA**” has the meaning ascribed to it in the recitals.

“**Bruce A**” or “**Bruce A Units**” means Units 1, 2, 3 and 4 and the electrical generating units paired with such Units and designated as “unit generator 1” to “unit generator 4”, inclusive.

“**Bruce B**” or “**Bruce B Units**” means Units 5, 6, 7 and 8 and the electrical generating units paired with such Units and designated as “unit generator 5” to “unit generator 8”, inclusive.

“**Bruce Energy**” means, in any hour, (i) the net amount of Electricity generated by the Generator from Bruce A and Bruce B as measured at the Points of Delivery, and (ii) any Deemed Electricity as provided in Section 6.1 attributable to Bruce A and Bruce B, or either of them, for such hour.

“**Bruce Energy Congestion Revenue**” has the meaning ascribed to it in Section 6.1(b).

“**Bruce Power Pension Plan**” means the Bruce Power Pension Plan, identified as Canada Revenue Agency registration number 1072954, as amended, supplemented or replaced from time to time.

“Bruce Power Supplementary Pension Plan” means the Bruce Power Supplementary Pension Plan, effective as of May 12, 2001 and dated April 18, 2008, as amended, supplemented or replaced from time to time.

“Building Trades” means the building trade unions, councils and locals, as applicable, listed in Exhibit 1.1(b), or their respective successors, which successors may include such unions, councils or locals as may be reconstituted by its members or another trade union or council of trade unions or locals providing the same or similar services to the Generator.

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

“By-products” means radioactive isotopes (including Cobalt 60, Carbon 14 and Molybdenum 99), non-radioactive isotopes (including Oxygen 18), steam and hot water.

“Capacity Products” means any products related to the rated continuous load-carrying capability, expressed in MW, of an electrical generating unit to generate and deliver Electricity at a given time.

“CAS Instructions” means the set of sequential instructions attached as Exhibit 1.1(d) explaining how to effect the Financial Model Adjustments necessary to determine Contract Price Adjustments.

“Change of Law” means:

- (a) any coming into force of, or change in Laws and Regulations by any Governmental Authority, including any coming into force or change in regulatory standards and requirements; or
- (b) any change in the interpretation, implementation, application or administration by a Governmental Authority of any Laws and Regulations, including any judgment or order of a court of law, commission or tribunal having jurisdiction in the relevant circumstances.

“Clawback Payment” means the aggregate incremental amount that has been paid to the Generator in respect of a particular Unit due to the Contract Price Adjustment that has been made pursuant to Section 4.8(b) in respect of such Unit from the Adjustment Date on which such Contract Price Adjustment was effected up to the Adjustment Date referenced in Section 10.2(b) less the amount of any Suspended EOD Payments forever forfeited pursuant to Section 11.2(a)(iii), which amount shall be calculated as follows:

$$\text{Clawback Payment} = (A \times B) + C - D$$

where:

A = the amount of the increase to the Contract Price that was initially made following the Go Election for such Unit in accordance with Section 4.8(b), as adjusted by any Contract Price Adjustments made for such Unit thereafter in accordance with Clause 3(f) of Exhibit 4.8;

B = the total Bruce Energy, expressed in MWh, generated during the period commencing on the Adjustment Date immediately following the Go Election for such Unit and ending on the Adjustment Date referenced in Section 10.2(b);

C = the amount of any Unit Cost Overages for such Unit that have been funded by the Counterparty pursuant to Section 9.1(e); and

D = the aggregate amount of any Suspended EOD Payments forever forfeited pursuant to Section 11.2(a)(iii) at the time of the calculation of the Clawback Payment.

“CNSC” means the Canadian Nuclear Safety Commission, or its successors, which successors will include any relevant Governmental Authority exercising similar powers to the Canadian Nuclear Safety Commission.

“Commercial Operation” has the meaning ascribed to it in Section 2.9(a).

“Commercial Operation Date” means, in respect of a Unit, the date on which Commercial Operation of such Unit is first attained following the Refurbishment thereof.

“Commercially Reasonable Efforts” means efforts which are designed to enable a Party, directly or indirectly, to perform its obligations under this Agreement and which do not require the performing Party to expend any funds or assume liabilities other than expenditures and liabilities which are reasonable in nature and amount in the context of the obligations to be performed.

“Commodity Taxes” means all applicable federal, provincial, territorial, state and municipal taxes and any other taxes, duties, special import measures, fees, levies, premiums or other charges imposed by any Governmental Authority, whether direct or indirect, in respect of a property or service, including those levied on or measured by, or referred to as, sales, use, consumption, HST, PST, ad valorem, value added, excise, stamp, surtaxes and gross receipt taxes.

“Common Adjustment Schedule” or **“CAS”** means the input worksheet under the tab entitled **“CAS”** in the then current Financial Model.

“Common Facilities” means the lands described as OPG-Huron Common Facilities Inc. lands in Schedule 2.1 of the OPG Lease, together with all premises, equipment and improvements located thereon and any easements appurtenant thereto.

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

“Connection Agreements” means the transmission connection agreements with the Transmitter, as such agreements may be amended, restated or replaced from time to time, with respect to the connection of the Facility to the Transmission System in accordance with the Transmission System Code and governing the terms and conditions of such connection.

“Connection Costs” means the Refurbishment Costs attributable to connecting Bruce A and Bruce B to the IESO-Controlled Grid at the Point of Delivery, excluding any System Upgrade Costs, as determined in accordance with the Transmitter’s policies and procedures, as applicable, and by the OEB, if necessary.

“Contingency” means, in respect of any estimate of cost or duration, a dollar amount or number of days, as the case may be, added to such estimate to cover risks, uncertainties and unforeseen elements of cost or duration. For purposes hereof, Contingency includes amounts for both: (i) known conditions and risks (known unknowns); and (ii) management reserves for unknown conditions (unknown unknowns). For greater certainty, Contingency does not include estimates and assumptions used in determining a Base Estimate as determined by the Generator acting in good faith, similar to those used to produce the Basis of Estimate Report attached hereto as Exhibit 1.1(a).

“Contingent Support Payment” is a payment calculated pursuant to Exhibit 4.2 and to be made by the Counterparty to the Generator pursuant to Section 4.2(a).

“Contract Price” means, from and including the first hour of the Effective Date, the sum of CPIAP, WREAP and NEP, which on the Effective Date is \$56.40 per MWh, as adjusted from time to time pursuant to Contract Price Adjustments.

“Contract Price Adjustment” means any Contract Price adjustment made or, if the context so requires, proposed to be made, on an Adjustment Date in accordance with Article 4 or Section

15.2, comprising, as applicable, (a) an adjustment of CPIAP from and including the first hour of such Adjustment Date, (b) an adjustment of WREAP from and including the first hour of such Adjustment Date, and (c) an adjustment of NEP from and including the first hour of such Adjustment Date.

“Contract Price Adjustment Ledger” means the sheet included in the Financial Model that sets forth the initial Contract Price and any Contract Price Adjustments thereto in accordance with Section 4.14.

“Contract Price Off-Ramp Date” means, with respect to a Terminated Unit, the date that is three (3) months after (i) the Unit Extension EOL Date of such Terminated Unit if the Counterparty has elected that the Generator proceed with a Unit Extension Plan with respect thereto, or (ii) the Scheduled Refurbishment Outage Date of such Terminated Unit if the Counterparty has elected or been deemed to have elected that the Generator proceed with the Off-Ramp Lamp with respect thereto.

“Contract Year” means a consecutive twelve (12) Month period during the Term which begins at the beginning of the hour ending 01:00 (eastern standard time) on January 1, and ends at 24:00 (eastern standard time) on December 31. The first Contract Year shall commence on the Effective Time and end at 24:00 (eastern standard time) on December 31, 2016 and the last Contract Year shall end at 24:00 (eastern standard time) on the last day of the Term.

“Control” means, with respect to any Person or Party at any time, (i) holding, as owner or other beneficiary, other than solely as the beneficiary of an unrealized security interest, directly or indirectly, securities, ownership or similar interests of that Person or Party carrying votes or ownership interests sufficient to elect or appoint the majority of individuals who are responsible for the supervision or management of that Person or Party, (ii) the exercise of de facto control of that Person or Party, whether direct or indirect and whether through the ownership of securities, ownership or similar interests, by contract or trust or otherwise, or (iii) in the case of the Counterparty, includes any Person that otherwise directs the supervision and management of the Counterparty and includes the Government of Ontario.

“Counterparty” means the IESO and its successors and permitted assigns.

“Counterparty Cost Threshold” means, in respect of the Refurbishment of each Unit, an amount equal to the sum of: (a) the product of 130% and the difference between the Unit Threshold Base Amount for the subject Unit and the applicable One-Time Costs associated with such Unit, and (b) the product of 120% and the applicable One-Time Costs associated with such Unit. For certainty, assuming that the order of Refurbishment is as set forth in Exhibit 9.1, the Counterparty Cost Threshold for each Unit will be the amount set forth in Exhibit 9.1, as escalated pursuant to Section 4.5 and Exhibit 4.5.

“Counterparty Cure Period” has the meaning ascribed to it in Section 11.4(a)(ii).

“Counterparty Duration Threshold” means, in respect of the Refurbishment of a Unit, the period in months set forth beside the subject Unit as follows:

First Unit	-	fifty-four (54) months
Second Unit	-	forty-eight (48) months
Third Unit, Fourth Unit, Fifth Unit and	-	forty-two (42) months

Sixth Unit;

provided that if there has occurred a Discriminatory Action there shall be added to the number of months set forth beside the subject Unit the reasonable increase in the Refurbishment Duration resulting therefrom; which for greater certainty shall be the Discriminatory Action Refurbishment Duration Increase following the final determination thereof in accordance with the provisions of Section 14.3.

“Counterparty Event of Default” has the meaning ascribed to it in Section 11.3.

“Counterparty Extension Period” has the meaning given to it in Section 9.4.

“Counterparty Indemnitees” has the meaning ascribed to it in Section 16.3(b).

“Counterparty’s Proposed Discriminatory Action Compensation Amount” has the meaning ascribed to it in Section 14.3(d).

“Counterparty’s Proposed Relevant Change of Law Compensation Amount” has the meaning ascribed to it in Section 15.3(d).

“Counterparty Site Representative” means one or more Representatives of the Counterparty that have been assigned by the Counterparty to participate in the management of the Counterparty’s rights under this Agreement, including managing the Counterparty’s due diligence, audit and inspection rights.

“Counterparty Statement” has the meaning ascribed to it in Section 13.2(g).

“Counterparty Suspended Payments” has the meaning ascribed to it in Section 11.4(a)(ii).

“Counterproposal” has the meaning ascribed to it in Section 2.18(d).

“CPI” means the ratio of the cost of a fixed set of commodities purchased by consumers in the Province of Ontario in a particular time period to the cost of such commodities in a base period as reflected by the Consumer Price Index for Ontario (all items) published by Statistics Canada (or by any successor thereof) from time to time. The series number for CPI as at the date hereof is 326-0021.

“CPI Adjustment Portion” or **“CPIAP”** has the meaning ascribed to it in Exhibit 4.4.

“Cure Date” has the meaning ascribed to it in Section 11.2(a)(iii)(A).

“Daily LD Amount” has the meaning ascribed to it in Section 2.10(a).

“DA Notice of Dispute” has the meaning ascribed to it in Section 14.3(b).

“DA Material Adverse Effect” has the meaning ascribed to it in Section 14.1.

“Day-Ahead Energy Forward Market” means a forward market, established under the IESO Market Rules or otherwise, for Electricity or for Electricity and Related Products for each hour of a given day, that clears the day before based upon submitted bids to buy and offers to sell.

“DC Fee” has the meaning ascribed thereto in Section 2.16(d), as such amount may be adjusted from time to time in accordance with Sections 2.16(d), 4.5 and Exhibit 4.5.

“Deemed Electricity” has the meaning ascribed to it in Section 6.1(a).

“Defaulting Party” has the meaning ascribed to it in Section 11.5(a).

“Delay Set-off” has the meaning ascribed to it in Section 11.2(a)(iii).

“Discriminatory Action” has the meaning ascribed to it in Section 14.1.

“Discriminatory Action Compensation” has the meaning ascribed to it in Section 14.2.

“Discriminatory Action Compensation Dispute Notice” has the meaning ascribed to it in Section 14.3(d).

“Discriminatory Action Refurbishment Cost Increase” has the meaning ascribed to it in Section 14.3(a)(iv).

“Discriminatory Action Refurbishment Duration Increase” has the meaning ascribed to it in Section 14.3(a)(v).

“Discriminatory Action Set Date” has the meaning ascribed to it in Section 14.1.

“Discriminatory Action Taxes” means all Taxes and all taxes based on profits, net income or net worth.

“Dispatch Instruction” means a dispatch instruction as defined in the IESO Market Rules.

“Disruption Event” has the meaning ascribed to it in Section 6.1(a).

“Dynamic Capabilities” means, collectively: (i) the Offer by the Generator of Flexible Nuclear Generation in compliance with Section 2.16(a)(i); and (ii) the Offer by the Generator of Electricity in compliance with Section 2.16(a)(ii).

“Dynamic Capabilities Payment” is a payment calculated pursuant to Exhibit 4.2 and to be made by the Counterparty to the Generator pursuant to Section 4.2(c).

“EA Force Majeure” has the meaning ascribed to it in Section 12.4(b).

“Early Termination Damages” means the damages of the Terminating Party that are or would be incurred under then prevailing circumstances in replacing, or in providing the Terminating Party the economic equivalent of, the provisions of Article 4 of this Agreement, including the Monthly Payments that would, but for the occurrence of the relevant Early Termination Date, have been received or made pursuant to Article 4 after that date.

“Early Termination Date” has the meaning ascribed to it in Section 11.5(a).

“Early Termination Payment” has the meaning ascribed to it in Section 11.5(b).

“Effective Date” means January 1, 2016, being the date the amendment and restatement of the BPRIA shall become effective in accordance with Section 10.1(a).

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

“Effectively Decommissioned” means that a Unit has been laid up or shut down such that it will be out of service for an indefinite period of time without reasonable expectation of restart.

“Electricity” means electric energy.

“Electricity Act” means the *Electricity Act, 1998* (Ontario).

“Emission Reduction Credits” means the credits associated with the amount of emissions to the air avoided by reducing the emissions below the lower of actual historical emissions or regulatory limits, including “emission reduction credits” as defined in O. Reg. 397/01 made under the *Environmental Protection Act* (Ontario), or such other regulation as may be promulgated under the *Environmental Protection Act* (Ontario).

“Encumbrance” means any mortgage, charge, hypothec, pledge, security interest, assignment by way of security, lien, trust and encumbrance of any nature whatsoever, howsoever arising, and “Encumber” has a corresponding meaning.

“End of Life Date Revision Decision Point” has the meaning ascribed to it in Exhibit 4.11.

“Environmental Assessment” means any process by which one or more relevant Governmental Authorities determines in accordance with Laws and Regulations whether an applicant will, in carrying out an activity, make adequate provisions for the protection of the environment or the health and safety of Persons, or both, which process may commence with an application or notice by such applicant, may include consultation with relevant Persons and opportunities for participation by the public, and concludes with the issuance of a final, unappealable conclusion or decision by the relevant Governmental Authority, which conclusion or decision may include the issuance, renewal or extension of a licence, a written conclusion summary, a “commission member document”, or an Environmental Assessment decision.

“Environmental Attributes” means environmental attributes associated with Bruce A and Bruce B having low environmental impact, and includes:

- (a) rights to any fungible or non-fungible attributes, whether arising from the generating facility itself, from the interaction of the generating facility with the IESO-Controlled Grid or the Local Distribution System or because of applicable legislation or voluntary programs established by Governmental Authorities;
- (b) any and all rights relating to the nature of the energy source as may be defined and awarded through applicable legislation or voluntary programs. Specific environmental attributes include ownership rights to Emission Reduction Credits or entitlements resulting from interaction of the generating facility with the IESO-Controlled Grid or the Local Distribution System or as specified by applicable legislation or voluntary programs, and the right to quantify and register these with competent authorities; and
- (c) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing, including tax credits.

“EOD Date” has the meaning ascribed to it in Section 11.2(a)(iii)(A).

“EOD Date + 6” has the meaning ascribed to it in Section 11.2(a)(iii)(B)(1).

“EOD Date + 12” has the meaning ascribed to it in Section 11.2(a)(iii)(B)(2).

“EOD Month” has the meaning ascribed to it in Section 11.2(a)(iii)(A).

“EPSCA” means the Electrical Power Systems Construction Association or its successors, which successors may include such association as it may be reconstituted by its members or replaced by another Person party to a labour agreement with certain trade unions or councils of trade unions governing construction tradework performed at electrical power generation facilities, including the Facility.

“ETA” means Part IX of the *Excise Tax Act* (Canada).

“Event of Default” means a Counterparty Event of Default or a Generator Event of Default, as the case may be.

“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); (ii) the intangible property, inventory, activities, undertakings, revenues and goodwill related to the production or sale of By-products; and (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 in the case of (i) and (iii) above, includes the assets, property, personnel, inventory, revenue and goodwill related thereto.

“Expected Annual Operating Costs” has the meaning ascribed to it in Exhibit 4.3.

“Expected Planning Period per MWh Operating Costs” has the meaning ascribed to it in Exhibit 4.3.

“Expected End-of-Life Date” means, in respect of a Unit, the approximate date on which such Unit is predicted by the Generator to start to be Effectively Decommissioned, which as at the date hereof is as follows:

Units 1 and 2:	December 31, 2043
Unit 3:	December 31, 2061
Unit 4:	December 31, 2062
Unit 5:	December 31, 2062
Unit 6:	December 31, 2058

Units 7 and 8: December 31, 2063

“Facility” means the Bruce nuclear power generation facilities leased and operated by the Generator and located near Tiverton, Ontario which comprises Bruce A, Bruce B and the Common Facilities.

“Facility-Specific Common Assets” means the facilities, assets, systems and equipment common to either the Bruce A Units or the Bruce B Units, as the case may be, including unit zero, fuel route and the control systems.

“Fifth Unit” means the fifth Unit to be Refurbished, which as at the date hereof is expected to be Unit 7.

“Final Completion” means final completion of a Refurbished Unit, being the earlier of: (i) the date that is 24 months after the Commercial Operation Date of such Refurbished Unit; and (ii) after the Commercial Operation Date, the date of completion of all punch list items in respect of Refurbishment of such Refurbished Unit.

“Financial Contracts” has the meaning ascribed to it in Section 2.15(b).

“Financial Model” means the Original Financial Model as the same may change from time to time in response to a Financial Model Adjustment or in accordance with the provisions of Exhibit 1.1(c).

“Financial Model Adjustment” means any adjustment from time to time to the then current Financial Model resulting from an Adjustment Event to reflect the impact of such Adjustment Event.

“FIPPA” means the *Freedom of Information and Protection of Privacy Act* (Ontario).

“First ARR Date” has the meaning ascribed to it in Exhibit 4.6.

“First Unit” means the first Unit to be Refurbished, which as at the date hereof is expected to be Unit 6.

“Fixed Asset Management Costs” has the meaning ascribed to it in Exhibit 4.10.

“Flexible Nuclear Generation” means the component of the Facility that has flexibility for reductions due to the operation of condenser steam discharge valves, and that is made available, in accordance with Section 2.16, at the sole discretion of the Generator to manoeuvre without requiring a Unit to shut down under normal operations, while respecting safety, technical, equipment, environmental and regulatory restrictions.

“Force Majeure” has the meaning ascribed to it in Section 12.4.

“Force Majeure – Eligible Asset Management Work” means: (i) all Asset Management Work in respect of a Unit that occurs between the Refurbishment Outage Date and the Commercial Operation Date of such Unit; (ii) the specific components of Asset Management Work listed in Exhibit 12.4; and (iii) any work listed under the heading of Balance of Plant on Exhibit 2.1 and that is carried out on a Terminated Unit pursuant to a Unit Extension Plan.

“Forfeited Counterparty Suspended Payments” has the meaning ascribed to it in Section 11.4(a)(ii).

“Forfeited Generator Suspended Payments” has the meaning ascribed to it in Section 11.2(a)(ii).

“Fourth Unit” means the fourth Unit to be Refurbished, which as at the date hereof is expected to be Unit 5.

“Front-end Fuel Costs” means, for any given Month during the Term, the total all-in costs and expenses incurred by the Generator in respect of the delivered fuel used for the production of Bruce Energy for such Month, including in respect of fuel procurement, supply, processing, enrichment, conversion, fabrication, scrap processing, administration, permitting, interest, transportation and licensing, and all other costs and expenses incurred pursuant to and in accordance with the Specified Fuel Supply Arrangements, including Taxes (other than the amount of Commodity Taxes recovered by the Generator) applicable to the foregoing.

“Fuel Amendment Notice” has the meaning ascribed to it in Section 2.18(c).

“Fuel Supply Variations” has the meaning ascribed to it in Section 2.18(a).

“Fully-Scoped Refurbishment Cost” means, in respect of a Unit, the lesser of: (i) the Refurbishment Costs, comprising the Base Estimate and Contingency determined in accordance with Section 2.6, estimated by the Generator, acting in good faith, as at the applicable Refurbishment Lock-in Date, as the Refurbishment Costs to be incurred by it in undertaking the Refurbishment Work for such Unit; and (ii) the Adjusted Prior Unit Cost, if applicable for such Unit.

“Fully-Scoped Refurbishment Duration” means, in respect of a Unit, the shorter of: (i) the duration, comprising the Base Estimate and Contingency determined in accordance with Section 2.6, estimated by the Generator, acting in good faith, as at the applicable Refurbishment Lock-in Date, as the total duration of the expected Refurbishment Outage required for such Unit; and (ii) the Adjusted Prior Unit Duration, if applicable for such Unit.

“Fully-Scoped Unit” has the meaning ascribed to it in Section 9.1(a).

“GAAP” means generally accepted accounting principles approved or recommended from time to time by the Chartered Professional Accountants of Canada, or its successors, applied on a consistent basis, and, for the avoidance of doubt, includes International Financial Reporting Standards as adopted by the Chartered Professional Accountants of Canada until such time as such standards are no longer recommended by the Chartered Professional Accountants of Canada or a successor organization and in such event it shall mean such other generally accepted accounting principles as may be adopted by the Chartered Professional Accountants of Canada or such successor organization.

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

“Generator Accelerated Dispute Notice” has the meaning ascribed to it in Section 2.4(d).

“Generator Cost Threshold” means, in respect of the Refurbishment of a Unit, an amount equal to 150% of the Unit Threshold Base Amount of such Unit. For certainty, assuming that

the order of Refurbishment is as set forth in Exhibit 9.1, the Generator Cost Threshold for each Unit will be the amount set forth in Exhibit 9.1, as escalated pursuant to Section 4.5 and Exhibit 4.5.

“Generator Cure Period” has the meaning ascribed to it in Section 11.2(a)(ii).

“Generator Event of Default” has the meaning ascribed to it in Section 11.1.

“Generator Indemnitees” has the meaning ascribed to it in Section 16.3(d).

“Generator Non-acceptance Notice” has the meaning ascribed to it in Section 14.3(d).

“Generator Suspended Payments” has the meaning ascribed to it in Section 11.2(a)(ii).

“Generator’s Interest” means the right, title and interest of the Generator in or to the Facility, the OPG Lease, and this Agreement, in whole or in part, or any proceeds, benefit or advantage of any of the foregoing.

“Go Election” means, in respect of a Unit to be Refurbished, the final election made by one of the Parties, or deemed to have been made by the Counterparty or Generator, as applicable, pursuant to Section 2.5(b), 9.1(a), 9.1(b), 9.1(c), 9.1(d) or 9.1(e), as the case may be, that results in the Refurbishment of such Unit proceeding.

“Good Engineering Practices” means any of the practices, methods and activities adopted by a significant portion of the North American electric generating industry as good practices applicable to, as the context in this Agreement requires, the refurbishment, asset management, operation, or all of the foregoing, of nuclear generating facilities of similar design, size and capacity or any of the practices, methods or activities which, in the exercise of skill, diligence, prudence and judgment by a prudent nuclear electric generator in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, expedition and Laws and Regulations. Good Engineering Practices are not intended: (i) to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather are intended to delineate practices, methods or acts generally accepted in the North American electric generating industry; and (ii) notwithstanding the immediately preceding clause (i), to prevent or discourage innovation in the undertaking of such practices, methods or activities provided that such innovation incorporates the exercise of skill, diligence, prudence and judgment by a prudent nuclear electric generator in light of the facts known at the time. Without limiting the generality of the foregoing, and in respect of the operation of the Facility or the Refurbishment Work or Asset Management Work undertaken in respect of any Unit, or all of the foregoing, Good Engineering Practices include taking steps to reasonably ensure that:

- (a) adequate materials, resources and supplies, including fuel, are available to meet the needs of the Facility or the Unit, as applicable, under reasonable conditions and reasonably anticipated abnormal conditions;
- (b) sufficient operating personnel are available and are adequately experienced and trained to operate the Facility or the Unit, as applicable, properly, efficiently and taking into account manufacturers’ guidelines and specifications and are capable of responding to reasonably anticipated abnormal conditions;

- (c) preventative, routine and non-routine maintenance and repairs are performed on a basis that promotes reliable long-term and safe operation and taking into account manufacturers' recommendations and are performed by knowledgeable, trained and experienced personnel utilizing proper equipment, tools and procedures; and
- (d) appropriate monitoring and testing is done to ensure equipment is functioning as designed and to provide reasonable confidence that equipment will function properly under both normal and reasonably anticipated abnormal conditions;

provided, however, that in no circumstances will the foregoing be construed as a warranty of quality, performance or fitness for purpose by the Generator.

"Government of Canada Yield" means, on any date, the arithmetic average of the yield to maturity (assuming semi-annual compounding) of the non-callable Canadian dollar denominated 30-year Government of Canada then benchmark bond for each Business Day of the six (6) month period ending on the Business Day prior to such date as published by the Bank of Canada (the series number of which as at the date hereof is CANSIM Series V39056); provided that if such yields are not available from the Bank of Canada, then the "Government of Canada Yield" shall mean the arithmetic average of the yield to maturity (offered side), (assuming semi-annual compounding), which a non-callable Government of Canada bond would earn if issued on such date and on the first Business Day of each of the five (5) months ending prior to the month in which such date falls, in Canadian dollars, in Canada at 100% of its principal amount with a thirty (30) year term to maturity, such arithmetic average yield determined by two members of the Investment Dealer's Association of Canada selected by the Generator for such purpose and acceptable to the Counterparty, acting reasonably, provided that in the event that the determinations of such two members are different, the simple average of the two determinations shall be used.

"Government of Ontario" means Her Majesty the Queen in right of Ontario.

"Governmental Authority" means any federal, provincial, municipal or local government, parliament or legislature, or any regulatory authority, agency, tribunal, commission, board or department of any such government, parliament or legislature, or any court or other law, regulation or rule-making entity, having jurisdiction in the relevant circumstances, including, for greater certainty, the CNSC, the System Operator, the OEB, the Electrical Safety Authority, and any Person acting under the authority of any Governmental Authority, and excluding, for greater certainty, the Counterparty in its capacity as counterparty to this Agreement or in any capacity other than: (i) as System Operator; or (ii) any other regulation or rule-making capacity that the Counterparty may have after the date hereof.

"Heavy Water Services" means detritiation services provided by OPG to the Generator pursuant to the terms of the HWAS Agreement.

"HOEP" or the **"Hourly Ontario Energy Price"** means the arithmetic average of the uniform Ontario energy prices determined for each of the twelve five-minute dispatch intervals in a particular hour and determined by the System Operator using the variables, data and formulae set forth in the IESO Market Rules in effect as of the date hereof. For the purposes of this Agreement, HOEP is expressed in dollars per MWh.

"HST" means the goods and services tax and harmonized sales tax levied under the ETA.

“HWAS Agreement” means the Amended and Restated Heavy Water and Associated Services Agreement to be dated as of December 4, 2015 between the Generator and OPG, together with any amendment, change, supplement, restatement, extension, renewal or modification thereof.

“HWAS Fees” means the fees, per kilogram, charged by OPG to the Generator pursuant to the HWAS Agreement, including Taxes (other than the amount of Commodity Taxes recovered by the Generator) for Heavy Water Services.

“IAEA” means the International Atomic Energy Agency or its successors.

“IESO” means the Independent Electricity System Operator, a corporation without share capital existing under the Electricity Act, or its successors.

“IESO-Administered Markets” means the markets established by the IESO Market Rules, or their successor markets.

“IESO-Controlled Grid” has the meaning ascribed to it in the IESO Market Rules.

“IESO Market Rules” means the rules governing the IESO-Controlled Grid and establishing and governing the IESO-Administered Markets, together with all market manuals, policies, interpretation bulletins and guidelines issued by the System Operator, as the same may be amended, restated, supplemented or superseded from time to time.

“Impairment” means that, using the then current Financial Model applied consistently with past practice, but updated to reflect the Generator’s actual experience to date and reasonable future expectations, the net present value of the projected after-tax nominal, unlevered cash in-flows and cash out-flows of the Generator, discounted at the Applicable Impairment Discount Rate, is zero (0) or less than zero (0).

“Impairment Dispute Period” has the meaning ascribed to it in Section 9.3(c).

“Impairment Notice” has the meaning ascribed to it in Section 9.3(b).

“Impairment Off-Ramp Notice” has the meaning ascribed to it in Section 9.3(d).

“including”, “includes” and “include” means “including (or includes or include), without limitation”.

“Incremental Bruce Energy” has the meaning ascribed to it in Section 2.8.

“Incremental Contract Price” has the meaning ascribed to it in Section 2.8.

“Indemnifiable Loss” has the meaning ascribed to it in Section 16.3.

“Indemnifying Party” has the meaning ascribed to it in Section 16.4(a).

“Indemnitees” means the Counterparty Indemnitees or the Generator Indemnitees, as applicable.

“Index Change Event” has the meaning ascribed to it in Section 1.11(a)(ii).

“INES Scale” means the International Nuclear and Radiological Event Scale developed by the IAEA and the Nuclear Energy Agency of the Organization for Economic Cooperation and Development and administered by the IAEA.

“Initial Lifetime Asset Management Plan” has the meaning ascribed to it in Section 2.11(b).

“Input” means, in respect of a Contract Price Adjustment, an input permitted pursuant to this Agreement, including pursuant to Sections 2.3(e), 2.5(a), 2.11(c), 3.1(b), 4.7(a), 4.14, 15.2 and Exhibits 2.4(d), 4.4, 4.5, 4.6, 4.7(a), 4.7(c), 4.8, 4.9, 4.10, 4.11, 4.12, 15.2 or 18.2, as the case may be, to be input in the CAS to effect the Financial Model Adjustment necessary to determine such Contract Price Adjustment.

“Insolvency Legislation” means the *Bankruptcy and Insolvency Act* (Canada), the *Winding Up and Restructuring Act* (Canada) and the *Companies’ Creditors Arrangement Act* (Canada) and any other bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditor’s rights and the bankruptcy, insolvency, moratorium, reorganization, creditor protection or similar laws of any other applicable jurisdiction, as they may be amended from time to time.

“Interest Rate” means the annual rate of interest established by The Bank of Nova Scotia or its successors (or the bank with which the Generator conducts day-to-day banking if The Bank of Nova Scotia and, if applicable, its successor, no longer exists) from time to time, as the interest rate it will charge for demand loans in dollars to its commercial customers in Canada and which it designates as its “prime rate” based on a year of three hundred and sixty-five (365) or three hundred and sixty-six (366) days, as applicable. Any change in such prime rate shall be effective automatically on the date such change is announced by The Bank of Nova Scotia or such successor or replacement bank.

“ITA” means the *Income Tax Act* (Canada).

“Laws and Regulations” means:

- (a) applicable federal, provincial or municipal laws, orders-in-council, by-laws, ordinances, codes, rules, policies, directions, standards having the force of law, requirements having the force of law, guidelines, regulations and statutes;
- (b) applicable orders, decisions, codes, judgments, injunctions, decrees, awards and writs of any Governmental Authority, arbitrator or other Person having jurisdiction;
- (c) applicable rulings and conditions of any licence, permit, certificate, registration, authorization, consent and approval issued by a Governmental Authority;
- (d) any requirements under or prescribed by applicable common law; and
- (e) applicable IESO Market Rules.

For the purposes hereof, having the force of law includes all standards and requirements that the Generator is required to comply with and that are incorporated by reference in any applicable licence, permit, certificate, registration, authorization, consent or approval (including the Generator’s Licence Conditions Handbook, as amended from time to time).

“LD Month” has the meaning ascribed to it in Section 2.10(a).

“Lifetime Asset Management Plan” or **“LAMP”** has the meaning ascribed to it in Section 2.11(b).

“Limited Partners” means the limited partners, from time to time, of the Generator.

“Local Distribution System” means a system for conveying Electricity at voltages of 50 kilovolts or less and includes any structures, equipment or other things used for that purpose.

“L&ILW Agreement” means the Amended and Restated Low and Intermediate Level Waste Agreement to be dated as of December 4, 2015 between the Generator and OPG, together with any amendment, change, supplement, restatement, extension, renewal or modification thereof.

“L&ILW Fees” means the per cubic meter fees charged by OPG to the Generator pursuant to the L&ILW Agreement, including Taxes (other than the amount of Commodity Taxes recovered by the Generator), for low and intermediate level waste (excluding any Refurbishment related waste) of the Generator delivered to OPG pursuant to the terms of the L&ILW Agreement.

“Locational Marginal Pricing” or **“LMP”** means the form of pricing of Electricity, as determined and modified by the System Operator from time to time, to be considered and implemented by the System Operator, if at all, based upon a non-uniform, real-time, price of Electricity received by generators of such Electricity at each point, node, zone or other price reference location on the IESO-Controlled Grid and having the effect that such real-time prices reflect the costs of transmission congestion.

“LVRF Payment Date” means May 31 and November 30 of each year from and after the date hereof and prior to December 31, 2031.

“LVRF Project” means the project undertaken for the design, implementation and use of low void reactivity fuel bundles in the Units, which project includes:

- (a) the design and design verification of low void reactivity fuel and the safety case and analyses relating thereto;
- (b) the design and construction of a blended dysprosium processing facility and the acquisition of related equipment;
- (c) the design and construction of a slightly enriched uranium processing line facility and the acquisition of related equipment;
- (d) the design, manufacture and acquisition of low void reactivity fuel bundle containers and enriched uranium powder containers;
- (e) the design, construction and licensing of a new fuel assembly line for manufacture of low void reactivity fuel bundles and the acquisition of related equipment;
- (f) a demonstration irradiation program whereby demonstration bundles were irradiated in the Bruce B Units;

- (g) the design and construction of modifications to the Facility to facilitate the use of low void reactivity fuel;
- (h) licensing activities required for the Facility to support the implementation of a new fuel type in Refurbished Units; and
- (i) the acquisition of uranium (of various enrichment levels) for use in low void reactivity fuel and for qualification of production lines.

“LVRF Project Costs” means the actual costs and expenses relating to the development, implementation and termination of the LVRF Project.

“MAEC Impairment” means that, using the then current Financial Model applied consistently with past practice but updated to reflect the actual experience of the Generator and reasonable future expectations as a result of the occurrence of one or more Material Adverse External Changes for which (x) the Generator notified the Counterparty in accordance with Section 15.7(a), (y) the Parties held a Senior Conference pursuant to Section 15.7(a), and (z) the Parties have not agreed to amend the terms and conditions of this Agreement to address such Material Adverse External Changes, the net present value of the projected after-tax, nominal, unlevered cash in-flows and cash out-flows of the Generator discounted at the MAEC Impairment Discount Rate is zero (0) or less than zero (0).

“MAEC Impairment Discount Rate” means, at a particular time of determination and with respect to certain cash in-flows and cash out-flows of the Generator, the following discount rates:

- (a) for cash in-flows and cash out-flows of the Generator relating to or associated with the Return Period 2 Adjustments, a discount rate equal to the Rate of Return determined in accordance with Exhibit 4.6 on the Refurbishment Lock-in Date for the Third Unit or the First ARR Date, as the case may be, minus 238 bps;
- (b) for cash in-flows and cash out-flows of the Generator relating to or associated with the Return Period 3 Adjustments, a discount rate equal to the Rate of Return determined in accordance with Exhibit 4.6 on the Refurbishment Lock-in Date for the Fifth Unit or the Second ARR Date, as the case may be, minus 238 bps; and
- (c) for all other cash in-flows and cash out-flows of the Generator, the figure set forth in Section 1.1(4) of the Technical Schedule;

“Master Project Schedule” means, in respect of the Refurbishment Work planned for a Unit, a Level 3 Schedule prepared by the Generator, considering all relevant information at the time such schedule is prepared or updated, that sets out for the period commencing on the date twelve (12) months prior to the Scheduled Refurbishment Outage Date and ending on the expected Final Completion date of such Unit the expected timing, planned order, duration and major milestones of the major categories of work comprising the Refurbishment Work of such Unit, including critical resources required to complete such Refurbishment Work and critical path activities of such Refurbishment Work, as such schedule may be updated from time to time. For the purposes hereof, a **“Level 3 Schedule”** means a schedule produced and periodically updated by the Generator that depicts all current approved major categories of work with start and end dates for such work and which shows the critical path for the entire work program to which such schedule relates.

“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.

“Material Adverse External Change” means, with respect to the Generator, any change, event, circumstance or effect that arises after the date of this Agreement from matters or reasons external to the operations of the Generator that has or could reasonably be expected to have an adverse effect on the business, assets, operations, results of operations, financial condition or prospects of the Generator related to this Agreement or the operation or maintenance of the Facility or the generation, sale or delivery of Electricity and Related Products therefrom (excluding, for certainty, the Excluded Business) and, which, individually reduces, or could reasonably be expected to reduce, the revenues received by the Generator from operating the Facility and/or increases, or could reasonably be expected to increase, the costs incurred by the Generator in respect of operating and maintaining the Facility (which, for certainty, include capital costs) by an aggregate net present value of at least \$100 million (calculated with effect as of the date such change, event, circumstance or effect occurred and discounted at the Applicable Discount Rate), but excluding: (a) any changes to Pension Service Costs and Other Post-Employment Benefits except to the extent same result from a Change of Law; and (b) any change, event, circumstance or effect that is a Relevant Change of Law, an event of Force Majeure or a Discriminatory Action; provided, however, the fact that:

- (a) a claim of Discriminatory Action is unsuccessful or a claim for payment of Discriminatory Action Compensation in connection with a claim of Discriminatory Action is unsuccessful under this Agreement shall not preclude the Change of Law giving rise to either such claim from being treated as a Material Adverse External Change;
- (b) a claim of Relevant Change of Law is unsuccessful or a claim for a Contract Price Adjustment in connection with a claim of Relevant Change of Law is unsuccessful under this Agreement shall not preclude the change of Laws and Regulations giving rise to either such claim from being treated as a Material Adverse External Change; and
- (c) an event of Force Majeure with respect to Refurbishment Work and/or Force Majeure-Eligible Asset Management Work and a Contract Price Adjustment in connection therewith is successfully claimed and recovered under this Agreement shall not preclude such Event of Force Majeure giving rise to a separate claim that it also be treated as a Material Adverse External Change to the extent that it also had an adverse effect on some other part of the business, assets, operations, results of operations, financial condition or prospects of the Generator related to this Agreement or the operation or maintenance of the Facility or the generation, sale or delivery of Electricity and Related Products therefrom (excluding, for certainty, the Excluded Business).

“Material Change of Law Event” means:

- (a) acts of God, including earthquakes, tornadoes, hurricanes, cyclones, severe storms, landslides or floods, that result in an accident, incident or other event at one or more nuclear facilities, including nuclear power generation facilities, that is rated by a member state of the IAEA Level 4 or higher on the INES Scale or, if

not rated by a member state, that meets the criteria to be rated Level 4 or higher on the INES Scale;

- (b) civil disobedience or disturbances, war (whether declared or not), acts of sabotage, blockades, insurrections, terrorism, revolution, riots or epidemics, local, regional or national states of emergency or other man-made disaster or catastrophe, occurring, threatened or averted; or
- (c) a physical accident, incident or other event occurring at a nuclear facility, including a nuclear power generation facility, that is rated by a member state of the IAEA Level 4 or higher on the INES Scale or, if not rated by a member state, that meets the criteria to be rated Level 4 or higher on the INES Scale; (other than such a physical accident, incident or other event occurring at the Facility that was caused by: (i) the Generator's negligence or wilful misconduct; (ii) the fault of the Generator's senior management; or (iii) the Generator's failure to manage or oversee its contractors or subcontractors at the Facility in compliance with its licence under the NSCA).

"MCR Decision Date" means, in respect of a Fully-Scoped Unit, the earlier of (i) the date twelve (12) months prior to the Scheduled Refurbishment Outage Date of the Fully-Scoped Unit, and (ii) the date not later than four (4) months after the date of the delivery by the Generator of the final Basis of Estimate Report and the Fully-Scoped Refurbishment Cost and Fully-Scoped Refurbishment Duration in respect of the Fully-Scoped Unit; provided that if the Generator did not provide the final Basis of Estimate Report and the Fully-Scoped Refurbishment Cost and Fully-Scoped Refurbishment Duration in respect of the Fully-Scoped Unit fifteen (15) or more months before the Scheduled Refurbishment Outage Date of the Fully-Scoped Unit, then, without limiting the Counterparty's rights pursuant to Section 11.1(b), the MCR Decision Date shall be the date three (3) months from the date on which the Generator provided the Counterparty with such information.

"Milestone Date" means, for each Unit to be Refurbished, the date after the Refurbishment Outage Date for such Unit that is determined by adding to such Refurbishment Outage Date an aggregate of: (i) the number of months that constitute the Fully-Scoped Refurbishment Duration for such Unit; and (ii) five months; as such Refurbishment Outage Date or the Refurbishment Duration and Fully-Scoped Refurbishment Duration may be adjusted in accordance with Section 2.3 or extended in accordance with Section 9.3(c), Section 9.4 or Section 12.1(e), as the case may be.

"Milestone Date +3" has the meaning ascribed to it in Section 2.10(a)(i).

"Milestone Date +9" has the meaning ascribed to it in Section 2.10(a)(i).

"Milestone Date +15" has the meaning ascribed to it in Section 2.10(a)(ii).

"Month" means a calendar month.

"Monthly Payment" means the total payment required to be made by one Party to another Party, as applicable, pursuant to Section 4.2 in respect of each Month of the Term.

"MW" means megawatt.

"MWh" means megawatt hour, being a unit of electrical energy equivalent to one megawatt of energy delivered continuously for one hour.

"N and N+1 Deliverables Report" means a report in the form attached hereto as Exhibit 2.11(c).

"Net Related Products Revenues" means the aggregate difference, if any, between (i) the revenues actually received by the Generator from the holding, existence, sale, trade or exploitation of Related Products and the dollar value of benefits actually enjoyed, used or received by the Generator from Related Products including Tax credits obtained by the Generator (in each of the foregoing cases excluding Related Products used or consumed by the Generator or required by the Generator in order to comply with Laws and Regulations) and (ii) the Generator's fully-burdened incremental costs, fees and expenses reasonably incurred in connection with monetizing Related Products, including in connection with obtaining, qualifying and registering such Related Products and otherwise performing its obligations under Section 4.1(b).

"New Agreement" means a new agreement substantially in the form of this Agreement and that is to be entered into with a Secured Lender with the Generator or with a Person identified by such Secured Lender following termination of this Agreement, as contemplated by Section 13.2(g).

"No Better or Worse Position" means that the Generator is left in a position which is no better or worse in relation to the NPV of the Facility determined by reference to the then current Financial Model.

"Non-Escalated Portion" or **"NEP"** has the meaning ascribed to it in Exhibit 4.4.

"Notice of Contract Price Adjustment" has the meaning ascribed to it in Section 4.14(b).

"Notice of Discriminatory Action" has the meaning ascribed to it in Section 14.3(a).

"Notice of Relevant Change of Law" has the meaning ascribed to it in Section 15.3.

"NPV of the Facility" means a net present value of the cash flows set out in the then current Financial Model discounted at the Applicable Discount Rate.

"NSCA" means the *Nuclear Safety and Control Act* (Canada).

"OC Adjustment Date" has the meaning ascribed to it in Section 4.7(d).

"OC Update Date" has the meaning ascribed to it in Section 4.7(a).

"OEB" means the Ontario Energy Board, or its successors.

"O&M Efficiency Amount" has the meaning ascribed to it in Exhibit 4.3.

"Offer" means a statement, or the provision of a statement, of the quantities of Electricity that a market participant will provide at different prices for that commodity in the real-time markets of the IESO-Administered Markets in accordance with the IESO Market Rules, and **"Offers"** and **"Offered"** have corresponding meanings. For greater certainty, for purposes of this definition,

real-time markets do not include procurement markets, operating reserve markets or capacity reserve markets.

“Offer Floor Price” means the amount set forth in Section 1.1(5) of the Technical Schedule, as such amount may be adjusted from time to time in accordance with Section 2.16.

“Off-Ramp Contract Price” means, in respect of a Terminated Unit, an amount expressed in dollars per MWh and used to calculate, among other amounts, Contingent Support Payments and Revenue Sharing Payments in respect of Off-Ramp Energy attributable to such Terminated Unit and as determined pursuant to Sections 9.1(f)(vi), 9.2(c)(i), 9.3(e)(i)(A) or 9.3(e)(ii)(A) as the case may be.

“Off-Ramp Energy” means, in respect of a Terminated Unit in any hour commencing at the end of the last hour of the Contract Price Off-Ramp Date, the net amount of Electricity that is generated by the electrical generating unit paired with such Terminated Unit, if and when generated as measured at the Point of Delivery for such Terminated Unit.

“Off-Ramp LAMP” means, in respect of a Terminated Unit, a revised LAMP that is intended to permit such Terminated Unit to remain in operation until its Scheduled Refurbishment Outage Date but that removes from its scope Asset Management Work that the Generator determines in accordance with Good Engineering Practices, as interpreted by the Generator in its sole discretion acting in good faith, can be removed without adversely impacting risk, plant safety, operations and commercial profile.

“Off-Ramp LDs” means, in the case of the election by the Counterparty pursuant to Section 9.1(e) that the Generator not proceed or in the case of the deemed acceptance by the Counterparty pursuant to Section 9.1(e) of the Generator’s election, made pursuant to Section 9.1(b), not to proceed, which in either case has the result that the Generator does not proceed with the Refurbishment of the following number of Units, the amount set forth beside the applicable number of Units that will not be Refurbished:

Six (6) Units:	\$500 million
Five (5) Units:	\$300 million
Four (4) Units:	\$250 million
Three (3) Units:	\$200 million
Two (2) Units:	\$150 million
One (1) Unit:	\$100 million

“One-Time Costs” means:

- (a) in the case of the First Unit, the “one-time” cost of tooling, including all one-time costs and expenses related to the acquisition or use (or both) of detube/retube tooling to be used for Refurbishment Work (which, for greater certainty, will include one-time design costs and intellectual property licensing costs related to the use by the Generator of such detube/retube tooling), that will be included in the cost of the Refurbishment Work for such First Unit but will not be included in the cost of the Refurbishment Work on any other Units and which tooling will be used in the Refurbishment Work on Units 3 through 8. For greater certainty: (i) the cost of repair, upgrading, updating, maintenance and refurbishment of

tooling, and any intellectual property licensing costs specific to a particular Unit, will be included in the cost of Refurbishment Work for successive Units; (ii) upgrading, updating and refurbishment of tooling shall not include replacing such tooling in its entirety; and (iii) one-time costs do not need to be incurred or paid for by the Generator all at one time;

- (b) in the case of the first of Units 3 and 4 to be Refurbished, the “one-time” costs, not including detube/retube tooling but including feeder tooling to be used for Refurbishment Work on Unit 3 and Unit 4, applicable to Units 3 and 4, which will be included in the cost of the Refurbishment Work on the first of such Units to be Refurbished but will not be included in the cost of the Refurbishment Work on the second of Units 3 and 4 to be Refurbished (such as construction offices, change rooms, cafeteria, additional access points and additional facilities to facilitate construction workers working in Bruce A); and
- (c) in the case of the first of the Bruce B Units to be Refurbished, the “one-time” costs, not including detube/retube tooling but including feeder tooling to be used for Refurbishment Work on Units 5, 6, 7 and 8, applicable to the Bruce B Units which will be included in the cost of the Refurbishment Work for the first of the Bruce B Units to be Refurbished but will not be included in the cost of Refurbishment Work on the other Bruce B Units (such as construction offices, parking facilities, change rooms, cafeteria, additional access points and additional facilities to facilitate construction workers working in Bruce B);

all as more particularly described in Exhibit 2.1.

“**Ontario Change of Law**” has the meaning ascribed to it in Section 14.1.

“**Ontario Laws and Regulations**” has the meaning ascribed to it in Section 14.1.

“**OPA**” means the Ontario Power Authority, the corporation established under the Electricity Act before the *Building Opportunity and Securing Our Future Act (Budget Measures)*, 2014 came into force and which was amalgamated into the IESO effective January 1, 2015.

“**Open Book Basis**” means that, subject to Sections 3.11 and 3.12 and Article 8 hereof, the Generator will, in a timely manner, provide to the Counterparty such information as the Counterparty may request, acting reasonably, relating to: (i) the Refurbishments, the Refurbishment Costs, the Refurbishment Duration, the Asset Management Work and the Asset Management Costs; (ii) the Contract Price and all Contract Price Adjustments; and (iii) the calculation of any O&M Efficiency Amount; and audit of any of the foregoing in accordance with the provisions of Section 3.7.

“**Operating Costs**” means, in respect of any period of calculation, the aggregate of Asset Management Costs and Base Operating Costs for such period.

“**OPG**” means Ontario Power Generation Inc., or its successors and permitted assigns as party to the OPG Lease, or any of the Ancillary Agreements, or all of the foregoing.

“**OPG Lease**” means the Amended and Restated Lease Agreement relating to the Bruce Nuclear Generating Station dated as of May 12, 2001 between OPG, certain subsidiaries of OPG, the Generator and British Energy plc, as amended by agreements made as of January 1,

2002, as of February 13, 2003, two agreements made as of October 17, 2005, agreements made as of July 10, 2006, as of November 15, 2011 and to be dated as of December 4, 2015, together with any amendment, change supplement, restatement, extension, renewal or modification thereof.

“Original BPRIA” has the meaning ascribed to it in the recitals.

“Original BPRIA Date” means October 31, 2005.

“Original Financial Model” means the financial model for the Generator that was agreed to by the Parties as at the date hereof, that was used to calculate the initial Contract Price and that was based on an after tax, nominal, unlevered project return to the Generator equal to the Rate of Return as at the date hereof and which is incorporated herein pursuant to the provisions of Exhibit 1.1(c) to the Technical Schedule.

“Original Milestone Date” means, for each Unit to be Refurbished, the Milestone Date in respect of each such Unit, prior to any extension for Force Majeure in accordance with Section 12.1(e).

“Original Party” has the meaning ascribed to it in Section 18.7(d).

“Other Post-Employment Benefits” or **“OPEB”** means those obligations associated with the Generator’s post-employment benefit plans for supplemental pensions under the Bruce Power Supplementary Pension Plan and the long-term disability and retirement benefit plans for health, dental and medical set forth in Schedule A to Exhibit 4.7(c) and Ontario health premium costs, life insurance and one-time retirement bonuses (in any of the foregoing cases as such plans may be amended, supplemented or replaced from time to time).

“Other Post-Employment Benefits Average for the Drug Trend Rate” has the meaning ascribed to it in Exhibit 4.7(c).

“Outage” means the removal of equipment from service, unavailability for connection of equipment or temporary derating, restriction of use or reduction in performance of equipment of the Generator for any reason including to permit the performance of inspections, tests, maintenance or repairs on equipment, which results in a partial or total interruption in the ability of the Generator to generate Electricity or to deliver Electricity from any electrical generating unit associated with a Unit at the Facility. An Outage may be further characterized as planned, forced or automatic.

“Outside Completion Date” has the meaning ascribed to it in Section 10.2(a)(iv).

“Overage Funding Date” has the meaning ascribed to it in Section 9.1(e)(i)(B)(2).

“Parties” means the Generator and the Counterparty, and **“Party”** means either one of them.

“Payment Date” has the meaning ascribed to it in Section 5.3.

“PCA Costs” means the actual costs and expenses incurred by BALP or the Generator, in connection with the development and implementation of the Prompt Criticality Alternative, as more particularly described in Schedule A to Exhibit 4.2(d) to the Technical Schedule.

“Pension Service Cost Burden Rate” has the meaning ascribed to it in Exhibit 4.7(a).

“Pension Service Costs” means, in respect of a calendar year, the total normal actuarial cost for each active and disabled member in excess of the member’s required contributions, in respect of the Bruce Power Pension Plan. For the purpose of determining the O&M Efficiency Amount, the actual Pension Service Costs will be based on the most recent independent actuarial valuation report of the Bruce Power Pension Plan for funding purposes and, for greater certainty, will not include contributions required in respect of such calendar year due to the existence of any past service funding deficiencies and will not include contribution holidays due to funding surpluses.

“Permanently Decommissioned” means that a Unit has been defueled and dewatered for purposes of permanent shutdown of such Unit.

“Person” means a natural person, firm, trust, partnership, limited partnership, company or corporation (with or without share capital), joint venture, sole proprietorship, Governmental Authority or other entity of any kind.

“Physical Delivery Contracts” has the meaning ascribed to it in Section 2.15(a).

“Planning Period” means a three (3) Contract Year period commencing on a Triennial Date and ending on the day immediately preceding the next Triennial Date; provided that the first Planning Period shall begin on January 1, 2016 and end on December 31, 2018.

“Planning Period N” has the meaning ascribed to it in Exhibit 4.10.

“Planning Period N+1” has the meaning ascribed to it in Exhibit 4.10.

“Planning Period N+1 Threshold Amount” has the meaning ascribed to it in Exhibit 4.10.

“Planning Period N+2” has the meaning ascribed to it in Exhibit 4.10.

“Planning Period N+x” has the meaning ascribed to it in Exhibit 4.10.

“Point of Delivery” means, in relation to Bruce A and Bruce B, the point at which Electricity is delivered to the IESO-Controlled Grid from Bruce A and Bruce B, respectively, described as follows:

- (a) for Bruce A, the Point of Delivery is the transmitter side of each disconnect switch, 21T1-H, 21T2-H, 21T3-H and 21T4-H, for Units 1, 2, 3 and 4, respectively; and
- (b) for Bruce B, the primary point of delivery is the transmitter side of each synchronizing breaker, T5H5, T6H6, T7H7 and T8H8, for Units 5, 6, 7 and 8, respectively. Bruce B Units have a secondary delivery point through the synch by-pass. Therefore, an alternate point of delivery is the transmitter side of each synch by-pass disconnect switch, T5H5-S, T7H7-S and T8H8-S, for Units 5, 7 and 8, respectively. Unit 6 does not have a synch by-pass disconnect switch installed,

and **“Points of Delivery”** means both of such Points of Delivery.

“Postponed Asset Management Work” has the meaning ascribed to it in Exhibit 4.10.

“Potential Equipment Issue” has the meaning ascribed thereto in Section 6.1(d);

“Preliminary Notice” has the meaning ascribed to it in Section 14.3(a).

“Price Evolution Event” has the meaning ascribed to it in Section 1.8(a).

“Price Indicator Unavailability Event” has the meaning ascribed to it in Section 1.10(a).

“Prior Unit Cost Divergence” means the amount of the estimated incremental changes in the Refurbishment Costs of a Unit that arise as a result of any one of the reasons contemplated by clauses (a) to (i), inclusive, in the definition of Adjusted Prior Unit Cost.

“Prior Unit Duration Divergence” means the period of the estimated incremental changes in the Refurbishment Duration for such Unit that arise as a result of any one of the reasons contemplated by clauses (a) to (h), inclusive, in the definition of Adjusted Prior Unit Duration.

“Procurement Strategy” has the meaning ascribed to it in Section 2.18(a).

“Prompt Criticality Alternative” means the program for the design and implementation of changes to the shutdown system of the Units in order to improve and restore safety margins to the design basis and reduce prompt criticality as a constraint.

“PST” means the Ontario provincial sales tax exigible under the *Retail Sales Tax Act* (Ontario).

“Rate of Return” means the amount set forth in Section 1.1(6) of the Technical Schedule which represents the after tax, nominal, unlevered project return to the Generator as such may be adjusted in accordance with the provisions of Section 4.6 and Exhibit 4.6.

“RCOL Material Adverse Effect” has the meaning ascribed to it in Section 15.1.

“RCOL Notice of Dispute” has the meaning ascribed to it in Section 15.3(b).

“Re-Adjustment” has the meaning ascribed to it in Section 15.3(f).

“Receivable Price” means the actual price that the Generator would have received from the sale of Electricity from the Facility expressed in \$ per MWh, had such Electricity been sold into the IESO-Administered Markets, or any replacement thereof. On the date hereof, the **“Receivable Price”** is equal to HOEP.

“Recoverable Costs” means the amounts recovered by the Generator in connection with the sale, licensing or salvage of assets acquired or developed for the LVRP Project described in Schedule A to Exhibit 4.2(d) to the Technical Schedule.

“Refurbished Units” and **“Refurbished Unit”** have the meanings ascribed to them in Section 2.1.

“Refurbishment” means the Refurbishment Work to be undertaken by the Generator on each of Units 3 to 8 in order to extend the lives of such Units and **“Refurbish”** and **“Refurbished”** have corresponding meanings and, for greater certainty, when used herein do not include the refurbishment of either of Units 1 and 2.

“Refurbishment Costs” means, in respect of each Unit, all costs and expenses of the Generator, whether direct or indirect, of any nature or kind, incurred in connection with, arising from, or related to the Refurbishment Work of such Unit, determined on an accrual basis in accordance with GAAP, and including development, design, engineering, procurement, project management, construction, installation, hedging for currency relating solely to Refurbishment Costs and materials to be used in the Refurbishment Work (but, for certainty, not for speculative purposes), commissioning and inspection costs and expenses and, for greater certainty, One-Time Costs (if applicable), whether capitalized or expensed by the Generator, but excluding staff costs of employees of the Generator whose compensation has previously been included as staff costs for the purposes of determining Operating Costs, except to the extent that such employees have been replaced by one or more individuals performing substantially similar duties, and excluding other Operating Costs that would have been incurred at the same time such Refurbishment Work was undertaken irrespective of whether or not the Refurbishment Work was undertaken.

“Refurbishment Costs Payment Certificate” has the meaning ascribed to it in Section 9.1(e)(i)(B)(3).

“Refurbishment Duration” means, with respect to a Unit, the duration of the Refurbishment Outage of such Unit.

“Refurbishment Lock-in Date” means the date on which the Generator delivers the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration to the Counterparty in respect of a particular Unit.

“Refurbishment Outage” means, with respect to a Unit, the Outage taken to conduct the Refurbishment Work in respect of such Unit and that commences on the Refurbishment Outage Date and that ends on the date the Unit first synchronizes with the IESO-Controlled Grid.

“Refurbishment Outage Date” means, in respect of any Unit to be Refurbished, the date on which such Unit is disconnected from the IESO-Controlled Grid and shut down for the commencement of such Unit’s Refurbishment Work.

“Refurbishment Work” means, in respect of a Unit, the work specified in Exhibit 2.1 under the following five categories which is to be conducted during or in preparation for a Refurbishment Outage on such Unit:

- (a) replacement of all fuel channels, including calandria tubes;
- (b) replacement of all feeder pipes from inlet header to outlet header;
- (c) replacement of all steam generators;
- (d) bulkhead installation and removal; and
- (e) enabling, associated and other work.

“Reimbursable Amount” means, in respect of the LVRF Project and the implementation of the Prompt Criticality Alternative, and in respect of an LVRF Payment Date, an amount set forth in the table attached as Schedule B to Exhibit 4.2(d) to the Technical Schedule.

“Related Products” means any physical elements, intangible rights, products or services, revenues, credits or payments, directly related to the production of Electricity from the electrical generating capacity of Bruce A and Bruce B, or either of them, at a given time, however produced or arising, including any Capacity Products, Ancillary Services, Environmental Attributes, transmission rights and any similar rights or payments, that may be sold, traded, received or otherwise exploited by the Generator, and which shall be deemed to include elements, rights, products and services for which no market may exist, such as capacity reserves, but excluding Dynamic Capabilities and any component thereof. For certainty, Related Products shall not include congestion management settlement credits that are credited to the Counterparty pursuant to Section 6.1(b), intellectual property, goodwill, By-products, or any benefits (other than Environmental Attributes) or deductions (including capital cost allowances and accelerated depreciation rates) in respect of Taxes and in respect of all taxes based on profits, net income or net worth, Deemed Generation and Dynamic Capabilities or anything directly related to the Excluded Business that would otherwise be characterized as a Related Product.

“Relevant Change of Law” has the meaning ascribed to it in Section 15.1.

“Relevant Change of Law Compensation” has the meaning ascribed to it in Section 15.2(a).

“Relevant Change of Law Compensation Dispute Notice” has the meaning ascribed to it in Section 15.3(d).

“Relevant Change of Law Set Date” has the meaning ascribed to it in Section 15.1.

“Reorganization Conditions” has the meaning ascribed to it in Section 10.3.

“Replacement Price” has the meaning ascribed to it in Section 1.8(a).

“Replacement Provision(s)” has the meaning ascribed to it in Sections 1.10(c) or 1.11(a)(iii), as applicable.

“Representative” means any officer, employee, professional advisor, auditor or consultant of a Person acting on such Person’s behalf in accordance with the terms of this Agreement, including the permitted scopes of engagement or performance by such officers, employees, professional advisors, auditors or consultants as provided herein, including, in respect of the Counterparty, the Counterparty Site Representative.

“Return Period 2 Adjustments” has the meaning ascribed to it in Exhibit 4.6.

“Return Period 3 Adjustments” has the meaning ascribed to it in Exhibit 4.6.

“Revenue Sharing Payment” is a payment calculated pursuant to Exhibit 4.2 and to be made by the Generator to the Counterparty pursuant to Section 4.2(b).

“Rules Floor Prices” has the meaning ascribed to in in Section 2.16(f)(ii).

“Scheduled Refurbishment Outage Date” means, in respect of a Unit, the scheduled Refurbishment Outage Date for such Unit set out in Section 2.2, as such date may be changed in accordance with Section 2.3 hereof.

“Second ARR Date” has the meaning ascribed to it in Exhibit 4.6.

“Second Notice” has the meaning ascribed to it in Section 11.2(a)(i) and Section 11.4(a)(i).

“Second Unit” means the second Unit to be Refurbished, which as at the date hereof is expected to be Unit 3.

“Secured Lender” means an Arm’s Length lender, or an agent or agents acting on behalf of an Arm’s Length lender or lenders, under a Secured Lender’s Security Agreement.

“Secured Lender’s Security Agreement” means an agreement or instrument, including a deed of trust or similar instrument securing bonds or debentures, containing a charge, mortgage, pledge, security interest, assignment, sublease, deed of trust or similar instrument with respect to all or any part of the Generator’s Interest granted by the Generator that is security for any indebtedness, liability or obligation of the Generator, together with any amendment, change, supplement, restatement, extension, renewal or modification thereof.

“Senior Conference” has the meaning ascribed to it in Section 18.1.

“Settlement Month” has the meaning ascribed to it in Section 5.2.

“Sharing in Transfers and Refinancings Agreement” means the Amended and Restated Sharing in Transfers and Refinancings Agreement dated December [3], 2015 among the Generator, OMERS Administration Corporation (formerly known as Ontario Municipal Employees Retirement Board), TransCanada Corporation and the Counterparty relating to restrictions and covenants with respect to, among other things, the transfer of interests in or of the Generator and financings and refinancings and amendments thereto by the Generator, certain Limited Partners of the Generator and certain of such Persons’ Affiliates, as it may be further amended, amended and restated or replaced from time to time.

“Sixth Unit” means the sixth Unit to be Refurbished, which as at the date hereof is expected to be Unit 8.

“Specified Fuel Supply Arrangements” means the memoranda of agreement, agreements, letters and term sheets specified in Exhibit 2.18(a) of the Technical Schedule, together with all other agreements and commitments that may be entered into by the Generator after the date hereof which (i) relate to fuel supply arrangements for, *inter alia*, the Facility and (ii) are in accordance with the Approved Procurement Strategy then in effect.

“Specified Operating Costs Assumptions” means the Generator’s assumptions with respect to the Specified Operating Costs over the Term, as such assumptions are updated in accordance with Section 4.7(a).

“Specified Operating Costs” means the following elements of the Generator’s expenses:

- (a) Average Base Salary;
- (b) Trades Rate; and
- (c) Pension Service Cost Burden Rate.

“Statement” has the meaning ascribed to it in Section 5.2.

“Subject Adjustment Date” has the meaning ascribed thereto in Section 4.14(b).

“successor”, when used to refer to a Person other than the Counterparty, the Generator or the System Operator in this Agreement, includes any Person replacing such Person and exercising similar powers, performing similar functions or having similar responsibilities and obligations as such Person.

“Suspended EOD Payments” has the meaning ascribed to it in Section 11.2(a)(iii)(A).

“System Operator” means the IESO, or its successors, to the extent acting in accordance with its authority to make, administer and enforce the IESO Market Rules, or in any other regulation or rule-making capacity that it may have after the date hereof, but for greater certainty, excluding acting in its capacity as counterparty under this Agreement.

“System Upgrade Costs” means all costs incurred by Transmitters or any other Person in relation to System Upgrades, including design, engineering, procurement, construction, installation and commissioning costs, as determined in accordance with the Transmitters’ or such other Persons’ respective policies and procedures and by the OEB, if necessary.

“System Upgrades” means all additions, improvements and upgrades to the Transmission System, including connections from the Transmission System to a Point of Delivery, to be built by a Transmitter or any other Person that are (or will be) determined to be required to ensure the reliable delivery of Electricity from the Facility.

“Taxes” means all Commodity Taxes and *ad valorem*, property, occupation, severance, production, transmission, utility, gross production, gross receipts, transfer and other taxes, governmental charges, governmental licence fees, governmental permit fees, governmental duties, withholdings, withholding taxes, surtaxes and governmental assessments, other than taxes based on profits, net income or net worth.

“Technical Infeasibility” means, with respect to a Unit, that there is damage to such Unit’s calandria vessel (that, for greater certainty, includes its shield tank assembly) of a nature that:

- (a) it would require the replacement of such calandria vessel, failing which the Unit would not be able to restart or be expected to operate until the Expected End-of-Life Date of such Unit following Refurbishment without such replacement having been undertaken;
- (b) the cost to repair such calandria vessel would exceed \$500 million (as escalated pursuant to Section 4.5 and Exhibit 4.5); or
- (c) repair or replacement of such calandria vessel would extend the Fully-Scoped Refurbishment Duration of such Unit by more than 24 months;

provided, however, any such damage to such calandria vessel resulting from any act or omission of the Generator during Refurbishment or resulting from the negligence or wilful misconduct of the Generator will not result in a Technical Infeasibility for such Unit.

“Technical Infeasibility Dispute Period” has the meaning ascribed to it in Section 9.4.

“Technical Schedule” means that certain amended and restated schedule of confidential technical information dated the date of this Agreement and delivered by the Generator to the Counterparty concurrently with this Agreement.

“Term” has the meaning ascribed to it in Section 10.1(c).

“Terminated Units” has the meaning ascribed to it in Sections 9.1(f), 9.2(b) and 9.3(d), as applicable.

“Terminating Party” has the meaning ascribed to it in Section 11.5(a).

“Termination Costs” means all costs and expenses reasonably incurred by a Party in terminating any arrangements relating to the transactions provided for under this Agreement and all reasonable legal fees and out-of-pocket expenses incurred in connection with enforcing its rights under this Agreement.

“Termination Date” means the date on which this Agreement terminates as a result of an early termination of this Agreement in accordance with this Agreement.

“Third Unit” means the third Unit to be Refurbished, which as at the date hereof is expected to be Unit 4.

“Three Variables” has the meaning ascribed to it in Section 4.14(c).

“Trade Control Laws” has the meaning ascribed to it in Section 8.8.

“Trades Rate” means, at the time of calculation, the arithmetic average of the all-in total hourly rate for the Building Trades listed on Exhibit 1.1(b) calculated based on: (i) in the case of the Building Trades covered by EPSCA, as published by EPSCA, and (ii) in the case of the Building Trades not covered by EPSCA, at the all-in total hourly rate paid by the Generator at such time to obtain such services. For greater certainty, the all-in total hourly rate includes base hourly rate, vacation and statutory holiday pay, welfare, employer contributions to source deductions, pension, union fund and EPSCA fund, or the equivalent. If at any time EPSCA ceases to exist, or does not publish the all in total hourly rate, then such amount shall be the actual average all in total hourly rate paid by the Generator at such time to obtain services of the trades listed on Exhibit 1.1(b). The arithmetic average of the all-in total hourly rate for the Building Trades as at May 1, 2014 was the amount set forth in Section 1.1(7) of the Technical Schedule.

“Transmission System” means a system for conveying Electricity at voltages of more than 50 kilovolts and includes any structures, equipment or other things used for that purpose.

“Transmission System Code” means the Transmission System Code approved and issued by the OEB and in effect from time to time.

“Transmission System Inadequacy” means the inability of the Transmission System, other than by reasons of force majeure affecting the Transmitter, to transmit Electricity from the electricity generating units associated with all Units that are in operation or that are available to operate, at a particular time. For greater certainty, **“Transmission System Inadequacy”** does not include: (i) an inability to transmit due to equipment breakages or failures of structures, equipment or works comprising the Transmission System or repairs or maintenance scheduled by the Transmitter; or (ii) any outages; in either case contemplated by the foregoing clause (i) or

clause (ii), or both cases, other than persistent or repeated breakage, failure, repairs, maintenance or outages related to Transmission System capacity that is inadequate, due to inadequate planning, design or capital expenditure, to permit the transmission of Electricity from the electricity generating units associated with all Units.

“Transmitter” means a Person licensed as a “transmitter” by the OEB in accordance with the *Ontario Energy Board Act, 1998* (Ontario).

“Triennial Date” means January 1, 2019 and each triennial date thereafter, such that the period from one Triennial Date to the immediately following Triennial Date is three (3) Contract Years.

“Unit Cost Overage” has the meaning ascribed to it in Section 9.1(b).

“Unit Extension EOL Date” means, in respect of a Terminated Unit, the Generator’s estimate, contained in a Unit Extension Plan, of the date that such Terminated Unit will be taken off-line to be Effectively Decommissioned after having implemented the Generator’s plan as set out in the Unit Extension Plan, such date to be determined by the Generator in accordance with Good Engineering Practices, as interpreted by the Generator in its sole discretion acting in good faith.

“Unit Extension Plan” means, in respect of a Terminated Unit, a new operations, maintenance and investment plan for such Terminated Unit intended to, among other things, mitigate the impact of an election or deemed election pursuant to any of Sections 9.1, 9.2 or 9.3 on ratepayers by extending, to the Unit Extension EOL Date the operating life of such Terminated Unit, having regard to the fact that Refurbishment Work will not be undertaken for such Terminated Unit. For greater certainty, such new proposed plan, will include a description of the Unit Extension Work to be undertaken on such Unit and will include a projected generation profile of such Terminated Unit based on the implementation of such plan.

“Unit Extension Work” means the work to be undertaken by the Generator on a Terminated Unit as described in a Unit Extension Plan and which may only include: (i) some or all of the components of the then current Lifetime Asset Management Plan for such Terminated Unit; and (ii) any item listed under the heading “Balance of Plant” on Exhibit 2.1.

“Unit Threshold Base Amount”, means, in respect of a Unit, an amount calculated in accordance with the provisions of Exhibit 9.1.

“Units” means the eight nuclear reactor units of the Facility designated as “Unit 1” to “Unit 8”, inclusive, and: (i) **“Unit”** means any one of them; and (ii) **“Unit”** followed by a number from 1 to 8 means the specific Unit designated by such number.

“Unrelated Equipment Issue” has the meaning ascribed to it in Section 6.1(d).

“Used Fuel Agreement” means the Amended and Restated Used Fuel Waste and Cobalt 60 Agreement to be dated as of December 4, 2015 between the Generator and OPG, together with any amendment, change, supplement, restatement, extension, renewal or modification thereof.

“Used Fuel Costs” means the total all-in amounts charged to the Generator pursuant to the Used Fuel Agreement, including Taxes (other than the amount of Commodity Taxes recovered by the Generator), for nuclear fuel that has been irradiated in a Unit, and that has been discharged from a Unit after the Effective Date.

“Used Fuel Statement” has the meaning ascribed to it in Section 2.19.

“verified” means verified or, if applicable, deemed to have been verified in accordance with Sections 2.5(a), 2.11(c), 3.1(b) or 4.14(d).

“WRE Adjustment Portion” or **“WREAP”** has the meaning ascribed to it in Exhibit 4.4.

“Wage Rate Escalator” or **“WRE”** means the Survey of Employment, Payrolls and Hours (SEPH) (Canada, all Employees, including overtime) (industrial aggregate excluding unclassified businesses) published by Statistics Canada (or any successor thereof) from time to time (the series numbers of which on the date hereof is Table 281-0027), as such index may be replaced or modified from time to time in accordance with the provisions of Section 1.11 and Section 4.7(b).

“WRE Notice” has the meaning ascribed to it in Section 4.7(b).

“WSIA” has the meaning ascribed to it in Section 2.13(c).

1.2 Exhibits

The following Exhibits are attached to this Agreement:

Exhibit 1.1(a)	Form of Basis of Estimate Report
Exhibit 1.1(b)	Building Trades
Exhibit 1.1(c)	Financial Model
Exhibit 1.1(d)	CAS Instructions
Exhibit 2.1	Refurbishment Work and One-Time Costs
Exhibit 2.4(d)	Accelerated Dispute Resolution
Exhibit 2.11(a)	Asset Management Work
Exhibit 2.11(b)	Initial Lifetime Asset Management Plan
Exhibit 2.11(c)	N and N+1 Deliverables Report
Exhibit 2.18(a)	Specified Fuel Supply Arrangements
Exhibit 3.3	Refurbishment – Reports
Exhibit 3.6(c)	Form of Operating Costs Report
Exhibit 4.2	Monthly Payments
Exhibit 4.2(d)	Determination of Front-end Fuel Costs for any Settlement Month
Exhibit 4.3	O&M Efficiency Amount
Exhibit 4.4	Annual Adjustments to Contract Price
Exhibit 4.5	Annual Adjustments for Certain Dollar Amounts
Exhibit 4.6	Adjustments to Rate of Return
Exhibit 4.7(a)	Contract Price Adjustments for Changes to Operating Costs

Exhibit 4.7(c)	Contract Price Adjustment for Other Post-Employment Benefits Burden Rate
Exhibit 4.8	Adjustments to Contract Price Relating to Refurbishment
Exhibit 4.9	Adjustments to Contract Price Related to Final Completion
Exhibit 4.10	Movement of Asset Management and Adjustments To Contract Price Relating to Asset Management
Exhibit 4.11	Adjustments to Contract Price Relating to Refurbishment Termination
Exhibit 4.12	Adjustments to Contract Price Relating to Changes Pursuant to the OPG Lease/Ancillary Agreements
Exhibit 4.14	Notice of Contract Price Adjustment
Exhibit 6.1	Deemed Generation Criteria
Exhibit 9.1	Unit Threshold Base Amount
Exhibit 12.2(a)	Form of Notice of Force Majeure
Exhibit 12.2(b)	Required Force Majeure Information
Exhibit 12.4	Force Majeure – Eligible Asset Management Work
Exhibit 14.3	Ontario Provincial Statutes
Exhibit 15.2	Contract Price Adjustment For Relevant Change of Law
Exhibit 18.2	Arbitration Rules

1.3 Headings and Table of Contents

The inclusion of headings and a table of contents in this Agreement is 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”, “herein” and similar expressions mean and refer to this Agreement and not any particular section; and the expression “Exhibit”, “Section” or “Article” followed by a letter or a number means and refers to the specified exhibit, section or article of this Agreement; and the expression “Clause” followed by a letter or a number means and refers to the specified clause of the Exhibit in which it is used.

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 IESO Market Rules and Other Laws and Regulations

Unless otherwise specified, any reference in this Agreement to the IESO Market Rules, or any other Laws and Regulations, shall be a reference to the IESO Market Rules, or such other Laws and Regulations, as amended, re-enacted or replaced from time to time.

1.7 Introduction of LMP

If LMP is implemented by the System Operator, this Agreement will be modified so that all references to HOEP (or the Replacement Price if LMP is implemented after a Price Evolution Event as provided in Section 1.8) will be replaced as a reference index at and after LMP comes into effect, and the substitute reference index for each MWh will be the Receivable Price. For purposes of calculations of payments hereunder based on HOEP at and after LMP comes into effect, each reference to HOEP shall be deemed to be a reference to such Receivable Price.

1.8 Evolution of the IESO-Administered Markets

- (a) If a change in the IESO Market Rules occurs such that HOEP, or the replacement value for HOEP under LMP as determined through the application of Section 1.7, is no longer provided for, and is replaced by another market-based price signal(s), including a day-ahead hourly Electricity price under a Day-Ahead Energy Forward Market, or another market has replaced or succeeded the IESO-Administered Markets in relation to such change (any of the foregoing events referred to as a **"Price Evolution Event"**), then HOEP or, if applicable, LMP, as the case may be, will be replaced with the market price indicator that represents the Receivable Price for Bruce Energy (the **"Replacement Price"**). For purposes of calculations of payments hereunder based on HOEP following such Price Evolution Event, each reference to HOEP or, if applicable, LMP, as the case may be, shall be deemed to be a reference to the applicable Replacement Price, and each reference to IESO-Administered Markets will be deemed to be a reference to such other market, if applicable.
- (b) If either Party learns that a Price Evolution Event has occurred, or is likely to occur within the succeeding twelve (12) months, such Party shall provide prompt notice of same, as well as the Replacement Price, if known, to the other Party within seven (7) days after learning that a Price Evolution Event has occurred, or is likely to occur. The Party providing such notice, or the recipient, may make a proposal regarding an alternative price to be the Replacement Price and the Parties shall promptly meet to discuss such proposal. If the Parties agree on an alternative price, such price shall be the Replacement Price for purposes of this Section 1.8 effective as of the Price Evolution Event. If such notice does not include the Replacement Price, or if the Parties are unable to agree on an alternative price to be the Replacement Price within thirty (30) days after receipt of a notice containing an alternative price proposal referred to above, the Replacement Price for Bruce A and Bruce B shall be determined by the Generator, acting reasonably and in good faith, who shall provide the Counterparty with reasonable back-up information in respect of such determination. If the Counterparty, acting in good faith, disputes such determination, such dispute shall be determined by mandatory and binding arbitration, from which there shall be no appeal, with such arbitration to be

conducted in accordance with the procedures set out in Exhibit 18.2 and with the arbitrator to determine a Replacement Price that is a Receivable Price in respect of the Generator. The Replacement Price determined by the Arbitral Tribunal shall be the Replacement Price for purposes of this Agreement.

- (c) Until such time as the Replacement Price is finally determined, Monthly Payments shall be made effective as of the Price Evolution Event based on the Replacement Price determined by the Generator, provided that all such payments shall be subject to recalculation and readjustment once the Replacement Price is finally determined, and the Party owing monies to the other pursuant to such recalculation shall promptly pay such monies owing together with interest at the Interest Rate plus 2%, calculated daily and compounded monthly, from and including the time such payments were due to the date of the payment thereof.
- (d) This Section 1.8 shall not apply in the circumstances addressed in Section 1.7.
- (e) This Section 1.8 shall be implemented each time a Price Evolution Event occurs and reference in Section 1.8(a) to HOEP and LMP shall also include a then existing Replacement Price if a subsequent Price Evolution Event occurs.

1.9 Temporary Price Indicator Unavailability Event

If the System Operator fails to publish HOEP (or the replacement value for HOEP under LMP as determined through the application of Section 1.7, or the Replacement Price referred to in Section 1.8, as the case may be) on a temporary basis for any period of time where a Price Indicator Unavailability Event has not occurred, the Parties agree to use the Administrative Price published by the System Operator as a substitute reference index for HOEP (or the replacement value for HOEP under LMP as determined through the application of Section 1.7, or the Replacement Price referred to in Section 1.8, as the case may be) and for purposes of Article 4 and Exhibit 4.2, each reference to HOEP (or the replacement value for HOEP under LMP as determined through the application of Section 1.7, or the Replacement Price referred to in Section 1.8, as the case may be) shall be deemed to be a reference to the applicable Administrative Price during the time such Administrative Price is in effect. If the System Operator fails to publish the Administrative Price, or if, notwithstanding the previous sentence, the Administrative Price is not a Receivable Price for Bruce A and Bruce B, or either of them, the provisions of Section 1.10(a) shall be applicable for any such period of time.

1.10 Prolonged Price Indicator Unavailability Event

- (a) If HOEP, or the replacement value for HOEP under LMP as determined through the application of Section 1.7, or the Replacement Price referred to in Section 1.8, is no longer available, or if the System Operator fails to publish the Administrative Price, or if any of the foregoing prices is not or ceases to be a Receivable Price for Bruce A and Bruce B, or either of them (any of the foregoing events referred to as a “**Price Indicator Unavailability Event**”), then HOEP, or the replacement value for HOEP under LMP as determined through the application of Section 1.7, or the Replacement Price referred to in Section 1.8, as the case may be, will be replaced with the Actual Hourly Energy Payment for Bruce A and Bruce B as agreed to by the Parties. If the Parties cannot agree on the Actual Hourly Energy Payment for Bruce A and Bruce B, or either of them,

within thirty (30) days of a Price Indicator Unavailability Event, the Actual Hourly Energy Payment shall be determined by the Generator, acting reasonably and in good faith, who shall provide the Counterparty with reasonable back-up information supporting such determination. If the Counterparty, acting in good faith, disputes such determination, such dispute shall be determined by mandatory and binding arbitration, from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2 and with the arbitrator to determine an Actual Hourly Energy Payment that is applicable for Bruce A and Bruce B. The Actual Hourly Energy Payment for Bruce A and Bruce B determined by the Arbitral Tribunal shall be the Actual Hourly Energy Payment for purposes of this Agreement in respect of the Generator. For purposes of Article 4 and Exhibit 4.2, following a Price Indicator Unavailability Event, each reference to HOEP (or the replacement value for HOEP under LMP as determined through the application of Section 1.7, or the Replacement Price referred to in Section 1.8, as the case may be) shall be deemed to be a reference to the applicable Actual Hourly Energy Payment. For greater certainty, following a Price Indicator Unavailability Event, the Dynamic Capabilities Payment shall continue to be payable by the Counterparty pursuant to Section 4.2(c).

- (b) On and from the occurrence of a Price Indicator Unavailability Event in connection with which electricity generators are only able to sell all or a portion of the Electricity generated by such generators through either Physical Delivery Contracts or Financial Contracts, or both, and until this Agreement is amended pursuant to Section 1.10(d), notwithstanding Section 2.15 and to the extent permitted by Laws and Regulations, the Generator shall be permitted to enter into either Physical Delivery Contracts or Financial Contracts, or both, in respect of Bruce Energy which the Generator is only able to sell through such contracts, so long as such contracts are commercially reasonable, as determined by the Generator acting in good faith. The Generator shall as soon as practicable following such Price Indicator Unavailability Event advise the Counterparty of its Electricity trading strategy in respect of Bruce Energy and shall update and consult with the Counterparty in respect of such strategy every six (6) months during the continuance of the Price Indicator Unavailability Event. To the extent that the Generator is unable to enter into Physical Delivery Contracts or Financial Contracts for all Bruce Energy that it was historically able to supply to the IESO-Administered Markets prior to the Price Indicator Unavailability Event, after having used Commercially Reasonable Efforts to do so, then within thirty (30) days of the Price Indicator Unavailability Event, to the extent that the Counterparty is then permitted by Laws and Regulations to do so, the Counterparty will enter into a Physical Delivery Contract with the Generator pursuant to which the Generator will be paid the Contract Price and the DC Fee for each MWh of such quantity of Bruce Energy on terms substantially similar to the terms of this Agreement. Any determination of the Actual Hourly Energy Payment for Bruce Power shall include consideration of the prices provided for in such contracts to the extent applicable to sales of Bruce Energy.
- (c) If a Party learns that a Price Indicator Unavailability Event has occurred, or is likely to occur within the succeeding twelve (12) months, such Party shall provide prompt notice of same to the other Party and shall propose amendments to this Agreement to the extent necessary to ensure the Generator will participate in any

revised processes applicable to generators generally to facilitate Unit commitment, Unit dispatch and/or planned Outage scheduling (such amendments in this Section 1.10 referred to as the “**Replacement Provision(s)**”) to the other Party within thirty (30) days after learning that a Price Indicator Unavailability Event has occurred, or is likely to occur, or as soon as reasonably possible thereafter, failing which the other Party may propose a Replacement Provision(s). Such Replacement Provision(s) are to preserve the relative economic position that the Generator and the Counterparty would have been in before the Price Indicator Unavailability Event occurred under this Agreement taken as a whole and, including in the case of the Generator, payments of HOEP received from the System Operator and, including by ensuring that the Generator continues to be paid the Contract Price for all Electricity that it delivers or that could have been delivered from the Facility to a Point of Delivery, including Dynamic Capabilities Payments, but for the Price Indicator Unavailability Event and during the continuance thereof. If the Parties are unable to agree on the proposal or counter-proposal in response to a proposal, as the case may be, within thirty (30) days after the occurrence of the Price Indicator Unavailability Event, then the Replacement Provision(s) shall be determined by mandatory and binding arbitration, from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2.

- (d) The terms of this Agreement applicable to the Parties shall be deemed to be amended by the agreement of the Parties made pursuant to Section 1.10(c) or the final decision resulting from an implementation of the procedures described in Exhibit 18.2 or Section 18.2, as the case may be, from and after the date that the Price Indicator Unavailability Event occurred.
- (e) Until such time as this Agreement is amended in accordance with Section 1.10(d), Monthly Payments shall continue to be made using the Actual Hourly Energy Payment determined by the Generator, provided that all such payments shall be subject to recalculation and readjustment as a result of the agreement or result set out in Section 1.10(d), and the Party owing monies to the other Party pursuant to such recalculation shall promptly pay such monies owing together with interest at the Interest Rate plus 2%, calculated daily and compounded monthly, from and including the time such payments were due to the date of the payment thereof.
- (f) This Section 1.10 shall not apply to the circumstances addressed in Sections 1.7, 1.8 and 1.9.

1.11 Invalidity, Unenforceability or Inapplicability of Provisions

- (a) In the event that either Party, acting reasonably and in good faith, considers that any provision of this Agreement pursuant to which it has rights, interests, obligations or remedies has become invalid, inapplicable or unenforceable (other than Article 4, Article 6, Article 11, Article 14, Article 15, Exhibit 4.2, Exhibit 4.4 to Exhibit 4.12, inclusive, and Exhibit 15.2) or if any of the following ceases to be published or is replaced or succeeded, or if the basis therefor is changed materially (including by reason of revised calculation, characterization or other determination): (x) an index quotation referred to in this Agreement and applicable to it (including, for greater certainty, CPI and the Wage Rate

Escalator); and (y) the INES Scale; then without affecting the validity, applicability or enforceability of any other provision of this Agreement:

- (i) if such provision is invalid, inapplicable or unenforceable, then the Party considering such provision to be invalid, inapplicable or unenforceable may propose, by notice to the other Party, a replacement provision and the Parties shall then engage in good faith negotiations to replace such provision with a valid, enforceable and applicable provision, the economic effect of which comes as close as possible to that of the invalid, unenforceable or inapplicable provision which it replaces;
- (ii) if:
 - (A) any index quotation referred to in this Agreement ceases to be published or is replaced or succeeded, or if the basis therefor is changed materially (an “**Index Change Event**”); or
 - (B) the INES Scale or its rankings are changed materially, or the IAEA adopts a replacement nuclear incident rating scale or the IAEA ceases to maintain its nuclear incident rating scale,

then either Party that believes that any one of the events contemplated in the foregoing clauses (a)(i) or (a)(ii) has occurred, may propose, by notice to the other Party, a replacement index or nuclear incident rating scale, and the Parties shall then engage in good faith negotiations to substitute an available replacement that most nearly, of those then publicly available, approximates the intent and purpose of the index quotation or INES Scale that has so ceased or changed and this Agreement shall be amended as necessary to accommodate such replacement index quotation or nuclear incident rating scale. The Parties agree that the addition, deletion or change in relative weighting of commodities in the basket of commodities measured by CPI from time to time by Statistics Canada (or any successor thereto) shall not constitute an Index Change Event. For example, changes similar to those made by Statistics Canada in 2010 to the Survey of Household Spending (major redesign of collection methods, incorporation of the former Food Expenditure Survey and spreading data collection over the entire year) and various Consumer Price Indices in March 2013 (significant changes to the Canadian Consumer Price Index, including replacement of 2009 expenditure weights with 2011 weights and the first time the Canadian Consumer Price Index weights were updated at a two-year interval), May 2013 (revision of the Passenger Vehicle Parts, Maintenance and Repairs Index to update sample and classification, add new representative products, increase price frequency, outlet sample updating and geographic rebalancing) and October 2013 (changes to Travel Tours Index of the Consumer Price Index to reduce the replacement rate during data collection to more accurately reflect the habits of consumers regarding timing and nature of holiday package trip purchases) shall not constitute Index Change Events;

- (iii) if a Party does not believe that such provision is invalid, inapplicable or unenforceable, or that any one of the events contemplated in the foregoing clauses (a)(i) or (a)(ii) has occurred, or if the negotiations set out in Section 1.11(a)(i) or Section 1.11(a)(ii) are not successful, then if the Parties are unable to agree on all such issues and any amendments required to this Agreement (in this Section 1.11(a)(iii) the **"Replacement Provision(s)"**) within thirty (30) days after the giving of the notice under Section 1.11(a) or Section 1.11(a)(ii), as applicable, then the Replacement Provision(s) shall be determined in accordance with the formal dispute resolution procedures set out in Section 18.2;
- (iv) the terms of this Agreement shall be deemed to be amended by the agreement of the Parties, the judgment of a court of competent jurisdiction or the award of the Arbitral Tribunal, as the case may be, from and after the date of the invalidity, inapplicability or unenforceability or from and after the date that the Index Change Event occurred; and
- (v) this Section 1.11 shall not apply to the circumstances addressed in Sections 1.7, 1.8, 1.9 and 1.10, or, for greater certainty, if the Government of Canada has no bonds issued or outstanding.

1.12 Entire Agreement

This Agreement, together with the Sharing in Transfers and Refinancings Agreement, constitutes 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, except as contained in the BPRIA, by either Party to this Agreement, or its directors, officers, employees or agents, to the other 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 written term of this Agreement.

1.13 Waiver, Amendment, Good Faith

- (a) 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 both Parties. 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. Without limiting the foregoing, the fact that the Counterparty has undertaken due diligence activities shall not constitute a waiver of any Generator Event of Default. The Generator acknowledges that communications from the System Operator to the Generator as a market participant will not constitute an amendment, waiver, consent or approval hereunder.
- (b) Each Party acknowledges that it has at common law a duty to act honestly and in good faith in the exercise of its rights and the performance of its obligations under this Agreement. Nothing in this Agreement, including any specific provision

referring to an obligation of good faith, shall be construed as derogating from or otherwise limiting such duty or duties that exist at common law; provided that regardless of what remedies may otherwise be available at common law, the remedies for breach of any such duty or duties of good faith referred to in Sections 2.6, 15.6 and 15.7, whether for breach of the contractual obligation or the common law duty or duties, shall be limited to the remedies provided in such provision.

1.14 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.

1.15 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 either Party when interpreting such term or provision by reason of the extent that such Party or its legal and other professional advisors participated in the preparation of the Agreement.

1.16 Prudence Standard

In the determination of whether the Generator has acted in accordance with Good Engineering Practices or has not imprudently incurred costs pursuant to Section 2.18, such determination shall be based on the following principles:

- (a) decisions made by the Generator should generally be presumed to be in accordance with Good Engineering Practices or not imprudent unless challenged by the Counterparty on reasonable grounds;
- (b) to be in accordance with Good Engineering Practices or not imprudent, a decision must have been reasonable under the circumstances that were known or ought to have been known to the Generator at the time the decision was made, except in respect of Section 2.11(a) and Section 2.16(a), where Good Engineering Practices are expressly stated to be in the Generator's sole discretion, in which case any such decision shall be deemed to have been reasonably made provided that the Generator has also acted in good faith in its determination;
- (c) hindsight should not be used in determining Good Engineering Practices or prudence, although consideration of the outcome of the decision may legitimately be used to overcome the presumption of Good Engineering Practices or prudence; and
- (d) Good Engineering Practices and prudence must be determined in a retrospective, factual inquiry, in that the evidence must be concerned with the time the decision was made and must be based on facts about the elements that could or did enter into the decision at the time.

1.17 Rebasing

If any index quotations, including for greater certainty, CPI and the Wage Rate Escalator, is expressed with an index base period (the period in which the index is set to equal 100) and such base period is changed, then where required for a calculation to be made herein, the replaced base period may be recalculated to reflect the new base period based on the following formula:

$$I^{h:t} = \frac{I^{g:t}}{I^{g:h}} \times 100$$

Where:	
$I^{h:t}$	is the index for a price observation period t with the new index reference period h;
$I^{g:t}$	is the index for a price observation period t with the old index reference period g; and
$I^{g:h}$	is the index for a price observation period h with the old index reference period g.

1.18 IESO Market Rules

Nothing in this Agreement will be construed as amending the IESO Market Rules, amending or modifying the Parties' obligations under the IESO Market Rules or waiving compliance by either Party with the IESO Market Rules. This Agreement is a "procurement contract", as defined in the Electricity Act, and not a transaction, arrangement or agreement entered into by the Counterparty based on the IESO Market Rules.

ARTICLE 2 REFURBISHMENT, ASSET MANAGEMENT AND OPERATION

2.1 Refurbishment of Units

Subject to the terms and conditions of this Agreement, the Generator covenants, at its expense, to Refurbish Units 3, 4, 5, 6, 7 and 8 by performing the Refurbishment Work applicable to each such Unit (following their respective Refurbishment, collectively, the "**Refurbished Units**" and each a "**Refurbished Unit**"). The Generator will carry out each Refurbishment using Good Engineering Practices and meeting, in all material respects, all relevant requirements of the Connection Agreements; provided that the foregoing does not constitute a warranty as to the cost, duration or outcome of any Refurbishment; however, the foregoing proviso shall not limit or affect the Counterparty's rights or remedies under Sections 2.10, 10.2 and 11.2(a)(iii).

2.2 Refurbishment Schedule

Subject to the provisions of this Agreement, including Section 2.3, the Generator shall Refurbish each of the Units in accordance with the following schedule:

Unit	Scheduled Refurbishment Outage Date	Planned Duration
First Unit	January 1, 2020	48 months (December 31, 2023)
Second Unit	January 1, 2023	42 months (June 30, 2026)
Third Unit	January 1, 2025	36 months (December 31, 2027)
Fourth Unit	July 1, 2026	36 months (June 30, 2029)
Fifth Unit	July 1, 2028	36 months (June 30, 2031)
Sixth Unit	July 1, 2030	36 months (June 30, 2033)

Each period set out in the column “**Planned Duration**” above is an estimate only by the Generator as at the date hereof of the Refurbishment Outage for such Unit.

2.3 Refurbishment Timing

Subject to the provisions of this Agreement, the Generator will commence the Refurbishment Work for each of Units 3 through 8 in accordance with the schedule for commencing the Refurbishment Outage set out in the second column of the table in Section 2.2, as it may be changed in accordance with the following:

- (a) The Contract Price will not be adjusted (including for greater certainty due to changes in the timing of Refurbishment Outages and timing of Refurbishment Costs) as the result of:
 - (i) the Generator not being able to operate a Unit until its Scheduled Refurbishment Outage Date; or
 - (ii) additional Outages taken or expenditures made on a Unit for maintenance or capital expenditures required in order for such Unit to remain in operation until its Scheduled Refurbishment Outage Date except in respect of the movement of Asset Management Work in accordance with the provisions of Sections 2.11 and 4.10 and the provisions set forth in Exhibit 4.10.
- (b) Prior to the Refurbishment Lock-In Date of a Unit, the Generator may, acting reasonably, on prior notice to the Counterparty move the Scheduled Refurbishment Outage Date of such Unit earlier without the Counterparty's approval, or later, pursuant to this Section 2.3(b), by up to an aggregate of three months without the Counterparty's approval. There will be no Contract Price Adjustment for such a change to a Scheduled Refurbishment Outage Date.
- (c) Prior to the Refurbishment Lock-In Date of a Unit, the Generator may, by notice to the Counterparty, propose a delay of greater than three months to the Scheduled Refurbishment Outage Date of such Unit. Such notice will provide reasonable details of the proposed change and the reasons therefor. In addition, such proposal will specify the proposed new Scheduled Refurbishment Outage Date, reasonable details of all corresponding changes to the then current

Financial Model, including the relevant Inputs thereto, and the impact of such changes on the Contract Price specifically attributable to the proposed change to the Scheduled Refurbishment Outage Date. The Generator will provide all such other information and details as the Counterparty may request with respect to such proposal on an Open Book Basis. Any such proposed change shall require the approval of the Counterparty. The Counterparty shall act reasonably in considering any such proposal having regard to, *inter alia*, the impact of such change on the supply of base-load Electricity in the context of the projected demand therefor, the IESO-Controlled Grid and the Ontario electricity ratepayers. The Counterparty will advise the Generator within thirty (30) days of its receipt of such proposal as to whether or not such change is approved by the Counterparty and, if it is not approved, the reasons for non-approval. Such change if approved by the Counterparty shall result in a Contract Price Adjustment in accordance with Section 4.8.

- (d) After the Refurbishment Lock-In Date of a Unit, the Generator may on prior notice to the Counterparty change the Scheduled Refurbishment Outage Date of such Unit by up to an aggregate of one month either earlier or later. Any such proposed change shall not require the approval of the Counterparty. There will be no Contract Price Adjustment due to such change.
- (e) Prior to the earlier of (i) the date eighteen (18) months prior to the Scheduled Refurbishment Outage Date of a Unit, and (ii) the Refurbishment Lock-In Date of such Unit, the Counterparty may, acting reasonably, on notice to the Generator propose changes to the Scheduled Refurbishment Outage Date of such Unit in order to aid in optimizing the capacity and energy available to Ontario's electricity system. Such notice will provide reasonable details of the proposed change and the reasons therefor. Within sixty (60) days following receipt of such a proposal, the Generator will provide the Counterparty with reasonable details of all corresponding changes to the then current Financial Model, including the relevant Inputs thereto, and the impact of such changes on the Contract Price specifically attributable to the Counterparty's proposed change to the Scheduled Refurbishment Outage Date. In addition, the Generator will advise the Counterparty as to the Generator's determination as to whether such change in the Scheduled Refurbishment Outage Date is contrary to Good Engineering Practices having regard to such Unit, the Facility taken as a whole, and whether such change will affect the safe operation of the Facility. Provided that: (i) the Generator has determined, acting reasonably, that such change in schedule is not contrary to Good Engineering Practices having regard to such Unit individually and to the Facility taken as a whole, and that such change will not adversely affect the safe operation of the Facility; and (ii) the Counterparty elects to proceed with its proposed change following review of the Generator's assessment of the consequent change to the Contract Price, the change will be accepted by the Generator and will result in a Contract Price Adjustment in accordance with Section 4.8.
- (f) In no circumstances will the Generator be obligated to undertake Refurbishment Work on more than two Units at the same time. If the Refurbishment of a third Unit is to be started and its Fully-Scoped Refurbishment Duration would overlap with the Refurbishment Outages of any two other Units (the "**Refurbishment Delay**"), the Generator may on notice to the Counterparty adjust the Scheduled

Refurbishment Outage Date of such third Unit to a date no later than the date three months after the date the first of the two Units being Refurbished is scheduled to first synchronize to the IESO-Controlled Grid, as such date may be further adjusted; provided that if the Refurbishment of one of such two other Units is terminated in accordance with the provisions of Section 10.2, then the Refurbishment of such third Unit shall commence within three months after such termination or as soon thereafter as is reasonably practicable in the circumstances having regard to, among other things, the process provided for in Sections 2.4 and 2.5. There will be no Contract Price Adjustment as a result of a Refurbishment Delay as aforesaid.

- (g) The Generator may on prior notice to the Counterparty switch the Scheduled Refurbishment Outage Date of a Unit for the Scheduled Refurbishment Outage Date of another Unit. There will be no Contract Price Adjustment due to such change in such Scheduled Refurbishment Outage Dates.
- (h) If the Fully-Scoped Refurbishment Duration for a Unit is longer than the planned Refurbishment Duration specified in Section 2.2 for such Unit but less than the Counterparty Duration Threshold, or is longer than the Counterparty Duration Threshold but the Counterparty has elected to nonetheless proceed with the Refurbishment or has been deemed to have elected to proceed with the Refurbishment, then such Fully-Scoped Refurbishment Duration for such Unit shall apply and the Contract Price will be adjusted in accordance with Section 4.8 and Exhibit 4.8 and the Financial Model to reflect the longer period of the Refurbishment Outage. If the Fully-Scoped Refurbishment Duration for a Unit is shorter than the planned Refurbishment Duration specified in Section 2.2 for such Unit, then such Fully-Scoped Refurbishment Duration for such Unit shall apply and the Contract Price will be adjusted in accordance with Section 4.8 and Exhibit 4.8 and the Financial Model to reflect the shorter period of the Refurbishment Outage.
- (i) The Scheduled Refurbishment Outage Date of a Unit will change to the extent caused by an event, act, cause or condition for which the Generator is entitled to schedule relief for Force Majeure as determined in accordance with Article 12. There will be no Contract Price Adjustment due to such change of the Scheduled Refurbishment Outage Date due to Force Majeure other than: (i) as a result of changes to the quantum of Refurbishment Costs attributable to Force Majeure or, (ii) as a result of EA Force Majeure or both (i) and (ii), in accordance with the provisions of Sections 4.9(a)(ii) or 4.9(a)(iii), or both, as the case may be.
- (j) The Contract Price Adjustments contemplated in this Section 2.3 will be made in a manner to ensure that the Generator is in No Better or Worse Position except that Contract Price Adjustments attributable to Force Majeure pursuant to Section 2.3(i) will be made in accordance with the provisions of Sections 4.9(a)(ii) or 4.9(a)(iii), or both, as the case may be.
- (k) A change in the timing of a Scheduled Refurbishment Outage Date may result in the movement of Asset Management Work up to the then current Planning Period or another period. Such changes shall be dealt with in accordance with the provisions of Section 2.11(c), Section 2.11(e), Section 4.10 and Exhibit 4.10 and the Financial Model.

- (l) The Counterparty's right to liquidated damages pursuant to Section 2.10(a) up to the maximum amounts set forth in Section 2.10(d)(i) in respect of such Unit, the Counterparty's remedies in Section 11.2(a)(ii) with respect to a Generator Event of Default pursuant to Section 11.1(b), the Counterparty's remedy in Section 11.2(a)(iii) with respect to a Generator Event of Default pursuant to Section 11.1(c) in respect of a breach by the Generator of its obligations in Section 2.1 and the Counterparty's rights as set forth under Section 10.2(a)(ii) to terminate this Agreement with respect to a Unit or the automatic termination provisions as set forth under Section 10.2(a)(iv) with respect to a Unit together with the Generator's covenants set forth in Section 10.2(b) or Section 10.2(c), as applicable, represent the Counterparty's sole remedies for the delay or failure of any Unit to be Refurbished or to meet any particular timeline for Refurbishment or for the Generator's failure to comply with Section 2.1.
- (m) The Scheduled Refurbishment Outage Date of a Unit will change in accordance with the provisions of Section 9.3(e) and Section 9.4.

2.4 Preliminary Cost Estimate

- (a) The Generator has provided to the Counterparty, prior to the date hereof, a preliminary Basis of Estimate Report for the First Unit. Such preliminary Basis of Estimate Report consists of a detailed breakdown of the estimated costs for the Refurbishment Work and the applicable One-Time Costs for the First Unit and describes the basis for the costs for each work breakdown item and the risk associated with that cost. The preliminary Basis of Estimate Report also includes a detailed work plan to develop the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration by the scheduled Refurbishment Lock-in Date of the First Unit. The Counterparty acknowledges receipt of such preliminary Basis of Estimate Report in form and scope acceptable to it. On or prior to December 31 of each year after the Effective Time and prior to the Refurbishment Lock-in Date of the First Unit, the Generator will update such preliminary Basis of Estimate Report and work plan for such Unit and will deliver to the Counterparty an updated Base Estimate and Contingency determined in accordance with Section 2.6 for the Refurbishment Work for such Unit.
- (b) Not later than thirty-six (36) months prior to the Scheduled Refurbishment Outage Date of each Unit to be Refurbished after the First Unit, the Generator will deliver to the Counterparty a Base Estimate and Contingency determined in accordance with Section 2.6, for the Refurbishment Work for such Unit. This estimate will consist of a detailed breakdown of the estimated costs for the Refurbishment Work and the applicable One-Time Costs for such Unit, including a preliminary Basis of Estimate Report that clearly describes the basis for the costs for each work breakdown item and the risk associated with that cost. Such estimate will also include a detailed work plan to develop the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration by the scheduled Refurbishment Lock-in Date of such Unit. On or prior to each anniversary of the date on which the preliminary Basis of Estimate Report is delivered in respect of each subsequent Unit to be Refurbished after the First Unit, until the Refurbishment Lock-in Date of such Unit, the Generator will deliver to the Counterparty an update of the preliminary Basis of Estimate Report and

plan for developing the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration for such Unit.

- (c) During the preparation of any Basis of Estimate Report or update thereof in respect of a Unit to be Refurbished and for which there is an Adjusted Prior Unit Cost, the Generator will, upon determining with reasonable certainty that a Prior Unit Cost Divergence or a Prior Unit Duration Divergence exists, provide the Counterparty with notice thereof, and as soon as reasonably practicable thereafter and, in any event, not later than the Refurbishment Lock-In Date of such Unit, a reasonably detailed explanation of the cause and anticipated effect of each such Prior Unit Cost Divergence and Prior Unit Duration Divergence on the Adjusted Prior Unit Cost, the Adjusted Prior Unit Duration, or both, of the applicable Unit and a reasonably detailed explanation as to why such Prior Unit Cost Divergence or Prior Unit Duration Divergence, as applicable, is reasonable in the circumstances. Without limitation of the generality of the foregoing:
 - (i) in respect of each Prior Unit Cost Divergence specified in clause (d) of the definition of Adjusted Prior Unit Cost, if any, that the Generator has determined is Beneficial to the Ratepayer, the Generator will provide the Counterparty with a detailed description to demonstrate why the Generator has determined that the change is Beneficial to the Ratepayer, including reasonable details of all corresponding changes proposed to be made to the then current Financial Model, including the relevant Inputs thereto, and in respect of each Prior Unit Cost Divergence that the Generator undertakes or commits to undertake for the primary purpose of reducing the expected Refurbishment Duration for such Unit, a detailed description of the trade-off that is being made between cost and duration, including reasonable details of all corresponding changes proposed to be made to the then current Financial Model, including the relevant Inputs thereto; and
 - (ii) in respect of each Prior Unit Duration Divergence specified in clause (d) of the definition of Adjusted Prior Unit Duration, if any, that the Generator has determined is Beneficial to the Ratepayer, the Generator will provide the Counterparty with a detailed description to demonstrate why the Generator has determined that the change is Beneficial to the Ratepayer, including reasonable details of all corresponding changes to the then current Financial Model, including the relevant Inputs thereto.

The Counterparty may within ten (10) days of receipt of a notice of a Prior Unit Cost Divergence or a Prior Unit Duration Divergence, request reasonable additional information. The Generator shall provide such reasonable additional information as is available to it within ten (10) days of receipt of such request.

- (d) The Generator will not be entitled to a Prior Unit Cost Divergence specified in clause (d) of the definition of Adjusted Prior Unit Cost unless the change is Beneficial to the Ratepayer. The Generator will not be entitled to a Prior Unit Duration Divergence specified in clause (d) of the definition of Adjusted Prior Unit Duration unless the change is Beneficial to the Ratepayer. If the Counterparty disagrees that a change specified in clause (d) of the definition of Adjusted Prior Unit Cost or clause (d) of the definition of Adjusted Prior Unit Duration is

Beneficial to the Ratepayer, it shall so notify the Generator by the 30th day after the Generator has provided the applicable information contemplated by Section 2.4(c)(i) or 2.4(c)(ii), as the case may be, together with a reasonably detailed explanation of why the Counterparty disagrees. If the Generator, in turn, provides notice of dispute (a “**Generator Accelerated Dispute Notice**”) within fourteen (14) days of receipt of the Counterparty’s notice, the dispute shall be resolved in accordance with Accelerated Dispute Resolution pursuant to Exhibit 2.4(d) and the issues for determination in such dispute will be limited to whether such Prior Unit Cost Divergence or Prior Unit Duration Divergence is Beneficial to the Ratepayer and, if so, the amount of such Prior Unit Cost Divergence or Prior Unit Duration Divergence. Such Generator Accelerated Dispute Notice must describe the nature of the dispute in reasonable detail in order that the Counterparty is able to provide the “Counterparty Decision Reasons” in accordance with Exhibit 2.4(d). If the Counterparty does not deliver its notice of disagreement to the Generator within such 30 day period it will be deemed to have agreed that such change is Beneficial to the Ratepayer. If a Generator Accelerated Dispute Notice is not delivered to the Counterparty within such 14 day period, the Generator will be deemed to have agreed that such change is not Beneficial to the Ratepayer.

- (e) In respect of any Prior Unit Cost Divergence specified in clause (h) of the definition of Adjusted Prior Unit Cost or any Prior Unit Duration Divergence specified in clause (g) of the definition of Adjusted Prior Unit Duration, the Generator will not be entitled to such divergence unless such divergence is beyond the Generator’s reasonable control and the Counterparty has approved that such is the case, which approval shall not be unreasonably withheld. If the Counterparty withholds its approval to a change specified in clause (h) of the definition of Adjusted Prior Unit Cost or a change specified in clause (g) of the definition of Adjusted Prior Unit Duration it shall so notify the Generator by the 30th day after the Generator has provided the reasonably detailed explanation contemplated by Section 2.4(c), together with a reasonably detailed explanation of why the Counterparty is withholding its approval. If the Generator, in turn, provides a Generator Accelerated Dispute Notice within fourteen (14) days of receipt of the Counterparty’s notice, the dispute shall be resolved in accordance with Accelerated Dispute Resolution pursuant to Exhibit 2.4(d) and the issues for determination in such dispute will be limited to whether such Prior Unit Cost Divergence or Prior Unit Duration Divergence is beyond the Generator’s reasonable control and, if so, the amount of such Prior Unit Cost Divergence or Prior Unit Duration Divergence which shall be determined in accordance with Accelerated Dispute Resolution pursuant to Exhibit 2.4(d). Such Generator Accelerated Dispute Notice shall describe the nature of the dispute in reasonable detail in order that the Counterparty is able to provide the “Counterparty Decision Reasons” in accordance with Exhibit 2.4(d). If the Counterparty does not provide such approval to the Generator within such 30 day period it will be deemed to have approved such change. If a Generator Accelerated Dispute Notice is not delivered to the Counterparty within such 14 day period, the Generator will be deemed not to have disputed the Counterparty’s determination to withhold its approval of such divergence in accordance with this Section 2.4(e). The Counterparty acknowledges and agrees that (i) a Discriminatory Action is, by definition, beyond the reasonable control of the Generator except where and to the extent such Discriminatory Action is directed specifically at the Generator in

response to, or is implemented specifically to address, an act or omission on the part of the Generator that is contrary to Ontario Laws and Regulations (as such Ontario Laws and Regulations existed prior to such change); and (ii) a Change of Law and the terms and conditions of any permit, certificate, impact assessment, licence, registration, authorization, consent or approval held or necessary to be held by or on behalf of the Generator in connection with a Refurbishment are beyond the reasonable control of the Generator except where and to the extent: (i) the coming into force of such Change of Law was known, or could reasonably have been known, by the Generator as at the date hereof; (ii) the Change of Law was in response to, or is implemented specifically to address, an act or omission on the part of the Generator that is contrary to Laws and Regulations (as such Laws and Regulations existed prior to such change); or (iii) the Change of Law was caused by the Generator's negligence or willful misconduct.

- (f) This Section 2.4 shall not apply to any Terminated Unit following any election or deemed election not to proceed with such Terminated Unit in accordance with Article 9 unless either the Generator or the Counterparty elected to proceed with the Refurbishment of such Unit pursuant to Section 9.1(d) or 9.1(e), as the case may be.

2.5 Final Cost Estimate and Commencement of Refurbishment

- (a) The Refurbishment Lock-in Date of a Unit shall not be later than fifteen (15) months prior to the Scheduled Refurbishment Outage Date of such Unit. On the Refurbishment Lock-in Date of each of Units 3, 4, 5, 6, 7 and 8, as the case may be, the Generator will provide the Counterparty with a final Basis of Estimate Report and a notice setting out the Fully-Scoped Refurbishment Cost for the applicable Unit, the Scheduled Refurbishment Outage Date, the Fully-Scoped Refurbishment Duration of such Unit and an allocation of the Fully-Scoped Refurbishment Cost to each calendar year of the Refurbishment of such Unit. The Counterparty shall notify the Generator by the MCR Decision Date that: (i) it has verified such final Basis of Estimate Report and notice; or (ii) it is unable to verify the same due to an error by the Generator in the scope of the Refurbishment Work to be undertaken or in the calculation of the amount of the Fully-Scoped Refurbishment Cost as provided in Section 2.5(c), or due to an outstanding dispute as provided in Section 2.6(i) or (j). If the Generator confirms and corrects such error, such corrected final Basis of Estimate Report will be deemed to have been verified. If the Generator disputes that such an error exists or if any part of the final Basis of Estimate Report is subject to an outstanding dispute pursuant to Section 2.6(i) or (j), those aspects of such Basis of Estimate Report shall be determined pursuant to Section 18.1 or 18.2 or Section 2.6(i) or (j), as applicable. The Counterparty will be deemed to have verified such final Basis of Estimate and notice if it does not respond to the Generator by the MCR Decision Date. All matters verified pursuant to this Section 2.5(a), including the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration of a Unit, will constitute verified Inputs for purposes of any applicable Contract Price Adjustment pursuant to Section 4.8(b) resulting from a Go Election.
- (b) If the Fully-Scoped Refurbishment Cost for the applicable Unit so provided to and verified by the Counterparty does not exceed the Counterparty Cost Threshold and if the Fully-Scoped Refurbishment Duration for such Unit is no longer than

the Counterparty Duration Threshold for such Unit, then the Generator will proceed with the Refurbishment Work on such Unit in accordance with the terms of this Agreement and subject to the Counterparty terminating such Refurbishment pursuant to Section 9.2(b) or the Generator terminating such Refurbishment pursuant to Section 9.3, the Go Election will be deemed to have been made as at the MCR Decision Date for such Fully-Scoped Unit. If the Fully-Scoped Refurbishment Cost for the applicable Unit so provided to and verified by the Counterparty exceeds the Counterparty Cost Threshold for such Unit and/or the Fully-Scoped Refurbishment Duration for the applicable Unit so provided to and verified by the Counterparty exceeds the Counterparty Duration Threshold, then, provided that neither Party has elected or has been deemed to have elected pursuant to the provisions of Section 9.1, Section 9.2 or Section 9.3 that Refurbishment of such Unit not proceed, the Generator will proceed with the Refurbishment Work on such Unit in accordance with the terms of this Agreement.

- (c) Other than a dispute arising under Section 2.4 or this Section 2.5 with respect to (i) a disagreement by the Counterparty that a change is Beneficial to the Ratepayer, (ii) whether a Prior Unit Cost Divergence specified in clause (h) of the definition of Adjusted Prior Unit Cost or a Prior Unit Duration Divergence specified in clause (g) of the definition of Adjusted Prior Unit Duration, respectively, is beyond the reasonable control of the Generator, (iii) the amount of an increase in cost for a Prior Unit Cost Divergence specified in clause (h) of the definition of Adjusted Prior Unit Cost, or (iv) the amount of an increase in Refurbishment Duration for a Prior Unit Duration Divergence specified in clause (g) of the definition of Adjusted Prior Unit Duration, each of the foregoing which may be the subject of Accelerated Dispute Resolution in accordance with the terms hereof, no other matters related to the determination of the Fully-Scoped Refurbishment Cost or the Fully-Scoped Refurbishment Duration (including the amount of any Prior Unit Cost Divergence or Prior Unit Duration Divergence) under either of Section 2.4 or this Section 2.5 may be the subject of Accelerated Dispute Resolution or dispute resolution pursuant to Section 18.1 or 18.2, except in the case of an error by the Generator in the scope of the Refurbishment Work to be undertaken or in the calculation of the amount of the Fully-Scoped Refurbishment Cost as provided in Section 3.2(c) and except as provided in Sections 2.6(i) and (j); provided that the Counterparty may not dispute such matters in respect of the Fully-Scoped Unit at any time after the date the Counterparty makes its election pursuant to Section 9.1(a) or is deemed to have made an election pursuant to Section 2.5(b) or Section 9.1(c), as the case may be. For greater certainty, the immediately preceding sentence is not intended to restrict any ability of the Counterparty to commence a dispute related to the Generator's breach of any of its covenants to provide the information contemplated under Section 2.4 or this Section 2.5 pursuant to Sections 18.1 and 18.2, provided that the remedy requested in respect of such a dispute is not to determine, specify, change or affect the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration (including the amount of any Prior Unit Cost Divergence or duration of any Prior Unit Duration Divergence).
- (d) This Section 2.5 shall not apply to any Terminated Unit following any election or deemed election not to proceed with such Terminated Unit in accordance with Article 9 unless either the Generator or the Counterparty elected to proceed with

the Refurbishment of such Unit pursuant to Section 9.1(d) or 9.1(e), as the case may be.

2.6 Base Estimate and Contingency

- (a) The Generator will prepare its Base Estimates in accordance with the BP Project Management Guidelines and taking into account the Generator's estimates, quotes, budgets, contracts, contracting strategy, past experience and other relevant factors, as determined by the Generator, acting in good faith. The Generator shall continue to subject such estimates to oversight by a Project Management Office substantially similar to the oversight as is in effect on the date hereof. The estimating process used to determine a Base Estimate for a Refurbishment shall be consistent with that used prior to the date hereof in respect of the First Unit and the estimating process used to determine a Base Estimate in respect of Asset Management Work shall be consistent with that used prior to the date hereof in respect of Planning Period N in the Initial Lifetime Asset Management Plan.
- (b) The Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration provided by the Generator and included in the final Basis of Estimate Report provided to the Counterparty on the Refurbishment Lock-in Date will be at the level of at least a Class 2 estimate (as defined in the BP Project Management Guidelines) and at Stage Gate CD3 (as set out in Appendix 1 to Exhibit 1.1(a)) in accordance with the BP Project Management Guidelines, as determined by the Generator acting in good faith. Except for the Initial Lifetime Asset Management Plan, any Fixed Asset Management Costs for any Asset Management Work to be carried out in any Planning Period N and included in the applicable LAMP will be at the level of at least a Class 2 estimate and at Stage Gate CD3 in accordance with the BP Project Management Guidelines, as determined by the Generator acting in good faith. For greater certainty, in respect of Asset Management Work, the classification of work as a Class 2 estimate and at Stage Gate CD3 is in respect of a particular scope of work and not a particular project as a whole (for example, where a certain scope of work for a project is to be undertaken in Planning Period N and the balance in Planning Period N+1, it is only that scope of work to be undertaken in Planning Period N that needs to meet a Class 2 estimate at Stage Gate CD3) and for the purposes thereof, with such modifications to the criteria for meeting a Class 2 estimate and Stage Gate CD3 as may be necessary to contemplate the application to a particular scope of work as opposed to a project.
- (c) The Generator will act in good faith in determining and preparing each Base Estimate having regard to its estimated Refurbishment Costs for the Unit or estimated Asset Management Costs for the relevant Planning Period N, as the case may be, before adding Contingency, so that, in the case of Refurbishment Costs, the Base Estimate does not include dollar amounts or numbers of days with the intended purpose of increasing the Generator's return in excess of the Rate of Return by operation of the sharing mechanism contemplated by Section 4.9(a)(i), and, in the case of Asset Management Costs for such Planning Period N, the Base Estimate does not include amounts with the intended purpose of increasing the Generator's return in excess of the Rate of Return on the Fixed Asset Management Costs for such Planning Period N.

- (d) In providing any estimate of the Refurbishment Duration or any final Fully-Scoped Refurbishment Duration, or Adjusted Prior Unit Duration, the Generator will be entitled to add a Contingency at an appropriate level determined in accordance with the BP Project Management Guidelines by the Generator acting in good faith and based on the level of project definition applicable to the specific components thereof at the time of determination and taking into account various factors including the size and complexity of the work, whether the work is first of a kind, first in a while or repeat work, whether the work is being completed pursuant to a fixed price contract and the history and experience of prior Refurbishment Work; provided that in no case shall such Contingency for Refurbishment Duration exceed the percentage of the applicable Base Estimate set forth in Section 2.6(d) of the Technical Schedule.
- (e) In providing any estimate of Refurbishment Costs or any final Fully-Scoped Refurbishment Cost, One-Time Costs or Adjusted Prior Unit Cost, the Generator will, notwithstanding the BP Project Management Guidelines, add a Contingency of the percentage of the applicable Base Estimate set forth in Section 2.6(e) of the Technical Schedule but shall not be entitled to add Contingency of greater than the percentage of the applicable Base Estimate set forth in Section 2.6(e) of the Technical Schedule. Such Contingency is over and above the Base Estimate which shall not, for certainty, include any Contingency applied by the Generator. The Contingency provided for in this Section 2.6(e) shall not be added to the actual Refurbishment Costs of any activity comprising the Refurbishment Work of the subject Unit that has been fully completed prior to the Refurbishment Lock-in Date of such Unit.
- (f) In providing any estimate of Asset Management Costs or determining any Fixed Asset Management Costs, the Generator will be entitled to add a Contingency for cost at an appropriate level determined in accordance with the BP Project Management Guidelines by the Generator acting in good faith and based on the level of project definition applicable to the specific components thereof at the time of determination and taking into account various factors including the size and complexity of the work, whether the work is first of a kind, first in a while or repeat work, whether the work is being completed pursuant to a fixed price contract and the history and experience of prior Asset Management Work; provided that in no case shall such Contingency exceed the percentage of the Base Estimate set forth in Section 2.6(f) of the Technical Schedule in respect of the Asset Management Work in any Planning Period N or the Base Estimate in respect of any Accelerated Asset Management Costs, recognizing that individual contingencies may vary from project to project within the Asset Management Work. For greater certainty, such Contingency is over and above the Base Estimate which shall not, for certainty, include any Contingency applied by the Generator.
- (g) For greater certainty, (i) the Generator's Contingency contemplated in this Section 2.6 does not include any contingency of any contractor, subcontractor of any tier or supplier to the Generator; and (ii) the Base Estimate may include contingency applied by any contractor or subcontractor of any tier or supplier to the Generator and the existence of such contingency will not mean that the Generator has acted in a manner that is inconsistent with the terms set out in this Section 2.6.

- (h) The Generator shall, through application of lessons learned on Refurbishment Work performed, endeavour to achieve improvement in relation to cost and schedule for successive Refurbishments as demonstrated by the decreasing Unit Base Costs (as defined in Exhibit 9.1) and the planned durations set forth in Section 2.2.
- (i) If during the review of any Basis of Estimate Report or update thereof in respect of a Unit to be Refurbished or during the review of any LAMP or supplement thereto, a senior officer of the Counterparty determines with reasonable certainty that the Generator has not complied with its obligations under Sections 2.6(a), (b) or (c) or has added Contingency in an amount exceeding the amounts contemplated by Sections 2.6(d), (e) or (f), as applicable, the Counterparty will promptly provide the Generator with notice thereof, together with a reasonably detailed explanation of the reasons for the Counterparty's determination. If the Generator disagrees with the Counterparty's determination, it shall so notify the Counterparty within twenty (20) days of the Counterparty's notice to the Generator together with a reasonably detailed explanation of the reasons that the Generator disagrees and within twenty (20) Business Days of the Counterparty's receipt of such explanation from the Generator, a Senior Conference shall be held pursuant to Section 18.1 to discuss such claim and if the Parties are unable to resolve such dispute within a further ten (10) days, it shall be resolved by mandatory arbitration conducted in accordance with the procedures set forth in Exhibit 18.2. The delivery by the Counterparty of a notice pursuant to this Section 2.6(i) shall not affect the timing or effect of any election made pursuant to Section 2.5(b) or Article 9 or the Refurbishment Work related thereto and, if no Party has elected or has been deemed to have elected pursuant to the provisions of Section 9.1, 9.2 or 9.3 not to proceed with such work, the Generator shall proceed with the applicable Refurbishment as herein provided on the basis of the Fully-Scoped Refurbishment Cost provided pursuant to Section 2.5(a). The delivery by the Counterparty of a notice pursuant to this Section 2.6(i) shall not affect the Generator's ability to carry out Asset Management Work described in the subject LAMP or supplement thereto. The Counterparty may not make a new claim that the Generator is in breach of its obligations pursuant to this Section 2.6 in respect of the Fully-Scoped Refurbishment Cost or Fully-Scoped Refurbishment Duration of a Unit at any time after the date the Counterparty makes its election pursuant to Section 9.1(a) or is deemed to have made an election pursuant to Section 2.5(b) or Section 9.1(c) and the Counterparty may not make a new claim that the Generator is in breach of its obligations pursuant to this Section 2.6 in respect of any LAMP or supplement thereto, Asset Management Costs or the Fixed Asset Management Costs for any Planning Period N any time after sixty (60) days after the receipt by the Counterparty thereof in accordance with the provisions of Section 2.11.
- (j) The Counterparty acknowledges and agrees that its right to dispute the Generator's compliance with the provisions of this Section 2.6 does not create a right of approval or consent in respect of any Base Estimate, the Fully-Scoped Refurbishment Cost, Fully-Scoped Refurbishment Duration, Asset Management Cost or Fixed Asset Management Costs and, except as otherwise provided in the following sentence or in any of Sections 2.4(e), 2.5(c), 3.2(c), and 3.5(c), the Counterparty may not dispute or challenge any aspect thereof, including any contract, contracting strategy, approach or estimate of the Generator's relating

thereto. Except as provided in Section 11.1(b) as it relates to the Generator's obligation to deliver a Basis of Estimate Report that meets the conditions of Section 2.6(b), the sole remedy of the Counterparty in respect of any breach by the Generator of its obligations under this Section 2.6 shall be to pursue the dispute process provided in Section 2.6(i) and the sole jurisdiction of any Arbitral Tribunal with respect to any dispute arising in respect of this Section 2.6 shall be to: (i) determine whether the Generator acted in good faith as provided in Section 2.6(c) in preparing any Base Estimate and to determine any amount included in such Base Estimate as a result of the Generator not having acted in good faith as provided in Section 2.6(c); and (ii) determine that the Generator has added to the Base Estimate a Contingency in excess of that permitted in Section 2.6(d), (e) or (f), as applicable. The Fully-Scoped Refurbishment Cost, Fully-Scoped Refurbishment Duration, Asset Management Cost or Fixed Asset Management Costs, as the case may be, shall then be adjusted to deduct any amount included in such Base Estimate as a result of the Generator not having acted in good faith as provided in Section 2.6(c) or having added a Contingency in excess of the allowed Contingency and the Contract Price will be adjusted on the next applicable Adjustment Date to reflect such adjustment in accordance with the provisions of Section 4.14(g) and Clause 3(f) of Exhibit 4.8 or Clause 5(f) of Exhibit 4.10, as applicable. For greater certainty, the Arbitral Tribunal in respect of the subject matter of this Section 2.6 shall not be entitled: (i) to order by its judgement that the Generator change any other aspect of the Generator's estimation process or means and methods, its contracts, contracting strategy, approach or any estimate, except to the extent the Generator did not act in good faith as provided in Section 2.6(c) in the determination of such estimate; or (ii) to award compensation be paid by one Party to the other, other than in respect of the costs of such arbitration. If an Arbitral Tribunal finds that the Generator has not acted in good faith, the Counterparty may, notwithstanding any other provision hereof, disclose to the public the nature of the dispute and the fact that the Generator has not acted in good faith.

2.7 Development Covenants

- (a) The Generator agrees to arrange on the Generator's side of the Points of Delivery, at its expense and in accordance with the Connection Agreements, all connection requirements for the Facility that may be required to permit the delivery of Electricity from Bruce A and Bruce B to the applicable Points of Delivery, and to pay all Connection Costs relating thereto.
- (b) The Generator agrees to provide, operate and maintain, at its expense, separate meters to meter the output of Electricity from each electrical generation unit paired with a Unit, as well as any ancillary metering and monitoring equipment required for Bruce A and Bruce B by the IESO Market Rules.
- (c) The Generator agrees to provide, at its expense, all power system components on the Generator's side of the Points of Delivery (including all transformation, switching and auxiliary equipment such as synchronizing and protection and control equipment, pursuant to requirements reasonably deemed necessary by the System Operator and the Transmitter, as applicable), to protect the safety and security of the IESO-Controlled Grid and each of the respective customers of the System Operator and the Transmitter, as the case may be. The equipment

to be so provided by the Generator shall include such electrical equipment on the Generator's side of the Points of Delivery as the System Operator and the Transmitter reasonably deem necessary, from time to time, for the safe and secure operation of the IESO-Controlled Grid, as required by the IESO Market Rules and the Transmission System Code, as applicable.

- (d) The Generator agrees to install, at its expense, protective equipment to protect its own personnel, property and equipment from variations in frequency and voltage or from temporary delivery of other than three-phase power, whether caused by Bruce A, Bruce B or the IESO-Controlled Grid, as the case may be.
- (e) The Generator agrees to cooperate with and to assist the Transmitter and Governmental Authorities by providing technical information pertaining to, and by supporting regulatory processes, applications or hearings in respect of any System Upgrades that may be required to permit the delivery of Electricity and Related Products from Bruce A or Bruce B to the IESO-Controlled Grid; provided that the Generator shall not be required to pay for any System Upgrade Costs associated therewith.

2.8 Upgrading of Units

If at any time, the Generator proposes to make physical plant upgrades to any of the Units beyond the scope of Refurbishment Work or Asset Management Work, or proposes to perform safety analyses which are ultimately accepted by the CNSC, in either case, for the purposes of allowing such Units to operate at reactor power above 92.5% for Bruce A or 93% for Bruce B in order to generate incremental Electricity then, prior to undertaking such upgrades or implementing the outcome of such safety analysis, the Generator and the Counterparty shall negotiate in good faith, each acting reasonably, to agree upon a price for incremental Electricity having regard to, *inter alia*, (a) the capital costs of such upgrades or safety analysis, (b) the cost of generating such incremental Electricity, (c) providing the Generator with a reasonable return on such incremental investment, and (d) the then current price of Electricity. In the absence of an agreement, the amount of Electricity that is generated by the Generator as a result of such upgrades or the implementation of the outcome of such safety analysis over and beyond the Electricity that would have been generated by the Generator in the absence of such upgrades or the implementation of the outcome of such safety analysis (the "**Incremental Bruce Energy**") and the price of Incremental Bruce Energy (the "**Incremental Contract Price**") may be determined by either the Generator or the Counterparty submitting the matter to arbitration, from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2. If the amount of Incremental Bruce Energy and Incremental Contract Price are determined by the agreement of such Parties or arbitration, the Generator may, in its sole discretion, undertake such upgrades or the implementation of the outcome of such safety analysis. Prior to commencing such upgrades or implementing the outcome of such safety analysis, the Parties shall amend the definitions of Bruce Energy and Contract Price and Sections 1.1, 2.15, 2.16, 4.2(a), 4.2(b), 4.2(c), 4.3, 5.2, 6.1 and Exhibit 4.2 and Exhibit 4.3, to the extent necessary, to incorporate Incremental Bruce Energy and the Incremental Contract Price into the terms and conditions of this Agreement.

2.9 Requirements for Commercial Operation

- (a) A Refurbished Unit will achieve "Commercial Operation" at the point in time when the following conditions have been satisfied:

- (i) The Counterparty has received a certificate addressed to it from a senior officer of the Generator with responsibility for such matters stating that:
 - (A) the Generator has received the CNSC's approval to release such Refurbished Unit's reactor shutdown guarantee(s);
 - (B) such senior officer of the Generator has approved raising such Refurbished Unit's reactor power above 75% of rated capacity and has declared such Refurbished Unit "in service";
 - (C) such Refurbished Unit has operated at a net Electricity output greater than 600 MW for 48 consecutive hours; and
 - (D) there are no conditions in respect of such Refurbished Unit that are reasonably expected to require an Outage in respect of such Refurbished Unit within the next thirty (30) consecutive days; and
 - (ii) Such Refurbished Unit has:
 - (A) successfully completed the commissioning tests for such Unit as a "commissioning generation facility" in accordance with the IESO Market Rules and such tests have been approved by the System Operator, whether with or without conditions; and
 - (B) been declared by the System Operator to be a registered "generation facility" that is subject to Dispatch Instructions and that is no longer a "commissioning generation facility" as defined in the IESO Market Rules. Where the status designations "commissioning generation facility" or "generation facility" are no longer applicable pursuant to the then current IESO Market Rules, the substantially similar designation then applicable will apply.
- (b) The Generator agrees to provide to the Counterparty, forthwith after receipt thereof, a copy of the declaration from the System Operator referred to in Section 2.9(a)(ii)(B) above (or other certificate or confirmation from the System Operator confirming such declaration). Notwithstanding Section 2.9(a)(ii), provided that the condition in Section 2.9(a)(i) has been satisfied, the date on which a Refurbished Unit is deemed to achieve "Commercial Operation" shall be the date which is the later of:
- (i) the date on which the condition in Section 2.9(a)(i) was satisfied; and
 - (ii) the date which the System Operator specifies as the date that the conditions in Section 2.9(a)(ii)(A) and Section 2.9(a)(ii)(B) were satisfied, even if the date of the declaration from the System Operator (or other certificate or confirmation from the System Operator confirming the declaration contemplated by Section 2.9(a)(ii)(B)) is dated or delivered on a later date.
- (c) If the Commercial Operation Date of a Refurbished Unit has not occurred because of a delay in the delivery of the declaration of the System Operator

contemplated by Section 2.9(a)(ii)(B) and the Generator has paid liquidated damages under Section 2.10 as a result, such liquidated damages shall be reimbursed to the Generator, together with interest at the Interest Rate calculated daily and compounded monthly, to the extent paid in respect of any period of time after the date that the applicable Refurbished Unit has been deemed to achieve Commercial Operation.

2.10 Milestone Dates and Liquidated Damages

The Generator acknowledges that time is of the essence to the Counterparty with respect to attaining Commercial Operation of each of Units 3 through 8 that is to be Refurbished in accordance with the terms hereof by its respective Milestone Date and if any such Unit does not achieve Commercial Operation on or before its Milestone Date, the following provisions shall apply with respect to such Unit:

- (a) Subject to Section 2.10(g), in each Month in which a Milestone Date of a Unit to be Refurbished occurs and the Commercial Operation Date of such Unit has not occurred and for each Month of the Term thereafter until such Commercial Operation Date has occurred (each such Month or part thereof, including the Month in which such Commercial Operation Date occurs, being an “**LD Month**”), the Generator shall pay to the Counterparty for an LD Month, as liquidated damages and not as a penalty, an amount equal to the sum of the Daily LD Amount for each calendar day for which Commercial Operation has not been achieved in such LD Month (but for certainty, the first LD Month for such Unit shall only include the calendar days after the applicable Milestone Date). The “**Daily LD Amount**” shall be:
 - (i) for each calendar day after the date three (3) Months after such Unit’s Milestone Date (“**Milestone Date +3**”) up to and including the earlier of the Commercial Operation Date and the date which is nine (9) Months after such Unit’s Milestone Date (“**Milestone Date +9**”), \$30,000;
 - (ii) for each calendar day after such Unit’s Milestone Date +9 and up to and including the earlier of such Unit’s Commercial Operation Date and the date which is fifteen (15) Months after such Unit’s Milestone Date (“**Milestone Date +15**”), \$60,000; and
 - (iii) for each calendar day after such Unit’s Milestone Date +15 up to and including such Unit’s Commercial Operation Date (or, if this Agreement is terminated in respect of such Unit without such Unit having achieved Commercial Operation, up to and including the date of termination in respect of that Unit), \$120,000.
- (b) Liquidated damages shall not apply in circumstances where failure to complete Refurbishment Work on a Unit by the applicable Milestone Date is the result of Technical Infeasibility.
- (c) For greater certainty, if the Commercial Operation Date of a Unit to be Refurbished occurs after its Milestone Date but on or before its Milestone Date +3, no amounts shall be payable by the Generator pursuant to this Section 2.10 in respect of such Unit.

- (d) Notwithstanding anything contained herein to the contrary:
- (i) the maximum amount of liquidated damages payable by the Generator pursuant to this Section 2.10 in respect of a particular Unit to be Refurbished shall be the positive difference between \$150,000,000 and the total amount of Delay Set-off that is forever forfeited pursuant to Section 11.2(a)(iii), if any; and
 - (ii) except for the Counterparty's rights as set forth under Section 10.2(a)(ii) to terminate this Agreement with respect to a Unit or the automatic termination provisions as set forth under Section 10.2(a)(iv) and the Counterparty's rights as set forth in Section 11.2(a)(iii) with respect to a Unit and the Generator's covenants set forth in Section 10.2(b) or Section 10.2(c), as applicable, the liquidated damages payable pursuant to Section 2.10(a) up to the maximum amounts set forth in Section 2.10(d)(i) shall represent the Counterparty's sole and exclusive remedy for the delay or failure of any Unit to be Refurbished to achieve Commercial Operation or for the Generator's failure to comply with Section 2.1.
- (e) All liquidated damages in respect of a Unit to be Refurbished received by the Generator from contractors, sub-contractors or suppliers shall first be used by the Generator to pay any amounts payable to the Counterparty pursuant to this Section 2.10 in respect of such Unit, and any excess received by the Generator shall be dealt with in accordance with Clause 3(a) of Exhibit 4.9.
- (f) If an amount is payable by the Generator to the Counterparty pursuant to Section 2.10(a) in respect of a Unit, such amount shall be included by the Generator in the Statement in accordance with Section 5.2 and payable monthly by the Generator. The provisions of Sections 5.7, 5.8 and 5.9 shall apply to Statements in respect of payments made pursuant to this Section 2.10.
- (g) Notwithstanding any other provisions hereof, in the event the Generator becomes obligated to pay liquidated damages pursuant to this Section 2.10 at any time that the Generator is obligated to pay the Daily EOD Amount pursuant to the provisions of Section 11.2(a)(iii)(B), the Daily LD Amount payable pursuant to Section 2.10(a) shall commence at the amount at which the Daily EOD Amount is then payable and, in accordance with the provisions of Section 11.2(a)(iii), the Daily EOD Amount shall cease to be payable by the Generator.

2.11 Asset Management

- (a) **Objective of Asset Management.** Subject to the terms and conditions of this Agreement, the Generator will perform the Asset Management Work until the end date specified in Exhibit 2.11(a) of the Technical Schedule in respect of each of such Units. The Generator shall target and perform investment in component replacement and life extension of systems that forms part of the Asset Management Work as close to the projected component end of life as possible but before the applicable end date specified in Exhibit 2.11(a), without adversely impacting risk, plant safety, operations and commercial profile, as determined by the Generator in accordance with Good Engineering Practices, as such practices are interpreted by the Generator in its sole discretion acting in good faith.

- (b) **Initial Asset Management Plan.** Attached as Exhibit 2.11(b) is the initial plan as at the date hereof for the Asset Management Work on Units 3 to 8 and the Facility-Specific Common Assets over the Term (the “**Initial Lifetime Asset Management Plan**” and, as such plan is updated in accordance with Section 2.11(c), the “**Lifetime Asset Management Plan**”). The Generator will specify in each Lifetime Asset Management Plan the Asset Management Work to be undertaken on each applicable Unit, the timetable for such Asset Management Work, and an estimate of the amounts to be spent (including Contingency as determined pursuant to Section 2.6) on Asset Management Work on each applicable Unit on a year-by-year basis over the Term. In addition, each Lifetime Asset Management Plan will provide the Generator’s Fixed Asset Management Costs to be undertaken in the immediately upcoming Planning Period N (comprised of the Base Estimate and Contingency determined pursuant to Section 2.6), an estimate of the cost of Asset Management Work for the next following Planning Period N+1, and the Planning Period N+1 Threshold Amount and will include an updated N and N+1 Deliverables Report. To the extent that any particular activity that comprises Asset Management Work is to be carried out over Planning Period N and Planning Period N+1, the scope of such activity that is to be undertaken in each of such periods shall be identified in the N and N+1 Deliverables Report with sufficient detail as to reasonably identify what portions of such scope of such activities that are to be undertaken in each such applicable Planning Period. By way of example, for all subject Units, the Initial Lifetime Asset Management Plan includes the Generator’s fixed costs for Asset Management Work for the first Planning Period (from January 1, 2016 to December 31, 2018) and an estimate of the cost of Asset Management Work and the Planning Period N+1 Threshold Amount for the second Planning Period (from January 1, 2019 to December 31, 2021). The Initial Lifetime Asset Management Plan also contains an estimate of the cost of Asset Management Work for each Planning Period after Planning Period N+1. For greater certainty, (i) the Fixed Asset Management Costs provided by the Generator for any Planning Period N and the Estimated Asset Management Costs provided by the Generator for any Planning Period N+1 will be comprised of the Base Estimate and Contingency, as determined pursuant to Section 2.6, and the estimate for the cost of Asset Management Work in any other Planning Period shall include Contingency, and (ii) the schedule and cost of Asset Management Work may change in each Lifetime Asset Management Plan but the activities that comprise Asset Management Work as specified in Exhibit 2.11(a) are fixed in the Initial Lifetime Asset Management Plan and shall not change.
- (c) **Updates to Lifetime Asset Management Plan.** No later than six (6) months prior to the start of the second Planning Period and each successive Planning Period thereafter until all Asset Management Work is completed, the Generator will provide the Counterparty with an updated Lifetime Asset Management Plan for Units 3 through 8 and the Facility-Specific Common Assets for the remainder of the Term. The updated Lifetime Asset Management Plan will contain details of the changes from the prior Lifetime Asset Management Plan and the reasons therefor. Each updated Lifetime Asset Management Plan shall describe Asset Management Work being deferred from the previous Planning Period to a later Planning Period or brought forward from a later Planning Period to the current Planning Period, amounts unspent from the previous plan, amounts overspent from the previous plan, and the Accelerated Asset Management Costs, if any,

provided that movement of Asset Management Work and the associated Contract Price Adjustments, if any, will only be done in accordance with the provisions of Section 4.10, Exhibit 4.10 and the Financial Model. The Counterparty shall notify the Generator within sixty (60) days of the Generator's delivery of an updated Lifetime Asset Management Plan that: (i) it has verified the same; or (ii) it is unable to verify the same due to an error by the Generator in the scope of the Asset Management Work to be undertaken or in the calculation of the amount of the Fixed Asset Management Costs as provided in Section 3.5(c), or due to an outstanding dispute as provided in Section 2.6(i) or 2.6(j). If the Generator confirms and corrects such error, such corrected updated Lifetime Asset Management Plan will be deemed to have been verified. If the Generator disputes that such an error exists or if any part of the updated Lifetime Asset Management Plan is subject to an outstanding dispute pursuant to Section 2.6(i) or 2.6(j), those aspects of such Lifetime Asset Management Plan shall be determined pursuant to Section 18.1 or 18.2 or Section 2.6(i) or 2.6(j), as applicable. The Counterparty will be deemed to have verified such updated Lifetime Asset Management Plan if it does not respond to the Generator within such sixty (60) day period. All matters verified pursuant to this Section 2.11(c), including the Fixed Asset Management Costs, will constitute verified Inputs for purposes of any applicable Contract Price Adjustment pursuant to Section 4.10 and Exhibit 4.10.

- (d) **Contract Price Adjustments.** The Contract Price will be adjusted in accordance with Section 4.10, Exhibit 4.10 and the Financial Model following the delivery of each updated Lifetime Asset Management Plan.
- (e) **Movement of Asset Management Work During a Planning Period.** If during a Planning Period the Generator determines in accordance with Good Engineering Practices to:
 - (i) accelerate Asset Management Work from a later Planning Period to an earlier Planning Period such that there is Accelerated Asset Management Work, it will provide the Counterparty with the reasons therefor, a description of the scope of such Accelerated Asset Management Work and fix the Accelerated Asset Management Costs in a supplement to the applicable Lifetime Asset Management Plan that incorporates the foregoing, prior to commencing such work; or
 - (ii) defer Asset Management Work from a Planning Period to a later Planning Period such that there is Postponed Asset Management Work, it will, provide the Counterparty with the reasons therefor, a description of the scope of such Postponed Asset Management Work and the Postponed Asset Management Costs, and a supplement to the applicable Lifetime Asset Management Plan that incorporates the foregoing; and

in either case, the Contract Price will be adjusted on the Adjustment Date specified in the preamble of Clause 5 of Exhibit 4.10 in accordance with Section 4.10, Exhibit 4.10 and the Financial Model. Without limiting the generality of the foregoing, the Parties acknowledge that a delay or other change in a Refurbishment or its Scheduled Refurbishment Outage Date may result in the movement of Asset Management Work to a different Planning Period.

- (f) **Units 1 and 2.** For greater certainty, the provisions of this Section 2.11 do not apply to Units 1 and 2.

2.12 Operation Covenants

- (a) The Generator agrees to operate and maintain each of the Units using Good Engineering Practices such that the requirements of the Transmission System Code, the Connection Agreements and all other Laws and Regulations are met in all material respects. The Generator's obligations with respect to a Unit under this Section 2.12 shall end upon the termination of this Agreement, the termination of this Agreement in respect of such Unit or at the time such Unit is Permanently Decommissioned or Effectively Decommissioned, whichever shall occur first.
- (b) Subject to Section 2.14(c) and provided to do so is in accordance with Good Engineering Practices, the Generator will operate the Units in compliance in all material respects with the provisions of the IESO Market Rules related to the special protection system to the extent applicable to, and currently in place in respect of, the Facility, as such special protection system may be amended from time to time in accordance with IESO Market Rules.

2.13 Insurance Covenants

- (a) The Generator agrees to put in effect and maintain, from the date of this Agreement to the expiry of the Term, whether through contractors or directly at its own cost and expense, as applicable, insurance with respect to the Facility with reputable insurance companies against such risks and up to such limits as a prudent owner or tenant of premises such as the Facility would procure, including appropriate coverage of construction risks during each Unit's Refurbishment and, as appropriate, nuclear liability insurance; provided that in no event shall such insurance coverage be less than that required by Laws and Regulations.
- (b) The Generator shall provide the Counterparty with proof of the insurance required by this Agreement in the form of valid certificates of insurance that confirm the required coverage, on or before the commencement of each Unit's Refurbishment, and thereafter at the reasonable request of the Counterparty. Upon the request of the Counterparty, a copy of each insurance policy shall be made available to it.
- (c) If the Generator is subject to the *Workplace Safety and Insurance Act* (Ontario) (the "**WSIA**"), it shall submit a valid clearance certificate of WSIA coverage to the Counterparty prior to the Effective Date. In addition, the Generator shall, from time to time at the request of the Counterparty, provide additional WSIA clearance certificates. The Generator agrees to pay when due, all amounts required to be paid by it in respect of a Refurbishment, from time to time from the Effective Date, under the WSIA. The Generator agrees, in accordance with its obligations under the WSIA, to cause each of its contractors and subcontractors to comply with their respective obligations under the WSIA in respect of each Refurbishment. The Counterparty shall have the right, in addition to and not in substitution for any other right it may have pursuant to this Agreement or otherwise at law or in equity, to pay to the Workplace Safety and Insurance

Board any amount due pursuant to the WSIA and unpaid by the Generator or its contractors or subcontractors in respect of a Refurbishment and to deduct such amount from any amount due and owing from time to time to the Generator pursuant to this Agreement.

2.14 Compliance with Laws and Regulations and Governing Documentation

- (a) The Counterparty and the Generator shall each comply, in all material respects, with all Laws and Regulations required to perform or comply with their respective obligations under this Agreement.
- (b) The Counterparty and the Generator shall each obtain and maintain in good standing, or cause to be obtained and maintained in good standing, on its behalf, any material licence, permit, certificate, registration, authorization, consent or approval of any Governmental Authority required to perform or comply with their respective obligations under this Agreement, including such licensing as is required by the OEB and the CNSC.
- (c) The Counterparty acknowledges that in the event of any inconsistency between any order, direction or licensing requirement of the CNSC applicable to the Generator and any IESO Market Rules, the Generator has determined to treat such CNSC order, direction or licensing requirement as governing to the extent of the inconsistency and the Counterparty agrees that such determination shall not constitute a breach of any provision of this Agreement. The Generator shall notify the Counterparty within thirty (30) days of a senior officer of the Generator determining that such inconsistency exists and understanding the implications thereof, provided that the failure to do so shall not constitute a Generator Event of Default.

2.15 Supply to the IESO-Administered Markets

- (a) From and after the Effective Date and during the Term of this Agreement, the Generator will supply, if and when generated, all Bruce Energy to the IESO-Administered Markets. For certainty, subject to the Offer Floor Price described in Section 2.16, the Generator may Offer such Electricity to the IESO-Administered Markets at prices determined by the Generator in its sole discretion. Unless a Price Indicator Unavailability Event has occurred and is continuing, the Generator shall not enter into any bilateral contracts (which, for certainty, shall include "physical bilateral contracts" as such term is defined in the IESO Market Rules) for physical delivery of Bruce Energy ("**Physical Delivery Contracts**"), except for Physical Delivery Contracts with the System Operator for reactive power, and the Generator shall not enter into Financial Contracts specifically tied to the generation of Bruce Energy.
- (b) For greater certainty, nothing in this Agreement shall be construed as restricting or preventing the Generator from entering into:
 - (i) financial contracts, including contracts for differences and similar derivatives contracts, (collectively, "**Financial Contracts**") other than any Financial Contract that is specifically tied to the generation of Bruce Energy; or

- (ii) Physical Delivery Contracts for Electricity that is not generated by the Bruce A Units or the Bruce B Units.

For greater certainty, electricity purchased by the Generator through the IESO-Administered Markets or otherwise purchased from a third-party shall not be considered to be generated by Bruce A or Bruce B.

- (c) All activities, undertakings, revenues, goodwill, costs and expenses of the Generator related to the Excluded Business, including costs and expenses of the employees of the Generator engaged in the Electricity marketing functions of the Generator and the activities thereof that, for greater certainty, include the prospecting, marketing and transacting of the arrangements contemplated by Section 2.15(b), are excluded from the provisions of this Agreement.

2.16 Dynamic Capabilities

- (a) **Offer of Dynamic Capabilities.** From and after the Effective Date and during the Term, the Generator will Offer Dynamic Capabilities to the IESO-Administered Markets in accordance with the provisions of this Section 2.16. The Parties acknowledge and agree that the Generator will fulfill its obligations to Offer Dynamic Capabilities by, subject to the provisions of this Section 2.16:
 - (i) Offering, in a manner consistent with the Generator's past practice, when and if available, in accordance with Good Engineering Practices, and in accordance with the IESO Market Rules, Flexible Nuclear Generation to the IESO-Administered Markets at no less than the Rules Floor Price for Flexible Nuclear Generation specified in the IESO Market Rules; and
 - (ii) Offering, if and when generated, all Bruce Energy, other than that being Offered pursuant to Section 2.16(a)(i), to the IESO-Administered Markets at no less than the Offer Floor Price.

For greater certainty:

- (A) notwithstanding any determination by the Generator in accordance with Good Engineering Practices, as such practices are interpreted by the Generator in its sole discretion acting in good faith, that it is unable to perform its obligations in Section 2.16(a)(i), in whole or in part, for any amount of time, including due to any event or circumstance contemplated by Section 2.16(b), the Generator will continue to be paid the DC Fee pursuant to Section 2.16(d);
- (B) notwithstanding any determination by the Generator in accordance with Good Engineering Practices, as such practices are interpreted by the Generator in its sole discretion acting in good faith, that it is unable to perform its obligations in Section 2.16(a)(ii), in whole or in part, for any amount of time, due to any event or circumstance contemplated by Section 2.16(c), the Generator will continue to be paid the DC Fee pursuant to Section 2.16(d);

- (C) the Generator may Offer Bruce Energy pursuant to Section 2.16(a)(ii) in price and quantity pairs determined in its sole discretion as long as none of such Offer prices are less than the Offer Floor Price; provided, however, if Bruce Energy is delivered to a Point of Delivery at a time when HOEP is below the Offer Floor Price as the result of any or all of the Units being a constrained on generation unit (as such term is defined in the IESO Market Rules), by a Dispatch Instruction or as the result of the Generator's inability to comply with a Dispatch Instruction due to any event or circumstance contemplated by Section 2.16(c), the resulting congestion management settlement credits will be treated as Bruce Energy Congestion Revenue in accordance with Section 6.1(b) and the Generator shall receive a Contingent Support Payment pursuant to Section 4.2(a) that fully compensates the Generator to HOEP, notwithstanding that HOEP is less than the Offer Floor Price during any settlement hour that the Generator is so producing Bruce Energy;
 - (D) if the Generator acting in bad faith fails or refuses to perform its obligations in Section 2.16(a)(i) then such failure or refusal shall be a breach by the Generator of its obligations in Section 2.16(a)(i). For greater certainty, the Generator shall not be considered to have acted in bad faith if it fails to perform its obligations in Section 2.16(a)(i) by reason of any action it takes to prevent or mitigate any event of Force Majeure or any other event or circumstance contemplated by Section 2.16(b); and
 - (E) following the occurrence and during the continuance of any relief event contemplated by Section 2.16(c), the Generator may Offer Bruce Energy in price and quantity pairs at prices lower than the Offer Floor Price.
- (b) **Relief Events for Flexible Nuclear Generation.** In addition to any relief in performing its obligations to which the Generator is entitled pursuant to the provisions of Article 12, the Generator will be excused and relieved from performing or complying with its obligations under Section 2.16(a)(i) and shall not be liable for any liabilities, damages, losses, payments, costs, expenses or Indemnifiable Losses in respect of or relating to such non-performance or non-compliance if the performance or compliance by the Generator of such obligations would, or would reasonably be expected to, result in:
 - (i) any event or circumstance provided in Chapter 7, Section 7.5.3 of the IESO Market Rules that would relieve a market participant (as such term is defined in the IESO Market Rules) from the obligation to comply with a Dispatch Instruction;
 - (ii) without limiting the generality of Section 2.16(b)(i), any non-compliance or violation by a Party of any Laws and Regulations;

- (iii) without limiting the generality of Section 2.16(b)(i), a negative impact on the safe and reliable operation of a Unit or the equipment associated therewith, including its electrical generating unit;
- (iv) without limiting the generality of Section 2.16(b)(i), an adverse effect on any one or more of the Units, the equipment associated therewith or the operation thereof for safety, environmental or regulatory reasons;
- (v) without limiting the generality of Section 2.16(b)(i), an adverse effect on any one or more of the Units, the equipment associated therewith or the operation thereof (including for technical or operational reasons) that exceeds the adverse effects on the Units that the Generator has experienced based on the Generator's past practice during normal operation (including providing Flexible Nuclear Generation) of the Units, provided that such exceedance is not *de minimis*; or
- (vi) without limiting the generality of Section 2.16(b)(i), endangerment to the safety of any individual.

Notwithstanding any non-performance or non-compliance by the Generator of its obligations under Section 2.16(a)(i), the Generator will continue, subject to Section 11.2(a)(ii), to be paid the DC Fee pursuant to Section 2.16(c). In addition, if following a claim for relief by the Generator pursuant to this Section 2.16(b) it is subsequently determined that the Generator was not entitled to such relief, such non-performance or non-compliance will be a breach by the Generator of its obligations in Section 2.16(a)(i).

- (c) **Relief Events for Offer Floor Price.** In addition to any relief in performing its obligations to which the Generator is entitled pursuant to the provisions of Article 12, the Generator will be excused and relieved from performing or complying with its obligations under Section 2.16(a)(ii) and shall not be liable for any liabilities, damages, losses, payments, costs, expenses or Indemnifiable Losses in respect of or relating to such non-performance or non-compliance if the performance or compliance by the Generator of such obligations would, or would reasonably be expected to, result in any event or circumstance provided in Chapter 7, Section 7.5.3 of the IESO Market Rules that would relieve a market participant (as such term is defined in the IESO Market Rules) from the obligation to comply with a Dispatch Instruction; provided, however, "damage equipment" as referenced in Section 7.5.3 of the IESO Market Rules shall include damage to any one or more of the Units or the equipment associated therewith that exceeds the adverse effects on the Units that the Generator has experienced based on the Generator's past practice during normal operation (including providing Flexible Nuclear Generation) of the Units, provided that such exceedance is not *de minimis*. Notwithstanding any non-performance or non-compliance by the Generator of its obligations under Section 2.16(a)(ii), the Generator will continue, subject to Section 11.2(a)(ii), to be paid the DC Fee pursuant to Section 2.16(d). In addition, if following a claim for relief by the Generator pursuant to this Section 2.16(c) it is subsequently determined that the Generator was not entitled to such relief, such non-performance or non-compliance will be a breach by the Generator of its obligations in Section 2.16(a)(ii).

- (d) **Payment for Dynamic Capabilities.** As consideration for Offering Dynamic Capabilities in accordance with the provisions of Section 2.16(a), Section 2.16(b) and Section 2.16(c), the Counterparty shall pay the Generator for each MWh of Bruce Energy a fixed fee equal to \$1.33/MWh (as adjusted from time to time, the “**DC Fee**”) as calculated and payable pursuant to Section 4.2(c) and Exhibit 4.2. The initial DC Fee is expressed in dollars as at January 1, 2016 and will be subject to escalation at CPI as determined in accordance with Section 4.5 and Exhibit 4.5. Notwithstanding any provision in this Agreement to the contrary, the DC Fee will not be adjusted as the result of the exercise by either Party of its election not to proceed with a Refurbishment pursuant to any of Sections 9.1, 9.2, 9.3 and 9.4.
- (e) **Adjustment of Offer Floor Price.** The Offer Floor Price may be adjusted from time to time in accordance with the following:
- (i) The Counterparty may from time to time but in no event more frequently than once in a Contract Year propose a new Offer Floor Price that complies with the provisions, principles and conditions set out in this Section 2.16. Provided that such Offer Floor Price proposed by the Counterparty: (x) complies with the provisions, principles and conditions set out in this Section 2.16; and (y) would not result or would not reasonably be expected to result in:
 - (A) any non-compliance or violation by a Party of any Laws and Regulations;
 - (B) a negative impact on the safe and reliable operation of a Unit or the equipment associated therewith, including its electrical generating unit;
 - (C) an adverse effect on the operation of any one or more of the Units for safety, environmental or regulatory reasons;
 - (D) an adverse effect on any one or more of the Units, the equipment associated therewith or the operation thereof (including for technical or operational reasons) that exceeds the adverse effects on the Units that the Generator has experienced based on the Generator’s past practice during normal operation (including the provision of Flexible Nuclear Generation) of such Units, provided that such exceedance is not *de minimis*; or
 - (E) endangerment to the safety of any individual,then such new Offer Floor Price will be implemented.
 - (ii) The Generator may propose a new Offer Floor Price that complies with the provisions, principles and conditions in this Section 2.16 at any time if the then applicable Offer Floor Price: (A) does not comply with the provisions, principles and conditions set out in this Section 2.16; or (B) would result or would reasonably be expected to result in any event or circumstance set forth in Section 2.16(e)(i). If the then applicable Offer

Floor Price satisfies any one of the immediately preceding conditions, such new Offer Floor Price may then be implemented with the Counterparty's consent, which consent may not be unreasonably withheld. It will be unreasonable for the Counterparty to withhold its consent if (A) the Generator can demonstrate that the then applicable Offer Floor Price results, or is reasonably expected to result in any event or circumstance set forth in Section 2.16(e)(i)(A) to Section 2.16(e)(i)(E), inclusive, and (B) the proposed new Offer Floor Price complies with the provisions, principles and conditions of this Section 2.16. Without limiting the generality of the foregoing, if the IESO Market Rules do not specify a Rules Floor Price for a particular type of flexible Electricity generation capacity, the Parties will determine, acting reasonably, an Offer Floor Price that is below the Offers reasonably attributable to such flexible generation capacity and if the Generator has proposed a new Offer Floor Price because the Offers reasonably attributable to flexible generation capacity that is not subject to a Rules Floor Price are causing or have caused the quantum of the Offer Floor Price to become uncompliant with the provisions, principles or conditions of this Section 2.16, then the Generator need only make a *prima facie* case to demonstrate the same.

- (iii) If either Party wishes to propose a new Offer Floor Price, it shall provide Notice to the other Party together with such information as may be reasonably required by the other Party to assess the new Offer Floor Price and the reasons provided for in accordance with Section 2.16(e)(i) and Section 2.16(e)(ii) for the proposed change. If the receiving Party does not agree with the proposed new Offer Floor Price, such Party shall within ninety (90) days after the date of receipt of such Notice give to the first Party a Notice disputing such proposed new Offer Floor Price and setting out an amount that the Counterparty proposes as the new Offer Floor Price, if any, together with a reasonably detailed explanation for such dispute, failing which such Party shall be deemed to have accepted the new Offer Floor Price. If such response is given, the Counterparty and the Generator shall attempt to determine a new Offer Floor Price through negotiation, and any amount so agreed in writing shall be the new Offer Floor Price. If the Counterparty and the Generator do not agree in writing upon the new Offer Floor Price within ten (10) days after the date of receipt by the proposing Party of the other Party's Notice disputing the proposed new Offer Floor Price, the new Offer Floor Price shall be resolved in accordance with Section 18.1 or Section 18.2.
 - (iv) Each new Offer Floor Price that is determined by the agreement of the Parties or pursuant to Section 18.1 or Section 18.2 shall take effect from the first day of the Month immediately following such determination.
- (f) **Floor Price Principles.** The Parties intend that the Generator's obligations pursuant to Section 2.16(a) are based on and subject to the following principles:
 - (i) The Parties intend that the Offer Floor Price provide an incentive to the Generator to continue to Offer Flexible Nuclear Generation as provided herein and is also intended to provide an additional means to manage the IESO-Controlled Grid effectively through shutdown of one or more Units

when no other flexible generation, including Flexible Nuclear Generation, is available or has been fully dispatched, or as the control room of the System Operator determines in consultation with the control authority of the Generator in accordance with the IESO Market Rules, for purposes of maintaining IESO-Controlled Grid reliability in accordance with reliability standards (as defined in the IESO Market Rules). Notwithstanding the foregoing, the Parties intend that the Units generally be operated by the Generator as baseload capacity. The Units are not intended to be operated by the Generator as load-following generation as the result of the provision of Dynamic Capabilities. Increased shutdowns of any Unit in comparison to the historical frequency of shutdowns as at the date hereof is not the objective of the Offer Floor Price; provided, however, that the foregoing principle is not a warranty or covenant by either Party that increased shutdowns may not occur and the Parties acknowledge that by Offering the Offer Floor Price one or more of the Units may be required to be taken off-line from time to time and that such occurrences will be Disruption Events, which are subject to Section 6.1.

- (ii) The Parties intend that the Offer Floor Price will effectively maintain the Units in Ontario's generation "stack" in the order as it exists as at the date hereof and the Parties acknowledge that the Offer Floor Price as at the date hereof was determined on the foregoing basis and in compliance with the other principles set forth in this Section 2.16. Subject to the foregoing sentence, the Offer Floor Price will be set below the Offer floor prices specified in the IESO Market Rules (collectively, the "**Rules Floor Prices**") for other flexible Electricity generation capacity (including, as applicable, flexible wind generation, flexible solar generation, flexible hydro and flexible gas-fired generation (that, for greater certainty, does not include non-flexible gas-fired generation or portions thereof such as combined heat and power or co-generation), as determined by the Counterparty, acting reasonably).
- (iii) The Parties will use reasonable efforts to maintain a suitable difference (as determined by the Counterparty and agreed by the Generator, each acting reasonably) between the Rules Floor Prices for flexible renewable Electricity generation facilities and the Offer Floor Price to ensure that the principles in Sections 2.16(f)(i) and 2.16(f)(ii) are maintained.
- (iv) The provisions of this Section 2.16 are not intended to change the effect of any IESO Market Rules as they apply to either Party, including the rates regarding compensation for congestion management settlement credits.

2.17 Discriminatory Action Consultation

Without prejudice to its ability to assert a claim for Discriminatory Action pursuant to Article 14 or to any right or remedy of the Generator thereunder, the Generator shall notify the Counterparty of any Change of Law or proposed Change of Law of which it becomes aware and that could reasonably be expected to result in a Discriminatory Action; provided that any failure to so notify shall not constitute a Generator Event of Default.

2.18 Fuel Covenants

- (a) **Effectiveness of Procurement Strategy.** At least three (3) months prior to every fifth anniversary of the date hereof, the Generator shall propose a procurement strategy (the “**Procurement Strategy**”) to the Counterparty with respect to Front-end Fuel Costs. The Procurement Strategy shall, among other things, provide guidelines pursuant to which the Generator shall, in good faith and acting reasonably, solicit proposals from potential counterparties in respect of proposed amendments to the Specified Fuel Supply Arrangements and proposed new fuel supply arrangements for the Facility (such proposed amendments and proposed new fuel supply arrangements being “**Fuel Supply Variations**”). The Counterparty and the Generator agree to consult with each other concerning such Procurement Strategy with a view to finalizing same. If the Counterparty approves such Procurement Strategy (an “**Approved Procurement Strategy**”), such Approved Procurement Strategy shall remain in effect until a subsequent Approved Procurement Strategy is approved by the Counterparty. The Parties acknowledge that the Approved Procurement Strategy as at the date hereof, as it relates to the Bruce A Units, is dated February 15, 2008, as amended December 9, 2009. Front-end Fuel Costs for the Bruce B Units are subject to those agreements listed under the heading “Bruce B” on Exhibit 2.18(a), which constitute Specified Fuel Supply Arrangements for the purposes hereof. The Procurement Strategy to be proposed by the Generator prior to the fifth anniversary hereof shall propose a procurement strategy for the Facility as a whole.
- (b) **Review of Approved Procurement Strategy.** From time to time either the Counterparty or the Generator may request that the other meet to review the existing Approved Procurement Strategy. Such meetings will be held for the purposes of assessing the performance of such Approved Procurement Strategy, consulting with each other regarding any desirable amendments to such Approved Procurement Strategy, and discussing such other matters related to such Approved Procurement Strategy as they may agree prior to any such meeting. The Generator and the Counterparty may agree to revise such Approved Procurement Strategy following such meeting and, subject to approval by the Counterparty, such revised Approved Procurement Strategy will remain in effect until a subsequent Approved Procurement Strategy is approved by the Counterparty.
- (c) **Fuel Supply Variation.** The Generator shall give the Counterparty notice (the “**Fuel Amendment Notice**”) of each Fuel Supply Variation. The Generator shall provide in its notice, to the extent available to the Generator, the identity of the counterparty to the Fuel Supply Variation selected by the Generator, a copy of the document(s) implementing the Fuel Supply Variation, and a reasonably detailed description of how the Fuel Supply Variation is expected to affect the then current Front-end Fuel Costs, if at all, and whether, in its reasonable opinion, such Fuel Supply Variation is in accordance with the Approved Procurement Strategy then in effect and prudently incurred. The Counterparty shall, acting reasonably and without unreasonable delay or conditions, provide the Generator with its consent to enter into such Fuel Supply Variation. If the Counterparty provides such consent, the Counterparty shall be deemed to have approved of the Fuel Supply Variation and such Fuel Supply Variation shall be

deemed to be Specified Fuel Supply Arrangements for the purposes of this Agreement. If the Counterparty has not provided its consent to enter into, or disapproval of, such the Fuel Supply Variation within sixty (60) days of receipt of the Fuel Amendment Notice, the Counterparty shall be deemed to have consented to same.

- (d) **Disapproval of Variation.** If the Counterparty does not wish to provide such consent: (i) it shall notify the Generator of the grounds upon which it believes, acting reasonably, that the Fuel Supply Variation is not in accordance with the Approved Procurement Strategy; and (ii) it may in such notice advise the Generator of the amount of the increase in Front-end Fuel Costs that it believes, acting reasonably, is prudently incurred (collectively, a “**Counterproposal**”).
- (e) **Interim Provisions During Disapproval.** In the absence of the Counterparty's consent, the Generator may:
 - (i) take such steps as are necessary to bring the Fuel Supply Variation into accordance with the Approved Procurement Strategy as set forth in the Counterproposal, in which case such Fuel Supply Variation shall be deemed to be Specified Fuel Supply Arrangements for the purposes of this Agreement; or
 - (ii) nonetheless proceed with such Fuel Supply Variation and the issues of whether (A) such Fuel Supply Variation is in accordance with the Approved Procurement Strategy then in effect and, if not, (B) the amount by which the Front-end Fuel Costs may be increased as a result of being prudently incurred, shall be determined by mandatory and binding arbitration, from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2.

Until such time as such arbitration is concluded, Monthly Payments shall be made effective as of the date that such Fuel Supply Variation takes effect and shall be based on the existing Front-end Fuel Costs as increased by the amount of the increase, if any, that the Counterparty has notified the Generator in the Counterproposal as being prudently incurred. If the Counterparty has not provided such notice within sixty (60) days of its receipt of the Fuel Amendment Notice, the Monthly Payments shall be based on the new Front-end Fuel Costs determined by the Generator pursuant to such Fuel Supply Variation. All such Monthly Payments shall be subject to recalculation and readjustment once the issue of whether the Fuel Supply Variation is in accordance with the Approved Procurement Strategy then in effect or the increase in the Front-end Fuel Costs is prudent is finally determined by agreement of the Parties or by arbitration, and the Party owing monies to the other pursuant to such recalculation shall promptly pay such monies owing together with interest at the Interest Rate plus 2%, calculated daily and compounded monthly, from and including the time such payments were due to the date of the payment thereof. Upon such determination, such Fuel Supply Variation (including the amount of the permitted increase in the Front-end Fuel Costs, if any) shall be deemed to be Specified Fuel Supply Arrangements for the purposes of this Agreement.

- (f) **Deemed Prudence.** The Counterparty acknowledges and agrees that:

- (i) no aspect of the Specified Fuel Supply Arrangements is imprudent, except as may be determined by an Arbitral Tribunal pursuant to Section 2.18(e); and
 - (ii) all costs correctly and properly incurred by the Generator pursuant to and in accordance with the terms of the Specified Fuel Supply Arrangements shall be deemed to be prudently incurred.
- (g) **Prompt Criticality Alternative.** The Generator has advised the Counterparty that instead of addressing the prompt criticality concerns raised by the CNSC in respect of the Units by loading low void reactivity fuel into the Refurbished Units it has decided to implement the Prompt Criticality Alternative. The acceptance of the implementation of the Prompt Criticality Alternative by the Counterparty shall not be considered to be any assessment or approval of the safety merits or adequacy or technical feasibility of the Prompt Criticality Alternative but simply an acceptance of the change in the Generator's approach to dealing with prompt criticality and the cost implications thereof specified herein. In connection with the LVRF Project and the implementation of the Prompt Criticality Alternative, the Generator incurred the LVRF Project Costs and the PCA Costs and in recognition thereof, the Counterparty has agreed to pay to the Generator the Reimbursable Amount in accordance with the provisions of Section 4.2(d) and Exhibit 4.2(d).
- (h) **Reimbursable Amount.** The Reimbursable Amount shall be deemed to be costs incurred pursuant to the Specified Fuel Supply Arrangements.
- (i) **Future LVRF Project.** If at any time the Generator is reasonably required or compelled to load low void reactivity fuel into the Units to address an issue or concern raised by the CNSC, then the Generator may re-institute the LVRF Project and the costs thereof, without duplication for any costs included in the LVRF Project Costs, shall be paid to the Generator in accordance with the provisions of Section 4.2(d).

2.19 Used Fuel Covenants

- (a) Pursuant to the Used Fuel Agreement and the OPG Lease, the Generator prepares a monthly officer's certificate including a used fuel discharge report (for the purpose of this Section 2.19(a), a "**Used Fuel Statement**") for the Used Fuel Costs payable by the Generator thereunder. In the absence of any corrections requested by OPG or of any unresolved dispute under the Used Fuel Agreement or the OPG Lease in respect of any Used Fuel Statement or any amount payable by the Generator to OPG as Used Fuel Costs, each Used Fuel Statement shall be conclusive evidence of the Used Fuel Costs for the period described therein. The Generator shall provide the Counterparty with a copy of the applicable Used Fuel Statement with the applicable Statement to be provided pursuant to Section 5.2.
- (b) In connection with (i) any proposed amendment to the Used Fuel Agreement that is reasonably expected to materially increase the Used Fuel Costs and (ii) any proposed amendment to section 5.3 or section 13.9 of the Used Fuel Agreement, the Generator will provide the Counterparty with a copy of each draft of such

amendment to the Used Fuel Agreement circulated between the Generator and OPG; provided that any failure to so provide shall not constitute a Generator Event of Default. Any such amendment that materially increases the Used Fuel Costs shall require the prior written approval of the Counterparty, such approval not to be unreasonably withheld.

- (c) The Generator shall provide the Counterparty with a copy of each amendment to the Used Fuel Agreement that does not materially increase the Used Fuel Costs or amend section 5.3 or section 13.9 of the Used Fuel Agreement no later than fifteen (15) Business Days after the execution and delivery thereof; provided that any failure to so provide a copy of such amendment shall not constitute a Generator Event of Default.

2.20 Base Rent Adjustment

- (a) Pursuant to the terms of the OPG Lease, the Generator is required to pay Base Rent to OPG. The Base Rent is a fixed dollar amount per year, for each year up to the end of December 31, 2018, and a fixed amount per renewal period of the OPG Lease following December 31, 2018. In addition, the OPG Lease provides for a mechanism for the Base Rent to be adjusted, up or, in certain circumstances, down, to reflect changes in OPG's anticipated decommissioning costs for the Facility. In accordance with the terms of the OPG Lease, the Base Rent may be changed by OPG at any time and from time to time (currently anticipated to be once every five (5) years) to reflect such changes in anticipated decommissioning costs (a "**Base Rent Adjustment**"). Upon the Generator receiving a notice from OPG providing for a Base Rent Adjustment, the Generator shall provide same to the Counterparty together with such information with respect thereto as the Counterparty may reasonably request. The Counterparty acknowledges and agrees that the Generator has no ability to challenge or dispute a Base Rent Adjustment provided by OPG. The Parties acknowledge that the Base Rent is a Base Operating Cost of the Generator. The Parties further acknowledge and agree that any Base Rent Adjustment is intended to result in a change in the Contract Price so that, in the case of an increase in Base Rent, the cost of such increase is recovered by the Generator, and in the case of a decrease in Base Rent, the Contract Price is decreased so that the Generator is not overcompensated, all in accordance with the provisions of Section 4.12(a) and Exhibit 4.12.
- (b) In connection with any proposed amendment to the OPG Lease that is reasonably expected to materially increase the Base Rent to be recovered by the Generator pursuant to the terms hereof, the Generator will provide the Counterparty with a copy of each draft of such amendment to the OPG Lease circulated between the Generator and OPG; provided that any failure to so provide shall not constitute a Generator Event of Default. Any such amendment to the OPG Lease that materially increases the Base Rent to be recovered by the Generator shall require the prior written approval of the Counterparty, such approval not to be unreasonably withheld.
- (c) The Generator shall provide the Counterparty with a copy of each amendment to the OPG Lease that does not materially increase the Base Rent to be recovered by the Generator no later than fifteen (15) Business Days after the execution and

delivery thereof; provided that any failure to so provide a copy of such amendment shall not constitute a Generator Event of Default.

2.21 Ancillary Agreements

- (a) The Generator and OPG are party to the L&ILW Agreement pursuant to which OPG provides the Generator with certain nuclear waste management services in respect of low and intermediate level waste, including the removal, collection, transportation, processing, storage and disposal of such nuclear waste from the Facility. Pursuant to the L&ILW Agreement the Generator pays OPG the L&ILW Fees. The L&ILW Fees are comprised of a fee per cubic meter for low level waste and a fee per cubic meter for intermediate level waste. For the period from the Effective Date to December 31, 2016, the L&ILW Fees per cubic meter for low level waste and per cubic meter for intermediate level waste are set out in Section 2.21(a) of the Technical Schedule. In accordance with the terms of the L&ILW Agreement, the L&ILW Fees may be changed by OPG at any time and from time to time in accordance with the provisions of the L&ILW Agreement. Upon the Generator receiving a notice from OPG providing for a change in the L&ILW Fees, the Generator shall provide same to the Counterparty together with such information with respect thereto as the Counterparty may reasonably request. The Counterparty acknowledges and agrees that the Generator has no ability to challenge or dispute any increase in the L&ILW Fees provided by OPG. The Parties acknowledge that the L&ILW Fees, in respect of all low and intermediate level waste, other than low and intermediate level waste in respect of a Refurbishment, is a Base Operating Cost of the Generator. The Parties further acknowledge and agree that any changes to the L&ILW Fees shall result in Contract Price Adjustments so that, in the case of an increase in the L&ILW Fees, the amount of such increase is recovered by the Generator, and in the case of a decrease in the L&ILW Fees, the Contract Price is decreased so that the Generator is not overcompensated, in accordance with the provisions of Section 4.12(b) and Exhibit 4.12. For greater certainty, the Contract Price Adjustment provided for in Section 4.12(a) shall reflect changes to the L&ILW Fees and not to the volume of waste generated.
- (b) In connection with (i) any proposed amendment to the L&ILW Agreement that is reasonably expected to materially increase the L&ILW Fees and (ii) any proposed amendment to section 6.3 or section 14.9 of the L&ILW Agreement, the Generator will provide the Counterparty with a copy of each draft of such amendment to the L&ILW Agreement circulated between the Generator and OPG; provided that any failure to so provide shall not constitute a Generator Event of Default. Any such amendment to the L&ILW Agreement that materially increases the L&ILW Fees or amends, directly or indirectly, Section 6.3 and Section 14.9 of the L&ILW Agreement shall require the prior written approval of the Counterparty, such approval not to be unreasonably withheld.
- (c) The Generator shall provide the Counterparty with a copy of each amendment to the L&ILW Agreement that does not materially increase the L&ILW Fees or amend section 6.3 or section 14.9 of the L&ILW Agreement no later than fifteen (15) Business Days after the execution and delivery thereof; provided that any failure to so provide a copy of such amendment shall not constitute a Generator Event of Default.

- (d) The Generator and OPG are party to the HWAS Agreement pursuant to which OPG provides the Generator with certain Heavy Water Services. Pursuant to the HWAS Agreement the Generator pays OPG the HWAS Fees. For the period from the Effective Date to December 31, 2016, the HWAS Fees are as set forth in Section 2.21(d) of the Technical Schedule.

For the period from January 1, 2017 to December 31, 2021, and each subsequent five year period thereafter, the HWAS Fees shall be updated by OPG in accordance with the terms of the HWAS Agreement. Upon the Generator receiving a notice from OPG providing for a change in the HWAS Fees, the Generator shall provide same to the Counterparty together with such information with respect thereto as the Counterparty may reasonably request and that the Generator is permitted to provide to the Counterparty in accordance with the terms of the HWAS Agreement. The Counterparty acknowledges and agrees that the Generator has no ability to challenge or dispute any increase in the HWAS Fees provided by OPG. The Parties acknowledge that the HWAS Fees, in respect of all Heavy Water Services is a Base Operating Cost of the Generator. The Parties further acknowledge and agree that any changes to the HWAS Fees shall result in a change in the Contract Price so that, in the case of an increase in the HWAS Fees, the amount of such increase is recovered by the Generator, and in the case of a decrease in the HWAS Fees, the Contract Price is decreased so that the Generator is not over compensated, in accordance with the provisions of Section 4.12(c) and Exhibit 4.12.

- (e) In connection with (i) any proposed amendment to the HWAS Agreement that is reasonably expected to materially increase the HWAS Fees and (ii) any proposed amendment to section 12.10 of the HWAS Agreement, the Generator will provide the Counterparty with a copy of each draft of such amendment to the HWAS Agreement circulated between the Generator and OPG; provided that any failure to so provide shall not constitute a Generator Event of Default. Any such amendment to the HWAS Agreement that materially increases the HWAS Fees or amends section 12.10 of the HWAS Agreement shall require the prior written approval of the Counterparty, such approval not to be unreasonably withheld.
- (f) The Generator shall provide the Counterparty with a copy of each amendment to the HWAS Agreement that does not materially increase the HWAS Fees or amend section 12.10 of the HWAS Agreement no later than fifteen (15) Business Days after the execution and delivery thereof; provided that any failure to so provide a copy of such amendment shall not constitute a Generator Event of Default.

2.22 Detritiation

The HWAS Agreement provides that the Generator may in certain circumstances advise OPG as to whether or not it intends to continue to receive all of its detritiation services from OPG for the balance of the term of such agreement. In connection therewith, the Generator may, by notice, propose to the Counterparty an alternative arrangement for the detritiation required by the Generator. Such notice will include reasonable details of the proposed approach and the cost implications thereof as compared to the cost implications of continuing with the service provided by OPG under the HWAS Agreement. If the then expected all-in lifetime cost of the alternative approach is less than the then expected all-in lifetime cost of

the service to be provided by OPG pursuant to the HWAS Agreement, then, with the consent of the Counterparty, such consent not to be unreasonably withheld, the Generator may implement such alternative proposal. On the Adjustment Date specified in Clause 5(c) of Exhibit 4.12, the Contract Price will be adjusted pursuant to Section 4.12 and Exhibit 4.12 and the Financial Model to reflect the changes necessary to provide full cost reimbursement to the Generator of the alternative proposal, including operating costs, capital costs and the Rate of Return thereon. Following such Contract Price Adjustment, there will be no further Contract Price Adjustments in accordance with the provisions of this Section 2.22.

ARTICLE 3

DUE DILIGENCE, AUDIT, INSPECTION AND NOTICE REQUIREMENTS

3.1 Open-Book Basis

- (a) The Generator shall provide the Counterparty and its Representatives with the information contemplated by the definition of Open Book Basis on an Open Book Basis. The Generator acknowledges and agrees that the Counterparty is entering into this Agreement in reliance on the Generator's covenant to provide such information on an Open Book Basis. The Counterparty acknowledges and agrees that the Generator is agreeing to provide information on an Open Book Basis in reliance on the understanding of the Parties that the Counterparty's right to "verify" (and variations of such term) set forth in Sections 2.5(b), 3.2(a)(i), 3.2(b), 3.3(a)(ii), 3.3(b), 3.5(b), 9.1(a) and 9.1(b) is a right to review, conduct due diligence and understand such information and the subject matter in respect of which it is provided. Except as otherwise expressly provided herein (including, for greater certainty, Sections 2.4(d), 2.4(e), 2.6(i), 2.6(j), 3.1(b), 3.2(c), 3.5(c) and 4.14), such right does not (i) create a right of approval or consent, or (ii) require the Generator to address any issues raised by the Counterparty in such process.
- (b) Without limitation of the generality of the foregoing, at any time there is to be the final determination of an Input necessary for a proposed Contract Price Adjustment in accordance with any of the provisions of Article 4 (other than pursuant to Sections 4.8 or 4.10, the verification of which is provided for elsewhere in this Agreement) or Section 15.2, the Generator shall notify the Counterparty and provide all information related to such Input on an Open Book Basis to verify such final Input. The Counterparty will have a reasonable opportunity under the circumstances to conduct due diligence with respect thereto consistent with the principle in Section 3.1(a), which period shall not exceed five (5) Business Days in the case of a publicly available Input such as CPI or WRE or twenty (20) Business Days in the case of Inputs comprising Trades Rates or the Inputs required for Exhibit 4.12, and shall not exceed sixty (60) days in any other case for which a period for verification is not otherwise provided herein. The Counterparty shall notify the Generator within the applicable time period of receiving a final Input as to whether or not it has verified the same. The Counterparty will be deemed to have verified such final Input if it does not respond to the Generator within such time period. If the Counterparty claims that the Generator has made an error in:
 - (i) the calculation of any amount;
 - (ii) transcribing any amount from another document; or

(iii) identifying a publicly available Input, such as CPI or WRE,

the Counterparty shall notify the Generator together with a reasonably detailed explanation of the reasons therefor within the time period specified above with respect to such Input. Within ten (10) Business Days of the Generator receiving such notice a Senior Conference shall be held pursuant to Section 18.1 to discuss such claim and if the Parties are unable to resolve such dispute within a further ten (10) days it shall be resolved in accordance with the provisions of Section 18.2. Upon final resolution of such dispute, the Contract Price Adjustment that should have been made on the Subject Adjustment Date shall be made in accordance with the provisions of Section 4.14(g).

- (c) The Parties acknowledge that at no time shall any right to “verify” (or variations of such term) of the Counterparty hereunder give the Counterparty a right to prevent or delay the timely performance by the Generator of its obligations hereunder, nor shall any such right act to extend any express time period for audit, verification, inspection or due diligence rights of the Counterparty hereunder, nor delay any undisputed Contract Price Adjustment to be made on an Adjustment Date. For greater certainty, any right to verify (or variations thereof) shall terminate upon the expiry of a related due diligence, inspection or audit right or upon a deemed verification expressly provided herein. This Section 3.1(c) shall not derogate from any express right of the Counterparty set forth in this Agreement to dispute any matter that relates to information that the Counterparty is entitled to verify pursuant to this Agreement and that it has not yet verified within the time period permitted for such verification or has not yet been deemed to have verified.
- (d) The Generator will, after the date hereof, ensure that its agreements (including, for greater certainty, requests for proposals and confidentiality agreements) with its suppliers, contractors and subcontractors and its potential suppliers, contractors and subcontractors, for Refurbishment Work or Asset Management Work permit the Generator to disclose to the Counterparty and its Representatives information relating to the costing and scheduling of the applicable Refurbishment Work or Asset Management Work. In addition, the Generator shall use Commercially Reasonable Efforts to include a provision in its agreements entered into after the date hereof with its suppliers, contractors and subcontractors permitting access by the Counterparty and its Representatives, to the technical, design, construction and detailed costing information of each such supplier, contractor and subcontractor relating to the Refurbishment Work or Asset Management Work that the Generator is entitled to receive and each such supplier’s, contractor’s and subcontractor’s records pertaining to the applicable Refurbishment Work or Asset Management Work. If after using Commercially Reasonable Efforts the Generator is unable to obtain such broader access by the Counterparty or the Counterparty’s Representatives to any of such supplier’s, contractor’s or subcontractor’s technical, design, construction and detailed costing information and records, the Generator shall notify the Counterparty. If the Counterparty still wishes to obtain such access, it shall notify the Generator and the Generator and the Counterparty shall each use Commercially Reasonable Efforts to implement confidentiality requirements that such supplier, contractor or subcontractor may reasonably request, such as implementing ethical screens or not using individual Representatives who may be direct

competitors of such supplier, contractor or subcontractor or limiting the scope of the information sought from such supplier, contractor or subcontractor; provided, however, that, except for information of such supplier, contractor or subcontractor relating to the costing and schedule, the Generator shall not be required to provide the access contemplated by this Article 3 without the agreement or consent of such supplier, contractor or subcontractor. Access to a supplier's, contractor's or subcontractor's records shall be during normal business hours. The Counterparty acknowledges that the OPG Lease and the Ancillary Agreements contain provisions relating to disclosure of confidential information and agree not to disclose any of OPG's confidential information received by it pursuant to the terms hereof except in accordance with the terms hereof.

3.2 Initial Due Diligence

- (a) In respect of each Unit to be Refurbished, at any time prior to the MCR Decision Date of such Unit, the Generator will permit the Counterparty and the Counterparty's Representatives, on an Open Book Basis, to monitor and be fully-informed of the matters related to the Refurbishment, the Generator's preparations for Refurbishment and the Generator's preparation of a final Basis of Estimate Report, including by:
 - (i) in respect of the process of developing the Basis of Estimate Report for each Unit up to its finalization at the applicable Refurbishment Lock-in Date; (A) giving the Counterparty reasonable advance notice in the circumstances of and permitting the Counterparty's Representatives to attend and observe, either in person or by conference call, meetings of the BP EPRB and any other formal meetings of officers of the Generator or personnel of the Generator's project management and construction organization in respect of the Unit to be Refurbished that would reasonably be expected to be relevant to the Counterparty to understand and verify the matters contemplated by Sections 2.1 to 2.10, inclusive; and (B) in addition to the meetings referred to in (A), and without any obligation on the Generator to provide notice thereof, the Counterparty's Representatives may attend and observe, either in person or by conference call, any other meetings in respect of the Unit to be Refurbished that would reasonably be expected to be relevant to the Counterparty to understand and verify the matters contemplated in Sections 2.1 to 2.10; provided, however, the Counterparty will not be permitted to attend or receive notice of: (X) meetings of the directors of the general partner of the Generator (or any committees thereof) or meetings of the investors of the Generator, including any of its Limited Partners, current lenders or potential investors, partners or lenders; (Y) meetings for the purpose of preparing materials for the persons referred to in (X) or for meetings of persons referred to in (X); or (Z) meetings of the officers of the Generator unless there is a specific planned agenda item relating to the Unit to be Refurbished and the matters contemplated by Sections 2.1 to 2.10;
 - (ii) permitting the Counterparty to receive all information, disclosure and meeting materials related to the meetings that the Counterparty is

permitted to attend pursuant to Section 3.2(a)(i), and any other information relating to each Basis of Estimate Report;

- (iii) promptly providing the Counterparty all supporting documentation for purposes of this Section 3.2(a), including: (A) supporting information relating to the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration; and (B) all plans, specifications, contracts, budgets, estimates, proposals, design documents, engineering documents, reports and schedules relating thereto; and
- (iv) providing the Counterparty and the Counterparty's Representatives reasonable access during normal business hours to Representatives of the Generator with knowledge of and responsibility for the Refurbishment or specific aspects thereof to ask questions of and to review the plans, budgets and schedules for the Refurbishment;

and the provision of all such information shall be on an Open Book Basis.

- (b) The Parties acknowledge and agree that it is their intention that the information requested by the Counterparty and provided by the Generator, the due diligence undertaken by the Counterparty, and the rights and obligations of the Parties provided for in Sections 2.4, 2.5, 2.6, 3.1, 3.2, 3.7 and 3.8 will be sufficient to enable the Counterparty to verify for itself that the Fully-Scoped Refurbishment Costs relate to the Refurbishment Work and to verify for itself the Fully-Scoped Refurbishment Cost and the Fully-Scoped Refurbishment Duration of each Unit.
- (c) Notwithstanding any provision of this Agreement to the contrary, the Counterparty shall have no right to require a change of any iteration of a Basis of Estimate Report, or any Prior Unit Cost Divergence, Prior Unit Duration Divergence, Fully-Scoped Refurbishment Cost or Fully-Scoped Refurbishment Duration, except as provided in Sections 2.4(d) and 2.4(e), in the last sentence of this Section 3.2(c) or as provided in Section 2.6(i) and (j). The Counterparty may provide comments on the information with respect to any Basis of Estimate Report, Fully-Scoped Refurbishment Cost or Fully-Scoped Refurbishment Duration of a Unit to be Refurbished, and the Generator shall give reasonable consideration thereto and provide responses to comments provided in a timely manner. The Generator will not be compelled or required to amend any Basis of Estimate Report to reflect such comments. The Generator will not be compelled or required to amend the final estimate of Fully-Scoped Refurbishment Cost or Fully-Scoped Refurbishment Duration contained in a final Basis of Estimate Report delivered pursuant to Section 2.5(a), except to the extent of any error in the scope of the Refurbishment Work to be undertaken or in the calculation of the amount of Fully-Scoped Refurbishment Costs by the Generator and except as provided in Section 2.6(i) and (j); provided that the Counterparty may not dispute such matters in respect of a Fully-Scoped Unit at any time after the date the Counterparty makes its election pursuant to Section 9.1(a) or is deemed to have made an election pursuant to Section 2.5(b) or Section 9.1(c), as the case may be. If the Counterparty claims that the Generator has made an error in the scope of the Refurbishment Work to be undertaken or in the calculation of the amount of Fully-Scoped Refurbishment Costs the Counterparty shall notify the Generator together with a reasonably detailed explanation of the reasons therefor. Within

ten (10) Business Days of the Generator receiving such notice a Senior Conference shall be held pursuant to Section 18.1 to discuss such claim and if the Parties are unable to resolve such dispute within a further ten (10) days, it shall be resolved by mandatory and binding arbitration conducted in accordance with the procedures set forth in Exhibit 18.2 and to the extent that the Arbitral Tribunal determines that there has been an error in calculation or error in scope, the Fully-Scoped Refurbishment Cost shall be adjusted to deduct such amount included in error and, provided there has been a Contract Price Adjustment to reflect such Fully-Scoped Refurbishment Cost, the Contract Price will be adjusted on the next Adjustment Date thereafter in accordance with the provisions of Section 4.14(g) and Clause 3(f) of Exhibit 4.8 to reflect such adjustment.

3.3 Continuing Due Diligence

- (a) In respect of each Unit to be Refurbished and undergoing Refurbishment, commencing on the Refurbishment Lock-in Date until the date of Final Completion of each such Unit, the Generator will permit, on an Open Book Basis, the Counterparty and the Counterparty's Representatives to monitor and be fully-informed of the matters related to the Refurbishment, including by:
 - (i) providing the Counterparty with copies of the reports provided to its Limited Partners describing the progress of the Refurbishment of such Unit and describing the status of efforts made by the Generator to meet the applicable Milestone Date and the progress of the related design and construction work. Each report shall include the information specified in Exhibit 3.3 and shall be delivered to the Counterparty concurrently with the delivery of such report to the Limited Partners and, in any event, not less frequently than monthly;
 - (ii) (A) giving the Counterparty reasonable advance notice in the circumstances of and permitting the Counterparty's Representatives to attend and observe, either in person or by conference call, project meetings held during and in respect of the Refurbishment of each Unit by the BP EPRB and any other formal meetings of officers of the Generator or personnel of the Generator's project management and construction organization in respect of the Unit being Refurbished that would reasonably be expected to be relevant to the Counterparty to understand and verify the matters related to the commencement and conduct of such Unit's Refurbishment; and (B) in addition to the meetings referred to in (A), and without any obligation on the Generator to provide notice thereof, the Counterparty's Representatives may attend and observe, either in person or by conference call, any other meetings in respect of the Unit being Refurbished that would reasonably be expected to be relevant to the Counterparty to understand and verify the matters related to the commencement and conduct of such Unit's Refurbishment; provided, however, the Counterparty will not be permitted to attend or receive notice of: (X) meetings of the directors of the general partner of the Generator (or any committees thereof) or meetings of the investors of the Generator, including any of its Limited Partners, current lenders or potential investors, partners or lenders; (Y) meetings for the purpose of

preparing materials for the persons referred to in (X) or for meetings of persons referred to in (X); or (Z) meetings of the officers of the Generator unless there is a specific planned agenda item relating to the Unit being Refurbished and the matters related to the commencement and conduct of such Unit's Refurbishment.

- (iii) providing promptly such other information directly relating to the Refurbishment or operation of the Units, including Refurbishment Work completed and costs, metering data, material licences and permits and Outages;
- (iv) providing the Counterparty and the Counterparty's Representatives reasonable access during normal business hours to Representatives of the Generator with knowledge of and responsibility for the Refurbishment or specific aspects thereof to ask questions of and to review the plans, budgets and schedules for the Refurbishment; and
- (v) upon reasonable notice from the Counterparty, the Generator shall, and shall use Commercially Reasonable Efforts as provided in Section 3.1(d) to arrange with its suppliers, contractors and subcontractors to, provide to the Counterparty and its Representatives at the Facility during normal business hours access to all technical, design, construction and costs records pertaining to the applicable Refurbishment;

and the provision of all such information shall be on an Open Book Basis.

- (b) The Parties acknowledge and agree that it is their intention that the information requested by the Counterparty and provided by the Generator, the due diligence undertaken by the Counterparty, and the rights and obligations of the Parties provided for in Sections 3.2, 3.3, 3.7 and 3.8 will be sufficient to enable the Counterparty to verify for itself that the Refurbishment Costs relate to the Refurbishment Work and to verify for itself the status and the conduct of the Refurbishment of each Unit.

3.4 Annual Reporting of Asset Management Work.

Annually, within 60 days after the end of each Contract Year, the Generator will provide the Counterparty with a report detailing the status of the Asset Management Work identified in the then current Lifetime Asset Management Plan undertaken in the just completed Contract Year, the Asset Management Costs incurred in respect of each project comprising such Asset Management Work, the variances in costs incurred from those budgeted for in the then current Lifetime Asset Management Plan and the reasons for such variances and any changes from the then current Lifetime Asset Management Plan.

3.5 Counterparty Due Diligence Related to each Lifetime Asset Management Plan

- (a) In respect of each Lifetime Asset Management Plan, the Generator will permit, on an Open Book Basis, the Counterparty and the Counterparty's Representatives to monitor and be fully-informed of the matters related to this Section 3.5 by:

- (i) providing the same type of information to support the Asset Management Costs that are set forth in such Lifetime Asset Management Plan as it is required to provide in a Basis of Estimate Report with respect to Refurbishment Costs;
- (ii) in respect of the process of developing the estimates of Asset Management Costs in each Planning Period up to the finalization of the Fixed Asset Management Costs for each Planning Period as it becomes Planning Period N: (A) giving the Counterparty reasonable advance notice in the circumstances of and permitting the Counterparty's Representatives to attend and observe meetings of the Generator's Management Oversight Committee having oversight of the Asset Management Work and any other formal meetings of officers of the Generator or personnel of the Generator's project management and construction organization in respect of Asset Management Work that would reasonably be expected to be relevant to the Counterparty to understand and verify the matters contemplated by Section 2.11; and (B) in addition to the meetings referred to in (A), and without any obligation on the Generator to provide notice thereof, the Counterparty's Representative may attend and observe, either in person or by conference call, any other meetings in respect of the Asset Management Work that would reasonably be expected to be relevant to the Counterparty to understand and verify the matters contemplated in Section 2.11; provided, however, the Counterparty will not be permitted to attend or receive notice of: (X) meetings of the directors of the general partner of the Generator (or any committees thereof) or meetings of the investors of the Generator, including any of its Limited Partners, current lenders or potential investors, partners or lenders; (Y) meetings for the purpose of preparing materials for the persons referred to in (X) or for meetings of persons referred to in (X); or (Z) meetings of the officers of the Generator unless there is a specific agenda item relating to Asset Management Work and the matters contemplated in Section 2.11;
- (iii) permitting the Counterparty to receive all information, disclosure and meeting materials related to the meetings that the Counterparty is permitted to attend pursuant to Section 3.5(a)(ii);
- (iv) promptly providing the Counterparty, all supporting documentation for purposes of this Section 3.5, including such information relating to the Initial Lifetime Asset Management Plan, a Lifetime Asset Management Plan, or a supplement to a Lifetime Asset Management Plan pursuant to Section 2.11(e)(i), as applicable, any movement of the Asset Management Work and Accelerated Asset Management Costs and the annual reporting of Asset Management Work by the Generator, including a description of the Asset Management Work to be carried out in each Planning Period of such Lifetime Asset Management Plan and all plans, specifications, contracts, budgets, estimates, proposals, design documents, engineering documents, reports and schedules relating thereto; and

- (v) providing the Counterparty and the Counterparty's Representatives reasonable access during normal business hours to representatives of the Generator with knowledge of and responsibility for the Lifetime Asset Management Plan or specific aspects thereof to ask questions of and to review with the plans, budgets and schedules relating to such Lifetime Asset Management Plan;

and the provision of all such information shall be on an Open Book Basis.

- (b) The Parties acknowledge and agree that it is their intention that the information requested by the Counterparty and provided by the Generator, the due diligence undertaken by the Counterparty, and the rights and obligations of the Parties provided for in Sections 2.11, 3.5, 3.7 and 3.8 will be sufficient to enable the Counterparty to verify for itself that the Asset Management Costs relate solely to Asset Management Work and that the scope of such Asset Management Work complies with the Lifetime Asset Management Plan and any updates thereof, and to verify for itself the costs associated therewith.
- (c) Notwithstanding any provision of this Agreement to the contrary, the Counterparty shall have no right to require a change to any Lifetime Asset Management Plan, except as provided in the last sentence of this Section 3.5(c). The Counterparty may provide comments on the information with respect to the Lifetime Asset Management Plan and any updates thereof and the Generator shall give reasonable consideration thereto and provide responses to comments provided in a timely manner. The Generator will not be compelled to amend any Lifetime Asset Management Plan or supplements thereto except to the extent of any error by the Generator, in the scope of the Asset Management Work to be undertaken or in the calculation of the amount of the Fixed Asset Management Costs and except as provided in Section 2.6(i) and (j); provided that the Counterparty may not dispute any such matters at any time after sixty (60) days after the receipt by the Counterparty of the subject Lifetime Asset Management Plan. If the Counterparty claims that the Generator has made an error in the scope of the Asset Management Work to be undertaken or in the calculation of the amount of Fixed Asset Management Costs the Counterparty shall notify the Generator and provide a reasonably detailed explanation of the reasons therefor. Within ten (10) Business Days of the Generator receiving such notice a Senior Conference shall be held pursuant to Section 18.1 to discuss such claim and, if the Parties are unable to resolve such dispute within a further ten (10) days, it shall be resolved by mandatory and binding arbitration conducted in accordance with the procedures set forth in Exhibit 18.2. To the extent that the Arbitral Tribunal determines that there has been an error in calculation or error in scope, the Fixed Asset Management Costs shall be adjusted to deduct such amount included in error and, provided there has been a Contract Price Adjustment to reflect such Fixed Asset Management Costs, the Contract Price will be adjusted on the next applicable Adjustment Date thereafter in accordance with the provisions of Section 4.14(g) and Clause 5(f) of Exhibit 4.10 to reflect such adjustment.

3.6 Counterparty Due Diligence Related to Operating Costs

- (a) The Generator will promptly provide the Counterparty, on an Open Book Basis, financial, cost and operating records and data in respect of the calculation of the O&M Efficiency Amount and the Specified Operating Costs, the Specified Operating Cost Assumptions and any matters related thereto.
- (b) The Counterparty will have audit and inspection rights in accordance with Sections 3.7(d) and 3.8 in respect of the calculation of the O&M Efficiency Amount and the Specified Operating Costs, each iteration of the Specified Operating Cost Assumptions, and any matters related to any of the foregoing.
- (c) The Generator will endeavour to provide the Counterparty each Contract Year concurrently with the delivery of the Notice of Contract Price Adjustment and, in any event, will provide no later than April 1 in each Contract Year a report, substantially in the form attached as Exhibit 3.6(c), regarding the Expected Annual Operating Costs for such Contract Year and the Actual Annual Operating Costs of the Facility for the immediately preceding Contract Year. Such report will set forth:
 - (i) the Actual Annual Operating Costs and the Actual Annual Generation for such preceding Contract Year if such preceding Contract Year was the first year of a Planning Period;
 - (ii) the Actual Annual Operating Costs and the Actual Annual Generation for the two or three Contract Years immediately preceding the delivery date of such report if such preceding Contract Years were the second or third Contract Years of a Planning Period, respectively;
 - (iii) the Adjusted Expected Annual Operating Costs for such Contract Year as determined in accordance with Exhibit 4.3; and
 - (iv) in the case of a report covering the third Contract Year of a Planning Period, the Actual Planning Period per MWh Operating Costs and the O&M Efficiency Amount, if any, for such Planning Period. Notwithstanding that it may appear that an O&M Efficiency Amount could be payable for such Planning Period based on the information provided in any report provided before the completion of a Planning Period, such report shall not be construed as providing assurances or creating any reliance by the Counterparty that any O&M Efficiency Amount shall be payable pursuant to Section 4.3.

3.7 Recordkeeping and Audit

- (a) **General Recordkeeping Requirements and Verification Rights.** The Generator and the Counterparty shall keep complete and accurate records and all other data required by either 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 ten (10) years, with respect to records or data of the Generator relating to the Refurbishment of a Unit, and for no less than seven (7) years, with respect to any other records or data of either Party, in each

case after the creation of the record or data. The Generator and the Counterparty, on a confidential basis as provided for in Article 8 of this Agreement, shall provide on reasonable prior notice reasonable access during normal business hours to the relevant and appropriate technical, design, financial, cost and operating records and data kept by it relating to this Agreement reasonably required for the other Party to comply with its obligations to Governmental Authorities, to verify billings, to verify information provided in accordance with this Agreement and to confirm compliance with the obligations of the other Party hereunder. Subject to Section 3.13, either Party may use its Representatives for purposes of any such review of records, provided that if such access is to be made through the use of a third party auditor acting in the capacity as an auditor to undertake an audit, such auditor is mutually agreed by the Parties.

- (b) **Third Party Audit in Respect Of Refurbishment Costs.** In addition to the review and verification rights of the Counterparty provided in this Agreement, the Parties agree that the Chairman of the OEB (acting only in the capacity of a third party auditor under this Section 3.7(b)) or some other third party agreed to by each of the Generator and the Counterparty, acting reasonably, may be engaged by the Counterparty, to provide a one-time audit of Refurbishment Costs (including any Refurbishment Work relating to such Refurbishment Costs) of each of Units 3 to 8, inclusive, any Contract Price Adjustment of a Refurbished Unit made on the Adjustment Date following Final Completion with respect to such Refurbishment Work and any matters related thereto and for a period of three (3) years following Final Completion or termination in accordance with Article 9 or Section 10.2 of each of such Units in respect of which it is exercising such audit rights.
- (c) **Third Party Audit in Respect Of Asset Management Costs and Asset Management Work.** In addition to the review and verification rights of the Counterparty provided in this Agreement, the Parties agree that the Chairman of the OEB (acting only in the capacity of a third party auditor under this Section 3.7(c)) or some other third party agreed to by each of the Generator and the Counterparty, acting reasonably, may be engaged by the Counterparty, to provide an audit of Asset Management Costs for each Planning Period (including any Asset Management Work relating to such Asset Management Costs), any Contract Price Adjustment made with respect to Asset Management Work and any matters related thereto during the subject Planning Period and for a period of three (3) years following such Contract Price Adjustment or the completion of the subject Planning Period, as the case may be.
- (d) **Third Party Audit of Fuel and Operating Costs.** In addition to the review and verification rights of the Counterparty provided in this Section 3.7, the Parties agree that the Chairman of the OEB (acting only in the capacity of a third party auditor under this Section 3.7(d)) or some other third party agreed to by each of the Generator and the Counterparty, acting reasonably, may be engaged by the Counterparty, to provide: (i) an audit from time to time, but not more frequently than annually, of Front-end Fuel Costs and Used Fuel Costs and to the Fuel Supply Variations; and (ii) an audit from time to time, but not more frequently than annually, of Actual Annual Operating Costs. The Generator agrees to provide reasonable access during normal business hours to the Counterparty

and its Representatives to all necessary information and copies of all books and records relating to the Front-end Fuel Costs, Used Fuel Costs, Fuel Supply Variations, Monthly Payments and Actual Annual Operating Costs for purposes of completing such audits.

- (e) **Adjustment.** In the event that the audit of Refurbishment Costs or Contract Price Adjustment establishes that any Refurbishment Costs or Asset Management Costs were improperly allocated, recorded or otherwise reflected in the Contract Price, then, subject to agreement of the Parties or resolution of the dispute pursuant to Section 18.2, the Contract Price shall be adjusted accordingly. In the event that the audit shows that any Front-end Fuel Costs or Used Fuel Costs incurred by the Generator: (A) were paid in error by the Generator, (B) were incorrectly billed to the Counterparty, or (C) to the extent any such Front-end Fuel Costs were incurred pursuant to a fuel supply arrangement other than a Specified Fuel Supply Arrangement, that were imprudently incurred, then the payments by the Counterparty to the Generator in respect of Front-end Fuel Costs pursuant to Section 4.2(d) or Used Fuel Costs pursuant to Section 4.2(e) shall be adjusted accordingly and the Generator shall pay back to the Counterparty amounts that are agreed by the Parties or determined pursuant to Section 18.2 to have been overpaid by the Counterparty, together with interest at the Interest Rate plus 2% per annum calculated daily and compounded monthly from the date that the amount was first paid by the Counterparty. Subject to Section 5.7(a), if the audit shows that a Statement incorrectly stated Front-end Fuel Costs or Used Fuel Costs, the provisions of Section 5.8 shall apply, *mutatis mutandis*.
- (f) **Management Letters.** Prior to the commencement of any audit by a third party pursuant to Section 3.7(b), Section 3.7(c) or Section 3.7(d), the Counterparty shall request that such third party provide details of any management letter or other statements that it may require from the Generator in order to complete such audit. The Counterparty shall provide such details, if any, to the Generator and within ten (10) Business Days the Parties will engage in good faith negotiations, each acting reasonably, to determine the appropriate scope of such letter or statements having regard to the scope and purpose of such audit. The Generator shall make representations to the auditor that the information provided to the auditor by the Generator is complete and accurate in all material respects. The Parties acknowledge that the audit rights of each Party are for the purposes provided herein and the provision by the Generator of such letter or statements shall be without personal liability of any director, officer or employee of the Generator and shall not in and of itself create any obligations or liability of the Generator in addition to its obligations and liabilities pursuant to the provisions of this Agreement.

3.8 Inspection

- (a) At any time and from time to time during the Refurbishment of each Unit or the performance of Asset Management Work on any Unit, upon no less than two (2) Business Days' prior notice to the Generator and at the Counterparty's expense, the Counterparty and its Representatives shall have access to the Facility to inspect the Refurbishment Work and the Asset Management Work and the

Generator shall, and shall cause its suppliers, contractors and subcontractors to, provide such access during regular business hours.

- (b) At any time after execution of this Agreement and in connection with and for the purposes of verifying information pursuant to Section 3.7(a) or to conduct an audit under any of Sections 3.7(b), 3.7(c) or 3.7(d), the Counterparty and its Representatives shall, upon no less than two (2) Business Days' prior notice and at the Counterparty's expense, have access to the Facility during regular business hours.
- (c) All rights of access granted to the Counterparty's Representatives to the Facility under this Agreement are subject (i) to the grantees observing all Laws and Regulations and all site rules, processes and procedures, and safety requirements of the Generator and its contractors and sub-contractors that are applicable to the Refurbishment areas and to the Facility generally, including the requirement to pass, and thereafter maintain, a Canadian Security Intelligence Service security clearance prior to entry on the Facility site, and thereafter to be permitted access to the Facility site, and (ii) such access rights not, in the reasonable opinion of the Generator, unduly interfering with any Refurbishment Work or Asset Management Work or the operation of the Facility at such time. The Counterparty acknowledges that its and its Representatives exercise of rights of access is at the Counterparty's own cost and risk. The Generator will provide such grantees with notice of such site rules, processes and procedures of the Generator.
- (d) The inspection of Refurbishment Work and the Asset Management Work under Section 3.8(a) or the review of information under Section 3.8(b) by or on behalf of the Counterparty shall not relieve the Generator of any of its obligations to comply with the terms of this Agreement or any Laws and Regulations. In no event will any inspection by the Counterparty hereunder be an acknowledgement by the Counterparty that there has been or will be compliance with this Agreement and Laws and Regulations.

3.9 Notices by Parties

- (a) The Generator agrees to promptly provide to the Counterparty notice of:
 - (i) with the exception of payment obligation defaults, the failure of the Generator to perform any material covenant or obligation set forth in this Agreement;
 - (ii) the Generator (or a Person on its behalf) failing or ceasing to hold a valid licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority which is required at such time having regard to the then current stage of Refurbishment or operation of Bruce A and Bruce B and where such failure or cessation results in, or could be reasonably expected to result in, a Material Adverse Effect on the Generator;
 - (iii) any representation by the Generator in this Agreement not being true or correct in any material respect when made;

- (iv) default by the Generator in the observance or performance of one or more obligations in respect of indebtedness to other Persons, resulting in obligations for indebtedness in an aggregate principal amount of more than the then current amount pursuant to Section 11.1(j) becoming immediately due and payable; and
 - (v) any Transfer (as such term is defined in the Sharing in Transfers and Refinancings Agreement) of which it has actual knowledge.
- (b) The Counterparty agrees to promptly provide the Generator with notice of:
 - (i) with the exception of payment obligation defaults, the failure of the Counterparty to perform any material covenant or obligation set forth in this Agreement;
 - (ii) the Counterparty failing or ceasing to hold a valid licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority where such failure or cessation results in, or could be reasonably expected to result in, a Material Adverse Effect on the Counterparty;
 - (iii) any representation by the Counterparty in this Agreement not being true or correct in any material respect when made; and
 - (iv) the Counterparty no longer having the ability pursuant to Laws and Regulations, or failing to take action in the normal course of its business, to recover all amounts paid or payable to the Generator pursuant to this Agreement directly or indirectly from Electricity consumers in the Province of Ontario.

3.10 Counterparty Site Representative

The Counterparty shall, by notice to the Generator, advise the Generator as to the identity of either Counterparty Site Representative. The Counterparty may at any time and from time to time, change the identity of either Counterparty Site Representative by notice to the Generator. At no time shall there be more than two persons designated as a Counterparty Site Representative. The Counterparty Site Representatives shall be entitled to be present at the Facility during normal business hours on a full-time basis and the Generator shall provide a suitable work area for up to two persons at the Facility to facilitate the Counterparty Site Representative's regular attendance at the Facility and regular attendance at meetings that the Counterparty Site Representative is entitled to attend. For greater certainty, the Counterparty Site Representatives' access to the Facility is subject to the provisions of Section 3.8(c).

3.11 Delivery of Information on Open Book Basis

The Counterparty acknowledges and agrees that "**Open Book Basis**" only requires the Generator to provide the Counterparty with such information as the Generator has available in its possession or control and that, except as expressly provided herein, the Generator shall not be obligated to create or obtain new reports, to collect, compile, disaggregate or analyze new data or information, or to provide such data or information that it has available in a different format from that in which it is accessed and used by the Generator.

Any information to be provided to the Counterparty pursuant to the terms hereof shall be provided in either hardcopy or an electronic format, provided that if the Generator has such information in an electronic format, the Generator shall provide it in such electronic format if so requested by the Counterparty.

3.12 Non-Disclosure of Confidential Information

Notwithstanding the Open Book Basis on which information is to be provided to the Counterparty pursuant to this Agreement and any other provisions of this Agreement regarding disclosure of information in whatever form by either Party to the other Party or a third party, whether such information is Confidential Information or otherwise, for certainty, neither Party shall be compelled to disclose to the other Party or to any third party any information: (i) that comprises information prepared for meetings of the board or committees of the board of such Party and the minutes of meetings of the board or committees of the board of such Party; (ii) except as provided in Section 3.3(a)(i), that comprises information and reports prepared for and provided to the shareholder or partners of such Party, or in the case of the Counterparty, prepared for the Province of Ontario; (iii) that comprises information prepared for and provided to, and minutes of meetings with, any of the investors in the Generator, including any of its Limited Partners, current lenders or potential investors, partners or lenders; or (iv) that is Confidential Information that discloses the technical, design, construction, cost, rate or compensation records of any supplier, contractor or subcontractor of any tier of the Generator, unless the Generator has obtained access to such Confidential Information for the Counterparty and its Representatives in accordance with Section 3.1(d).

3.13 Representatives

Prior to any Representative of a Party having access to any information to be provided by the other Party pursuant to this Article 3 or attending any meeting contemplated in this Article 3, or participating in any audit contemplated in this Article 3, such Party shall ensure that any such Representative is bound by the confidentiality requirements provided in Article 8. A Party exercising access or audit rights through the use of a third party shall pay the costs and expenses relating thereto including the fees and expenses associated with any third party auditor or consultant.

ARTICLE 4 PAYMENT OBLIGATIONS

4.1 Payment Obligations

- (a) The Parties acknowledge that the Counterparty is not purchasing, assuming or otherwise receiving from the Generator, nor is the Generator selling, transferring, assigning or otherwise conveying to the Counterparty, any Electricity or Related Products hereunder or providing any Ancillary Service hereunder.
- (b) The Net Related Products Revenues receivable by the Generator shall accrue to the benefit of the Counterparty and shall be paid to the Counterparty after receipt thereof. For greater certainty, payments made to the Generator by the Counterparty in respect of Dynamic Capabilities Offered pursuant to this Agreement shall not be considered to be Net Related Products Revenue and shall accrue to the Generator. The Generator shall from time to time during the Term of this Agreement obtain, quantify and register with the relevant authorities

or agencies all Related Products related to Bruce A and Bruce B that are required pursuant to applicable legislation. The Generator shall not participate in any voluntary programs with respect to any Related Products associated with Bruce A or Bruce B without the prior written consent of the Counterparty, which consent may be withheld in its sole discretion. The Generator shall include in the Statement for each Settlement Month a line item setting forth the Net Related Products Revenues, and such Net Related Products Revenues, if positive, shall be paid by the Generator to the Counterparty (or set-off against amounts owed by the Counterparty to the Generator for such Settlement Month) in accordance with Section 5.3 and, if negative, shall be carried forward to subsequent Statements until there is a positive amount in a Settlement Month. For certainty, negative amounts shall not be netted against any amount other than subsequently arising positive Net Related Products Revenues.

4.2 Monthly Payments.

The Parties agree that, commencing on the Effective Date and for the duration of the Term, but subject to Sections 11.2(a)(ii) and 11.4(a)(ii), the relevant Party shall have the following payment obligations:

- (a) **Contingent Support Payment.** For each Month of the Term in which BCR is greater than BAR, the Counterparty shall pay the Generator a Contingent Support Payment, as calculated pursuant to Exhibit 4.2.
- (b) **Revenue Sharing Payment.** For each Month of the Term in which BAR is greater than BCR, the Generator shall pay to the Counterparty a Revenue Sharing Payment, as calculated pursuant to Exhibit 4.2.
- (c) **Payments for Dynamic Capabilities.** For each Month of the Term, the Counterparty shall pay to the Generator a fee equal to the Dynamic Capabilities Payment, as calculated pursuant to Exhibit 4.2.
- (d) **Payments for Front-end Fuel Costs.** Front-End Fuel Costs shall be for the account of the Counterparty. Subject to Sections 2.18 and 3.7(e), for each Month of the Term, the Counterparty shall pay the Generator the Front-end Fuel Costs as determined pursuant to Exhibit 4.2(d). The Generator shall include the Front-end Fuel Costs in each Statement to be provided to the Counterparty pursuant to Section 5.2. The Counterparty acknowledges that the Generator may in the future be reasonably required or compelled to use low void reactivity fuel and the costs of low void reactivity fuel will be included in the Front-end Fuel Costs.
- (e) **Payments for Used Fuel Costs.** Used Fuel Costs shall be for the account of the Counterparty. For each Month of the Term, the Counterparty shall pay the Generator the Used Fuel Costs as determined pursuant to Section 2.18. The Generator shall include the Used Fuel Costs in each Statement to be provided to the Counterparty pursuant to Section 5.2. If the invoicing period under the Used Fuel Agreement changes for any reason, this Section 4.2(e) will be modified *mutatis mutandis* to reflect such change.

- (f) **No Payment Obligation.** For greater certainty, if BAR in a Month of the Term is equal to BCR in such Month, no payment shall be made by either the Generator or the Counterparty to the other pursuant to Section 4.2(a) or 4.2(b).

4.3 Payments for Operational Efficiencies

Subject to Section 9.2(c)(viii) and (ix) and Section 9.3(e)(ii)(H) and (I), the Generator and the Counterparty agree that the Counterparty shall share in improvements in operational performance beyond the Expected Annual Operating Costs set forth in the Financial Model in respect of the Facility. At the end of each Planning Period, if the Actual Planning Period per MWh Operating Costs for such Planning Period are less than the Expected Planning Period per MWh Operating Costs for such Planning Period, then the Generator shall pay the Counterparty the O&M Efficiency Amount determined in accordance with Exhibit 4.3. The O&M Efficiency Amount shall be payable in thirty-six (36) equal monthly instalments commencing on the Adjustment Date of the first Contract Year following the Planning Period to which the O&M Efficiency Amount relates; provided, however, the Generator may elect to make such payments, if any, that are payable after the last day of the Term as a single lump sum payment. Such Actual Planning Period per MWh Operating Costs shall be subject to audit pursuant to Section 3.7. Amounts under this Section 4.3 in respect of a particular Planning Period shall be payable as at the end of the particular Planning Period (to be paid in the following Planning Period as set out in Exhibit 4.3), and shall be treated as a refund of Contingent Support Payments for the particular Planning Period or additional Revenue Sharing Payments for the particular Planning Period, but for greater certainty, without affecting the amount of, or the requirement of the Generator to make, payments to the Counterparty in accordance with this Section 4.3.

4.4 Annual Escalation Adjustments to Contract Price

The Contract Price shall be adjusted annually on the Adjustment Date of each Contract Year in the manner set forth in Exhibit 4.4, and, in addition, will be adjusted for each applicable Contract Price Adjustment, if any, pursuant to Sections 4.6 through 4.12, inclusive, and Section 15.2, and Exhibit 4.6 through Exhibit 4.12, inclusive, and Exhibit 15.2, respectively, and the Financial Model.

4.5 Adjustments to Certain Dollar Amounts

- (a) The dollar amounts referred to in Section 2.16(c) (the DC Fee) are quoted in dollars as at January 1, 2016 and shall be adjusted pursuant to Exhibit 4.5.
- (b) The dollar amounts referred to in the definition of Technical Infeasibility, Section 11.1(j), the definition of DA Material Adverse Effect in Section 14.1 and Exhibit 9.1 are quoted in 2014 dollars and shall be adjusted pursuant to Exhibit 4.5.

4.6 Adjustments to Rate of Return

At the Refurbishment Lock-in Date for the Third Unit and at the Refurbishment Lock-in Date for the Fifth Unit, the Rate of Return will be adjusted in accordance with Exhibit 4.6.

4.7 Adjustments for Operating Costs

- (a) **Update of Specified Operating Cost Assumptions Every Nine Years.** Prior to each of the dates set out in Section 4.7(a) of the Technical Schedule (each, an “**OC Update Date**”), the Generator will provide the Counterparty with a report setting forth its updated Specified Operating Cost Assumptions for the remainder of the Term together with reasonable details of the basis for any changes from the prior Specified Operating Cost Assumptions and the reasons therefor. The Inputs contained in such report will be verified in accordance with Section 3.1(b). In particular, such report will detail:
- (i) the Average Base Salary for the most recently completed calendar year and a description of the differences between the Average Base Salary for the most recently completed calendar year and that projected in the then current Financial Model for such year;
 - (ii) the then current Trades Rate and a description of the differences between the then current Trades Rate and that projected in the then current Financial Model for such time;
 - (iii) the then current Pension Service Cost Burden Rate determined in accordance with the provisions of Exhibit 4.7(a) and a description of the difference between such Pension Service Cost Burden Rate and the Pension Service Cost Burden Rate projected in the then current Financial Model; and
 - (iv) the Wage Rate Escalator.
- (b) **Adjustment or Replacement of the Wage Rate Escalator.** If, in contemplation of an update to the Specified Operating Cost Assumptions in accordance with the provisions of Section 4.7(a), either Party believes that the Wage Rate Escalator is impractical or has not accurately reflected the actual change in the Average Base Salary over the immediately preceding nine (9) calendar years, then such Party may, by notice to the other Party (a “**WRE Notice**”) given within the time periods set forth in Section 4.7(b) of the Technical Schedule, as the case may be, propose a replacement escalator for the Wage Rate Escalator or that such escalator continue but that an amount be added to it or subtracted from it so that it more accurately reflects the actual change in the Average Base Salary over such immediately preceding nine (9) calendar year period. In connection with any proposed change to the Wage Rate Escalator or any addition thereto or subtraction therefrom, the Party proposing such change or addition or subtraction shall provide to the other Party an analysis showing how such replacement escalator or the existing escalator with such additional amount or such subtracted amount more accurately tracked the Generator’s actual Average Base Salary increase over such immediately preceding nine (9) calendar year period. Any replacement escalator or proposed addition to or subtraction from the existing escalator proposed by a Party shall be reasonable in the circumstances having regard to the intention of the Parties that the Wage Rate Escalator track as closely as possible to the actual change in the Average Base Salary over such immediately preceding nine (9) calendar year period. If a Party receiving the WRE Notice believes that the proposed change or addition to or subtraction from

the Wage Rate Escalator is unreasonable, impractical or has not accurately reflected the actual change in the Average Base Salary over the immediately preceding nine (9) calendar years or that there is another publicly available index which more accurately tracks the actual change in the Average Base Salary over such immediately preceding nine (9) calendar year period, such Party shall within thirty (30) days of receipt of the WRE Notice provide notice of such disagreement to the other Party and the basis of the disagreement. The Parties shall then engage in good faith negotiations to agree upon such escalator, to choose an available replacement escalator that most nearly, of those then publicly available, approximates the escalation of the Average Base Salary actually experienced by the Generator or to agree to an additional amount to be added to or an amount to be subtracted from the existing escalator so that it more accurately tracks the Generator's actual Average Base Salary increase over such immediately preceding nine (9) year period. If the Parties are unable to agree on all such issues within thirty (30) days after the giving of such notice of dispute, the replacement escalator for the Wage Rate Escalator or the additions to or subtractions from the Wage Rate Escalator shall be determined in accordance with the formal dispute resolution procedures set out in Section 18.2. If the Party receiving the WRE Notice does not provide a notice of dispute within such thirty (30) day period, it shall be deemed to have accepted the proposed change or addition to or subtraction from the Wage Rate Escalator described in the WRE Notice. Only one WRE Notice may be provided in respect of each nine (9) year update review of the Wage Rate Escalator. Once a replacement escalator for the Wage Rate Escalator or the additions to or subtractions from the Wage Rate Escalator have been agreed or deemed to have been accepted or are determined in accordance with the dispute resolution provisions of Section 18.2, such shall apply until thereafter adjusted or replaced in accordance with the provisions of Section 1.11 or this Section 4.7(b).

- (c) **Update of OPEB Assumptions and Contract Price Adjustment.** Prior to the date set out in Section 4.7(c) of the Technical Schedule, the Generator will provide the Counterparty an updated drug trend rate assumption for purposes of calculating Other Post-Employment Benefits. This updated assumption will be the **"Other Post-Employment Benefits Average for the Drug Trend Rate"** as defined in Exhibit 4.7(c). The Contract Price will be adjusted (up or down) pursuant to Exhibit 4.7(c) and the Financial Model on the OC Adjustment Date occurring on April 1, 2043 to reflect 100% of the changes between the Other Post-Employment Benefits Average for the Drug Trend Rate and the 5% assumption used in the Original Financial Model. The updated assumption will apply from and after such OC Adjustment Date and not retroactively and the then current Financial Model will be updated to reflect such changes for the purposes of Section 4.3.
- (d) **Adjustment to Contract Price Every Nine Years.** The Contract Price will be adjusted (up or down) pursuant to Exhibit 4.7(a) on the Adjustment Date in each of the years set out in Section 4.7(d) of the Technical Schedule, (each an **"OC Adjustment Date"**) to reflect 100% of any changes between the then applicable Specified Operating Cost Assumptions and related projections and the updated Specified Operating Cost Assumptions provided pursuant to Section 4.7(a), including due to the updated Pension Service Cost Burden Rate and a change in, or replacement of, the Wage Rate Escalator pursuant to Section 4.7(b). The

updated Specified Operating Cost Assumptions will apply from and after such OC Adjustment Date, and not retroactively, until thereafter adjusted again in accordance with the provisions of this Section 4.7(d) and the then current Financial Model will be updated to reflect such changes for the purposes of Section 4.3.

- (e) **Due Diligence and Audits.** Each of the iterations of Specified Operating Cost Assumptions provided to the Counterparty pursuant to Section 4.7(a) and Section 4.7(c) will be subject to due diligence rights for the Counterparty as set forth in Section 3.6 in respect of the changes to the Operating Costs provided by the Generator and contained therein, and will be subject to audit rights (in respect of Operating Costs actually incurred) by or on behalf of the Counterparty as set forth in Section 3.6. Notwithstanding any provision of this Agreement to the contrary, the Counterparty will have no right of due diligence or audit with respect to the Tables A, B and C of Exhibit 4.7(a) or Table A of Exhibit 4.7(c) as set forth therein as of the date hereof.

4.8 Adjustments to Contract Price Prior to or After Refurbishment Lock-in Date

- (a) If prior to the Refurbishment Lock-in Date of a Unit there is a change in the Scheduled Refurbishment Outage Date of such Unit pursuant to either Section 2.3(c) or 2.3(e), then effective on the Adjustment Date immediately following the approval of such change by the Counterparty pursuant to Section 2.3(c) or the election of the Counterparty to proceed with such change pursuant to Section 2.3(e), as applicable, the Contract Price will be adjusted as determined in accordance with Exhibit 4.8 and the Financial Model.
- (b) After the Refurbishment Lock-in Date of a Unit and effective on the Adjustment Date following the Go Election for such Unit, the Contract Price will be adjusted, as applicable, and as determined in accordance with Exhibit 4.8 and the Financial Model:
 - (i) by an amount required for the Generator to recover the Fully-Scoped Refurbishment Cost for such Unit (except for the amount of the Unit Cost Overage, if the provisions of Section 9.1(e)(i) are applicable) plus the Rate of Return over the remaining Term;
 - (ii) to reflect any change that is Beneficial to the Ratepayer to the extent not already included in the Fully-Scoped Refurbishment Cost referred to in Section 4.8(b)(i) or to the Fully-Scoped Refurbishment Duration referred to in Section 4.8(b)(iii);
 - (iii) to reflect any change to the Fully-Scoped Refurbishment Duration of such Unit compared to the period provided in Section 2.2 pursuant to Section 2.3(h); and
 - (iv) to reflect any Adjustment to Generation Profile in connection with the ADR Extension Period pursuant to Exhibit 2.4(d) and the Financial Model.

Such Contract Price Adjustment shall be made on the Adjustment Date determined pursuant to Exhibit 4.8.

4.9 Adjustments to Contract Price on Final Completion

- (a) In addition to the Contract Price Adjustment provided for in Section 4.8, following achievement of Commercial Operation of a Unit, effective on the Adjustment Date immediately following the Final Completion of such Unit the Contract Price will be adjusted as applicable and as determined in accordance with Exhibit 4.9 and the Financial Model as follows:
 - (i) if the total Refurbishment Costs of the Unit as at such time is less than the Fully-Scoped Refurbishment Cost therefor, or if the actual Refurbishment Duration is less than the Fully-Scoped Refurbishment Duration, then the Contract Price will be decreased subject to such further adjustments as provided in Exhibit 4.9;
 - (ii) if the Refurbishment Costs of the Unit or the Asset Management Costs for Force Majeure-Eligible Asset Management Work of the Unit occurring during the Refurbishment Outage for such Unit, or both, have increased as the result of Force Majeure, then the Contract Price will be increased pursuant to Section 12.1(f); and
 - (iii) if an EA Force Majeure has occurred, the Contract Price will be adjusted to reflect the Adjustment to Generation Profile pursuant to Section 12.1(f).
- (b) For greater certainty, all Refurbishment Costs incurred by the Generator on a Unit that exceed the Fully-Scoped Refurbishment Cost for such Unit will be for the account of the Generator and there will be no Contract Price Adjustment for such cost overruns (except as provided in respect of cost overruns attributable to Force Majeure in accordance with Article 12).
- (c) The Contract Price Adjustment referred to in Section 4.9(a) shall be made on the Adjustment Date determined pursuant to Exhibit 4.9.

4.10 Adjustments to Contract Price for Asset Management

Following the delivery of each updated Lifetime Asset Management Plan, for each successive Planning Period following the first Planning Period, the Contract Price will be adjusted on the Adjustment Date of the first Contract Year of such subject Planning Period in accordance with Exhibit 4.10 and the Financial Model. Any movement in Asset Management Work will be made only in accordance with Section 2.11 and Exhibit 4.10. To the extent that actual Asset Management Costs incurred by the Generator for a Planning Period N exceed the Fixed Asset Management Costs for such Planning Period N (other than Accelerated Asset Management Costs, if any, that are moved into such Planning Period N), except as provided in Section 12.1(f)(ii), there will be no Contract Price Adjustment for any such cost overruns, which shall be solely for the account of the Generator. Any Contract Price Adjustment referred to in this Section 4.10 shall be made on the Adjustment Date determined pursuant to Exhibit 4.10.

4.11 Adjustments to Contract Price for Termination of Refurbishments

On the Adjustment Date immediately following the exercise of the election of a Party pursuant to any of Sections 9.1(a), 9.1(b), 9.1(d), 9.1(e), 9.2, 9.3 or 10.2 and following the occurrence of a Technical Infeasibility, the Contract Price will be adjusted as determined in

accordance with Exhibit 4.11 and the Financial Model. Any such Contract Price Adjustment shall be made on the Adjustment Date determined pursuant to Exhibit 4.11.

4.12 Adjustments to Contract Price for Changes pursuant to the OPG Lease/Ancillary Agreements

- (a) The Contract Price will be adjusted effective on the Adjustment Date immediately following any change in the Base Rent made pursuant to the OPG Lease as determined in accordance with Exhibit 4.12 and the Financial Model.
- (b) The Contract Price will be adjusted effective on the Adjustment Date immediately following any change in the L&ILW Fees made pursuant to the L&ILW Agreement as determined in accordance with Exhibit 4.12 and the Financial Model.
- (c) The Contract Price will be adjusted effective on the Adjustment Date immediately following any change in the HWAS Fees made pursuant to the HWAS Agreement as determined in accordance with Exhibit 4.12 and the Financial Model.

4.13 Commodity Taxes

The Counterparty is liable for and shall pay, or cause to be paid, or reimburse the Generator if the Generator has paid, all Commodity Taxes (or any new Taxes) applicable to any Monthly Payment due to the Generator. The Generator is liable for and shall pay, or cause to be paid, or reimburse the Counterparty if the Counterparty has paid, all Commodity Taxes (or any new Taxes) applicable to any Monthly Payment due to the Counterparty.

4.14 Confirmation of Contract Price Adjustments

- (a) The purpose of this Section 4.14 is for the Parties to confirm the matters listed in Section 4.14(b) prior to the Contract Price Adjustment being implemented on an Adjustment Date. This Section 4.14 is not a replacement for: (i) the processes required pursuant to any of Sections 2.3(c), 2.3(e) or Clause 3(d) of Exhibit 4.9 pursuant to which any Contract Price Adjustment must be agreed by one or both Parties; (ii) any process in this Agreement pursuant to which any Contract Price Adjustment is determined by a dispute resolution process; or (iii) any process whereby an Input is verified; nor is it an additional verification, renegotiation or redetermination of any previously determined or agreed upon Contract Price Adjustment or Input upon which any such Contract Price Adjustment is to be based. This Section 4.14 is also not intended to provide a basis for claiming a Model Failure, which is addressed in Exhibit 1.1(c).
- (b) On or before the tenth (10th) Business Day in March of each Contract Year, the Generator shall deliver to the Counterparty a notice in the form attached as Exhibit 4.14 (a **"Notice of Contract Price Adjustment"**) that contains the following information required to make a Contract Price Adjustment on the next following Adjustment Date (the **"Subject Adjustment Date"**):
 - (i) a list of those Contract Price Adjustments that are to be made on such Adjustment Date;

- (ii) a list of all Inputs applicable to each Contract Price Adjustment to be made on the Subject Adjustment Date pursuant to Sections 4.8 and 4.10 determined in accordance with the terms hereof;
 - (iii) a list of any unresolved disputes pursuant to Section 2.6(i) and (j), Section 3.1(b), Section 3.2(c) and Section 3.5(c);
 - (iv) a list of all Inputs applicable to each Contract Price Adjustment to be made on the Subject Adjustment Date, other than those listed pursuant to Section 4.14(b)(ii), that have been agreed, determined or verified in accordance with the relevant provisions of this Agreement;
 - (v) the amount of each Contract Price Adjustment contemplated in Sections 4.14(b)(ii) and 4.14(b)(iv) (as allocated among CPIAP, WREAP and NEP), calculated using the Financial Model and the net aggregate Contract Price Adjustment to be made effective on the Subject Adjustment Date; and
 - (vi) the updated Financial Model reflecting Section 4.14(b)(v).
- (c) The Counterparty shall notify the Generator within fifteen (15) Business Days of the Generator's delivery of the Notice of Contract Price Adjustment as to whether or not it has verified:
- (i) the Inputs identified in Sections 4.14(b)(ii) and 4.14(b)(iv);
 - (ii) that the Inputs have been inputted into the CAS in accordance with the CAS Instructions; and
 - (iii) a list of Contract Price Adjustments to be made on the Subject Adjustment Date;

(the "**Three Variables**").

- (d) If the Counterparty notifies the Generator within such period that it has verified the Three Variables, then any such net aggregate Contract Price Adjustment set out in the Notice of Contract Price Adjustment shall be made on the Subject Adjustment Date. The Counterparty will be deemed to have verified the Three Variables and such Notice of Contract Price Adjustment if it does not respond to the Generator within such time period.
- (e) If the Counterparty notifies the Generator within such fifteen (15) Business Day time period that it cannot verify one or more of the Three Variables, then the Parties shall meet as soon as possible thereafter, and in any case within five (5) Business Days, to discuss in good faith such Notice of Contract Price Adjustment and the adjustments contemplated therein and to attempt to resolve any differences in respect of the Three Variables, and, if such unverified matters cannot be resolved by the last Business Day in April immediately following the Subject Adjustment Date: (i) the Contract Price Adjustments contemplated in Section 4.14(b)(ii) shall be implemented effective on the Subject Adjustment Date as provided by the Generator in the Notice of Contract Price Adjustment or as

otherwise agreed by the Parties; and (ii) those Contract Price Adjustments contemplated in Section 4.14(b)(iv) which are not being disputed shall be made effective on the Subject Adjustment Date and the disputed portion shall be dealt with in accordance with Section 4.14(f).

- (f) Any dispute regarding unverified matters in respect of the Three Variables and the corresponding disputed amount of the Contract Price Adjustment directly attributable thereto shall be resolved in accordance with Section 18.1 and Section 18.2. Upon final resolution of such dispute, the Contract Price Adjustment that should have been made on the Subject Adjustment Date shall be redetermined by reference to the actual outcome of such dispute resolution and the Contract Price Adjustment will be made retroactive to the Subject Adjustment Date. In connection therewith, the Generator shall provide the Counterparty with a Notice of Contract Price Adjustment setting out the amount of the Contract Price Adjustment that should have been made on the Subject Adjustment Date as compared to the amount of the Contract Price Adjustment that was implemented on such Subject Adjustment Date. The amount of any over or under payment to the Generator in respect of the previously implemented Contract Price Adjustment, together with interest thereon at the Interest Rate, will be determined by the Generator based on the actual Bruce Energy in such period. Such amount will be added to or subtracted from the next Statement by the Generator and any amount payable shall be payable in accordance with Section 5.3.
- (g) Any unresolved disputes listed pursuant to Section 4.14(b)(iii) shall be resolved in accordance with the dispute resolution mechanism applicable to such disputes, following which any Contract Price Adjustment arising therefrom shall be determined in accordance with Section 4.8 and Exhibit 4.8, Clause 5(f) of Exhibit 4.10, as applicable, in respect of the next following Adjustment Date. Any Input that is finally determined in accordance with such provisions shall be the Input reflected in the Notice of Contract Price Adjustment delivered by the Generator and verified by the Counterparty in accordance with this Section 4.14 on the next following Adjustment Date.
- (h) Any Input in respect of which (i) the time period for verification by the Counterparty provided for in this Agreement has not elapsed prior to March 1 of the Contract Year in which the Subject Adjustment Date falls, and (ii) the Counterparty has not verified such Input, shall be verified in accordance with the terms hereof. The applicable Contract Price Adjustment for any such Input shall occur on the next Adjustment Date following the Subject Adjustment Date.
- (i) Following the implementation of each Contract Price Adjustment on an Adjustment Date, the Generator shall update the Contract Price Adjustment Ledger to reflect the date of such Contract Price Adjustment and the updated CPIAP, WREAP and NEP resulting from such Contract Price Adjustment.

ARTICLE 5 STATEMENTS AND PAYMENTS

5.1 Meter and Other Data

The Generator agrees to provide to the Counterparty, upon reasonable request, any meter data and any other information that the Generator has provided to, or received from, the System Operator from time to time relating to the delivery of Electricity from Bruce A or Bruce B, as applicable, and the calculation of Deemed Electricity, if any. For greater certainty, the Generator shall give the Counterparty the right to view, download, and request meter data from the System Operator by establishing a "Meter Data Associate" or "MDA" relationship with the Counterparty at each Point of Delivery within the System Operator's "Meter Data Management" or "MDM" and "Meter Data Distribution" or "MDD" systems or their successors. Upon a Party becoming aware of any errors in any data or information provided in accordance with this Section 5.1, such Party shall notify the other Party, and if required by the IESO Market Rules, the System Operator in accordance with the IESO Market Rules, on a timely basis.

5.2 Statements

The Generator shall prepare and deliver a settlement statement (the "**Statement**") to the Counterparty within twelve (12) Business Days after the end of each Month of the Term, commencing with the Month in which the Effective Date occurs. The Statement shall set out for the Month that is the subject of the Statement (the "**Settlement Month**") the following amounts, if any and as applicable to the Generator: (i) the aggregate Bruce Energy, (ii) the Deemed Electricity determined by the Generator, (iii) the Front-end Fuel Costs including the Reimbursable Amount, (iv) the Used Fuel Costs, (v) the Dynamic Capabilities Payment, (vi) the Bruce Energy Congestion Revenues received by the Generator, (vii) the liquidated damages owing to the Counterparty by the Generator pursuant to Section 2.10(f), (viii) the Net Related Products Revenues received by the Generator, (ix) any payment required to be made by the Generator pursuant to Section 4.3 in respect of operational efficiencies, (x) the Monthly Payment required to be paid by one Party to the other Party, (xi) any other payments required to be paid by one Party to the other Party with respect to the Settlement Month, (xii) the Delay Set-off amount pursuant to Section 11.2(a)(iii), and (xiii) any Commodity Taxes (or other Taxes) applicable to such amounts. Each Statement shall include reasonably detailed back-up data and information to support or establish the amounts set forth therein, which shall form part of such Statement, and if the Generator fails to provide such back-up information and data in the Statement, the Counterparty may send notice to the Generator requesting same and the Generator shall, subject to the following sentence, promptly and in any event within ten (10) Business Days thereafter, provide same to the Counterparty. Where practicable, the Generator shall render its Statements based upon verified information. If the Generator renders a Statement on an estimated basis, the Statement shall include the basis of such estimate. Any adjustments based on verified information, including information verified by the System Operator or its verification processes, each in accordance with the IESO Market Rules, shall be made in the Statement following receipt of such verified information. A Statement shall include all information required by each Party to claim any input tax credits, refund, rebate, remission or other return of Commodity Taxes potentially available from a Governmental Authority. A Statement may be delivered by the Generator to the Counterparty by facsimile or electronic means, and shall include the reference numbers assigned to this Agreement by the Counterparty and the Generator, respectively. Amounts payable by one Party pursuant to a Statement shall be netted against amounts payable by the other Party pursuant to the Statement.

5.3 Payment

If an amount is payable to one Party by the other pursuant to a Statement, such Party shall remit to the other Party full payment in respect of the Statement no later than twenty (20) Business Days after the end of the Settlement Month to which the Statement relates (the "**Payment Date**"). Any and all payments required to be made under this Article 5 and any other provision of this Agreement shall be made by wire transfer to the applicable account designated in Section 5.6 of the Technical Schedule or as otherwise agreed by the Parties.

5.4 Interest

The Party owing a Monthly Payment shall pay interest on any late payment to the other Party 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).

5.5 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.

5.6 Payment Account Information

Either Party may change its account information listed in Section 5.6 of the Technical Schedule from time to time by notice to the other Party in accordance with Section 17.1.

5.7 Adjustment to Statement

- (a) Each Statement shall be subject to adjustment for errors in arithmetic, computation or other errors raised by either 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.
- (b) Notwithstanding the foregoing, absent manifest error, the determination by the System Operator acting pursuant to the IESO Market Rules of any information provided by the System Operator and incorporated in a Statement shall be final and binding on the Parties in accordance with the IESO Market Rules, and without limiting the generality of the foregoing, if a Statement contains an error in the data or information issued by the System Operator which the System Operator has requested be corrected pursuant to the IESO Market Rules, then

the two (2) year limit set forth in Section 5.7(a) shall not apply to the correction of such error or a Party's ability to readjust the Statement.

- (c) Subject to Section 5.8, any adjustment to a Statement made pursuant to this Section 5.7 shall be made in the next subsequent Statement.
- (d) Any amount payable by one Party to the other Party following an adjustment to a Statement as provided in Section 5.7(a) shall bear interest at the Interest Rate plus 2%, calculated daily and compounded monthly from the date such amount would have originally been payable but for such error to the date paid.

5.8 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 in such Statement to the other applicable Party. The Counterparty shall provide notice to the Generator setting out the portions of the Statement that are in dispute with a brief explanation of the dispute. If it is subsequently determined or agreed that an adjustment to the Statement is appropriate, the Generator 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 or before 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 Parties within five (5) Business Days after receipt of notice of such dispute by the Generator, the dispute may be submitted by either Party to a Senior Conference pursuant to the terms of Section 18.1 and thereafter to formal dispute resolution in accordance with the terms of Section 18.2.

5.9 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 Monthly Payment made thereunder, in accordance with Section 3.7.

ARTICLE 6 DEEMED GENERATION

6.1 Deemed Generation

- (a) If at any time, provided that the Generator has complied with its obligations under Section 2.12(b):
 - (i) the Generator is wholly or partially unable to generate Electricity from any electrical generating unit associated with Bruce A or Bruce B because transmission from a Point of Delivery is unavailable because of a Transmission System Inadequacy;

- (ii) delivery of any amount of Electricity from the Facility cannot be made to a Point of Delivery because transmission from the Point of Delivery is unavailable because of a Transmission System Inadequacy;
- (iii) any amount of Electricity from any electrical generating unit associated with a Unit is curtailed, derated or constrained off, including with the result that any one or more Units are required to be taken off-line, in accordance with a Dispatch Instruction arising by reason of (A) surplus Electricity supply on the IESO-Controlled Grid or any portion thereof, or (B) Offering Bruce Energy to the IESO-Administered Markets at no less than the Offer Floor Price in accordance with Section 2.16(a)(ii); or
- (iv) any amount of Electricity from any electrical generating unit associated with a Unit is curtailed, derated or constrained off in accordance with a Dispatch Instruction arising by reason of the Generator complying with its obligations under Section 2.16(a)(i);

(each of the foregoing cases (i), (ii), (iii) and (iv) being a “**Disruption Event**”), then, for purposes of this Agreement, Bruce Energy in any hour or part thereof in which a Disruption Event has occurred or is continuing shall be deemed to include all Electricity that could have been delivered from the Facility to a Point of Delivery in such hour but for such Disruption Event. The quantity of such Electricity that could have been delivered (including the Deemed Electricity contemplated by Section 6.1(c)) shall be determined by the Generator, acting reasonably and having regard to the criteria in Exhibit 6.1 and is referred to herein as “**Deemed Electricity**”.

- (b) The Counterparty shall pay the Generator for all Deemed Electricity at a price per MWh equal to HOEP (or the replacement value for HOEP under LMP pursuant to the application of Section 1.7, or the Replacement Price pursuant to the application of Section 1.8 or the Administrative Price pursuant to Section 1.9, or a reasonable good faith estimate of the Actual Hourly Energy Payment pursuant to the application of Section 1.10) for each corresponding hour for which Deemed Electricity has been determined, provided that any congestion management settlement credits received by the Generator from the System Operator pursuant to the IESO Market Rules in respect of such Disruption Event (and, for certainty, including the period referred to in Section 6.1(c) (in respect of Bruce A and Bruce B, the “**Bruce Energy Congestion Revenue**”) shall be included in the relevant Statement and credited against such payment obligations of the Counterparty or, if applicable, paid by the Generator to the Counterparty, and further provided that in respect of any hour in which HOEP is less than the Offer Floor Price, the HOEP for such hour shall be, subject to Section 2.16(a)(ii)(C), deemed to be the Offer Floor Price for the purpose of calculating the payment payable to the Generator pursuant to this Section 6.1(b).
- (c) For greater certainty, but subject to Section 6.1(d), Deemed Electricity shall include any Electricity that the Generator is not able to generate or deliver:
 - (i) following a Disruption Event described in Section 6.1(a)(i), (ii) or (iii), due to the time required to bring a Unit back on line (including time required to remedy a forced Outage directly arising from such Disruption Event, such

as time required to repair, replace or procure equipment that has failed as a result of actions taken by the Generator in accordance with Good Engineering Practices to respond to such Disruption Event, but excluding any time required to repair, replace or procure equipment, the failure of which does not directly arise from such Disruption Event);

- (ii) following any Disruption Event, due to the time required to ramp up such a Unit even though such Disruption Event is no longer in effect, to the extent that the Generator has brought such Unit back on line or, if not taken off-line, increased such Unit's reference Electricity output level to the lesser of (A) the Unit's Electricity output level prior to the start of such Disruption Event as determined pursuant to Clause 1(i) of Exhibit 6.1, or (B) the Electricity output level that such Unit is then able to achieve, as determined pursuant to Clause 1(ii) of Exhibit 6.1; or
 - (iii) following any Disruption Event or a curtailment, derating, constraining off or shut down of a Unit for any reason, including due to a planned Outage by the Generator, due to the time during any period which the System Operator has failed to provide a Dispatch Instruction to the Generator to return to generating or delivering Electricity following the Generator's request to the System Operator to return such Unit to service.
- (d) If (i) the Generator has actual knowledge at the time of a Disruption Event of an equipment issue with a Unit that, in accordance with Good Engineering Practices, would reasonably be expected to cause a forced Outage of such Unit if it was to be taken off-line and then brought back on line (the "**Potential Equipment Issue**"), (ii) the Generator Offers Electricity for such Unit so that it will be constrained off in priority to the remaining Units that are operating; and (iii) such Unit is taken off-line by a Dispatch Order as a result of such Disruption Event, then if a forced Outage directly arises from such Disruption Event as the result of such Potential Equipment Issue, notwithstanding Section 6.1(c)(i), Deemed Electricity shall only be calculated for a period of 96 hours commencing at the end of the hour in which the breaker is opened for such Unit as the result of such Disruption Event even if the time required to remedy such forced Outage and the Potential Equipment Issue, such as the time required to repair, replace or procure equipment to remedy such Potential Equipment Issue, is longer than such 96-hour period. For greater certainty: (A) the provisions of Section 6.1(c)(ii) and Section 6.1(c)(iii) will continue to apply to the calculation of Deemed Electricity in respect of such forced Outage; and (B) if a forced Outage results from both a Potential Equipment Issue and an issue other than such Potential Equipment Issue, including as the result of an equipment failure other than that known to be the Potential Equipment Issue (an "**Unrelated Equipment Issue**"), then to the extent that the time required to remedy such Unrelated Equipment Issue exceeds the time required to remedy such Potential Equipment Issue, Deemed Electricity shall also be calculated for such excess period in accordance with the provisions of Section 6.1.
- (e) Deemed Electricity shall be included in the calculation of Monthly Payments in accordance with Section 4.2 and for such purposes shall be deemed to be Bruce Energy for any hour for which it is determined. All claims by the Generator in

respect of Deemed Electricity shall be supported by the information contemplated in Exhibit 6.1.

- (f) All payments required to be made by the Counterparty under this Section 6.1 shall be set forth in Statements delivered in accordance with and shall be payable in accordance with Article 5, subject to the rights of the Counterparty to dispute Statements in accordance with Article 5.

ARTICLE 7 REPRESENTATIONS

7.1 Representations of the Generator

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

- (a) The Generator is a limited partnership existing under the laws of the Province of Ontario, 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.
- (b) This Agreement has been duly authorized, executed and delivered by the Generator and is a valid and binding obligation of the Generator 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.
- (c) The execution and delivery of this Agreement by the Generator 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 Generator under:
 - (i) any contract or obligation to which the Generator 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 limited partnership agreement or other constating documents of the Generator, or the resolutions of the directors or shareholders of Bruce Power Inc. (in its capacity as general partner of the Generator) or of the Limited Partners of the Generator;
 - (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, subject to (in connection with the consummation of the transactions contemplated by this Agreement) receipt of licences, permits, approvals, consents and authorizations to be obtained following the Effective Date;

that could have a Material Adverse Effect on the Generator.

- (d) There are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against or being contemplated by the Generator or, to the knowledge of the Generator, threatened against the Generator.
- (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 Generator, threatened against the Generator that could have a Material Adverse Effect on the Generator.
- (f) All requirements for the Generator 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.
- (g) The Generator has no knowledge of an existing event, cause or condition that is reasonably expected to prevent any of the Units to be Refurbished in accordance with the terms hereof.
- (h) Each of the partners of the Generator is not a non-resident of Canada for the purposes of the ITA.
- (i) The Generator is registered for HST purposes under the ETA and its HST registration number is 86482 9635.
- (j) The Generator is a Canadian partnership as defined in subsection 102(1) of the ITA.
- (k) Other than agreements with the System Operator for reactive power, the Generator is not a party to, and has not agreed to enter into, any Physical Delivery Contracts in respect of Bruce Energy or any Financial Contracts that are specifically tied to the generation of Bruce Energy.
- (l) The Generator is the successor to BALP by way of acquisition of all of BALP's assets and undertakings and as such has assumed all of BALP's right, title and interest in the BPRIA and is bound by all of BALP's obligations under the BPRIA and the BPRIA is a valid and binding obligation of the Generator 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.
- (m) The Generator has no knowledge of the occurrence of a Discriminatory Action prior to the date hereof.

- (n) No senior officer of the Generator has knowledge of: (i) any bill introduced in the Legislative Assembly of Ontario or the Parliament of Canada that has not yet been passed into law; or (ii) any proposed regulation of the Province of Ontario or the Government of Canada that has been published or otherwise made public but by the terms thereof comes into force after the date hereof; that, in either case, unless amended after the date hereof, will constitute a Relevant Change of Law.

7.2 Representations of the Counterparty

The Counterparty represents to the Generator as follows as at the date hereof and acknowledges that the Generator 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 for purposes of the ITA.
- (i) This Agreement is a "**procurement contract**" for purposes of sections 25.1(2) and 25.32 of the *Electricity Act*, is not a transaction, arrangement or agreement entered into by the Counterparty based on the IESO Market Rules, and the Counterparty has the ability pursuant to Laws and Regulations to recover directly or indirectly from Electricity consumers in the Province of Ontario all amounts paid or that may from time to time become payable to the Generator pursuant to this Agreement.
- (j) The Counterparty's performance of its obligations under this Agreement complies with the regulations made pursuant to the *Electricity Act*, and the Counterparty's performance of its obligations pursuant to Section 2.16 complies with the IESO Market Rules. Neither the execution and delivery of this Agreement by the Counterparty nor the performance by the Counterparty of its obligations hereunder will result in the breach or violation of any of the provisions of, or constitute a default under, the *Electricity Act*. Neither the setting of the Offer Floor Price nor the adjustment thereof from time to time by the Counterparty pursuant to Section 2.16 will result in the breach or violation of any of the provisions of, or constitute a default under, the IESO Market Rules.
- (k) The Counterparty is the successor to the OPA by way of amalgamation pursuant to Schedule 7 of the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* (Ontario) and as such has assumed all of the OPA's right, title and interest in the BPRIA and is bound by all of the OPA's obligations under the BPRIA and the BPRIA 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.

7.3 Effective Date of Representations

The representations of the Generator and the Counterparty contained in Sections 7.1 and 7.2 are made with effect only on the date of this Agreement.

ARTICLE 8 CONFIDENTIALITY AND FIPPA

8.1 Counterparty Confidential Information

From the Effective Date to and following the expiry of the Term:

- (a) the Generator shall keep all Confidential Information of the Counterparty confidential and secure; provided, however, the Generator may disclose Confidential Information of the Counterparty in confidence to:
 - (i) those directors, agents and Representatives of the Generator, of any Affiliate of the Generator, of its general partner, of any Limited Partner or, of any Affiliate of any Limited Partner;
 - (ii) the respective lenders or potential lenders or rating agencies of the Generator, of any Limited Partner or, of any Affiliate of any Limited Partner, and such lenders' or rating agencies' respective employees, directors, agents, representatives and advisors; and
 - (iii) any *bona fide* potential investors in the Generator or in any Limited Partner, or in any Affiliate of any Limited Partner 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, stock exchange or other Person if legally compelled by such Governmental Authority or stock exchange under any Laws and Regulations or the requirements of any stock exchange, subject to the provisions of Section 8.6; and
- (b) except as necessary for the purpose of complying with its obligations under this Agreement, the Generator shall not directly or indirectly exploit or use any Confidential Information of the Counterparty.

8.2 Generator Confidential Information

From the Effective Date to and following the expiry of the Term:

- (a) the Counterparty shall keep all Confidential Information of the Generator confidential and secure; provided, however, that subject to Sections 8.2(b) and (c), the Counterparty may disclose Confidential Information of the Generator, including any information or materials delivered to the Counterparty by or on behalf of the Generator pursuant to Article 3, 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 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, approval of or monitoring of compliance with or performance under this 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 being advised that the Confidential Information of the Generator is confidential or 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 Generator in a form acceptable to the Generator, acting reasonably, so providing and pursuant to which, *inter alia*, such parties have acknowledged and agreed to the provisions of Section 8.7 insofar as that section relates to FIPPA and to advise the Generator, if either of them are legally compelled to disclose any Confidential Information of the Generator;

- (b) notwithstanding any other provision hereof, including Section 8.2(a), the Counterparty shall not be entitled to disclose Confidential Information of the Generator 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 8.2(a), the Counterparty shall not disclose Confidential Information of the Generator: (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, 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, 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 8.2(a)(iii), to any Governmental Authority and in accordance with the provisions of Section 8.2(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 8.6(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 the Generator; and
- (e) the Counterparty will comply with its obligations pursuant to section 5(4) of the *Electricity Act*.

8.3 Non-Disclosure of Privileged Information

Notwithstanding the Open Book Basis on which information is to be provided to the Counterparty pursuant to this Agreement and any other provisions of this Agreement regarding disclosure of information in whatever form by either Party to the other Party or a third party, whether such information is Confidential Information or otherwise, for certainty, neither Party shall be compelled to disclose to the other Party or to any third party any information that is subject to solicitor-client or litigation privilege (for greater certainty, the Parties agree that nothing in this section constitutes a waiver of privilege and that neither Party shall assert otherwise). Any dispute as to whether information being withheld from a Party is subject to solicitor-client privilege or litigation privilege shall be resolved in accordance with Sections 18.1 or 18.2.

8.4 Marking Confidential Information

If a Party has created or received from a third party at the request or direction of such first Party Confidential Information that is a document, electronic record, correspondence, note, extract or analysis containing, recalling or recording Confidential Information of the other Party and any new information which is derived at any time from or reflects the review of any Confidential Information of the other Party, whether created by such first Party or any third party at the request or direction of such first Party and all copies and extracts thereof whether created by a Party or a third party at the request or direction of such first Party, such Confidential Information shall be marked by such first Party recording or possessing such Confidential Information as “**Bruce Power – Confidential Information**” in the case of Confidential Information relating to the Generator where such first Party is the Counterparty, or “**IESO – Confidential Information**” in the case of Confidential Information relating to the Counterparty where such first Party is the Generator; provided, however, that failure by either Party to so mark any document as confidential does not change the confidential nature of such document which shall continue to be considered as Confidential Information and regarded as such.

8.5 Injunctive and Other Relief

Each Party acknowledges that breach of any provisions of this Article 8 will cause irreparable harm to the other Party or to any third party to whom such Party owes a duty of confidence and may also prejudice significantly such Party's competitive position, interfere significantly with such Party's contractual or other negotiations, or otherwise result in undue loss to such 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 the 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.

8.6 Notice and Protective Order

- (a) If the Generator, any Affiliate of the Generator, its general partner, its Limited Partners or a Person that is an Affiliate of any Limited Partner, or any of their respective directors, agents or Representatives, become legally compelled to disclose any Confidential Information of the Counterparty, the Generator 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, the Generator will disclose or cause such other Person to disclose, only that portion of the Confidential Information of the Counterparty which the Generator or such Person is legally compelled to disclose, only to such Person or Persons to which the Generator or such Person is legally compelled to disclose, and the Generator 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 8.6 includes the System Operator), or any of its directors, agents or Representatives or, to the knowledge of the Counterparty, the Ministry of Energy, or the Ontario Financing Authority, become legally compelled to disclose any Confidential Information of the Generator, the Counterparty will provide the Generator with prompt notice to that effect in order to allow the Generator to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall co-operate with the Generator and its legal counsel to the fullest extent at the Generator'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 the Confidential Information of the Generator 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 the Generator) that such Confidential Information of the Generator 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 Generator subject to those terms and conditions.

8.7 FIPPA Records

The Parties acknowledge that the Counterparty is subject to FIPPA. The Counterparty has reviewed the Confidential Information of the Generator contained in the 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 the Generator to the Counterparty on that basis and, for greater certainty, 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 Generator provided to the Counterparty up to and including the date of this Agreement and acknowledges that the Generator has advised it that all Confidential Information to be provided to the Counterparty after the date of this Agreement is considered by the Generator to be confidential or highly confidential. The Parties agree that the disclosure of the Confidential Information contained in the Technical Schedule, and the Counterparty acknowledges that the Generator has 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 the Generator and significant prejudice to the Generator's competitive position and to interfere with the Generator's contractual arrangements and the negotiations in which the Parties are engaged. Accordingly, the Counterparty acknowledges that the Generator 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 of FIPPA and the Counterparty agrees it will treat all Confidential Information contained in the 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. 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 the Generator, the Counterparty will promptly advise the Generator of such request, so that the Generator 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 8.6(b) of this Agreement in respect of any request for disclosure of the Generator's Confidential Information pursuant to FIPPA. This Section 8.7 is in addition to, and without limitation of, the obligations of the Counterparty set out in Section 8.2.

8.8 Trade Control Laws

The Parties agree to comply fully with the U.S. Department of Energy's Part 810 regulations, the Nuclear Regulatory Commission's Part 110 regulations, the Department of Commerce's Export Administration Regulations and the Nuclear Non-proliferation Import and Export Control Regulations under the NSCA (collectively "**Trade Control Laws**"). The Counterparty acknowledges that the Generator is subject to the NSCA and the regulations titled "**Nuclear Non-proliferation Import and Export Control Regulations**" and that consequently, among other things, certain licenses may need to be obtained before "controlled nuclear information", as defined therein, is disseminated outside of Canada including hosting such information on servers located outside of Canada. The Counterparty acknowledges that certain technology and information related thereto may be controlled under Trade Control Laws. The Counterparty acknowledges that exports, re-exports, and transfers of such technology or information related thereto to certain third countries and nationals thereof may require prior

authorization or export licenses under the Trade Control Laws. Without prejudice to the foregoing, the Parties agree that Confidential Information provided under this Agreement is provided to a Party solely for use in Canada. The Counterparty will not communicate, transfer or otherwise disclose any Confidential Information to any Person in a country other than Canada or to a non-Canadian without: (i) informing itself of the compliance requirements of Trade Control Laws and complying with Trade Control Laws so that such disclosure will not result in a contravention of Trade Control Laws by any Person; or (ii) obtaining prior confirmation from the Generator that such disclosure will not result in a contravention of Trade Control Laws by any Person.

8.9 Disclosure of this Agreement other than Technical Schedule

Notwithstanding this Article 8, the Parties acknowledge and agree that this Agreement, other than the Technical Schedule, does not contain Confidential Information and may be disclosed by either Party without the consent of the other Party and without the application of Section 8.6.

ARTICLE 9 OFF-RAMPS

9.1 Termination of Refurbishment Due to Excess Cost or Duration

- (a) **Counterparty Election Due to Counterparty Threshold Exceeded.** If the Fully-Scoped Refurbishment Cost or the Fully-Scoped Refurbishment Duration of a Unit provided by the Generator pursuant to Section 2.5 and in respect of which the Counterparty has been provided with an opportunity to verify in accordance with Sections 2.4, 2.5 and 3.2 (each such Unit, the “**Fully-Scoped Unit**”) exceeds either the Counterparty Cost Threshold or the Counterparty Duration Threshold, as applicable, then by notice provided by the Counterparty in accordance with Section 9.1(c):
 - (i) the Counterparty may elect that the Generator proceed with the Refurbishment of the Fully-Scoped Unit;
 - (ii) the Counterparty may elect that the Generator not proceed with the Refurbishment of the Fully-Scoped Unit; or
 - (iii) the Counterparty may elect that the Generator not proceed with the Refurbishment of the Fully-Scoped Unit and all of the other Units that have yet to be Refurbished at the time the Counterparty provides such notice. For greater certainty, the election in this clause (iii) shall not terminate the Refurbishment of any Unit in respect of which the Go Election has been made at the time the Counterparty provides such notice.
- (b) **Generator Election Due to Generator Threshold Exceeded.** If the Fully-Scoped Refurbishment Cost of the Fully-Scoped Unit provided by the Generator pursuant to Section 2.5 and in respect of which the Counterparty has been provided with an opportunity to verify in accordance with Sections 2.4, 2.5 and 3.2 exceeds the Generator Cost Threshold (the difference between such Fully-Scoped Refurbishment Cost and the Generator Cost Threshold is herein referred

to as the “**Unit Cost Overage**”), the Counterparty will still first make its election pursuant to Section 9.1(a) or be deemed to have made its election in accordance with Section 9.1(c) before the Generator is required to make its election pursuant to this Section 9.1(b). If the Fully-Scoped Refurbishment Cost of the Fully-Scoped Unit exceeds the Generator Cost Threshold and the Counterparty elects in accordance with Section 9.1(a) or is deemed to have elected in accordance with Section 9.1(c) that the Generator proceed with the Refurbishment of the Fully-Scoped Unit, then notwithstanding such election or deemed election by the Counterparty, then by notice provided by the Generator in accordance with Section 9.1(c):

- (i) the Generator may elect to proceed with the Refurbishment of the Fully-Scoped Unit; or
 - (ii) the Generator may elect not to proceed with the Refurbishment of the Fully-Scoped Unit and all of the other Units in respect of which a Go Election has not been made.
- (c) **Notices and Deemed Elections.** An election made by the Counterparty pursuant to Section 9.1(a) will be made by notice to the Generator provided no later than the MCR Decision Date. If the Counterparty has the entitlement to make an election pursuant to Section 9.1(a) and does not provide notice of such election by the MCR Decision Date, it will be deemed, as at the MCR Decision Date, to have elected that the Generator proceed with the Refurbishment of the Fully-Scoped Unit at its Fully-Scoped Refurbishment Cost and Fully-Scoped Duration. An election made by the Generator pursuant to Section 9.1(b) will be made by notice to the Counterparty provided no later than thirty (30) days after the earlier of: (i) the date the Counterparty provides the Generator with its notice provided pursuant to Section 9.1(a), and (ii) the MCR Decision Date. If the Generator has the entitlement to make an election pursuant to Section 9.1(b) and does not provide notice of such election within the period prescribed therefor in this Section 9.1(c), it will be deemed to have elected to proceed with the Refurbishment of the Fully-Scoped Unit as at the MCR Decision Date.
- (d) **Counterparty “No Go” Election; Generator Election to Override.** If the Counterparty has elected in accordance with Section 9.1(a) that the Generator not proceed with the Refurbishment of the Fully-Scoped Unit or the Fully-Scoped Unit and all other Units remaining to be Refurbished, then notwithstanding such election by the Counterparty, the Generator shall elect, on notice to the Counterparty given no later than thirty (30) days after the earlier of: (i) the date the Counterparty provides the Generator with its notice provided pursuant to Section 9.1(a); and (ii) the MCR Decision Date; either to proceed or not to proceed with the Refurbishment of the Fully-Scoped Unit. If the Generator does not provide such notice of election within such thirty (30) day period, it will be deemed to have elected not to proceed with the Refurbishment of the Fully-Scoped Unit. If the Generator elects to proceed with such Refurbishment Work, then:
 - (i) if the Fully-Scoped Refurbishment Cost exceeded the Counterparty Cost Threshold, the Generator will be solely responsible for all Refurbishment Costs in excess of the Counterparty Cost Threshold, other than the

portion of the Refurbishment Costs for which the Counterparty is responsible pursuant to the provisions of Section 12.1(f) due to Force Majeure, which provisions shall continue to apply to the Refurbishment Work and the Force Majeure-Eligible Asset Management Work occurring during the Refurbishment Outage for such Fully-Scoped Unit along with all other provisions of this Agreement related to such Fully-Scoped Unit, including in respect of the Refurbishment thereof, and the Fully-Scoped Refurbishment Cost of such Unit shall be deemed for the purposes of Section 4.8 and Exhibit 4.8 to be equal to the Counterparty Cost Threshold of such Unit;

- (ii) if the Fully-Scoped Refurbishment Duration exceeded the Counterparty Duration Threshold, for purposes of any Contract Price Adjustment, the Fully-Scoped Refurbishment Duration will be equal to the Counterparty Duration Threshold; provided, however, the foregoing is without prejudice to the provisions of Section 12.1(e) related to extensions of such Unit's Milestone Date due to Force Majeure, which provisions and the other provisions of Article 12 shall continue to apply to the Refurbishment Work and the Force Majeure-Eligible Asset Management Work occurring during the Refurbishment Outage for such Fully-Scoped Unit along with all other provisions of this Agreement related to such Fully-Scoped Unit, including in respect of the Refurbishment thereof and the Fully-Scoped Refurbishment Duration of such Unit shall be deemed for the purposes of Section 4.8 and Exhibit 4.8 to be equal to the Counterparty Duration Threshold of such Unit;
 - (iii) if the Fully-Scoped Refurbishment Cost exceeded the Counterparty Cost Threshold, and the Fully-Scoped Refurbishment Duration exceeded the Counterparty Duration Threshold, then the provisions of both Sections 9.1(d)(i) and 9.1(d)(ii) will apply; and
 - (iv) if the Counterparty has made the election not to proceed with the Refurbishment of the Fully-Scoped Unit and all other Units remaining to be Refurbished but the Generator elects to proceed with the Refurbishment of the Fully-Scoped Unit pursuant to this Section 9.1(d), the Refurbishment of such other Units shall again be subject to all of the provisions of this Agreement applicable to them prior to the Refurbishment Lock-in Dates of such Units, including those set forth in Sections 2.3, 2.4, 2.5 and 9.1, as if the Counterparty had not made such election.
- (e) **Generator “No Go” Election; Counterparty Election to Override.** If (i) the Counterparty has elected in accordance with Section 9.1(a) or been deemed to have elected pursuant to Section 9.1(c) to proceed with the Refurbishment of the Fully-Scoped Unit; and (ii) the Generator elects in accordance with Section 9.1(b) not to proceed with the Refurbishment of the Fully-Scoped Unit and all other Units remaining to be Refurbished, then notwithstanding such election by the Generator, the Counterparty may elect, on notice to the Generator given not later than thirty (30) days after the date that the Generator provided notice of its election not to proceed with the Refurbishment Work for the Fully-Scoped Unit, that the Generator proceed or not proceed with the Refurbishment Work for the

Fully-Scoped Unit at its Fully-Scoped Refurbishment Cost and Fully-Scoped Refurbishment Duration. If the Counterparty does not provide such notice within such thirty (30) day period it will be deemed to have accepted the Generator's election not to proceed with such Refurbishment Work for the Fully-Scoped Unit.

(i) If the Counterparty elects that the Generator proceed with the Refurbishment of the Fully-Scoped Unit:

(A) the Generator will proceed with the Refurbishment Work for the Fully-Scoped Unit and notwithstanding the fact that the Generator has made the election not to proceed with the Refurbishment of the Fully-Scoped Unit and all other Units remaining to be Refurbished, the Refurbishment of such other Units shall again be subject to all of the provisions of this Agreement applicable to them prior to the Refurbishment Lock-in Dates of such Units, including those set forth in Sections 2.3, 2.4, 2.5 and 9.1, as if the Generator had not made such election;

(B) the Counterparty will be solely responsible for the timely payment of the Refurbishment Costs that comprise the Unit Cost Overage and will reimburse the Generator for such Refurbishment Costs on the following basis:

(1) the Counterparty shall reimburse the Generator for Refurbishment Costs comprising the Unit Cost Overage once the amounts spent by the Generator in respect of Refurbishment Costs for such Fully-Scoped Unit equals the Generator Cost Threshold;

(2) at least sixty (60) days prior to the expected date (the "**Overage Funding Date**") when the amounts spent by the Generator in respect of Refurbishment Costs for such Fully-Scoped Unit will equal the Generator Cost Threshold the Generator will provide notice to the Counterparty of the amounts expected to be spent by the Generator on Refurbishment Costs in respect of such Fully-Scoped Unit that are in excess of the Generator Cost Threshold;

(3) after the Overage Funding Date, within ten (10) Business Days of the start of each Month the Generator will provide to the Counterparty a certificate of a senior officer of the Generator (the "**Refurbishment Costs Payment Certificate**") certifying, without personal liability: (a) the Refurbishment Costs accrued by the Generator in the immediately preceding Month, broken down by category, (b) the estimated remaining Refurbishment Costs to be incurred by the Generator in comparison to the Fully-Scoped Refurbishment Cost for such Fully-Scoped Unit originally provided by the Generator pursuant to Section 2.5, (c) the amount of the Unit Cost Overage requested to be paid by the Counterparty for such immediately

preceding Month, (d) that the cumulative amount of the Unit Cost Overage requested to be paid by the Counterparty to the date of such certificate does not exceed the Unit Cost Overage, and (e) the estimated Commercial Operation Date for such Fully-Scoped Unit; and

- (4) the Counterparty will pay to the Generator the amount set forth in item (c) of each Refurbishment Costs Payment Certificate within fifteen (15) Business Days of receipt thereof.

Any late payment of any such amount by the Counterparty shall bear interest at the Interest Rate plus 2%, calculated daily and compounded monthly, from and including the date such payment is due to the date of the payment thereof.

For greater certainty, the Contract Price will not be adjusted by the amount of the Unit Cost Overage that is to be paid by the Counterparty pursuant to this Section 9.1(e) as a result of the Counterparty's election that the Generator proceed with the Refurbishment of the Fully-Scoped Unit pursuant to this Section 9.1(e), but the Contract Price will be adjusted upon the next following Adjustment Date in accordance with Section 4.8 and Exhibit 4.8 and the Financial Model to reflect the Fully-Scoped Refurbishment Cost up to the Generator Cost Threshold for such Unit and the Fully-Scoped Refurbishment Duration. For greater certainty, the Fully-Scoped Duration for such Unit shall be that provided by the Generator even if it exceeds the Counterparty Duration Threshold; and

- (C) the Generator will be solely responsible for all costs in excess of the sum of the Generator Cost Threshold and the Unit Cost Overage, other than the portion of the Refurbishment Costs for which the Counterparty is responsible pursuant to the provisions of Section 12.1(f) due to Force Majeure, which provisions will continue to apply to the Refurbishment Work and all Force Majeure-Eligible Asset Management Work for such Unit along with all other provisions of this Agreement related to the Refurbishment of such Unit to apply.
- (ii) If in accordance with the provisions of this Section 9.1(e) the Counterparty elects that the Generator not proceed or is deemed to have accepted the Generator's election not to proceed, the Generator will pay the applicable Off-Ramp LDs to the Counterparty within ninety (90) days of such election or deemed election not to proceed. For greater certainty, this is the only circumstance pursuant to which Off-Ramp LDs are payable by the Generator pursuant to this Agreement.
- (f) **Effects of Termination.** If the Counterparty elects in accordance with Section 9.1(a) that the Generator not proceed with the Refurbishment of the Fully-Scoped Unit or if either Party elects or is deemed to have elected not to proceed with the Refurbishment of the Fully-Scoped Unit and all of the remaining Units to be Refurbished in accordance with Section 9.1(a), Section 9.1(b) or Section 9.1(c),

as the case may be, (the Fully-Scoped Unit individually or together with all such remaining Units the Refurbishment of which is to be Terminated, collectively, in this Section 9.1, the “**Terminated Units**”) and in any of such cases neither the Generator nor the Counterparty elected or was deemed to have elected to proceed with the Refurbishment of the Fully-Scoped Unit pursuant to Section 9.1(d) or 9.1(e), as the case may be, then:

- (i) the Generator shall within ninety (90) days of such election or deemed election prepare and deliver to the Counterparty a Unit Extension Plan and an Off-Ramp LAMP for such Terminated Units. The Counterparty will advise the Generator by notice given within sixty (60) days of receipt of both such plans whether it chooses for the Generator to proceed with the Unit Extension Plan or the Off-Ramp LAMP. If no notice is given by the Counterparty within such sixty (60) day period, the Counterparty will be deemed to have chosen that the Generator proceed with the Off-Ramp LAMP;
- (ii) subject to the terms and conditions of this Agreement and the choice or the deemed choice of the Counterparty pursuant to Section 9.1(f)(i), the Generator shall either perform the Unit Extension Work in the Unit Extension Plan or perform the Asset Management Work in the Off-Ramp LAMP, in either case in respect of the Terminated Units, provided that the Generator may also perform any other work on such Units as it determines but the cost of such other work shall be solely for the account of the Generator;
- (iii) the Generator may continue to operate each of such Terminated Units, and if the Generator continues to operate each of such Terminated Units, or any of them, it shall continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with each of such Terminated Units until, in respect of each such Terminated Unit, the earlier of: (A) the date that such Terminated Unit is Effectively Decommissioned; (B) the Contract Price Off-Ramp Date of such Terminated Unit; and (C) the end of the Term;
- (iv) if the Counterparty has chosen that the Generator proceed with the Unit Extension Plan, then: (A) upon the Adjustment Date specified in Clause 2 of Exhibit 4.11, there will be a Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e), Section 4.10 and Exhibit 4.10 will apply to the Unit Extension Work and each of the Terminated Units subject thereto *mutatis mutandis* such that for each Planning Period the Generator will incorporate into the applicable Lifetime Asset Management Plan the Unit Extension Work and such work shall be treated as Asset Management Work for the purposes of this Agreement and the Contract Price Adjustments relating thereto;
- (v) if the Counterparty has chosen or is deemed to have chosen that the Generator proceed with the Off-Ramp LAMP, then: (A) upon the

Adjustment Date specified in Clause 2 of Exhibit 4.11, there will be a Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e), Section 4.10 and Exhibit 4.10 will apply to such Off-Ramp LAMP and each of the Terminated Units subject thereto, *mutatis mutandis*;

- (vi) if the Generator is operating a Terminated Unit and believes that it can continue to operate such Terminated Unit after its Contract Price Off-Ramp Date, then no later than the date three (3) months before such Contract Price Off-Ramp Date, the Generator shall provide notice thereof to the Counterparty and the Generator and the Counterparty shall negotiate in good faith, each acting reasonably, to agree upon the Off-Ramp Contract Price for the Off-Ramp Energy of such Terminated Unit. Such Off-Ramp Contract Price will be fair and reasonable to the Parties and will be determined having regard to, *inter alia*, (a) the capital costs to be invested by the Generator to enable it to generate such Electricity that are not already included in the Contract Price, such capital amount to be reasonable in the circumstances, (b) the cost of generating such Electricity, (c) providing the Generator with a fair and reasonable rate of return on such incremental investment, and (d) the then current price of Electricity. In the absence of an agreement, the Off-Ramp Contract Price will be determined by either Party submitting the matter to arbitration, from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2. If such Off-Ramp Contract Price is determined by agreement of the Parties or such arbitration, then the Parties shall amend the definition of Bruce Energy and Contract Price and Sections 1.1, 2.15, 4.2(a), 4.2(b), 4.2(c), 4.3, 5.2, 6.1 and Exhibit 4.2 and Exhibit 4.3, to the extent necessary, to incorporate Off-Ramp Energy and the Off-Ramp Contract Price into the terms and conditions of this Agreement. The Generator may operate such Terminated Unit for a period of two years from the Contract Price Off-Ramp Date and receive the Off-Ramp Contract Price for the Off-Ramp Energy. Following the second anniversary of the Contract Price Off-Ramp Date, the Generator will not operate the Unit; and
- (vii) Contract Price Adjustments contemplated by this Section 9.1(f), Section 4.10, Section 4.11, Exhibit 4.10, Exhibit 4.11 and the Financial Model will not involve any lump-sum payment or set-off by either Party.

For greater certainty, the only effect that this Section 9.1(f) will have on any Unit other than a Terminated Unit will be the Contract Price Adjustment pursuant to Section 9.1(f)(iv) and (vi) and such Units will continue to operate and continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with such Units.

9.2 Termination of Refurbishment Due to Counterparty's More Economic Alternative

- (a) **Counterparty Election to Terminate Refurbishment.** In addition to the entitlement of the Counterparty to elect that the Generator not proceed with the Refurbishment of one or more Units in accordance with the provisions of Section 9.1(a), the Counterparty may elect that the Generator not proceed with the Refurbishment of all of the remaining Units to be Refurbished in accordance with the provisions of this Section 9.2.
- (b) **Notice and Deemed Election.** If on or before the date that is ninety (90) days after the Generator has delivered to the Counterparty a final Basis of Estimate Report in accordance with the provisions of Section 2.5 for either the Third Unit or the Fifth Unit the Counterparty has determined, acting reasonably, that changes in supply or demand for Electricity have resulted in there no longer being a need to Refurbish the remaining Units or there being more economic alternatives to the Refurbishment of the Units remaining to be Refurbished, then, by notice provided by the Counterparty to the Generator within such ninety (90) days, the Counterparty may elect that the Generator not proceed with the Refurbishment of all of the other Units that have yet to be Refurbished at the time the Counterparty provides such notice (collectively in this Section 9.2, the **"Terminated Units"**). Such notice shall provide a reasonably detailed explanation of the rationale behind the Counterparty's determination. If the Counterparty does not provide notice of such election within such ninety (90) days then, without prejudice to any future elections that it is entitled to exercise pursuant to Section 9.1(a) or this Section 9.2, it will be deemed to have elected that the Generator proceed with the Refurbishment of the Units remaining to be Refurbished. For greater certainty, the election in this Section 9.2(b) shall not terminate the Refurbishment of any Unit in respect of which the Go Election has been made at the time the Counterparty provides such notice.
- (c) **Effects of Termination.** If the Counterparty makes its election in accordance with Section 9.2(b), then:
 - (i) the Generator shall within ninety (90) days of such election or deemed election prepare and deliver to the Counterparty a Unit Extension Plan and an Off-Ramp LAMP for the Terminated Units. The Counterparty will advise the Generator by notice given within sixty (60) days of receipt of both such plans whether it chooses for the Generator to proceed with the Unit Extension Plan or the Off-Ramp LAMP. If no notice is given by the Counterparty within such sixty (60) day period, the Counterparty will be deemed to have chosen that the Generator proceed with the Off-Ramp LAMP;
 - (ii) subject to the terms and conditions of this Agreement and the choice or the deemed choice of the Counterparty pursuant to Section 9.2(c)(i), the Generator shall either perform the Unit Extension Work in the Unit Extension Plan or perform the Asset Management Work in the Off-Ramp LAMP, in either case in respect of the Terminated Units, provided that the Generator may also perform any other work on such Units as it

determines but the cost of such other work shall be solely for the account of the Generator;

- (iii) the Generator may continue to operate each of such Terminated Units, and if the Generator continues to operate each of such Terminated Units, or any of them, it shall continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with each of such Terminated Units until, in respect of each such Terminated Unit, the earlier of: (A) the date that such Terminated Unit is Effectively Decommissioned; (B) the Contract Price Off-Ramp Date of such Terminated Unit; and (C) the end of the Term;
- (iv) if the Counterparty has chosen that the Generator proceed with the Unit Extension Plan, then: (A) upon the Adjustment Date specified in Clause 2 of Exhibit 4.11, there will be a Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e), Section 4.10 and Exhibit 4.10 will apply to the Unit Extension Work and each of the Terminated Units subject thereto *mutatis mutandis* such that for each Planning Period the Generator will incorporate into the applicable Lifetime Asset Management Plan the Unit Extension Work and such work shall be treated as Asset Management Work for the purposes of this Agreement and the Contract Price Adjustments relating thereto;
- (v) if the Counterparty has chosen or is deemed to have chosen that the Generator proceed with the Off-Ramp LAMP, then: (A) upon the Adjustment Date specified in Clause 2 of Exhibit 4.11, there will be a Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e) and Exhibit 4.10 will apply to such Off-Ramp LAMP and each of the Terminated Units subject thereto, *mutatis mutandis*;
- (vi) if the Generator is operating a Terminated Unit and believes that it can continue to operate such Terminated Unit after its Contract Price Off-Ramp Date, then no later than the date three (3) months before such Contract Price Off-Ramp Date, the Generator shall provide notice thereof to the Counterparty and the Generator and the Counterparty shall negotiate in good faith, each acting reasonably, to agree upon the Off-Ramp Contract Price for the Off-Ramp Energy of such Terminated Unit. Such Off-Ramp Contract Price will be fair and reasonable to the Parties and will be determined having regard to, *inter alia*, (a) the capital costs to be invested by the Generator to enable it to generate such Electricity that are not already included in the Contract Price, such capital amount to be reasonable in the circumstances, (b) the cost of generating such Electricity, (c) providing the Generator with a fair and reasonable rate of return on such incremental investment, and (d) the then current price of Electricity. In the absence of an agreement, the Off-Ramp Contract Price will be determined by either Party submitting the matter to arbitration,

from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2. If such Off-Ramp Contract Price is determined by agreement of the Parties or such arbitration, then the Parties shall amend the definition of Bruce Energy and Contract Price and Sections 1.1, 2.15, 4.2(a), 4.2(b), 4.2(c), 4.3, 5.2, 6.1 and Exhibit 4.2 and Exhibit 4.3, to the extent necessary, to incorporate Off-Ramp Energy and the Off-Ramp Contract Price into the terms and conditions of this Agreement. The Generator may operate such Terminated Unit for a period of two years from the Contract Price Off-Ramp Date and receive the Off-Ramp Contract Price for the Off-Ramp Energy. Following the second anniversary of the Contract Price Off-Ramp Date, the Generator will not operate the Unit;

- (vii) Contract Price Adjustments contemplated by this Section 9.2, Section 4.10, Section 4.11, Exhibit 4.10, Exhibit 4.11 and the Financial Model will not involve any lump-sum payment or set-off by either Party;
- (viii) the Counterparty shall not be entitled to receive any percentage of O&M Efficiency Amounts in respect of any Planning Period beginning after the date such election is made; and
- (ix) the Counterparty's share of any O&M Efficiency Amounts in respect of the Planning Period in which such election is made as calculated in accordance with Section 4.3 will be pro-rated based on the number of days elapsed in such Planning Period at the time of the election.

For greater certainty, the only effect that this Section 9.2(c) will have on any Unit other than a Terminated Unit will be the Contract Price Adjustment pursuant to Section 9.2(c)(iv) and such Units will continue to operate and continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with such Units.

9.3 Termination of Refurbishment Due to Impairment of Generator's Business

- (a) **Generator Election to Terminate.** In addition to the entitlement of the Generator to elect not to proceed with the Refurbishment of all of the Units remaining to be Refurbished in accordance with the provisions of Section 9.1(b), the Generator may elect not to proceed with the Refurbishment of all of the remaining Units to be Refurbished in accordance with the provisions of this Section 9.3.
- (b) **Impairment Notice.** At any time within eighteen (18) months prior to either the Refurbishment Lock-in Date of the Third Unit or the Fifth Unit, the Generator may give notice to the Counterparty (the "**Impairment Notice**") that the Generator has determined, acting reasonably, that an Impairment has occurred. The Impairment Notice shall be delivered together with an updated Financial Model evidencing the net present value of the projected after-tax, nominal, unlevered cash in-flows and cash out-flows to the Generator discounted at the Applicable Impairment Discount Rate and a description of the assumptions upon which the

calculation has been made together with a detailed description of all adjustments made to the Financial Model. In addition, if the Generator has determined, acting reasonably, that an MAEC Impairment has occurred, then the Generator shall include with the Impairment Notice a version of the updated Financial Model evidencing same. Such updated Financial Model may be delivered by electronic data site or by physical delivery.

- (c) **Counterparty Dispute Right.** If following receipt of an Impairment Notice the Counterparty does not agree, acting reasonably, with the Generator's determination that an Impairment has occurred or, if applicable, that an MAEC Impairment has occurred, the Counterparty shall deliver a notice to that effect within thirty (30) days of the Generator's delivery of the Impairment Notice together with a reasonably detailed explanation of why the Counterparty disagrees and the dispute shall be resolved in accordance with the provisions of Section 18.1 and 18.2 and the issues for determination in such dispute will be limited to:
- (i) whether an Impairment has occurred; and
 - (ii) if the Generator has also claimed that an MAEC Impairment has occurred (A) whether one or more Material Adverse External Changes has occurred; and (B) whether, as a result of such Material Adverse External Changes, an MAEC Impairment has occurred.

If the Counterparty does not deliver its notice of disagreement to the Generator within such thirty (30) day period it will be deemed to have agreed with the Generator's determinations as set out in the Impairment Notice.

The Generator may, following the delivery of an Impairment Notice, and prior to its delivery of the final Basis of Estimate Report for the Third Unit or the Fifth Unit, as applicable, provide an update or amendment to the Impairment Notice and to the updated Financial Model provided pursuant to this Section 9.3 to reflect any change in actual experience or change in reasonable future expectations. Such updates shall be subject to the Counterparty's right to dispute same in accordance with the provisions of this Section 9.3(c). If the Counterparty delivers a notice of dispute pursuant to this Section 9.3(c) and the dispute has not been resolved by agreement of the Parties or resolved in accordance with the provisions of Section 18.1 or Section 18.2 prior to the date 18 months prior to the Scheduled Refurbishment Outage Date of the Third Unit or the Fifth Unit, as the case may be, then for the period of time between the date 18 months prior to the Scheduled Refurbishment Outage Date of the Third Unit or the Fifth Unit, as the case may be, and the date the dispute is either resolved by agreement of the Parties or resolved in accordance with the provisions of Section 18.1 or Section 18.2 (for purposes of this Section 9.3(c), the "**Impairment Dispute Period**"), (i) the Generator will be deemed to have been delayed in its performance of the Refurbishment of the Units remaining to be Refurbished for a period of time equal to the Impairment Dispute Period; (ii) the Refurbishment Lock-In Date, the Scheduled Refurbishment Outage Date, the Milestone Date and each other milestone date in the Agreement related to such Units, including those set out in Section 10.2(a), will be postponed on a day-for-day basis for a period of time equal to the Impairment Dispute Period; and (iii) the

Generator will be relieved of its obligations with respect to such Units (other than payment obligations) during such Impairment Dispute Period.

- (d) **Generator Election.** If (i) the Counterparty agrees or is deemed to have agreed with the Generator's determination that an Impairment and an MAEC Impairment, if applicable, has occurred, or (ii) a determination has been made by the Arbitral Tribunal pursuant to the process provided for in Section 18.2, then the Generator may, by notice (an "**Impairment Off-Ramp Notice**") given to the Counterparty concurrently with the delivery by the Generator to the Counterparty of the final Basis of Estimate Report in accordance with the provisions of Section 5.2 on either the Refurbishment Lock-in Date of the Third Unit or the Fifth Unit, as applicable, elect not to proceed with the Refurbishment of all of the other Units that have yet to be Refurbished at the time the Generator provides such notice (collectively, in this Section 9.3, the "**Terminated Units**"). If the Generator does not provide an Impairment Off-Ramp Notice concurrently with its delivery of the final Basis of Estimate Report for the Third Unit or the Fifth Unit, without prejudice to any future elections that it is entitled to exercise, it will be deemed not to have elected to not proceed with the Refurbishment of the Units remaining to be Refurbished pursuant to this Section 9.3. For greater certainty, the election in this Section 9.3 shall not terminate the Refurbishment of any Unit in respect of which the Go Election has been made at the time the Generator provides such notice.
- (e) **Effects of Termination.** If the Generator delivers an Impairment Off-Ramp Notice to the Counterparty in accordance with the provisions of Section 9.3(d), then the Generator shall not be required to Refurbish the Units remaining to be Refurbished and either of the following shall apply:
 - (i) If an MAEC Impairment has occurred, then:
 - (A) the Generator shall within ninety (90) days of such election or deemed election prepare and deliver to the Counterparty a Unit Extension Plan and an Off-Ramp LAMP for the Terminated Units. The Counterparty will advise the Generator by notice given within sixty (60) days of receipt of both such plans whether it chooses for the Generator to proceed with the Unit Extension Plan or the Off-Ramp LAMP. If no notice is given by the Counterparty within such sixty (60) day period, the Counterparty will be deemed to have chosen that the Generator proceed with the Off-Ramp LAMP;
 - (B) subject to the terms and conditions of this Agreement and the choice or the deemed choice of the Counterparty pursuant to Section 9.3(e)(i)(A), the Generator shall either perform the Unit Extension Work in the Unit Extension Plan or perform the Asset Management Work in the Off-Ramp LAMP, in either case in respect of the Terminated Units, provided that the Generator may also perform any other work on such Units as it determines but the cost of such other work shall be solely for the account of the Generator;

- (C) the Generator may continue to operate each of such Terminated Units, and if the Generator continues to operate each of such Terminated Units, or any of them, it shall continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with each of such Terminated Units until, in respect of each such Terminated Unit, the earlier of: (x) the date that such Terminated Unit is Effectively Decommissioned; (y) the Contract Price Off-Ramp Date of such Terminated Unit; and (z) the end of the Term;
- (D) if the Counterparty has chosen that the Generator proceed with the Unit Extension Plan, then: (A) upon the Adjustment Date specified in Clause 3(b) of Exhibit 4.11, there will be an Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e), Section 4.10 and Exhibit 4.10 will apply to the Unit Extension Work and each of the Terminated Units subject thereto *mutatis mutandis* such that for each Planning Period the Generator will incorporate into the applicable Lifetime Asset Management Plan the Unit Extension Work and such work shall be treated as Asset Management Work for the purposes of this Agreement and the Contract Price Adjustments relating thereto;
- (E) if the Counterparty has chosen or is deemed to have chosen that the Generator proceed with the Off-Ramp LAMP, then: (A) upon the Adjustment Date specified in Clause 3(b) of Exhibit 4.11, there will be a Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e), Section 4.10 and Exhibit 4.10 will apply to such Off-Ramp LAMP and each of the Terminated Units subject thereto, *mutatis mutandis*;
- (F) if the Generator is operating a Terminated Unit and believes that it can continue to operate such Terminated Unit after its Contract Price Off-Ramp Date, then no later than the date three (3) months before such Contract Price Off-Ramp Date, the Generator shall provide notice thereof to the Counterparty and the Generator and the Counterparty shall negotiate in good faith, each acting reasonably, to agree upon the Off-Ramp Contract Price for the Off-Ramp Energy of such Terminated Unit. Such Off-Ramp Contract Price will be fair and reasonable to the Parties and will be determined having regard to, *inter alia*, (a) the capital costs to be invested by the Generator to enable it to generate such Electricity that are not already included in the Contract Price, such capital amount to be reasonable in the circumstances (b) the cost of generating such Electricity, (c) providing the Generator with a fair and reasonable rate of return on such incremental investment, and (d) the then current price of Electricity. In the absence of an

agreement, the Off-Ramp Contract Price will be determined by either Party submitting the matter to arbitration, from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2. If such Off-Ramp Contract Price is determined by agreement of the Parties or such arbitration, then the Parties shall amend the definition of Bruce Energy and Contract Price and Sections 1.1, 2.15, 4.2(a), 4.2(b), 4.2(c), 4.3, 5.2, 6.1 and Exhibit 4.2 and Exhibit 4.3, to the extent necessary, to incorporate Off-Ramp Energy and the Off-Ramp Contract Price into the terms and conditions of this Agreement. The Generator may operate such Terminated Unit for a period of two years from the Contract Price Off-Ramp Date and receive the Off-Ramp Contract Price for the Off-Ramp Energy. Following the second anniversary of the Contract Price Off-Ramp Date, the Generator will not operate the Unit; and

- (G) Contract Price Adjustments contemplated by this Section 9.3(e), Section 4.10, Section 4.11, Exhibit 4.10, Exhibit 4.11 and the Financial Model will not involve any lump-sum payment or set-off by either Party.

For greater certainty, the only effect that this Section 9.3(e)(i) will have on any Unit other than a Terminated Unit will be the Contract Price Adjustment pursuant to Section 9.3(e)(i)(D) and such Units will continue to operate and continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with such Units.

- (ii) If Section 9.3(e)(i) does not apply:

- (A) the Generator shall within ninety (90) days of such election or deemed election prepare and deliver to the Counterparty a Unit Extension Plan and an Off-Ramp LAMP for the Terminated Units. The Counterparty will advise the Generator by notice given within sixty (60) days of receipt of both such plans whether it chooses for the Generator to proceed with the Unit Extension Plan or the Off-Ramp LAMP. If no notice is given by the Counterparty within such sixty (60) day period, the Counterparty will be deemed to have chosen that the Generator proceed with the Off-Ramp LAMP;
- (B) subject to the terms and conditions of this Agreement and the choice or the deemed choice of the Counterparty pursuant to Section 9.3(e)(ii), the Generator shall either perform the Unit Extension Work in the Unit Extension Plan or perform the Asset Management Work in the Off-Ramp LAMP, in either case in respect of the Terminated Units, provided that the Generator may also perform any other work on such Units as it determines but the cost of such other work shall be solely for the account of the Generator;

- (C) the Generator may continue to operate each of such Terminated Units, and if the Generator continues to operate each of such Terminated Units, or any of them, it shall continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with each of such Terminated Units until, in respect of each such Terminated Unit, the earlier of: (A) the date that such Terminated Unit is Effectively Decommissioned; (B) the Contract Price Off-Ramp Date of such Terminated Unit; and (C) the end of the Term;
- (D) if the Counterparty has chosen that the Generator proceed with the Unit Extension Plan, then: (A) upon the Adjustment Date specified in Clause 3(c) of Exhibit 4.11, there will be a Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e), Section 4.10 and Exhibit 4.10 will apply to the Unit Extension Work and each of the Terminated Units subject thereto *mutatis mutandis* such that for each Planning Period the Generator will incorporate into the applicable Lifetime Asset Management Plan the Unit Extension Work and such work shall be treated as Asset Management Work for the purposes of this Agreement and the Contract Price Adjustments relating thereto;
- (E) if the Counterparty has chosen or is deemed to have chosen that the Generator proceed with the Off-Ramp LAMP, then: (A) upon the Adjustment Date specified in Clause 2 of Exhibit 4.11, there will be a Contract Price Adjustment pursuant to Section 4.11 and Exhibit 4.11 and the Financial Model; and (B) for subsequent Contract Price Adjustments, the provisions of Sections 2.11(c), (d) and (e), Section 4.10 and Exhibit 4.10 will apply to such Off-Ramp LAMP and each of the Terminated Units subject thereto, *mutatis mutandis*;
- (F) if the Generator is operating a Terminated Unit and believes that it can continue to operate such Terminated Unit after its Contract Price Off-Ramp Date, then no later than the date three (3) months before such Contract Price Off-Ramp Date, the Generator shall provide notice thereof to the Counterparty and the Generator and the Counterparty shall negotiate in good faith, each acting reasonably, to agree upon the Off-Ramp Contract Price for the Off-Ramp Energy of such Terminated Unit. Such Off-Ramp Contract Price will be fair and reasonable to the Parties and will be determined having regard to, *inter alia*, (a) the capital costs to be invested by the Generator to enable it to generate such Electricity that are not already included in the Contract Price, such capital amount to be reasonable in the circumstances (b) the cost of generating such Electricity, (c) providing the Generator with a fair and reasonable rate of return on such incremental investment, and (d) the then current price of Electricity. In the absence of an

agreement, the Off-Ramp Contract Price will be determined by either Party submitting the matter to arbitration, from which there shall be no appeal, with such arbitration to be conducted in accordance with the procedures set out in Exhibit 18.2. If such Off-Ramp Contract Price is determined by agreement of the Parties or such arbitration, then the Parties shall amend the definition of Bruce Energy and Contract Price and Sections 1.1, 2.15, 4.2(a), 4.2(b), 4.2(c), 4.3, 5.2, 6.1, Exhibit 4.2 and Exhibit 4.3, to the extent necessary, to incorporate Off-Ramp Energy and the Off-Ramp Contract Price into the terms and conditions of this Agreement. The Generator may operate such Terminated Unit for a period of two years from the Contract Price Off-Ramp Date and receive the Off-Ramp Contract Price for the Off-Ramp Energy. Following the second anniversary of the Contract Price Off-Ramp Date, the Generator will not operate the Unit;

- (G) neither the Contract Price nor the generation profile upon which the Financial Model was based will be adjusted as a result of the Generator's election referred to in Section 9.3(d), except as provided in Section 9.3(e)(ii)(D);
- (H) the Counterparty shall not be entitled to receive any percentage of O&M Efficiency Amounts in respect of any Planning Period beginning after the date such election is made; and
- (I) the Counterparty's share of any O&M Efficiency Amounts in respect of the Planning Period in which such election is made as calculated in accordance with Section 4.3 will be pro-rated based on the number of days elapsed in such Planning Period at the time of the election.

For greater certainty, the only effect that this Section 9.3(e) will have on any Unit other than a Terminated Unit will be the Contract Price Adjustment pursuant to Section 9.3(e)(ii)(D) and such Units will continue to operate and continue to receive the Contract Price as adjusted from time to time in accordance with the terms hereof in respect of the Bruce Energy generated by the electrical generating units paired with such Units.

- (f) For certainty, in calculating its net present value of the projected after tax, nominal, unlevered cash in-flows and cash out-flows for the purposes of this Section 9.3, the Generator may take into consideration its 50% share of the costs of any event of Force Majeure and the \$100 million deductible in respect of a Relevant Change of Law provided for in Section 15.1; provided that same shall not be considered to be attributable to the occurrence of a Material Adverse External Change for the purposes of this Section 9.3.
- (g) The Parties agree that any dispute in respect of this Section 9.3 shall be resolved by mandatory arbitration conducted in accordance with the procedures set forth in Exhibit 18.2, except that the Arbitral Tribunal shall be comprised of one

person. The Parties agree that it is the Parties intent to resolve the dispute as quickly as possible.

9.4 Technical Infeasibility

Upon senior management of the Generator determining with reasonable certainty that a Technical Infeasibility may exist, the Generator shall notify the Counterparty thereof and, following the delivery of such notice, keep the Counterparty informed on an Open Book Basis regarding such potential Technical Infeasibility. If the Generator determines that a Technical Infeasibility has occurred, the Generator shall notify the Counterparty that such Technical Infeasibility has been discovered and deliver to the Counterparty detailed supporting documentation regarding such Technical Infeasibility, including the root cause analysis of the damage to the calandria vessel, the repair and replacement options and the time and cost required to repair or replace the calandria vessel. If the Counterparty disagrees that such Technical Infeasibility exists, it shall so notify the Generator, within sixty (60) days of the provision by the Generator of such notice, provided that if the Counterparty requires more time to verify whether a Technical Infeasibility exists, such longer period of time that the Counterparty requires (a “**Counterparty Extension Period**”), to a maximum of sixty (60) additional days, and the dispute shall be resolved in accordance with the provisions of Sections 18.1 or 18.2. If the Counterparty has not delivered a notice that it disagrees that a Technical Infeasibility exists within such period, the Counterparty will be deemed to have agreed that such Technical Infeasibility exists. If the Counterparty delivers a notice of dispute pursuant to this Section 9.4, then for the period of time between the date the Counterparty delivered such notice of dispute and the date the dispute is either resolved by agreement of the Parties or is resolved in accordance with the provisions of Section 18.1 or 18.2 (the “**Technical Infeasibility Dispute Period**”), (i) the Generator will be deemed to have been delayed in its performance of the Refurbishment of the Unit that is the subject of the dispute for a period of time equal to the aggregate of Technical Infeasibility Dispute Period and the number of days in any Counterparty Extension Period, if applicable; (ii) the Refurbishment Lock-In Date, the Scheduled Refurbishment Outage Date, the Milestone Date and each other milestone date in the Agreement related to such Unit, including those set out in Section 10.2(a), will be postponed on a day-for-day basis for a period of time equal to the Technical Infeasibility Dispute Period; and (iii) the Generator will be relieved of its obligations with respect to such Unit (other than payment obligations) during such Technical Infeasibility Dispute Period.

- (a) If the Parties have agreed that a Technical Infeasibility has occurred or it has been finally determined in accordance with the provisions of Sections 18.1 or 18.2 that a Technical Infeasibility has occurred:
 - (i) the Generator will be relieved of its obligations to undertake the Refurbishment of the affected Unit;
 - (ii) the Generator shall cease performing Asset Management Work in respect of such Unit; and
 - (iii) upon the next Adjustment Date following the Parties’ agreement that a Technical Infeasibility exists or a final determination in accordance with Sections 18.1 or 18.2 that a Technical Infeasibility exists, there will be a Contract Price Adjustment in accordance with Section 4.11 and Exhibit 4.11 and the Financial Model.

ARTICLE 10
EFFECTIVENESS, TERM AND PARTIAL TERMINATION

10.1 Amendment and Restatement; Term

- (a) Subject to Section 10.3, as of the Effective Time, the BPRIA shall be amended and restated in its entirety by this Agreement. The Parties acknowledge and agree that the terms of the BPRIA continue in full force and effect, unamended by the terms and conditions of this Agreement until the Effective Time, and that the BPRIA, 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 7 will be in full force and effect on the date of this Agreement.
- (b) Notwithstanding the amendments effected by this Agreement to the rights and obligations of the Parties contained in the BPRIA, each Party acknowledges and agrees that all rights, liabilities and obligations of each Party existing or arising pursuant to the BPRIA and Article 7 hereof prior to the Effective Time, including any causes of action of a Party or any monthly payment payable thereunder calculated at the price or prices in effect prior to the Effective Time and the obligation to maintain Confidential Information in confidence pursuant to the BPRIA, shall not merge and shall survive the execution and delivery of this Agreement and the amendment and restatement of the BPRIA as at the Effective Time, provided that if there is a Discriminatory Action claim under the BPRIA, any compensation for such Discriminatory Action shall be determined with reference to the costs and revenues of the Generator under the BPRIA to the Effective Time and under this Agreement after the Effective Time.
- (c) **"Term"** means that period of time commencing upon the Effective Time and ending at 24:00 hours (eastern standard time or eastern daylight time, as the case may be) on the earliest of:
 - (i) the date on which the OPG Lease expires or is otherwise terminated unless a new lease agreement in respect of the Facility is entered into;
 - (ii) December 31, 2064; and
 - (iii) the date on which this Agreement is terminated in accordance with Sections 11.2 or 11.4.
- (d) Neither Party shall have any right to extend or renew the Term except as agreed in writing by the Parties.
- (e) Subject to Section 18.10, upon the expiration of the Term, the Parties' respective obligations hereunder shall terminate and be of no further force and effect.

10.2 Termination of Unit Due to Delay

- (a) If:

- (i) the Commercial Operation Date of a Unit to be Refurbished has not occurred by the later of (A) the date which is thirty-three (33) months after the Original Milestone Date for such Unit, whether or not the delay in achieving Commercial Operation includes delays attributable to Force Majeure, and (B) the date on which the Generator has spent or irrevocably committed to spend Refurbishment Costs on such Unit of an amount not less than 50% of the Fully-Scoped Refurbishment Cost of such Unit, (such later date, the “**Early Termination Date**”), then the Generator may, on the Early Termination Date or at any time thereafter but prior to the Commercial Operation Date, terminate this Agreement with respect to such Unit effective upon notice to the Counterparty;
- (ii) the Commercial Operation Date of a Unit to be Refurbished has not occurred on or before the date which is forty-five (45) months after the Original Milestone Date for such Unit, and at least forty-five (45) months of such delay is solely attributable to Force Majeure, then either Party may, at any time thereafter but prior to the Commercial Operation Date, terminate this Agreement with respect to such Unit effective upon notice to the other Party;
- (iii) the Commercial Operation Date of a Unit to be Refurbished has not occurred on or before the Early Termination Date for such Unit and the Generator has not terminated such Unit pursuant to Section 10.2(a)(i) or Section 10.2(a)(ii), then if (A) as at December 31 of each Contract Year commencing after the Early Termination Date the Generator has not spent or irrevocably committed to spend Refurbishment Costs on such Unit in an amount, calculated as at such December 31, of not less than the sum of (x) 50% of the Fully-Scoped Refurbishment Cost of such Unit and (y) the product of \$100,000,000 and the number of Contract Years commencing after such Early Termination Date and ending on such December 31 this Agreement shall automatically terminate with respect to such Unit effective upon such December 31, or (B) if the Generator has voluntarily ceased carrying out all or substantially all of the Refurbishment Work that has not then been completed with respect to such Unit for a period of more than six (6) months without reasonable justification (for greater certainty, the Generator shall not be deemed to have voluntarily ceased carrying out all or substantially all of the Refurbishment Work with respect to a Unit if such cessation was by reason of Force Majeure) and has not resumed Refurbishment of such Unit within forty-five (45) days after notice of such failure from the Counterparty to the Generator, this Agreement shall automatically terminate with respect to such Unit; or
- (iv) the Commercial Operation Date of a Unit to be Refurbished has not occurred on or before the date which is ninety-three (93) months after the Original Milestone Date for such Unit (the “**Outside Completion Date**”) then this Agreement shall automatically terminate with respect to such Unit effective upon such Outside Completion Date.

For greater certainty the provisions of Sections 10.2(a)(i), 10.2(a)(ii) and 10.2(a)(iii) shall be of no further effect after the Outside Completion Date;

- (b) Following the termination of a particular Unit pursuant to Section 10.2(a)(i), Section 10.2(a)(iii), Section 10.2(a)(iv) or Section 11.2(a)(iii) the Contract Price will be adjusted on the Adjustment Date determined pursuant to Exhibit 4.11, as such Contract Price Adjustment is determined in accordance with Section 4.11 and Exhibit 4.11 and the Financial Model and the Generator will not directly or indirectly cause such Unit to be operated after the date of such notice of termination.
- (c) Following the termination of a particular Unit pursuant to Section 10.2(a)(ii), the Contract Price will be adjusted on the Adjustment Date determined pursuant to Exhibit 4.11, as such Contract Price Adjustment is determined in accordance with Section 4.11 and Exhibit 4.11 and the Financial Model and the Generator will not directly or indirectly cause such Unit to be operated after the date of such notice of termination.
- (d) If this Agreement is terminated with respect to a particular Unit pursuant to Section 10.2(a), then the Counterparty's rights and the Generator's covenants set forth in Section 10.2(b) or Section 10.2(c), as applicable, and the Counterparty's right to receive liquidated damages up to the date of termination pursuant to Section 2.10 shall represent the Counterparty's sole and exclusive rights and remedies in respect of such termination.

10.3 Conditions Subsequent

For purposes of this Section 10.3, the "**Reorganization Conditions**" means

- (i) 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; and
- (ii) OPG and the Generator will each have executed and delivered the Ancillary Agreements and the Fifth Amendment to the OPG Lease to be dated December 4, 2015.

BPLP shall provide notice to the Counterparty as soon as practicable following occurrence of the Reorganization Conditions; provided, however, that if on or before 5:00 p.m. (Toronto time), December 15, 2015, the Reorganization Conditions have 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 BPRIA and the rights and obligations of the Parties thereunder which shall continue unaffected hereby.

ARTICLE 11 EVENTS OF DEFAULT AND REMEDIES

11.1 Events of Default by the Generator

Each of the following will constitute an event of default by the Generator (each, a **“Generator Event of Default”**):

- (a) The Generator fails to make any particular payment or deliver a Statement under this Agreement when due if such failure is not remedied (without regard for the original date by which payment was to be made or the Statement was to be delivered) in the case of a failure to make payment, within five (5) Business Days or, in the case of a failure to deliver a Statement, within ten (10) Business Days, after notice of such failure from the Counterparty to the Generator.
- (b) The Generator fails to deliver a final Basis of Estimate Report and the notice contemplated in Section 2.5(a) by a date that is no later than fifteen (15) months prior to the Scheduled Refurbishment Outage Date or the Generator fails to commence Refurbishment of a Unit by its Scheduled Refurbishment Outage Date, as the same may be adjusted in accordance with the provisions hereof and, in either case, the Generator has not begun correction of the failure (without regard for the original time by which performance was to occur) within ten (10) Business Days after notice of such failure from the Counterparty to the Generator and, in any event, the Generator has not delivered the final Basis of Estimate Report to the Counterparty within thirty (30) days after notice of such failure from the Counterparty.
- (c) The Generator fails to perform any other material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Generator Event of Default of the Generator) and the Generator has not begun correction of the failure (without regard for the original time by which performance was to occur, if any) within forty-five (45) days after notice of such failure from the Counterparty to the Generator and thereafter does not diligently pursue correction of such failure until completion.
- (d) The Generator (or any Person acting on behalf of the Generator) fails or ceases to hold a valid licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority which is required at such time having regard to the then current stage of Refurbishment or operation of the Facility, and where such failure or cessation results in, or could be reasonably expected to result in, a Material Adverse Effect on the Generator, and the Generator has not begun correction of the failure (without regard for the original time by which such licence, permit, certificate, registration, authorization, consent or approval was to be held, if any) within forty-five (45) days after notice of such failure from the Counterparty to the Generator and thereafter does not diligently pursue correction of such failure until completion.
- (e) Any representation made by the Generator in Section 7.1 is not true or correct in any material respect when made and the Generator has not begun to make such representation true and correct (without regard for the original effective date of such representation) within forty-five (45) days after notice of such fact from the

Counterparty to the Generator and thereafter does not diligently pursue making such representation true and correct until completion.

- (f) An effective resolution is passed or documents are filed in an office of public record in respect of, or a judgment or order is issued by a court of competent jurisdiction ordering, the dissolution, termination of existence, liquidation or winding up of the Generator unless such resolution, filed documents, judgment or order is revoked or otherwise rendered inapplicable within ten (10) days of its or their passage, filing or declaration, or unless there has been a permitted and valid assignment of this Agreement in accordance with Section 13.2 or 18.7 by the Generator to a Person which is not dissolving, terminating its existence, liquidating or winding up.
- (g) The Generator amalgamates with, or merges with or into, or transfers the Facility or all or substantially all of its assets to, another Person unless, at the time of such amalgamation, merger or transfer, there has been a permitted and valid assignment of this Agreement in accordance with Section 13.2 or 18.7 by the Generator under this Agreement to the resulting, surviving or transferee Person.
- (h) Any one of the following events occurs:
 - (i) a receiver, interim receiver, manager, receiver-manager, liquidator, monitor, trustee in bankruptcy, custodian, sequestrator or other Person with similar powers is appointed in respect of the Generator or of any of the Generator's property and such receiver, interim receiver, manager, receiver-manager, liquidator, monitor, trustee in bankruptcy, custodian, sequestrator or other Person is not discharged or such appointment is not stayed, revoked or withdrawn within ninety (90) days after the appointment;
 - (ii) by decree, judgment or order of a court of competent jurisdiction, the Generator is adjudicated bankrupt or insolvent or any substantial part of the Generator's property is sequestered, and such decree, judgment or order continues undischarged and unstayed for a period of ninety (90) days after the entry thereof; or
 - (iii) a petition, proceeding or application is made against the Generator seeking to have the Generator declared bankrupt or insolvent, or seeking relief under the provisions of any Insolvency Legislation, and such petition, proceeding or application is not stayed, dismissed or withdrawn within ninety (90) days.
- (i) The Generator makes an assignment for the benefit of its creditors generally under any Insolvency Legislation, or consents to the appointment of a receiver, interim manager, receiver-manager, monitor, trustee in bankruptcy, liquidator, custodian, sequestrator or other Person with similar powers for all or a substantial part of its property or seeks relief under the provisions of any Insolvency Legislation.
- (j) The Generator has defaulted in the observance or performance of one or more obligations in respect of indebtedness to other Persons, with the result that

obligations for indebtedness in an aggregate principal amount of more than \$300 million (as escalated pursuant to Section 4.5 and Exhibit 4.5) becoming immediately due and payable, unless: (A) such default is remedied within ninety (90) days after notice of such default from the Counterparty to the Generator, or (B) the Generator has satisfied the Counterparty that such default does not have a Material Adverse Effect on the Generator's ability to perform its obligations under this Agreement.

- (k) The Generator assigns this Agreement or any of its rights, interests or obligations under this Agreement other than in accordance with Sections 13.1, 13.2 or 18.7.
- (l) There is a Transfer (as such term is defined in the Sharing in Transfers and Refinancings Agreement) completed in breach of the terms of section 2.1 of the Sharing in Transfers and Refinancings Agreement, and such breach is not corrected or remedied within thirty (30) days after notice of such failure from the Counterparty to Generator or the Counterparty has not provided its consent in accordance with the applicable section of the Sharing in Transfers and Refinancings Agreement (without regard for the original time by which such consent was to be provided).
- (m) The Generator fails to perform or comply with its obligations pursuant to Section 2.16(a)(i) or Section 2.16(a)(ii) and the Generator is not excused or relieved from such non-performance or non-compliance pursuant to Section 2.16(b) or Section 2.16(c), respectively, and the Generator has not corrected such failure (without regard for the original time by which performance was to occur) within twenty (20) days after notice of such failure from the Counterparty.

11.2 Remedies of the Counterparty

- (a) Without limiting any rights the Counterparty may have at law, equity, under this Agreement or otherwise in respect of a Generator Event of Default, including the right to seek damages or equitable relief:
 - (i) If a Generator Event of Default under Section 11.1(a) occurs and is continuing and the Counterparty gives the Generator a further notice following the notice given under Section 11.1(a) (the "**Second Notice**") of such Generator Event of Default, if such Generator Event of Default is still continuing thirty (30) days after the Second Notice has been given, notwithstanding Section 11.2(a)(ii), the Counterparty may terminate this Agreement and demand the Early Termination Payment in accordance with Section 11.5.
 - (ii) If a Generator Event of Default under any of Sections 11.1(a), 11.1(b), 11.1(c) (except in respect of the Generator's failure to perform its obligations pursuant to Section 2.1), 11.1(d), 11.1(e), 11.1(f), 11.1(g), 11.1(h), 11.1(i), 11.1(j), 11.1(k), 11.1(l) or 11.1(m) occurs and is continuing, the Counterparty shall be entitled to suspend payments in respect of the Generator's provision of Dynamic Capabilities pursuant to Section 2.16, all Contingent Support Payments, Used Fuel Costs pursuant to Section 4.2(e), Front-end Fuel Costs pursuant to Section 4.2(d), payments of Deemed Generation pursuant to Section 6.1 (the

“Generator Suspended Payments”) from (x) in the case of Sections 11.1(a), 11.1(b), 11.1(c) (except in respect of the Generator’s failure to perform its obligations pursuant to Section 2.1), 11.1(d), 11.1(e), 11.1(j), 11.1(l) and 11.1(m) the number of days specified in each such Section after the date notice of such Generator Event of Default was given by the Counterparty to the Generator and, in the case of Sections 11.1(f), 11.1(g), 11.1(h), 11.1(i) and 11.1(k) the date on which the Generator Event of Default occurred to (y) the date that the Generator Event of Default is corrected or remedied. If the Generator Event of Default is corrected or remedied within a period of nine (9) months from the date of notice of such Generator Event of Default (in the case of Sections 11.1(a), 11.1(b), 11.1(c), (except in respect of the Generator’s failure to perform its obligations pursuant to Section 2.1), 11.1(d), 11.1(e), 11.1(j), 11.1(l) and 11.1(m)) or the date of occurrence of such Generator Event of Default (in the case of Sections 11.1(f), 11.1(g), 11.1(h), 11.1(i) and 11.1(k)) (in each case, the **“Generator Cure Period”**), the aggregate amount of the Generator Suspended Payments (without interest) shall be included in the next Statement and shall be paid to the Generator without interest or netted in accordance with Sections 5.2 and 5.3.

If such Generator Event of Default is not corrected or remedied within the Generator Cure Period, the Generator Suspended Payments to the end of the Generator Cure Period (the **“Forfeited Generator Suspended Payments”**) shall be forever forfeited and, (except in the case of a Generator Event of Default pursuant to Section 11.1(c) in respect of the Generator’s failure to perform its obligations pursuant to Section 2.1) the Counterparty may terminate this Agreement and demand the Early Termination Payment in accordance with Section 11.5. The Counterparty’s sole rights and remedies in the case of a Generator Event of Default pursuant to Section 11.1(c) in respect of the Generator’s failure to perform its obligations pursuant to Section 2.1 are provided in Section 11.2(a)(iii).

If after the expiry of the Generator Cure Period, such Generator Event of Default has not been corrected or remedied and the Counterparty has not terminated this Agreement, the Generator Suspended Payments occurring thereafter (which for greater certainty, shall not include the Forfeited Generator Suspended Payments, which shall have been forever forfeited) shall be suspended until the earlier to occur of (x) the correction or remedy of such Generator Event of Default, in which case such Generator Suspended Payments shall be included (without interest) in the next Statement or netted in accordance with Sections 5.2 and 5.3 and (y) the termination of this Agreement, in which case such Generator Suspended Payments shall be forever forfeited.

- (iii) If in the period before the Early Termination Date of a Unit the Generator has voluntarily ceased carrying out all or substantially all of the Refurbishment Work that has not then been completed with respect to such Unit for a period of more than six (6) months without reasonable justification (for greater certainty, the Generator shall not be deemed to have voluntarily ceased carrying out all or substantially all of the

Refurbishment Work with respect to a Unit if such cessation was by reason of Force Majeure) and has not resumed Refurbishment of such Unit within forty-five (45) days after notice of such failure from the Counterparty to the Generator (an “**Abandonment**”), then:

- (A) for each Settlement Month in which such Abandonment is continuing (each, an “**EOD Month**”) commencing on the date forty-five (45) days after notice thereof was provided by the Counterparty to the Generator (the “**EOD Date**”) until the date that the Abandonment is corrected or remedied (the “**Cure Date**”), the Counterparty shall be entitled to suspend payment of that part of the increase to the Contract Price that was made on the Adjustment Date immediately following the Go Election for such Unit in accordance with Section 4.8(b) (such suspended payments, the “**Suspended EOD Payments**”);
- (B) the Counterparty shall be entitled to set off from its Monthly Payments for each EOD Month an amount equal to the sum of the Daily EOD Amount for each calendar day in each EOD Month in which such Generator Event of Default is continuing from the EOD Date to the Cure Date (but for certainty, the first EOD Month for such Unit shall only include the calendar days after the EOD Date occurred). The “**Daily EOD Amount**” shall be:
 - (1) for each calendar day after such Unit's EOD Date up to and including the earlier of (x) the Cure Date, and (y) the date which is six (6) months after such Unit's EOD Date (“**EOD Date +6**”), \$30,000;
 - (2) for each calendar day after such Unit's EOD Date +6 and up to and including the earlier of (x) such Unit's Cure Date, and (y) the date which is twelve (12) Months after such Unit's EOD Date (“**EOD Date +12**”), \$60,000; and
 - (3) for each calendar day after such Unit's EOD Date +12 up to and including the earlier of (x) such Unit's Cure Date, and (y) if this Agreement is terminated in respect of such Unit without the Cure Date occurring, the date of termination of the Agreement in respect of that Unit, \$120,000;

The cumulative total of the foregoing set-off pursuant to Section 11.2(a)(iii)(B) in respect of a Unit is the “**Delay Set-off**” and, notwithstanding the foregoing, in no case shall the cumulative amount of the liquidated damages payable by the Generator in respect of such Unit pursuant to Section 2.10 and the Delay Set-off in respect of such Unit that is forever forfeited be greater than \$150,000,000.

Notwithstanding the foregoing provisions of Section 11.2(a)(iii)(B), the Daily EOD Amount in respect of a Unit shall cease to be payable by the Generator and shall not be set off from any Monthly Payments at any time that the Generator is obligated to pay a Daily LD Amount in respect of such Unit, it being the intention

of the Parties that upon the Milestone Date +3 for such Unit the Generator shall begin paying the Daily LD Amount and that there be no overlap between payments of a Daily LD Amount and payments of a Daily EOD Amount in respect of any Unit.

If the Generator has resumed Refurbishment of such Unit within nine (9) months from the date of the notice referred to in Section 11.2(a)(iii), the aggregate amount of the Delay Set-off (without interest) plus the aggregate amount of the Suspended EOD Payments (without interest) shall be included in the next Statement and shall be paid to the Generator or netted in accordance with Sections 5.2 and 5.3. If the Generator has not resumed Refurbishment of such Unit within a period of nine (9) months from the date of such notice: (i) the Delay Set-off shall be forever forfeited; (ii) the Suspended EOD Payments shall be forever forfeited; and (iii) the Counterparty may terminate this Agreement with respect to such Unit and if this Agreement is so terminated with respect to such Unit, the provisions of Section 10.2(b) shall apply, provided that for purposes of calculating the Adjustment to Generation Profile, the Termination Date will be deemed to be the later of the date which is thirty-three (33) months after the Original Milestone Date for the Unit and the actual Termination Date.

The Counterparty's right to the Suspended EOD Payments, Delay Set-off pursuant to this Section 11.2(a)(iii) up to the maximum amount of \$150,000,000 (less the cumulative amount of the liquidated damages payable by the Generator in respect of such Unit pursuant to Section 2.10) in respect of such Unit, the Counterparty's right to terminate this Agreement with respect to such Unit pursuant to this 11.2(a)(iii), the Counterparty's right to liquidated damages under Section 2.10 and the Counterparty's rights and remedies set forth in Section 10.2(b) represent the Counterparty's sole remedies for the Generator's failure to comply with Section 2.1 in respect of such Unit.

- (iv) If a Generator Event of Default under any of Sections 11.1(f), 11.1(g), 11.1(h), 11.1(i), 11.1(k), or 11.1(l) occurs and is continuing, notwithstanding Section 11.2(a)(ii), the Counterparty may terminate this Agreement and demand the Early Termination Payment in accordance with Section 11.5.
- (b) Except as provided in Section 11.2(a)(ii), termination shall not relieve the Generator or the Counterparty of their respective responsibilities relating to amounts payable under this Agreement up to and including the Termination Date. In addition to its rights of set off available to it at law, if a Generator Event of Default has occurred and is continuing, the Counterparty may set off its obligation to make a payment to the Generator hereunder against any payments owed to it by the Generator, though not in respect of any Commodity Taxes payable by the Counterparty to the Generator.

11.3 Events of Default by the Counterparty

Each of the following will constitute an event of default by the Counterparty (each, a "**Counterparty Event of Default**"):

- (a) The Counterparty fails to make any particular payment under this Agreement when due if such failure is not remedied (without regard for the original date by which payment was to be made) within five (5) Business Days after notice of such failure from the Generator.
- (b) The Counterparty fails to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Counterparty Event of Default) and the Counterparty has not begun correction of the failure (without regard for the original time by which performance was to occur, if any) within forty-five (45) days after notice of such failure from the Generator and thereafter does not diligently pursue correction of such failure until completion.
- (c) The Counterparty fails or ceases to hold a valid licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority where such failure or cessation results in, or could be reasonably expected to result in, a Material Adverse Effect on the Counterparty and the Counterparty has not begun correction of the failure (without regard for the original time by which such licence, permit, certificate, registration, authorization, consent or approval was to be held, if any) within forty-five (45) days after notice of such failure from the Generator and thereafter does not diligently pursue correction of such failure until completion.
- (d) Any representation made by the Counterparty in Section 7.2 is not true or correct in any material respect when made and the Counterparty has not begun to make such representation true and correct (without regard for the original effective date of such representation) within forty-five (45) days after notice of such fact from the Generator and thereafter does not diligently pursue making such representation true and correct until completion.
- (e) An effective resolution is passed or documents are filed in an office of public record in respect of, a judgment or order is issued by a court of competent jurisdiction ordering, or a statute is passed in the Legislative Assembly of Ontario, or an order-in-council of the Governor in Council is passed, in any of the foregoing events mandating, the dissolution, termination of existence, liquidation or winding up of the Counterparty unless such resolution, filed documents, judgment, order, statute or order-in-council is revoked or otherwise rendered inapplicable within ten (10) days of its or their passage, filing or declaration, or unless there has been a permitted and valid assignment of this Agreement in accordance with Section 18.7 by the Counterparty to a Person which is not dissolving, terminating its existence, liquidating or winding up.
- (f) The Counterparty amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another Person unless, at the time of such amalgamation, merger or transfer, there has been a permitted and valid assignment of this Agreement in accordance with Section 18.7 by the Counterparty to the resulting, surviving or transferee Person.
- (g) Any one of the following events occurs:
 - (i) a receiver, interim receiver, manager, receiver-manager, liquidator, monitor, trustee in bankruptcy, custodian, sequestrator or other Person

with similar powers is appointed in respect of the Counterparty or of any of the Counterparty's property and such receiver, interim receiver, manager, receiver-manager, liquidator, monitor, trustee in bankruptcy, custodian, sequestrator or other Person is not discharged or such appointment is not stayed, revoked or withdrawn within ninety (90) days after the appointment;

- (ii) by decree, judgment or order of a court of competent jurisdiction, the Counterparty is adjudicated bankrupt or insolvent or any substantial part of the Counterparty's property is sequestered, and such decree, judgment or order continues undischarged and unstayed for a period of ninety (90) days after the entry thereof; or
 - (iii) a petition, proceeding or application is made against the Counterparty seeking to have the Counterparty declared bankrupt or insolvent, or seeking relief under the provisions of any Insolvency Legislation, and such petition, proceeding or application is not stayed, dismissed or withdrawn within ninety (90) days.
- (h) The Counterparty makes an assignment for the benefit of its creditors generally under any Insolvency Legislation, or consents to the appointment of a receiver, interim manager, receiver-manager, monitor, trustee in bankruptcy, liquidator, custodian, sequestrator or other Person with similar powers for all or a substantial part of its property or seeks relief under the provisions of any Insolvency Legislation.
- (i) The Counterparty assigns this Agreement or any of its rights, interests or obligations under this Agreement other than in accordance with Section 18.7.
- (j) The Counterparty fails to take action in the normal course of its business to recover all amounts paid or payable to the Generator pursuant to this Agreement directly or indirectly from Electricity consumers in the Province of Ontario and the Counterparty has not begun correction of such failure within forty-five (45) days after notice thereof from the Generator and thereafter does not diligently pursue correction thereof until completion.
- (k) The Counterparty does not have, or no longer has, the ability pursuant to Laws and Regulations to recover directly or indirectly from Electricity consumers in the Province of Ontario all amounts paid or that may from time to time become payable to the Generator pursuant to this Agreement.

11.4 Remedies of the Generator

- (a) Without limiting any rights the Generator may have at law, equity, under this Agreement or otherwise in respect of a Counterparty Event of Default, including the right to seek damages or equitable relief:
- (i) If a Counterparty Event of Default under Section 11.3(a) occurs and is continuing and the Generator gives the Counterparty a further notice following the notice given under Section 11.3(a) (the "**Second Notice**") of such Counterparty Event of Default, if such Counterparty Event of Default

is still continuing thirty (30) days after the Second Notice has been given, notwithstanding Section 11.4(a)(ii), the Generator may terminate this Agreement and demand its Early Termination Payment in accordance with Section 11.5.

- (ii) If a Counterparty Event of Default under any of Sections 11.3(a), 11.3(b), 11.3(c), 11.3(d), 11.3(e), 11.3(f), 11.3(g), 11.3(h), 11.3(i), 11.3(j) or 11.3(k) occurs and is continuing, the Generator shall be entitled to suspend payments in respect of all Revenue Sharing Payments, liquidated damages pursuant to Section 2.10, payments for operational efficiencies pursuant to Section 4.3, Net Related Products Revenues, payments of Indemnifiable Losses (the **"Counterparty Suspended Payments"**) from (x) in the case of Sections 11.3(a), 11.3(b), 11.3(c), 11.3(d) and 11.3(j), the date notice of the Counterparty Event of Default was given by the Generator to the Counterparty and, in the case of Sections 11.3(e), 11.3(f), 11.3(g), 11.3(h), 11.3(i) and 11.3(k), the date on which the Counterparty Event of Default occurred to (y) the date that the Counterparty Event of Default is corrected or remedied. If the Counterparty Event of Default is corrected or remedied within a period of nine (9) months from the date of the notice of the Counterparty Event of Default (in the case of Sections 11.3(a), 11.3(b), 11.3(c), 11.3(d) and 11.3(j)) or the date of occurrence of such Counterparty Event of Default (in the case of Sections 11.3(e), 11.3(f), 11.3(g), 11.3(h), 11.3(i) and 11.3(k)) (in each case, the **"Counterparty Cure Period"**), the aggregate amount of the Counterparty Suspended Payments (without interest) shall be included in the next Statement of the Generator and shall be paid to the Counterparty without interest or netted in accordance with Sections 5.2 and 5.3.

If such Counterparty Event of Default is not corrected or remedied within the Counterparty Cure Period, the Counterparty Suspended Payments to the end of the Counterparty Cure Period (the **"Forfeited Counterparty Suspended Payments"**) shall be forever forfeited and the Generator may terminate this Agreement and demand the Early Termination Payment in accordance with Section 11.5.

If after the expiry of the Counterparty Cure Period, such Counterparty Event of Default has not been corrected or remedied and the Generator has not terminated this Agreement, the Counterparty Suspended Payments occurring thereafter (which for greater certainty, shall not include the Forfeited Counterparty Suspended Payments, which shall have been forever forfeited) shall be suspended until the earlier to occur of (x) the correction or remedy of such Counterparty Event of Default, in which case such Counterparty Suspended Payments shall be included (without interest) in the next Statement of the Generator or netted in accordance with Sections 5.2 and 5.3 and (y) the termination of this Agreement, in which case such Counterparty Suspended Payments shall be forever forfeited.

- (iii) If a Counterparty Event of Default under any of Sections 11.3(e), 11.3(f), 11.3(g), 11.3(h), 11.3(i) or 11.3(k) occurs and is continuing, the Generator

may terminate this Agreement and demand its respective Early Termination Payment in accordance with Section 11.5.

- (b) Except as provided in Section 11.4(a)(ii), termination shall not relieve the Generator or the Counterparty of their respective responsibilities relating to amounts payable under this Agreement up to and including the Termination Date. In addition to its rights of set off available to it at law, if a Counterparty Event of Default has occurred and is continuing, the Generator may set off its obligations to make a payment to the Counterparty hereunder against any payments owed to it, though not in respect of any Commodity Taxes payable by the Generator to the Counterparty.

11.5 Payments for Early Termination

- (a) If an Event of Default occurs and is continuing with respect to a Party (the **"Defaulting Party"**) at any time during the Term which, pursuant to Section 11.2 or 11.4 entitles the other Party (referred to herein as the **"Terminating Party"**) to terminate this Agreement, then the Terminating Party may, upon two (2) Business Days' notice to the Defaulting Party, which notice shall be given no later than two (2) years after the discovery of the occurrence of the Event of Default, establish a date on which this Agreement may be terminated, which date shall not be earlier than the date such notice is received nor more than thirty (30) days following the date that such notice is received (the **"Early Termination Date"**).
- (b) If an Early Termination Date is established, the Terminating Party shall in good faith calculate its Early Termination Damages as at the Early Termination Date, and its Termination Costs, resulting from the termination of this Agreement (in aggregate, the **"Early Termination Payment"**). Early Termination Damages shall be calculated in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result. In determining Early Termination Damages, the Terminating Party may consider any relevant information. There shall be added to the Early Termination Payment an amount equal to the difference (whether positive or negative) between (i) all amounts owed but not yet paid by the Defaulting Party to the Terminating Party, whether or not such amounts are then due pursuant to this Agreement and (ii) all amounts owed but not yet paid by the Terminating Party to the Defaulting Party, whether or not such amounts are then due pursuant to this Agreement.
- (c) The Parties agree that the Terminating Party shall not be required to enter into any replacement contract or transaction in order to determine or be entitled to the Early Termination Payment.
- (d) The Terminating Party shall give the Defaulting Party notice of the amount of the Early Termination Payment, together with a statement showing its determination of the amount thereof and reasonably detailed information supporting the basis for such determination. The Terminating Party shall promptly provide the Defaulting Party with such additional information relating to such Early Termination Payment as may be requested by the Defaulting Party, acting reasonably. The Defaulting Party shall, subject to Section 11.5(e), pay the Early Termination Payment to the Terminating Party within fifteen (15) Business Days

of receipt of such notice, together with interest at the Interest Rate calculated daily and compounded monthly on the unpaid balance of the Early Termination Payment, from and including the Early Termination Date until and including the date the Early Termination Payment is paid in full.

- (e) If the Defaulting Party disputes the Terminating Party's calculation of the Early Termination Payment, in whole or in part, the Defaulting Party shall, within fifteen (15) Business Days of receipt of the Terminating Party's calculation of the Early Termination Payment, provide to the Terminating Party a reasonably detailed written explanation of the basis for such dispute; provided, however, that if the Early Termination Payment is due from the Defaulting Party, the Defaulting Party shall first pay the undisputed portion of the Early Termination Payment to the Terminating Party and then pay into court or deliver security to the Terminating Party in a form acceptable to the Terminating Party, acting reasonably, in an amount equal to the balance of the Early Termination Payment. If such dispute has not been resolved between the Parties within five (5) Business Days after receipt of notice of such dispute by the Terminating Party, the Parties may, by mutual consent, submit the dispute to a Senior Conference pursuant to the terms of Section 18.1. If the Parties have not agreed to submit the dispute to a Senior Conference within seven (7) Business Days after receipt of notice of such dispute by the Terminating Party, formal dispute resolution in accordance with the terms of Section 18.2 shall apply but without having first completed a Senior Conference pursuant to Section 18.1. Once the Early Termination Payment is finally determined by arbitration or litigation pursuant to Section 18.2, the Party owing monies to the other Party pursuant to such determination shall promptly, and in any event within five (5) Business Days, pay such monies owing, together with interest at the Interest Rate from and including the Early Termination Date to and including the date of payment thereof.

11.6 Sole Remedies

If this Agreement is terminated pursuant to Section 11.2 or Section 11.4, then and subject to the Terminating Party's right to receive the Early Termination Payment and to be paid for all other amounts then due and owing to the Terminating Party (to the extent not included in the Early Termination Payment), such right of termination shall represent that Terminating Party's sole and exclusive remedy for the Defaulting Party's default that gave rise to the termination, but, subject to Section 18.3:

- (a) shall not affect any rights that the Counterparty Indemnitees may have arising from an Indemnifiable Loss asserted by a Person other than a Counterparty Indemnatee against any Counterparty Indemnatee or the Generator Indemnitees may have arising from an Indemnifiable Loss asserted by a Person other than a Generator Indemnatee against any Generator Indemnatee, in either of the foregoing cases pursuant to any indemnity hereunder; and
- (b) shall, in the event that the Terminating Party is the Generator, be without limitation to any claim by, or rights of, the Generator pursuant to Article 14 with respect to any Discriminatory Action, or pursuant to Article 15 with respect to any Relevant Change of Law, which occurred prior to or on the Termination Date.

ARTICLE 12 FORCE MAJEURE

12.1 Effect of Invoking Force Majeure

- (a) If, by reason of Force Majeure, a Party is unable, wholly or partially, to perform or comply with its obligations (other than payment obligations) hereunder (including the Generator being unable to achieve Commercial Operation of a Unit by the relevant Milestone Date), then the Party so affected by Force Majeure shall be excused and relieved from performing or complying with such obligations (other than payment obligations) and shall not be liable for any liabilities, damages, losses, payments, costs, expenses (or Indemnifiable Losses in the case of the Generator) to, or incurred by, the other Party in respect of or relating to such Force Majeure and such Party's failure to so perform or comply during the continuance and to the extent of the inability so caused from and after the invocation of Force Majeure.
- (b) The Party invoking Force Majeure shall use Commercially Reasonable Efforts to prevent or remedy the situation and remove, so far as possible and within a reasonable time period, the Force Majeure (but settlement of strikes, lockouts and other labour disturbances shall be wholly within the discretion of the Party involved). In addition, if the Generator invokes Force Majeure it shall use Commercially Reasonable Efforts to minimize the cost and lost revenue implications of the Force Majeure event having regard, as a whole, to the increase in the Refurbishment Costs resulting from Force Majeure, and Asset Management Costs resulting from Force Majeure-Eligible Asset Management Work, that are reasonably expected to arise or be incurred by the Generator and the loss of generation as the result of the effects of such event of Force Majeure.
- (c) The affected Party shall resume its obligations as soon as the event of Force Majeure has been overcome.
- (d) Nothing in this Section 12.1 shall relieve a Party of its obligations to make payments of any amounts that were due and owing by such Party to the other Party before the occurrence of the Force Majeure or that otherwise may become due and payable during any period of Force Majeure.
- (e) If an event of Force Majeure causes the Generator to not achieve Commercial Operation of a Unit by the relevant Milestone Date, then such Milestone Date shall be extended for such period of delay resulting from such Force Majeure event. If such event of Force Majeure occurs after the Milestone Date of a Unit, and the Generator is paying liquidated damages pursuant to Section 2.10 in respect of such Unit, the Generator's obligation to pay liquidated damages pursuant to Section 2.10 will be relieved during the period of delay caused by such Force Majeure event.
- (f) Increased Refurbishment Costs resulting from Force Majeure, increased Asset Management Costs for Force Majeure-Eligible Asset Management Work resulting from Force Majeure, and the consequences of EA Force Majeure will be shared by the Parties in accordance with the provisions of this Section 12.1(f) and the Contract Price shall be adjusted in accordance with Section 4.9, Exhibit 4.9 and

Section 4.10 and Exhibit 4.10 and the Financial Model. In particular, the following Force Majeure-related consequences will adjust the Contract Price as follows:

- (i) 50% of increases in Refurbishment Costs that result from Force Majeure shall be allocated to the Counterparty and 50% to the Generator and the Contract Price will be adjusted so that the Generator may recover such 50% share of such Refurbishment Costs allocated to the Counterparty plus the Rate of Return over the remaining Term, but subject to the provisions of Section 12.1(f)(iv) and Section 12.1(f)(v) in respect of EA Force Majeure;
- (ii) 50% of increases in Asset Management Costs related to Force Majeure-Eligible Asset Management Work that result from Force Majeure shall be allocated to the Counterparty and 50% to the Generator and the Contract Price will be adjusted so that the Generator may recover such 50% share allocated to the Counterparty plus the Rate of Return over the remaining Term;
- (iii) in respect of an event of EA Force Majeure, in addition to the other remedies of the Generator set forth in this Article 12, the Contract Price will be adjusted to reflect an Adjustment to Generation Profile in accordance with Section 4.9 and Exhibit 4.9 and the Financial Model.
- (iv) any Contract Price Adjustment that is made pursuant to Section 12.1(f)(iii):
 - (A) for an event of EA Force Majeure in respect of the First Unit, will reflect 100% of the increase in the case of an increase in the Contract Price and 100% of the decrease in the case of a decrease in the Contract Price; and
 - (B) for an event of EA Force Majeure in respect of any Unit other than the First Unit, will reflect 50% of the increase in the case of an increase in the Contract Price, and 50% of the decrease in the case of a decrease in the Contract Price; and
- (v) notwithstanding the provisions of Section 12.1(f)(i), there will be no Contract Price Adjustment in respect of increases in Refurbishment Costs of the First Unit resulting from Force Majeure attributable to an event of EA Force Majeure that arises in respect of the First Unit. For certainty, the provisions of this Section 12.1(f)(v) do not prejudice any Contract Price Adjustment for increases in Refurbishment Costs pursuant to Section 12.1(f)(i) for EA Force Majeure in respect of any Unit other than the First Unit.
- (g) Except in the case of EA Force Majeure, as provided in Section 12.1(f)(iii) and Section 12.1(f)(iv), there will be no Adjustment to Generation Profile to reflect decreased or delayed generation attributable to increases in the Refurbishment Duration or outages during which Force Majeure-Eligible Asset Management Work occurs as a result of Force Majeure.

- (h) Adjustments to the Contract Price will be made on (i) in the case of a Refurbishment-related Force Majeure, the Adjustment Date next following the later of (A) a Refurbished Unit's Final Completion and (B) final determination of the increase in Refurbishment Costs resulting from Force Majeure; and (ii) in the case of an Asset Management-related Force Majeure, on the later of (A) the first Adjustment Date of the Planning Period immediately following the Planning Period during which an Asset Management-related Force Majeure occurred and (B) the Adjustment Date next following final determination of the increase in Asset Management Costs related to Force Majeure-Eligible Asset Management Work that results from Force Majeure.
- (i) Adjustments to the Contract Price for increased Refurbishment Costs and Asset Management Costs for Force Majeure-Eligible Asset Management Work resulting from Force Majeure will be net of any insurance proceeds received or receivable by the Generator as compensation for such costs and not paid or required to be paid by the Generator to any contractor, subcontractor of any tier or supplier in accordance with any applicable construction agreement with such contractor, subcontractor of any tier or supplier and will be net of any liquidated damages or reimbursement payments received from any contractor, subcontractor or supplier of the Generator in excess of liquidated damages paid or payable by the Generator to the Counterparty pursuant to Section 2.10 hereof, subject to further adjustment if any receivable insurance proceeds become unreceivable.

12.2 Procedures

- (a) If a Party is unable to perform or is delayed in performing its obligations (other than payment obligations) hereunder and determines that the reason for such inability or delay was an act, event, cause or condition that it believes was an event of Force Majeure, such Party may invoke Force Majeure with effect from the commencement of the act, event, cause or condition constituting Force Majeure by providing notice of Force Majeure in substantially the form set forth as Exhibit 12.2(a). Such notice will include reasonably full particulars of the act, event, cause or condition and an estimate of its expected duration and probable impact on the performance of such Party's obligations and will be provided within twenty (20) Business Days of the time that the Party invoking Force Majeure determined that the reason for its inability to perform or the reason for the delay was such act, event, cause or condition. No later than sixty (60) days from the date of such notice, a Party invoking Force Majeure will provide the other Party with an updated notice of Force Majeure attaching copies of the documents and other information listed in Exhibit 12.2(b) that are reasonably required to substantiate such claim of Force Majeure. A Party invoking Force Majeure will provide such additional information reasonably requested by the other Party to substantiate such claim of Force Majeure.
- (b) The Party responding to the invocation of Force Majeure will be required to provide a response with its agreement or disagreement of the occurrence of Force Majeure, including a reasonably detailed rebuttal in the case of disagreement, within sixty (60) days of receipt of the copies of the documents and other information listed in Exhibit 12.2(b) that are reasonably required to substantiate such claim of Force Majeure.

- (c) The Party invoking Force Majeure shall give notice, written or oral (but if oral, promptly confirmed in writing) of the termination of the event of Force Majeure within fifteen (15) Business Days of said termination.
- (d) If any dispute arises related to purported events of Force Majeure, including the determination of the occurrence or the consequences thereof, the Parties will attempt to resolve the dispute in a cooperative manner; provided, however, if following the process set forth in Sections 12.2(a) and 12.2(b), the Parties are unable to come to agreement within ten (10) Business Days of a Party requesting a Senior Conference, the matter will be referred to such Senior Conference and failing settlement thereof shall be referred to formal dispute resolution in accordance with the provisions of Section 18.2.

12.3 Exclusions

- (a) A Party shall not be entitled to invoke Force Majeure under this Article 12 in any of the following circumstances:
 - (i) if and to the extent the Party seeking to invoke Force Majeure has caused the applicable event of Force Majeure by its wilful misconduct, negligence or breach by it of its obligations under this Agreement;
 - (ii) if and to the extent the Party seeking to invoke Force Majeure has failed to use Commercially Reasonable Efforts to prevent or remedy the event of Force Majeure and remove, so far as possible and within a reasonable time period, Force Majeure (except in the case of strikes, lockouts and other labour disputes, the settlement of which shall be wholly within the discretion of the Party involved);
 - (iii) if and to the extent that a Party seeks to invoke Force Majeure because of arrest or restraint by a Governmental Authority, such arrest or restraint was the result of a breach by the Party of Laws and Regulations;
 - (iv) if the Force Majeure was caused by a lack of funds or other financial cause of the Party seeking to invoke Force Majeure; or
 - (v) on the basis of an act, event, cause or condition affecting a contractor, subcontractor (of any tier) or supplier if such act, event, cause or condition would not be an act, event, cause or condition for which a Party would be entitled to invoke Force Majeure hereunder except in the case of: (A) the bankruptcy or insolvency of any of the Persons set out in Section 12.3(a)(v) of the Technical Schedule, or any of their respective successors, or a contractor, subcontractor or supplier providing the same or similar services to the Generator as those contemplated to be provided by any of such Persons in which case the Generator may invoke Force Majeure hereunder in accordance with the terms of this Article 12; provided that the Generator shall not be entitled to claim an increase in Refurbishment Costs or Asset Management Costs pursuant to Section 12.1(f) with respect thereto; and (B) any event of force majeure under the Lease or any Ancillary Agreement for which OPG is entitled to be excused or relieved of its obligations and which results in the Generator

being unable, wholly or partially, to perform or causes a delay in the performance of Refurbishment Work or Force Majeure-Eligible Asset Management Work in which case the Generator may invoke Force Majeure hereunder in accordance with the terms of this Article 12.

- (b) The Counterparty is not entitled to invoke Force Majeure in relation to a Disruption Event.
- (c) The Generator is not entitled to invoke Force Majeure in respect of a Unit for which a Technical Infeasibility has occurred and either the Counterparty has not disputed such occurrence or, if disputed, the Parties have agreed or it has been determined pursuant to Section 18.1 or Section 18.2, as the case may be, that a Technical Infeasibility has occurred.

12.4 Definition of Force Majeure

- (a) **"Force Majeure"** means any act, event, cause or condition that is beyond the affected Party's reasonable control and that: (i) results in such Party being unable, wholly or partially, to perform or comply with its obligations (other than a payment obligation) hereunder or being delayed in its performance of its obligations (other than a payment obligation) hereunder, the order and timing of which may be evidenced by, in the case of Refurbishment Work, or Force Majeure-Eligible Asset Management Work occurring during a Refurbishment Outage, the Master Project Schedule for such Unit and any other relevant information, and in the case of Force Majeure-Eligible Asset Management Work occurring outside of a Refurbishment Outage, the Generator's project plan therefor and any other relevant information; or (ii) would have resulted, but for the Commercially Reasonable Efforts comprising the remediation actions taken by such Party, in an inability of such Party, wholly or partially, to perform or comply with its obligations (other than a payment obligation) hereunder, or a delay of such Party in its performance of its obligations (other than a payment obligation) hereunder, the order and timing of which may be evidenced by, in the case of Refurbishment Work, or Force Majeure-Eligible Asset Management Work occurring during a Refurbishment Outage, the Master Project Schedule for such Unit and any other relevant information, and in the case of Force Majeure-Eligible Asset Management Work occurring outside of a Refurbishment Outage, the Generator's project plan therefor and any other relevant information. In addition to the foregoing, in the case of an event that is characterized as a Change of Laws or any other event of Force Majeure contemplated by any of clause (v), (vii) or (viii) of this Section 12.4(a), Force Majeure will include any such event that results in a change in or affects the means and methods, approach, specifications, design, requirements, contracting strategy, quantum or volume, timing or layout of the Refurbishment Work or Force Majeure-Eligible Asset Management Work to be undertaken by the Generator. For greater certainty, the obligations contemplated by this Section 12.4(a) include the Generator's obligations to undertake the Refurbishment of the Units and conduct Force Majeure-Eligible Asset Management Work as contemplated herein, and the entitlement of the Generator to claim Force Majeure hereunder does not require that there be a delay in achieving a Milestone Date or there to have been a milestone date defined herein for such work, provided that there has actually been (or would have been but for such remediation actions taken) a delay in the

performance of that part of the work affected by the Force Majeure, the order and timing of which work may be evidenced by, in the case of Refurbishment Work, or Force-Majeure Eligible Asset Management Work occurring during a Refurbishment Outage, the Master Project Schedule for such Unit and any other relevant information, and in the case of Force Majeure-Eligible Asset Management Work occurring outside of a Refurbishment Outage, the Generator's project plan therefor and any other relevant information. Subject to the foregoing, Force Majeure includes:

- (i) acts of God, including lightning, earthquakes, tornadoes, hurricanes, cyclones, severe storms (being wind, rain, snow, ice, temperature or other natural phenomena not of a reasonably expected intensity or duration for the location of the Facility), landslides, drought, floods and washouts;
- (ii) fires or explosions;
- (iii) local, regional or national states of emergency;
- (iv) civil disobedience or disturbances, war (whether declared or not), acts of sabotage, blockades, insurrections, terrorism, revolution, riots or epidemics;
- (v) other than as provided for in Section 12.4(a)(viii), (A) any coming into force of, or change in Laws and Regulations by any Governmental Authority after the date hereof, including any coming into force or change in regulatory standards and requirements; or (B) any change in the interpretation, implementation, application or administration by a Governmental Authority of any Laws and Regulations after the date hereof, including any judgment or order of a court of law, commission or tribunal having jurisdiction in the relevant circumstances, provided that in the case of clauses (A) or (B) above any such coming into force or change in Laws and Regulations was not known, and could not have reasonably been known, by the affected Party as at the date hereof;
- (vi) any inability to obtain or to secure, or any delay in obtaining or securing, the issuance, renewal or amendment of any permit, certificate, impact assessment, licence or approval of any Governmental Authority, Transmitter or local distribution company required to perform or comply with any obligation under this Agreement when same is required, unless the failure to issue, delay in issuing, or revocation or modification of any such necessary permit, certificate, impact assessment, licence or approval was caused by the violation of the terms thereof or was consented to by the Party invoking Force Majeure;
- (vii) any order, judgment, legislation, ruling, direction, decision, intervention, action or inaction by a Governmental Authority restraining a Party, provided that the affected Party has not applied for or assisted in the application for and has used Commercially Reasonable Efforts to oppose said order, judgment, legislation, ruling, direction, decision, intervention, action or inaction;

- (viii) the issuance of terms or conditions of any permit, certificate, impact assessment, licence, registration, authorization, consent or approval held or necessary to be held by or on behalf of the Generator that results in an increase in the Refurbishment Costs that the Generator would reasonably be expected to incur in, or an increase in the time reasonably expected for, the Refurbishment of any of Units 3, 4, 5, 6, 7 and 8, provided any such coming into force, change or issuance was not known, and could not have reasonably been known, by the Generator as at the date hereof;
- (ix) strikes and other labour disputes (other than legal strikes or labour disputes by the employees of the Party invoking Force Majeure unless the result of or part of a general labour dispute); and
- (x) any event of force majeure claimed by a contractor, subcontractor (of any tier) or supplier participating in the Refurbishment Work or Force Majeure-Eligible Asset Management Work of any Unit to the extent such event of force majeure would be an act, event, cause or condition for which a Party would be entitled to invoke Force Majeure hereunder;

and, for greater certainty, includes an EA Force Majeure.

- (b) **“EA Force Majeure”** is an event of Force Majeure that results in a delay in or inability of either the commencement or completion of a Refurbishment of any Unit by the Generator as a result of any of the following:
 - (i) any inability to obtain or to secure, or any delay in obtaining or securing, the issuance, renewal or amendment of any licence under the NSCA that is necessary for the Refurbishment Work for such Unit to commence or continue or for such Unit to be restarted following such Refurbishment arising, in whole or in part, from or related to the Environmental Assessment of the Facility, or any part thereof, unless such delay or inability was caused by the violation of the terms of such licence by the Generator, the failure by the Generator to use Commercially Reasonable Efforts to meet the conditions of such licence, or the failure by the Generator to accurately complete the relevant application or notice of the Environmental Assessment or to provide reasonably timely responses to requests for necessary technical studies by the relevant Governmental Authority; or
 - (ii) any order, judgement, ruling, direction, decision, intervention, action or inaction by a Governmental Authority arising from or relating to the Environmental Assessment of the Facility, or any part thereof, that restrains, restricts or delays the Generator from obtaining the issuance, renewal or amendment of any licence under the NSCA that is necessary for the Refurbishment Work for such Unit to commence or continue or for such Unit to be restarted following such Refurbishment, provided that the Generator has not applied for or assisted in the application for, and has used Commercially Reasonable Efforts to oppose, said order, judgement, ruling, direction, decision, intervention, action or inaction.

- (c) For greater certainty, nothing in this Section 12.4 shall be construed as limiting the duration of an event of Force Majeure.

ARTICLE 13 LENDER'S RIGHTS

13.1 Lender Security

Notwithstanding Section 18.7, the Generator, from time to time after the date of this Agreement shall have the right, at its cost, to enter into one or more Secured Lender's Security Agreements. For the avoidance of doubt, in the case of a Secured Lender's Security Agreement that is a deed of trust or similar instrument or instruments securing bonds or debentures, the term "**Secured Lender**" as used herein shall refer only to the trustee in respect thereof and in the case of a secured bank or other financial institution facility shall refer only to the collateral agent in respect thereof. A Secured Lender's Security Agreement in respect of the Generator shall be upon and subject to the following conditions:

- (a) A Secured Lender's Security Agreement may be made for any amounts and upon any terms (including terms of the loans, interest rates, payment terms and prepayment privileges or restrictions) as desired by the Generator, except as otherwise provided in this Agreement.
- (b) A Secured Lender's Security Agreement may not secure any indebtedness, liability or obligation of the Generator that is not related to (i) its interest in the Facility, or any part thereof, or (ii) the Excluded Business, or cover any real or personal property of the Generator not related to its interest in the Facility, or any part thereof, or the Excluded Business except in relation to any one or more other generating facilities owned or leased by the Generator. For greater certainty, a Secured Lender's Security Agreement may cover equity interests (including partnership interests) in the Generator and equity interests in the general partner of the Generator.
- (c) The Counterparty shall have no liability whatsoever for payment of the principal sum secured by any Secured Lender's Security Agreement, or any interest accrued thereon or any other sum secured thereby or accruing thereunder; and the Secured Lender shall not be entitled to seek any damages against the Counterparty for any or all of the same.
- (d) No Secured Lender's Security Agreement shall be binding upon the Counterparty in the enforcement of the Counterparty's rights and remedies provided in this Agreement or by Laws and Regulations, unless and until a copy of the original thereof and the registration details, if applicable, together with notice of the address of the Secured Lender to which notices may be sent have been delivered to the Counterparty by the Generator or the Secured Lender.
- (e) A Secured Lender shall provide reasonable notice to the Counterparty of a default of the Generator under a Secured Lender's Security Agreement between the Generator and such Secured Lender, prior to the Secured Lender exercising any rights afforded to it under this Agreement or an Acknowledgment and Consent, but failure to provide such notice shall not restrict or delay any such exercise.

- (f) Any Secured Lender's Security Agreement permitted hereunder may secure two (2) or more separate debts, liabilities or obligations in favour of two (2) or more separate Secured Lenders.
- (g) Any number of permitted Secured Lender's Security Agreements may be outstanding at any one time.
- (h) Except as otherwise provided in an Acknowledgment and Consent, all rights acquired by a Secured Lender under any Secured Lender's Security Agreement shall be subject to all of the provisions of this Agreement, including the restrictions on assignment contained herein. If a Secured Lender's Security Agreement so provides, while any Secured Lender's Security Agreement is outstanding, the Counterparty and the Generator shall not amend or supplement this Agreement or agree to a termination of this Agreement without the consent of the Secured Lender, which consent shall not be unreasonably withheld.
- (i) Despite any enforcement of any Secured Lender's Security Agreement, the Generator shall remain liable to the Counterparty for the payment of all sums owing to the Counterparty under this Agreement and for the performance of all of the Generator's obligations under this Agreement.

13.2 Rights and Obligations of Secured Lenders

While any Secured Lender's Security Agreement remains outstanding, and if the Counterparty has received the notice referred to in Section 13.1(d)) or the contents thereof are embodied in the Acknowledgment and Consent, the following provisions shall apply:

- (a) No Generator Event of Default shall be grounds for the termination by the Counterparty of this Agreement until:
 - (i) any notice required to be given under Sections 11.1 and 11.2(a) has been given concurrently to the Generator and to the Secured Lender; and
 - (ii) the cure period set out in Section 13.2(b) has expired without a cure having been completed and without the Secured Lender having taken the actions therein contemplated.
- (b) In the event the Counterparty has given the notice required to be given under Sections 11.1 and 11.2(a), the Secured Lender shall, within the applicable cure period (including any extensions pursuant to the Acknowledgment and Consent or otherwise agreed in writing by the Parties or the Counterparty and the Secured Lender (which, in any event, shall be a minimum of thirty (30) days in the case of a monetary default and ninety (90) days in the case of a non-monetary default)), if any, have the right (but not the obligation) to cure such default, and the Counterparty shall accept such performance by such Secured Lender as if the same had been performed by the Generator.
- (c) Any payment to be made or action to be taken by a Secured Lender under this 13.2(c), such Secured Lender's Security Agreement or an Acknowledgment and Consent, shall be deemed properly to have been made or taken by the Secured Lender if such payment is made or action is taken by a nominee or agent of the

Secured Lender or a receiver or receiver and manager appointed by or on the application of the Secured Lender.

- (d) A Secured Lender shall be entitled to the Generator's rights and benefits contained in this Agreement and shall become liable for the Generator's obligations solely as provided in this Section 13.2. A Secured Lender may, subject to the provisions of this Agreement, enforce any Secured Lender's Security Agreement and acquire the Generator's Interest in any lawful way and, without limitation, a Secured Lender or its nominee or agent or a receiver or receiver and manager appointed by or on the application of the Secured Lender, may take possession of and manage the Facility, or any part thereof, and, upon foreclosure, or without foreclosure upon exercise of any contractual or statutory power of sale under such Secured Lender's Security Agreement, may sell or assign the Generator's Interest in whole or in part with the consent of the Counterparty as required under Section 13.2(f).
- (e) Until a Secured Lender or other Person that is its nominee or agent or a receiver or receiver and manager has assumed in writing the Generator's obligations hereunder by reference to the Secured Lender's Security Agreement, the Secured Lender or such other Person shall not be liable for any of the Generator's obligations contained in this Agreement or be entitled to any of the Generator's rights and benefits contained in this Agreement except by way of security. After such express assumption and once the Secured Lender or such other Person transfers this Agreement in accordance with the terms hereof to another Person, the Secured Lender or such other Person, as the case may be, shall cease to be liable for any of the Generator's obligations and shall cease to be entitled to any of the Generator's rights and benefits contained in this Agreement, except, if the Secured Lender's Security Agreement remains outstanding, by way of security.
- (f) Despite anything else contained in this Agreement, any Person who is a permitted transferee and to whom this Agreement is transferred shall take this Agreement subject to the Generator's obligations contained in this Agreement. No transfer shall be effective unless the Counterparty has approved of the transferee (such approval not to be unreasonably withheld, conditioned or delayed) and the transferee has agreed in writing to assume and perform the obligations of the Generator in respect of this Agreement, whether arising before or after the transfer. Provided: (i) the proposed transferee has all consents, licences, permits and other approvals of a Governmental Authority (including the CNSC) necessary to effect such transfer; and (ii) the proposed transferee or its ultimate parent is then rated at least one notch above Investment Grade (as defined in, and determined in accordance with, the Sharing in Transfers and Refinancings Agreement) by two then recognized rating agencies, or is otherwise acceptable to the Counterparty, acting reasonably, the Counterparty shall approve such transferee.
- (g) In the event of the termination of this Agreement prior to the end of the Term due to a Generator Event of Default, the Counterparty shall, within ten (10) days after the date of such termination, deliver to each Secured Lender a statement of all sums then known to the Counterparty that would at that time be due under this Agreement but for the termination and a notice to each such Secured Lender

stating that the Counterparty is willing to enter into a New Agreement (the "**Counterparty Statement**"). Subject to the provisions of this Section 13.2(g), each such Secured Lender shall thereupon have the option to obtain from the Counterparty a New Agreement in accordance with the following terms:

- (i) Upon receipt of the written request of the Secured Lender within fifteen (15) Business Days after the date on which it received the Counterparty Statement, the Counterparty shall enter into a New Agreement.
- (ii) Such New Agreement shall be effective as of the date of termination of this Agreement and shall be for the remainder of the Term at the time this Agreement was terminated and otherwise upon the terms contained in this Agreement. The Counterparty's obligation to enter into a New Agreement is conditional upon the Secured Lender (A) paying all sums that would, at the time of the execution and delivery thereof, be due under this Agreement but for such termination, (B) otherwise fully curing any defaults under this Agreement existing immediately prior to termination of this Agreement that are capable of being cured and (C) paying all reasonable costs and expenses, including legal fees, so as to provide a full indemnity (and not only substantial indemnity), incurred by the Counterparty in connection with such default and termination, and the preparation, execution and delivery of such New Agreement and related agreements and documents; provided, however, that with respect to any default that could not be cured by such Secured Lender until it obtains possession, such Secured Lender shall have the applicable cure period commencing on the date that it obtains possession to cure such default.
- (h) Despite anything to the contrary contained in this Agreement, the provisions of this Article 13 shall enure only to the benefit of the Counterparty, the Generator and holders of a Secured Lender's Security Agreement. If the holders of more than one such Secured Lender's Security Agreement make written requests to the Counterparty in accordance with this Section 13.2 to obtain a New Agreement, the Counterparty shall accept the request of the holder whose Secured Lender's Security Agreement had, in the absence of an agreement between such holders, priority as evidenced by registration of such Secured Lender Security Agreements in the applicable public registries immediately prior to the termination of this Agreement over the Secured Lender's Security Agreements of the other Secured Lenders making such requests and thereupon the written request of each other Secured Lender shall be deemed to be void. In the event of any dispute or disagreement as to the respective priorities of any such Secured Lender's Security Agreement, the Counterparty may rely upon the opinion as to such priorities of any nationally recognized law firm qualified to practise law in the Province of Ontario retained by the Counterparty in its unqualified subjective discretion or may apply to a court of competent jurisdiction for a declaration as to such priorities, which opinion or declaration shall be conclusively binding upon all parties concerned.

13.3 Cooperation

The Counterparty and the Generator shall enter into an agreement with any Secured Lender for the purpose of implementing the Secured Lender's Security Agreement

protection provisions contained in this Agreement (an “**Acknowledgement and Consent**”). The Counterparty, acting reasonably, shall consider any request made by the Generator and/or a Secured Lender or proposed Secured Lender to enter into an Acknowledgement and Consent or to otherwise facilitate, acknowledge and give effect to any provision of a Secured Lender’s Security Agreement or proposed Secured Lender’s Security Agreement. The Counterparty, acting reasonably, shall consider any request made by a Secured Lender or proposed Secured Lender to enter into an Acknowledgement and Consent or to otherwise evidence an amendment to this Agreement, provided that the rights of the Counterparty are not materially adversely affected thereby, the obligations of the Generator to the Counterparty are not altered thereby and the consent of any other Secured Lender to such amendment has been obtained by the Generator or the Secured Lender making the request for the amendment.

ARTICLE 14 DISCRIMINATORY ACTION

14.1 Discriminatory Action

A “**Discriminatory Action**” means, at any time after March 21, 2005 (being referred to herein as the “**Discriminatory Action Set Date**”) an Ontario Change of Law that has the effect of:

- (a) amending this Agreement without the agreement of the Generator;
- (b) terminating this Agreement;
- (c) adversely affecting the ability of the Counterparty to recover all amounts paid or to be paid pursuant to this Agreement directly or indirectly from Electricity consumers in the Province of Ontario;
- (d) prohibiting the Counterparty from paying any amounts pursuant to and in accordance with this Agreement to the Generator or prohibiting the Generator from receiving any such amounts; or
- (e) (i) increasing the costs that the Generator reasonably expects to incur in respect of this Agreement, including costs in connection with the Refurbishment of any of Units 3, 4, 5, 6, 7 and 8; (ii) increasing the costs of operating or maintaining the Facility or any part thereof, including costs related to the generation, sale or delivery of Electricity and Related Products from the Facility; (iii) adversely affecting the revenues of the Generator from the Facility or any part thereof, in any of the foregoing cases except where, and to the extent, such Ontario Change of Law is directed specifically at the Generator in response to, or is implemented specifically to address, an act or omission on the part of the Generator, that is contrary to Ontario Laws and Regulations (as such Ontario Laws and Regulations existed prior to such change).

Notwithstanding the foregoing, none of the following shall be a Discriminatory Action:

- (f) an Ontario Change of Law of general application. For the purposes hereof, an Ontario Change of Law of general application does not include:

- (i) an Ontario Change of Law, other than with respect to increasing Discriminatory Action Taxes or creating new Discriminatory Action Taxes, the effect or effects of which: (A) are principally directed at or principally borne by the operators of nuclear reactors or operators of nuclear reactors and other electricity generators in Ontario or any subset thereof that includes the Generator; or (B) result in a change in any of the IESO-Administered Markets (including a Price Evolution Event as provided in Section 1.8 and a Price Indicator Unavailability Event as provided in Section 1.10), the IESO Market Rules or the basis or approach on which the price for Electricity is determined in the Province of Ontario unless otherwise excluded from constituting a Discriminatory Action pursuant to the provisions of Section 14.1(g) below; and
 - (ii) an Ontario Change of Law increasing Discriminatory Action Taxes or creating new Discriminatory Action Taxes, the effect or effects of which are principally directed at or principally borne by operators of nuclear reactors, operators of nuclear reactors and other electricity generators in Ontario or any subset thereof that includes the Generator;
- (g) any Ontario Change of Law made by any regulatory authority, agency, tribunal, commission, board, institution or municipal or local government or any other law, regulation or rule-making entity of the Province of Ontario, including the System Operator, the OEB, the Electrical Safety Authority and any court unless, in respect of a particular Ontario Change of Law, such Governmental Authority is acting under or pursuant to a direction, order, decision, decree, rule, policy or guideline or the control or guidance, of the legislature, cabinet, a Minister or a Ministry of the Government of Ontario. For greater certainty, any changes or introductions to the IESO Market Rules by the System Operator (including the introduction of LMP as provided in Section 1.7, a Price Evolution Event as provided in Section 1.8, a Price Indicator Unavailability Event as provided in Section 1.10, or any change in the methodology in the determination of HOEP, to the extent that any of the foregoing result from a change or introduction to the IESO Market Rules by the System Operator) shall not be Discriminatory Action unless in respect of such Ontario Change of Law the System Operator is acting under or pursuant to a direction, order, decision, decree, rule, policy or guideline, or the control or guidance of, the legislature, cabinet, a Minister or a Ministry of the Government of Ontario, in which case it shall be a Discriminatory Action;
- (h) the passage into law of any statute that, prior to the Discriminatory Action Set Date:
 - (i) has been introduced as a bill in the Legislative Assembly of Ontario, provided that any amendments made to such bill in becoming such statute do not have a material adverse effect on the Generator; or
 - (ii) has been described publicly in a (A) press release or announcement (that in each case specifically and directly references electricity generators) or (B) a discussion or consultation paper issued by the Government of Ontario (including the Ministry of Energy) that appeared on the website of the Government of Ontario (including the Ministry of Energy) prior to the Discriminatory Action Set Date,

provided that any variations from the public description of such statute in becoming law do not have a DA Material Adverse Effect;

- (i) the making of any regulation in the Province of Ontario that, prior to the Discriminatory Action Set Date:
 - (i) has been published but by the terms of such regulation come into force on or after the Discriminatory Action Set Date, provided that any amendments made to such published regulation on or before coming into force do not have a DA Material Adverse Effect; or
 - (ii) has been made public in (A) a press release or announcement (that in each case specifically and directly references electricity generators) or (B) discussion or consultation paper issued by the Government of Ontario (including the Ministry of Energy) that appeared on the website of the Government of Ontario (including the Ministry of Energy) prior to the Discriminatory Action Set Date,

provided that any variations from the public description of such proposed regulation in coming into force do not have a DA Material Adverse Effect;

- (j) any action of the Government of Ontario (including the Ministry of Energy) directly relating to the decommissioning of any or all of the Atikokan, Lambton, Nanticoke or Thunder Bay generating stations or the removal of coal-fired generating capacity associated with such facilities from production;
- (k) any action by a Governmental Authority to procure, increase or secure additional Electricity supply or to decrease Electricity demand, including through demand management and conservation initiatives, in each case, in the Province of Ontario;
- (l) any action by a Governmental Authority in connection with the decision of whether or not to undertake the refurbishment of the Darlington Nuclear Generation Station or the timing thereof; or
- (m) notwithstanding any other provision of this Section 14.1, any action by the Government of Ontario in respect of the application of any revenues of an Electricity generator owned by or under the Control of the Government of Ontario provided same is not applied in a manner which will subsidize other Electricity generators in the Province of Ontario (other than a consumer of Electricity who generates Electricity for its own consumption and from time to time for supply to the IESO-Controlled Grid and who receives such payment as a consumer of Electricity).

For the purposes of this Article 14:

“DA Material Adverse Effect” means a change or effect on the assets, the business, results of operations, financial condition or prospects of the Generator the cost of which to the Generator, exceeds \$12,000,000 (as escalated pursuant to Section 4.5 and Exhibit 4.5);

“Ontario Change of Law” means a Change of Law; provided, however, that: (i) references to **“Laws and Regulations”** in such definition will be to **“Ontario Laws and Regulations”**; (ii) references to a **“Governmental Authority”** in such definition will be to Governmental Authorities of the Province of Ontario; and (iii) **“Ontario Change of Law”** shall not include any judgment or order of a court of law, commission or tribunal having jurisdiction in the relevant circumstances; and

“Ontario Laws and Regulations” means the Laws and Regulations of the Province of Ontario, including any Governmental Authority thereof.

14.2 Compensation for Discriminatory Action

- (a) Each time a Discriminatory Action occurs, then without limiting the rights of the Generator pursuant to Article 11, but subject to Section 18.3, the Generator shall have the right to obtain compensation (the **“Discriminatory Action Compensation”**) from the Counterparty for:
 - (i) the amount of the increase in the costs that the Generator would reasonably be expected to incur under this Agreement, including in respect of the Refurbishment of any of the Units, or in the operation or maintenance of the Facility, or the generation, sale or delivery of the Electricity and Related Products from the Facility, in any of the foregoing cases as a result of the occurrence of such Discriminatory Action, commencing on the first day of the Discriminatory Action and ending at the expiry of the Term, but excluding: (A) the portion of any costs charged by a Person who does not deal at Arm's Length with the Generator that is in excess of the costs that would have been charged had such Person been at Arm's Length with the Generator; and (B) the amount of any Discriminatory Action Compensation attributable to a Discriminatory Action Refurbishment Cost Increase for a Unit provided such amount has been finally determined pursuant to Section 14.3 prior to the Refurbishment Lock-in Date of such Unit and the Counterparty has paid the Discriminatory Action Compensation otherwise then owing. It is the intention of the Parties that (x) the amount of any Discriminatory Action Refurbishment Cost Increase that has been finally determined pursuant to Section 14.3 prior to the Refurbishment Lock-in Date for a Unit will be incorporated into the Base Estimate of such Unit, will increase the Unit Threshold Base Amount, as provided in Exhibit 9.1, and will be included in the calculation of Adjusted Prior Unit Costs for such Unit pursuant to clause (i) of the definition of Adjusted Prior Unit Cost of such Unit; (y) the amount of any Discriminatory Action Refurbishment Duration Increase that has been finally determined pursuant to Section 14.3 prior to the Refurbishment Lock-in Date for a Unit will be included in the Base Estimate for such Unit, will increase the Counterparty Duration Threshold as provided in the definition thereof, and will be included in Adjusted Prior Unit Duration in the adjustment as contemplated in clause (h) of the definition of Adjusted Prior Unit Duration of such Unit; and (z) such costs will not be included in the Discriminatory Action Compensation but shall be recovered by the Generator over the Term as a result of the Contract Price Adjustment made in respect of such Fully-Scoped Refurbishment Cost or Adjustment to Generation Profile pursuant to Section 4.8;

- (ii) the amount by which (A) the net present value of the net revenues from the Facility, or part thereof, (inclusive of amounts receivable by the Generator pursuant to Article 4 or, if applicable, Section 11.5) that are forecast to be earned by the Generator during the period of time commencing on the first day of the Discriminatory Action and ending at the expiry of the Term had no Discriminatory Action occurred, exceeds (B) the net present value of the net revenues from the Facility, or part thereof, (inclusive of amounts receivable by the Generator pursuant to Article 4 or, if applicable, Section 11.5) that are forecast to be earned by the Generator during the period of time commencing on the first day of the Discriminatory Action and ending on the expiry of the Term, taking into account the occurrence of the Discriminatory Action and any actions that the Generator should reasonably be expected to take to mitigate the effect of the Discriminatory Action, such as by mitigating operating expenses and normal capital expenditures of the business of the generation and delivery of the Electricity and Related Products by the Facility, or part thereof; and
 - (iii) all reasonable legal fees and out-of-pocket expenses incurred by the Generator in connection with enforcing its rights under this Article 14.
- (b) If the Counterparty gives notice to the Generator pursuant to Section 14.4 that the Counterparty will remedy or cause to be remedied the Discriminatory Action within one hundred and eighty (180) days, then the Counterparty's obligation to pay Discriminatory Action Compensation shall be suspended for such one hundred and eighty (180) day period. If the Discriminatory Action has been fully remedied within such one hundred and eighty (180) day period, then the Counterparty shall pay to the Generator the Discriminatory Action Compensation payable in accordance with the provisions of Section 14.4. If the Discriminatory Action has not been fully remedied within such one hundred and eighty (180) day period, then the Counterparty shall pay the Discriminatory Action Compensation to the Generator in accordance with the provisions of Section 14.2.
- (c) Without limiting the generality of the foregoing, for purposes of determining Discriminatory Action Compensation, the losses, revenues and costs of the Generator will be determined by the Generator acting in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result with the intention of compensating the Generator for the economic loss resulting from such Discriminatory Action. In determining Discriminatory Action Compensation, the Generator may consider any relevant information.

14.3 Notice of Discriminatory Action

- (a) In order to exercise its rights in the event of the occurrence of a Discriminatory Action, the Generator must give a notice (the "**Preliminary Notice**") to the Counterparty stating that a Discriminatory Action has occurred. If the Discriminatory Action arises from any Ontario Change of Law manifested by the issuance to the Generator of an order, decision, judgment, injunction, decree, award, writ, ruling, licence, permit or certificate, such Preliminary Notice shall be delivered within ninety (90) days after the date on which such issuance occurs. If

the Discriminatory Action arises from any change in any of the statutes of the Province of Ontario listed in Exhibit 14.3, or any of the regulations promulgated thereunder, as manifested by the enactment, amendment, re-enactment or replacement thereof, such Preliminary Notice shall be delivered within one (1) year after the date on which such enactment, amendment, re-enactment or replacement occurs and is made public. In respect of all other Discriminatory Actions, such Preliminary Notice shall be delivered within six (6) months after the date on which an officer of the general partner of the Generator first became aware of the Discriminatory Action. Within sixty (60) days after the date of receipt of the Preliminary Notice by the Counterparty, the Generator must give another notice (the “**Notice of Discriminatory Action**”). A Notice of Discriminatory Action must include:

- (i) a statement of the Discriminatory Action that has occurred and details supporting why the Generator believes that a Discriminatory Action has occurred;
- (ii) details of the effect of the said occurrence that is borne by the Generator;
- (iii) details of the manner in which the Discriminatory Action either increases the costs that the Generator would reasonably be expected to incur in the delivery of the Electricity and Related Products from the Facility, or adversely affects the revenues of the Generator, or both;
- (iv) in the event the Discriminatory Action will increase the amount that the Generator reasonably expects to incur as Refurbishment Costs for any Unit, the amount of such increase for each such Unit (the “**Discriminatory Action Refurbishment Cost Increase**”);
- (v) in the event the Discriminatory Action will increase the length of the Refurbishment Outage for any Unit to be Refurbished, the amount of such increase in such Refurbishment Outage for each such Unit (the “**Discriminatory Action Refurbishment Duration Increase**”); and
- (vi) the amount claimed as Discriminatory Action Compensation (including, for greater certainty, the Discriminatory Action Compensation comprised of a Discriminatory Action Refurbishment Cost Increase for all Units without having regard to Section 14.2(a)(i)(B)) and details of the computation thereof.

The Counterparty shall, after receipt of a Notice of Discriminatory Action, be entitled, by notice given within thirty (30) days after the date of receipt of the Notice of Discriminatory Action, to require the Generator to provide such further supporting particulars as the Counterparty considers necessary, acting reasonably.

- (b) If the Counterparty wishes to dispute the occurrence or impact of a Discriminatory Action, the Counterparty shall give a notice of dispute (the “**DA Notice of Dispute**”) to the Generator, stating the grounds for such dispute, within thirty (30) days after the date of receipt of the Notice of Discriminatory Action or within thirty (30) days after the date of receipt of the further supporting

particulars, as applicable, failing which the Counterparty shall be deemed to have accepted the Generator's assertion that a Discriminatory Action has occurred.

- (c) If neither the Notice of Discriminatory Action nor the DA Notice of Dispute has been withdrawn within thirty (30) days after the date of receipt of the DA Notice of Dispute by the Generator, the dispute of the occurrence of a Discriminatory Action shall be determined by either the Counterparty or the Generator commencing a claim in the Ontario courts.
- (d) If the Counterparty wishes to dispute the amount of the Discriminatory Action Compensation or any Discriminatory Action Refurbishment Duration Increase claimed by the Generator in the Notice of Discriminatory Action, the Counterparty shall within thirty (30) days after the date of receipt of the DA Notice of Dispute by the Generator, give to the Generator a notice (the "**Discriminatory Action Compensation Dispute Notice**") setting out an amount that the Counterparty proposes as the Discriminatory Action Compensation or the Discriminatory Action Refurbishment Duration Increase, or both, (the "**Counterparty's Proposed Discriminatory Action Compensation Amount**"), if any, together with details of the computation, failing which the Counterparty shall be deemed to have accepted the Discriminatory Action Compensation and any Discriminatory Action Refurbishment Duration Increase claimed in the Notice of Discriminatory Action. If the Generator does not give notice (the "**Generator Non-acceptance Notice**") to the Counterparty stating that it does not accept the Counterparty's Proposed Discriminatory Action Compensation Amount within thirty (30) days after the date of receipt of the Discriminatory Action Compensation Dispute Notice, the Generator shall be deemed to have accepted the Counterparty's Proposed Discriminatory Action Compensation Amount. If the Generator Non-acceptance Notice is given, the Counterparty and the Generator shall attempt to determine the Discriminatory Action Compensation and Discriminatory Action Refurbishment Duration Increase through negotiation, and any amount so agreed in writing shall be the Discriminatory Action Compensation and Discriminatory Action Refurbishment Duration Increase, as applicable. If the Counterparty and the Generator do not agree in writing upon the Discriminatory Action Compensation and Discriminatory Action Refurbishment Duration Increase, as applicable, within sixty (60) days after the date of receipt by the Counterparty of the Generator Non-acceptance Notice, the Discriminatory Action Compensation and Discriminatory Action Refurbishment Duration Increase, as applicable, shall be determined by either the Counterparty or the Generator commencing a claim in the Ontario courts. If an action has been commenced pursuant to Section 14.3(c) the Parties shall use Commercially Reasonable Efforts to join the determination of such claim with such action.
- (e) Subject to Section 14.2(b), if the Counterparty does not dispute the occurrence of a Discriminatory Action or the amount of Discriminatory Action Compensation or Discriminatory Action Refurbishment Duration Increase claimed by the Generator in the Notice of Discriminatory Action, the Counterparty shall pay to the Generator the amount of Discriminatory Action Compensation claimed by the Generator within sixty (60) days after the date of receipt of the Notice of Discriminatory Action net of the amount provided for in Section 14.2(a)(i)(B). If a DA Notice of Dispute has been given, the Counterparty shall pay to the Generator the Discriminatory Action Compensation net of the amount provided

for in Section 14.2(a)(i)(B) determined in accordance with Section 14.3(d) not later than sixty (60) days after the later of the date on which the dispute with respect to the occurrence of a Discriminatory Action is resolved pursuant to Section 14.3(c) and the date on which the Discriminatory Action Compensation is determined pursuant to Section 14.3(d). In either case where the Counterparty does not dispute the occurrence of a Discriminatory Action or the amount of a Discriminatory Action Compensation or Discriminatory Action Refurbishment Duration or the dispute has been resolved in accordance with Section 14.3(c) or Section 14.3(d): (i) the applicable amount of any Discriminatory Action Refurbishment Cost Increase shall be included in the calculation of the Base Estimate of each Unit that has not reached the Refurbishment Lock-in Date for such Unit, will increase the Unit Threshold Base Amount as provided in Exhibit 9.1, and will be included in the calculation of Adjusted Prior Unit Cost for each such Unit pursuant to clause (i) of the definition of Adjusted Prior Unit Cost; and (ii) the applicable amount of any Discriminatory Action Refurbishment Duration Increase shall be included in the calculation of the Base Estimate for each Unit that has not reached the Refurbishment Lock-in Date for such Unit, will increase the Counterparty Duration Threshold as provided in the definition thereof, and included in the calculation of the Adjusted Prior Unit Duration for each such Unit pursuant to clause (h) of the definition of Adjusted Prior Unit Duration.

- (f) Any amount to be paid under Sections 14.3(c), (d) or (e) shall be paid together with interest at the Interest Rate calculated daily and compounded monthly from the date of receipt of the Notice of Discriminatory Action to the date of payment in full of the Discriminatory Action Compensation.
- (g) In addition to the change in the cost of the Refurbishment Work for Units that have not yet achieved the Refurbishment Lock-in Date of such Unit as contemplated in Section 14.2(a)(i) and the Contract Price Adjustment resulting therefrom, the Payment of the Discriminatory Action Compensation and interest thereon by the Counterparty to the Generator shall constitute full and final satisfaction of all amounts that may be claimed by the Generator for and in respect of the occurrence of the Discriminatory Action and, upon such payment, the Counterparty shall be released and forever discharged by the Generator from any and all liability in respect of such Discriminatory Action.

14.4 Right of the Counterparty to Remedy or Cause to be Remedied a Discriminatory Action

If the Counterparty wishes to remedy or cause to be remedied the occurrence of a Discriminatory Action, the Counterparty must give notice to the Generator, setting out details of the remedy proposed, within thirty (30) days after the later of the date of receipt of the Notice of Discriminatory Action and the date of the receipt by the Counterparty of the further supporting particulars referred to in Section 14.3(a). If the Counterparty gives such notice, the Counterparty must remedy or cause to be remedied the Discriminatory Action within one hundred and eighty (180) days after such notice to the Generator. If the Counterparty remedies or causes to be remedied the Discriminatory Action in accordance with the preceding sentence, the Generator shall have the right to obtain, without duplication, the amount that the Generator would have the right to claim in respect of that Discriminatory Action pursuant to Section 14.2, adjusted to apply only to the period commencing on the first day following the date of the Discriminatory Action and expiring on the day preceding the date on which the Discriminatory

Action was remedied. If the Counterparty gives such notice that it will remedy or cause to remedy the Discriminatory Action, the Counterparty may not dispute the occurrence of the Discriminatory Action.

14.5 Scope of Remedy for Discriminatory Action

Subject to Section 18.3, it is understood, for greater certainty, that the rights of the Generator under this Article 14 may be exercised each time a Discriminatory Action occurs.

ARTICLE 15 RELEVANT CHANGE OF LAW

15.1 Relevant Change of Law

For purposes of this Article 15:

“Relevant Change of Law” means, at any time after the Relevant Change of Law Set Date, any Change of Law that is principally directed at or is borne in a materially disproportionate manner by the operators of nuclear reactors or the operators of nuclear reactors and other electricity generators or any subset thereof that includes the Generator. Notwithstanding the foregoing, none of the following shall be a Relevant Change of Law:

- (a) any Relevant Change of Law that constitutes a Discriminatory Action;
- (b) any Relevant Change of Law to the extent it constitutes Force Majeure with respect to Refurbishment Work or Force Majeure-Eligible Asset Management Work to which the Generator is entitled to an Contract Price Adjustment in accordance with the provisions of Article 12;
- (c) any amendments to the policies, regulatory documents, directions, guidelines, requirements or standards of the CNSC or a change in the interpretation, implementation, application or administration thereof by the CNSC unless such amendment or change:
 - (i) has, directly or indirectly, been triggered by or is in response to a Material Change of Law Event; or
 - (ii) has arisen from or in response to a Change of Law that is made by a Governmental Authority other than the CNSC and as a result of such change or pursuant to the direction of such Governmental Authority, the CNSC amends its policies, regulatory documents, directions, guidelines, requirements or standards or changes the interpretation, implementation, application or administration thereof; and
- (d) any Change of Law:
 - (i) resulting from a violation of or failure to comply with Laws and Regulations by the Generator;
 - (ii) that was caused by the Generator’s negligence or wilful misconduct, or the fault of the Generator’s senior management; or

- (iii) caused by the Generator's failure to manage or oversee its contractors or subcontractors at the Facility in compliance with its licence under the NSCA.

"Relevant Change of Law Set Date" means the date hereof; and

"RCOL Material Adverse Effect" means an adverse change or effect on the costs of the Generator described in Section 15.2(a)(i) or on the revenues of the Generator described in Section 15.2(a)(ii)(A), the combined effect of which has or is reasonably expected to have an adverse impact to the Generator, the net present value of which, discounted at the Applicable Discount Rate, is equal to or greater than \$100 million (which amount for greater certainty shall not be escalated in accordance with the terms hereof).

15.2 Compensation for Relevant Change of Law

- (a) Each time a Relevant Change of Law occurs that has or that the Generator, acting in good faith, has determined is reasonably expected to have a RCOL Material Adverse Effect, then, subject to Section 18.3, the Contract Price will be adjusted pursuant to this Section 15.2 on the Adjustment Date specified in Clause 2(a) of Exhibit 15.2 and the determination of the amount of such adjustment pursuant to Section 15.3(e). In order that the Generator shall receive compensation for the aggregate amount by which the following amounts exceed \$100 million as at the Adjustment Date, such Contract Price Adjustment will be determined in accordance with Exhibit 15.2 and the Financial Model with such Contract Price Adjustment being the **"Relevant Change of Law Compensation"**:
 - (i) the amount of the increase in the costs that the Generator would reasonably be expected to incur in the operation or maintenance, or both, of the Facility, or any part of the Facility (which costs include capital costs and costs related to the generation, sale or delivery of the Electricity and Related Products from the Facility, costs of compliance and costs in respect of any improvements to any of the Units or the Facility (other than Refurbishment Work), and do not include, for certainty, fees, charges and penalties arising from non-compliance and any costs relating to the Excluded Businesses), in any of the foregoing cases as a result of the occurrence of such Relevant Change of Law, commencing on the first day of the Relevant Change of Law and ending at the expiry of the Term, but excluding the portion of any costs charged by a Person who does not deal at Arm's Length with the Generator that is in excess of the costs that would have been charged had such Person been at Arm's Length with the Generator; and
 - (ii) the amount by which (A) the revenues from operating the Facility, or any part thereof, (including amounts receivable by the Generator pursuant to Article 4 but excluding any revenues of the Generator for the Excluded Business) that are reasonably forecast to be earned by the Generator during the period of time commencing on the first day of the Relevant Change of Law and ending at the expiry of the Term had no Relevant Change of Law occurred, exceeds (B) the revenues from operating the Facility, or any part thereof, (including amounts receivable by the

Generator pursuant to Article 4 but excluding any revenues of the Generator from the Excluded Business) that are reasonably forecast to be earned by the Generator during the period of time commencing on the first day of the Relevant Change of Law and ending on the expiry of the Term.

- (b) Without limiting the generality of the provisions of Section 15.2(a), for purposes of determining the Relevant Change of Law Compensation, the losses, revenues and costs of the Generator will be determined by the Generator acting in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result with the intention of compensating the Generator for the economic loss resulting from such Relevant Change of Law, less a deduction of \$100 million. In determining Relevant Change of Law Compensation, the Generator will take into account the occurrence of the Relevant Change of Law and any actions that the Generator should reasonably be expected to take to mitigate the effect of the Relevant Change of Law, such as by mitigating operating costs, lost revenues, expenses and normal capital expenditures of the business of the generation and delivery of the Electricity and Related Products by the Facility, or any part thereof. In determining Relevant Change of Law Compensation, the Generator may consider any relevant information.
- (c) For purposes of this Article 15, if multiple Changes of Law occur, come into force or are made together, or if multiple Changes of Law are made to the same Law and Regulation, or if multiple Changes of Law have the same or a similar effect on the Generator and such Changes of Law are brought into effect over a period of less than one year, and if in any of the foregoing cases it can reasonably be concluded that such Changes of Law are a series or part of a series of related changes, then for purposes of this Article 15 such Changes of Law shall be treated as one and the same Change of Law.
- (d) If the Counterparty gives notice to the Generator pursuant to Section 15.4 that the Counterparty will remedy or cause to be remedied the Relevant Change of Law within one hundred and eighty (180) days, then the Counterparty's obligation to pay Relevant Change of Law Compensation shall be suspended for such one hundred and eighty (180) day period. If the Relevant Change of Law has been fully remedied, within such one hundred and eighty (180) day period, then the Counterparty shall pay to the Generator the Relevant Change of Law Compensation payable in accordance with the provisions of Section 15.4. If the Relevant Change of Law has not been fully remedied within such one hundred and eighty (180) day period, then the Counterparty shall pay the Relevant Change of Law Compensation to the Generator in accordance with the provisions of Section 15.2.

15.3 Notice of Relevant Change of Law

- (a) In order to exercise its rights in the event of the occurrence of a Relevant Change of Law, the Generator must give a notice (for the purposes of this Section 15.3, the "**Preliminary Notice**") to the Counterparty stating that a Relevant Change of Law has occurred. If the Relevant Change of Law arises from any Relevant Change of Law manifested by the issuance to the Generator of an order,

decision, judgment, injunction, decree, award, writ, ruling, licence, permit or certificate, such Preliminary Notice shall be delivered within ninety (90) days after the date on which a senior officer of the general partner of the Generator first became aware of the Relevant Change of Law and that such change is a RCOL Material Adverse Effect. In respect of all other Relevant Changes of Law, such Preliminary Notice shall be delivered within six (6) months after the date on which a senior officer of the general partner of the Generator first became aware of the Relevant Change of Law and that such change is a RCOL Material Adverse Effect. Within sixty (60) days after the date of receipt of the Preliminary Notice by the Counterparty, the Generator must give another notice (the “**Notice of Relevant Change of Law**”). A Notice of Relevant Change of Law must include:

- (i) a statement of the Relevant Change of Law that has occurred and details supporting why the Generator believes this constitutes a Relevant Change of Law;
- (ii) details of the effect or impact of the said occurrence that is borne by the Generator;
- (iii) details of the manner in which the Relevant Change of Law (A) increases the costs that the Generator would reasonably be expected to incur in the operation or maintenance of the Facility, or both, (B) adversely affects the revenues of the Generator, or (C) results in both (A) and (B); and
- (iv) the amount claimed as the Contract Price Adjustment necessary to effect the Relevant Change of Law Compensation and details of the computation thereof.

The Counterparty shall, after receipt of a Notice of Relevant Change of Law, be entitled, by notice given within sixty (60) days after the date of receipt of the Notice of Relevant Change of Law, to require the Generator to provide such further supporting particulars as the Counterparty considers necessary, acting reasonably.

- (b) If the Counterparty wishes to dispute the occurrence or impact of a Relevant Change of Law, the Counterparty shall give a notice of dispute (the “**RCOL Notice of Dispute**”) to the Generator, stating the grounds for such dispute, within sixty (60) days after the date of receipt of the Notice of Relevant Change of Law or within sixty (60) days after the date of receipt of the further supporting particulars, as applicable, failing which the Counterparty shall be deemed to have accepted the Generator’s assertion that a Relevant Change of Law has occurred.
- (c) If neither the Notice of Relevant Change of Law nor the RCOL Notice of Dispute has been withdrawn within thirty (30) days after the date of receipt of the RCOL Notice of Dispute by the Generator, the dispute of the occurrence or impact of a Relevant Change of Law shall be resolved in accordance with the provisions of Sections 18.1 or 18.2.
- (d) If the Counterparty wishes to dispute the amount of the Contract Price Adjustment necessary to effect the Relevant Change of Law Compensation claimed by the Generator in the Notice of Relevant Change of Law, the

Counterparty shall within thirty (30) days after the date of receipt of the RCOL Notice of Dispute by the Generator, give to the Generator a notice (the “**Relevant Change of Law Compensation Dispute Notice**”) setting out an amount that the Counterparty proposes as the Contract Price Adjustment necessary to effect the Relevant Change of Law Compensation (the “**Counterparty’s Proposed Relevant Change of Law Compensation Amount**”), if any, together with details of the computation, failing which the Counterparty shall be deemed to have accepted the Relevant Change of Law Compensation and the amount of the Contract Price Adjustment necessary to effect the same claimed in the Notice of Relevant Change of Law. If the Generator does not give notice (for the purposes of this Section 15.3, the “**Generator Non-acceptance Notice**”) to the Counterparty stating that it does not accept the Counterparty’s Proposed Relevant Change of Law Compensation Amount and the amount of the Contract Price Adjustment necessary to effect the same within thirty (30) days after the date of receipt of the Relevant Change of Law Compensation Dispute Notice, the Generator shall be deemed to have accepted the Counterparty’s Proposed Relevant Change of Law Compensation Amount and the amount of the Contract Price Adjustment necessary to effect the same. If the Generator Non-acceptance Notice is given, the Counterparty and the Generator shall attempt to determine the Relevant Change of Law Compensation and the amount of the Contract Price Adjustment necessary to effect the same through negotiation, and any amount so agreed in writing shall be the Relevant Change of Law Compensation. If the Counterparty and the Generator do not agree in writing upon the Relevant Change of Law Compensation and the Contract Price Adjustment within sixty (60) days after the date of receipt by the Counterparty of the Generator Non-acceptance Notice, the Relevant Change of Law Compensation and the Contract Price Adjustment shall be determined pursuant to Sections 18.1 or 18.2. If an action has been commenced pursuant to Section 15.3(c) the Parties shall use Commercially Reasonable Efforts to join the determination of such claim with such action.

- (e) Subject to Section 15.2(d), if the Counterparty does not dispute the occurrence of a Relevant Change of Law, the amount of Relevant Change of Law Compensation or the Contract Price Adjustment claimed by the Generator in the Notice of Relevant Change of Law, such Contract Price Adjustment will be made on the immediately following Adjustment Date. If a RCOL Notice of Dispute has been given, such Contract Price Adjustment will be made in respect of the Relevant Change of Law Compensation and such adjustment amount determined in accordance with Section 15.3(d) on the Adjustment Date immediately after the later of the date on which the dispute with respect to the occurrence of a Relevant Change of Law is resolved pursuant to Section 15.3(c) and the date on which the Relevant Change of Law Compensation and such adjustment amount is determined pursuant to Section 15.3(d).
- (f) If following the Contract Price Adjustment effected pursuant to Section 15.2 to address the occurrence of a Relevant Change of Law the Relevant Change of Law thereafter ceases to affect the Generator, the Parties will, on the next following Adjustment Date after such cessation, adjust the Contract Price (the “**Re-Adjustment**”) to reflect the cessation of the Relevant Change of Law and to ensure that the Generator has fully recovered the impact of such Relevant Change of Law (in excess of the \$100 million deductible contemplated by Section

15.2(a)) up to and including such Adjustment Date, with such Re-Adjustment having effect from the time of the Re-Adjustment and without affecting any amounts paid or payable to the Generator prior to the Re-Adjustment, provided that if the Relevant Change of Law thereafter re-occurs the Generator may again make use of the provisions of this Article 15 but without regard to the \$100 million dollar threshold contemplated by the definition of RCOL Material Adverse Effect and the \$100 million deductible contemplated by Section 15.2(a).

15.4 Right of the Counterparty to Remedy or Cause to be Remedied a Relevant Change of Law

If the Counterparty is able to remedy or to cause to be remedied the occurrence of a Relevant Change of Law and wishes to do so, the Counterparty must give notice to the Generator, setting out details of the remedy proposed, within thirty (30) days after the later of the date of receipt of the Notice of Relevant Change of Law and the date of the receipt by the Counterparty of the further supporting particulars referred to in Section 15.3(a). If the Counterparty gives such notice, the Counterparty must remedy or cause to be remedied the Relevant Change of Law within one hundred and eighty (180) days after such notice to the Generator. If the Counterparty remedies or causes to be remedied the Relevant Change of Law in accordance with the preceding sentence, the Generator shall have the right to obtain, without duplication, the amount that the Generator would have the right to claim in respect of that Relevant Change of Law pursuant to Section 15.2, adjusted to apply only to the period commencing on the first day following the date of the Relevant Change of Law and expiring on the day preceding the day on which the Relevant Change of Law was remedied. If the Counterparty gives such notice that it will remedy or cause to be remedied the Relevant Change of Law, the Counterparty may not dispute the occurrence of the Relevant Change of Law.

15.5 Scope of Remedy for Relevant Change of Law

Subject to Section 18.3, it is understood, for greater certainty, that the rights of the Generator under this Article 15 may be exercised each time a Relevant Change of Law occurs.

15.6 Economically Advantageous Alternatives

If the Generator is entitled to a Contract Price Adjustment pursuant to Sections 15.2 and 15.3 and the amount of such adjustment results in the determination by the Counterparty, acting reasonably, that there are one or more economically advantageous alternatives for the long-term supply of base load electricity in the Province of Ontario than continuing with the Refurbishment or the operation of the Units following the implementation of such Contract Price Adjustment, then the Counterparty may give notice to the Generator of such determination. The Counterparty must give such notice to the Generator within ninety (90) days after the date on which the Parties have agreed upon the Relevant Change of Law Compensation and the amount of the Contract Price Adjustment related thereto or the date of determination pursuant to Section 15.3(c) or 15.3(d) of any dispute in respect thereof, as applicable. The Counterparty shall provide to the Generator at the time that it delivers such notice such information as may be reasonably required to verify that there exists such more economically advantageous alternatives. Within twenty (20) Business Days of the Generator's receipt of such notice and information, a Senior Conference shall be held to discuss the Counterparty's determination that such more economically advantageous alternatives exist. The Parties will consider and discuss, both acting reasonably and in good faith, whether or not

to amend the terms and conditions of this Agreement to mitigate the effect of the Relevant Change of Law so that the economic effects to the Province of Ontario of continuing the Refurbishment or operation of the Units are of equal economic effect to such alternatives while preserving the Generator's economic position that it would have been in after the Contract Price Adjustment pursuant to Sections 15.2 and 15.3 had occurred. For greater certainty, neither Party shall be obligated to agree to any such amendment of this Agreement and no matter arising from a dispute or disagreement related to any such proposed amendment other than a failure of a party to act in good faith will be subject to the commencement of dispute resolution hereunder; provided that the sole jurisdiction of the Arbitral Tribunal with respect to any dispute arising with respect to this Section 15.6 shall be to determine whether a Party acted in good faith in its considerations as to whether to amend the terms and conditions of this Agreement and in that regard the arbitrator may only (i) make a finding that a Party did not act in good faith, (ii) order the Party found not to have acted in good faith to enter into good faith discussions as provided in this Section 15.6 with the other Party, and (iii) award costs in respect of the arbitration. For certainty, the Arbitral Tribunal shall not be entitled in respect of the subject matter of this Section 15.6 to order by its judgment that the terms of the Agreement be amended or, except for costs in respect of the arbitration, that any compensation be paid by one Party to the other. If an Arbitral Tribunal finds that a Party has not acted in good faith, the other Party may, notwithstanding any other provision hereof, disclose to the public the nature of the dispute and the fact that such Party has not acted in good faith.

15.7 Material Adverse External Change

- (a) If the Generator determines that a Material Adverse External Change has occurred, the Generator may give notice to the Counterparty of such determination. If the Generator wishes to give such notice, the Generator must give such notice to the Counterparty within six (6) months after the date a senior officer of the Generator has become aware of such change and that such change is likely to lead to a Material Adverse External Change. The Generator shall provide to the Counterparty within sixty (60) days after it delivers such notice such information as may be reasonably required to confirm the Material Adverse External Change and the impact thereof on the Generator. Within twenty (20) Business Days of the Counterparty's receipt of such information, a Senior Conference shall be held to discuss the Generator's claim of a Material Adverse External Change. The Parties will consider and discuss, each acting reasonably and in good faith, whether or not to amend the terms and conditions of this Agreement as a result of such Material Adverse External Change so that the Generator is in No Better or Worse Position than it would have been in had the Material Adverse External Change not occurred. For greater certainty, neither Party shall be obligated to agree to any such amendment of this Agreement and no matter arising from a dispute or disagreement related to any such proposed amendment other than a failure of a Party to act in good faith will be subject to the commencement of dispute resolution hereunder pursuant to Section 18.2(b) and Exhibit 18.2, provided that the sole jurisdiction of the Arbitral Tribunal with respect to any dispute arising with respect to this Section 15.7 shall be to determine whether a Party acted in good faith in its considerations as to whether to amend the terms and conditions of this Agreement and in that regard the Arbitral Tribunal may only (i) make a finding that a Party did not act in good faith, (ii) order the Party found not to have acted in good faith to enter into good faith discussions as provided in this Section 15.7 with the other Party, and (iii) award costs in respect of the arbitration. For certainty, the Arbitral Tribunal shall not be

entitled in respect of the subject matter of this Section 15.7 to order by its judgment that the terms of the Agreement be amended or, except for costs in respect of the arbitration, that any compensation be paid by one Party to the other. If an Arbitral Tribunal finds that a Party has not acted in good faith, the other Party may, notwithstanding any other provision hereof, disclose to the public the nature of the dispute and the fact that such Party has not acted in good faith.

- (b) If the Parties agree to amend the terms and conditions of this Agreement to address the occurrence of a Material Adverse External Change and the change thereafter ceases to affect the Generator, the Parties will thereafter amend this Agreement to reverse the change in the terms and conditions of this Agreement agreed by the Parties to address such Material Adverse External Change with effect from the time of such later amendment and without affecting any amounts paid or payable to the Generator prior to such amendment to reverse the changes, provided that if the Material Adverse External Change thereafter re-occurs the Generator may again make use of the provisions of this Section 15.7.

ARTICLE 16

LIABILITY

16.1 Exclusion of Consequential Damages

Notwithstanding anything contained herein to the contrary, neither Party will be liable under this Agreement or under any cause of action relating to the subject matter of this Agreement for any special, indirect, incidental, punitive, exemplary or consequential damages, including loss of profits (save and except as provided in Sections 11.5, 14.2 and 15.2 in each case, with respect to loss of profits only and as provided in Section 16.2), loss of use of any property or claims of customers or contractors of the Parties for any such damages or the cost of the Counterparty or the Province of Ontario procuring alternative or replacement Electricity, Dynamic Capabilities or Related Products.

16.2 Liquidated Damages

Nothing in this Article shall reduce a Party's right to claim liquidated damages pursuant to Section 2.10 or Section 11.2(a)(iii), an Early Termination Payment pursuant to Sections 11.2, 11.4 or 11.5, Discriminatory Action Compensation pursuant to Sections 15.2 and 15.3 or Relevant Change of Law Compensation pursuant to Sections 15.2 and 15.3. The Parties agree that the payment of liquidated damages pursuant to Section 2.10, the Early Termination Payment pursuant to Sections 11.2, 11.4 or 11.5, Discriminatory Action Compensation pursuant to Sections 15.2 or 15.3 or Relevant Change of Law Compensation pursuant to Sections 15.2 or 15.3, constitutes a fair and reasonable means of compensation, and a genuine attempt to pre-estimate damages in circumstances where damages are otherwise incapable of being determined or difficult to determine, as a consequence of failure to achieve Commercial Operation by a Milestone Date or an Early Termination Date, or as a consequence of Discriminatory Action or a Relevant Change of Law, as applicable, and does not constitute a penalty.

16.3 Indemnification

- (a) The Generator agrees to indemnify, defend and hold harmless the Counterparty Indemnitees in respect of all actions, causes of action, suits, proceedings, claims, demands, losses, damages, penalties, fines, costs, obligations and liabilities arising out of a discharge of any contaminant into the natural environment, at or related to the Units or for which the Generator is culpable, and any fines or orders of any kind that may be levied or made in connection therewith pursuant to the *Environmental Protection Act* (Ontario), the *Ontario Water Resources Act* or the *Dangerous Goods Transportation Act* (Ontario) or other similar legislation, whether federal or provincial, except to the degree that such discharge shall have been due to the negligence or wilful misconduct of the Counterparty Indemnitees.
- (b) In addition to the indemnities provided by the Generator in Section 16.3(a), the Generator shall indemnify, defend and hold the Counterparty and its directors, officers, employees, members, advisors and agents (including contractors and their employees) (collectively, the “**Counterparty Indemnitees**”) harmless from and against any and all claims, demands, suits, losses, damages, liabilities, penalties, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest on, any and all actions, suits, proceedings, assessments, judgments, settlements and compromises relating thereto and reasonable lawyers’ fees and reasonable disbursements in connection therewith) (each, an “**Indemnifiable Loss**”), asserted against or suffered by the Counterparty Indemnitees in respect of such assertion and relating to, in connection with, resulting from, or arising out of any breach by the Generator of any representations contained in Section 7.1 and covenants contained in this Agreement, except to the extent that any injury or damage is attributable to the negligence or wilful misconduct of any of the Counterparty Indemnitees. For greater certainty, in the event of contributory negligence or other fault of any of the Counterparty Indemnitees, then such Counterparty Indemnitee shall not be indemnified hereunder in the proportion that the Counterparty Indemnitee’s negligence or other fault contributed to any Indemnifiable Loss.
- (c) Notwithstanding any other provisions hereof, including Sections 16.3(a) and 16.3(b), the Generator shall not be liable for and does not indemnify pursuant to the terms hereof, any Indemnifiable Loss asserted against or suffered by the Counterparty Indemnitees, to the extent acting in the capacity of the System Operator.
- (d) The Counterparty shall indemnify, defend and hold the Generator, its Limited Partners, advisors and agents (including contractors and subcontractors (of any tier) and their respective employees) and its general partner’s directors, officers and employees (collectively, the “**Generator Indemnitees**”) harmless from and against any and all Indemnifiable Losses asserted against or suffered by any of the Generator Indemnitees relating to, in connection with, resulting from, or arising out of the exercise of the Counterparty’s rights of access under Section 3.8, except to the extent that any injury or damage is attributable to the gross negligence or wilful misconduct of any of the Generator Indemnitees. For greater certainty, in the event of contributory gross negligence or wilful misconduct of any of the Generator Indemnitees, then the Generator Indemnitee shall not be

indemnified hereunder in the proportion that the Generator Indemnitee's gross negligence or wilful misconduct contributed to any Indemnifiable Loss.

16.4 Defence of Claims

- (a) Promptly after receipt by a Counterparty Indemnitee of any claim or notice of the commencement of any action, administrative or legal proceeding, or investigation by a Person other than a Counterparty Indemnitee as to which indemnity provided for in Section 16.3 may apply, and promptly after receipt by a Generator Indemnitee of any claim or notice of the commencement of any action, administrative or legal proceeding, or investigation by a Person other than a Generator Indemnitee as to which an indemnity provided for in Section 16.3(d) may apply, the Counterparty, in the case of a Counterparty Indemnitee, or the Generator, in the case of a Generator Indemnitee, shall notify the Party (the **"Indemnifying Party"**) that has provided an indemnity hereunder to such Indemnitee in writing of such fact, but in any event such notice shall not be given later than twenty (20) days after such Indemnitee's receipt of such claim or notice unless provision of such notice after such twenty (20) days does not prejudice the defence of the claim. Such notice shall describe the nature of the action, proceeding or investigation in reasonable detail and shall indicate the amount or, if the amount is not then determinable, an appropriate and reasonable estimate of the potential amount of the Indemnifiable Loss that has been or may be sustained by the Indemnitees. The Indemnifying Party shall assume the defence thereof with counsel designated by the Indemnifying Party and satisfactory to the affected Indemnitees, acting reasonably; provided, however, that if the defendants (including any added third or impleaded party) in any such action include both the Indemnitees (or any of them) and the Indemnifying Party and the Indemnitees shall have reasonably concluded that there may be legal defences available to them which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnitees shall have the right to select separate counsel satisfactory to the Indemnifying Party, acting reasonably, to participate in the defence of such action on behalf of the Indemnitees and the Indemnifying Party shall be liable to pay the reasonable fees and disbursements of such separate counsel. If not represented by separate counsel, the Indemnitees shall cooperate in good faith with the Indemnifying Party in defence of any action, proceeding or investigation at the expense of the Indemnifying Party, but without charging the Indemnifying Party for the time incurred by such Indemnitees attributable to such cooperation.
- (b) The Indemnifying Party shall promptly confirm whether or not it is assuming the defence of the Indemnitees under Section 16.4(a) by providing notice to the Indemnitees. Such notice shall be provided no later than five (5) days prior to the deadline for responding to any claim relating to any Indemnifiable Loss. Upon providing notice that it has assumed such defence, the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnitees in connection with the defence of such action, proceeding or investigation, unless the Indemnifying Party does not promptly assume the defence of the claim (in which case the provisions of Section 16.4(c) shall apply), the Indemnitees and the Indemnifying Party shall have mutually agreed to the retention of separate counsel or the Indemnitees have retained separate counsel pursuant to Section 16.4(a), in each of which cases the Indemnifying Party shall not be obligated to

assume the defence of such claim on behalf of the Indemnitees. If not represented by separate counsel, the Counterparty and the Generator shall cooperate fully with each other with respect to any action, proceeding or investigation pursuant to which an Indemnatee is entitled to indemnification hereunder and shall keep each other fully advised with respect thereto.

- (c) Should any of the Indemnitees be entitled to indemnification under Section 16.3 as a result of a claim by a third party, and the Indemnifying Party fails to promptly assume the defence of such claim (which failure shall be assumed if the Indemnifying Party fails to provide the notice prescribed by Section 16.4(b)), the Indemnitees shall, at the expense of the Indemnifying Party, contest (or, with the prior written consent of the Indemnifying Party, settle) such claim, provided that no such contest need be made and settlement or full payment of any such claim may be made without consent of the Indemnifying Party (with the Indemnifying Party remaining obligated to indemnify the Indemnitees for any Indemnifiable Loss arising from a third party claim under Section 16.3, as applicable), if, in the written opinion of an independent third party counsel chosen by the Parties, such claim is meritorious. If the Indemnifying Party is obligated to indemnify any Indemnitees for any Indemnifiable Loss arising from a third party claim under Section 16.3, the amount owing to the Indemnitees will be the amount of such Indemnitees' actual out-of-pocket loss net of any insurance proceeds received or other recovery.

ARTICLE 17

NOTICES

17.1 Notices

All notices pertaining to this Agreement not explicitly permitted to be in a form other than writing shall be in writing and shall be given by email or other means of electronic transmission or by hand or courier delivery. Notwithstanding the foregoing, any notices of a Generator Event of Default, a Counterparty Event of Default and termination of this Agreement shall only be given by hand or courier delivery. Any notice shall be addressed to the applicable Party as set forth in Section 17.1 of the 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. Either Party may, by notice to the others, change its respective address to which or persons to whom notices are to be sent.

No communication delivered pursuant to this Agreement shall be deemed for any purpose to be a communication to the System Operator pursuant to the IESO Market Rules.

ARTICLE 18 MISCELLANEOUS

18.1 Informal Dispute Resolution

If any dispute arises under or in connection with this Agreement that the Parties cannot resolve, each of the Parties shall promptly advise its senior management, in writing, of such dispute and notify each other 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 of the Generator and Vice-President or higher of the Counterparty) from each 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, either Party may require the dispute to be settled pursuant to Section 18.2.

18.2 Formal Dispute Resolution

- (a) Except as otherwise specifically provided for in this Agreement, including Sections 1.8(b), 1.10(a), 1.10(c), 2.4(d), 2.4(e), 2.6(i), 2.6(j), 2.8, 2.18(e)(ii), 3.2(c), 3.5(c), 4.7(b), 9.3, 15.2 and 15.6 and except as the Parties may otherwise agree pursuant to Section 18.2(b), any controversy, question, claim or other dispute arising out of or relating to this Agreement shall be decided by proceedings in the courts of the Province of Ontario; provided, however, that (i) unless expressly provided otherwise in this Agreement, the Parties have first completed a Senior Conference pursuant to Section 18.1 before commencing any such proceedings; and (ii) if the result of the provisions of this Section 18.2 would be that the subject matter of any such controversy, question, claim or other dispute would be the subject of a proceeding in both the courts and in arbitration, the Parties shall join the determination of such matters in the courts.
- (b) Any controversy, question, claim or other dispute between the Parties arising in respect of this Agreement may, if the Parties agree in writing, or shall, if specifically provided for in this Agreement, including Sections 1.8(b), 1.10(a), 1.10(c), 2.4(d), 2.4(e), 2.6(i), 2.6(j), 2.8, 2.18(e)(ii), 3.2(c), 3.5(c), 4.7(b), 9.3, 15.2 and 15.6, be determined by arbitration in accordance with Exhibit 18.2, which sets out the sole and exclusive procedure for the resolution of any matter in issue arising in respect of this Agreement where the Parties have so agreed. The resolution of disputes pursuant to arbitration in accordance with Exhibit 18.2 shall be final and binding upon the Parties 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.
- (c) Each of the Parties acknowledges that a breach or threatened breach by either of them of any provision of this Agreement may result in the other 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 18.2 or Exhibit 18.2 shall delay or prevent either Party from seeking such relief.

- (d) To the extent there is a dispute between the Generator and OPG pursuant to the OPG Lease or an Ancillary Agreement that results in the commencement of an arbitration pursuant to the terms thereof and as a result of such dispute:
 - (i) the Counterparty will or may be obligated to incur additional costs hereunder as a direct result of the outcome of the arbitration; or
 - (ii) the Counterparty will effectively be indirectly bound by the determination of an issue arising between OPG and the Generator and same may affect the amounts payable by the Counterparty pursuant to the terms hereof;

then the Generator hereby agrees to provide notice of such dispute to the Counterparty and add the Counterparty as a party to such arbitration upon the request of the Counterparty, as contemplated by the terms of Schedule 15.1 of the OPG Lease and the Counterparty agrees to be bound by the outcome of any such dispute whether or not it elected to participate therein.

18.3 No Double Recovery

Where events, occurrences or matters may be characterized as being one or more of a Disruption Event, a Discriminatory Action, a Relevant Change of Law, Force Majeure, a Price Evolution Event, a Price Indicator Unavailability Event, an Indemnifiable Loss or an event entitling a Party to receive an Early Termination Payment:

- (a) if LMP is implemented by the System Operator, or a Price Evolution Event or a Price Indicator Unavailability Event occurs, for purposes of the determination of Discriminatory Action Compensation, or Relevant Change of Law Compensation, if applicable, any determination of a decrease of net or gross revenues pursuant to Section 1.6, Section 14.2(a)(ii) Section 15.2(a), as the case may be, shall be made after inclusion of all amounts forecast to be paid under Article 4, as adjusted by Section 1.6, 1.7, 1.8, 1.9 or 1.10, as applicable;
- (b) to the extent an event, occurrence or matter may be characterized as a Discriminatory Action and may also be characterized as Force Majeure, the intention of the Parties is that the same event, occurrence or matter may be characterized as a Discriminatory Action or Force Majeure or any combination thereof as determined by the Generator and the applicable compensation may be claimed without duplication of recovery under such heads of compensation;
- (c) to the extent that an event, occurrence or a matter may entitle the Generator to make a claim for Relevant Change of Law and Force Majeure, the intention of the Parties is that the Generator may claim the Relevant Change of Law Compensation and the sharing between the Parties of the increased costs arising from such Force Majeure, or any combination thereof as determined by the Generator without duplication of recovery under such heads of compensation, and for certainty the deductible for Relevant Change of Law pursuant to Section 15.2(b) shall apply to the Relevant Change of Law Compensation and shall not be considered an increased Refurbishment Cost for purposes of Force Majeure;
- (d) subject to Section 18.3(b), to the extent that an event, occurrence or a matter may be characterized as a Discriminatory Action and may also be characterized

as a Relevant Change of Law, the intention of the Parties is that such matter will be treated as Discriminatory Action pursuant to Section 15.1(a); provided, however, such characterization shall be without prejudice to the ability of the Generator to make a claim for Relevant Change of Law if such event, occurrence or matter is determined not to be a Discriminatory Action;

- (e) to the extent that an event, occurrence or matter may entitle the Counterparty to an Early Termination Payment and a right of indemnification from an Indemnifiable Loss under Section 16.3, the intention of the Parties is that the Counterparty shall not claim a right of indemnification under Section 16.3 and in no event shall the Counterparty seek recovery of an Indemnifiable Loss under Section 16.3 arising from a breach of covenant or representation by the Generator for which the Counterparty has sought or received an Early Termination Payment;
- (f) to the extent that an event, occurrence or a matter may be characterized as evidence entitling the Generator to an Early Termination Payment, Relevant Change of Law Compensation and Discriminatory Action Compensation, the intention of the Parties is that the Generator may claim the Early Termination Payment, Relevant Change of Law Compensation, and any Discriminatory Action Compensation or any combination thereof as determined by the Generator without duplication of recovery under any of such heads of damage for such event, occurrence or matter; and
- (g) to the extent that the Generator has included costs or duration in the Fully-Scoped Refurbishment Costs or the Fully-Scoped Refurbishment Duration of a Unit specifically attributable to a Discriminatory Action or Force Majeure that occurs prior to the Go Election for such Unit, the Generator shall not be entitled to Discriminatory Action Compensation or a Contract Price Adjustment for Force Majeure in respect of such costs or duration for such Unit.

18.4 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.

18.5 Counterparty Site Representative

The Counterparty Site Representative shall not have the authority to amend this Agreement, to waive any provision of this Agreement or to consent to or approve any matter under this Agreement on behalf of the Counterparty.

18.6 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.

18.7 Assignment

- (a) Except as contemplated in Article 13 and set out in this Section 18.7, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by either Party, including by operation of Laws and Regulations, without the prior written consent of the other Party, which consent may not be unreasonably withheld, delayed or conditioned. The Parties acknowledge that it shall not be unreasonable for the Generator to withhold its consent if the Counterparty's proposed Assignee does not have the ability pursuant to Laws and Regulations to recover all amounts paid or payable to the Generator pursuant to this Agreement directly or indirectly from Electricity consumers in the Province of Ontario or such proposed Assignee does not have the full faith and credit of the Government of Ontario supporting it. The Parties acknowledge that it shall not be unreasonable for the Counterparty to withhold its consent if the Generator's proposed Assignee has not provided the Counterparty with evidence that all consents, licences, permits and other approvals of a Governmental Authority necessary to effect such transfer have been obtained (including from the CNSC) and the Assignee or its ultimate parent is then rated at least one notch above Investment Grade (as defined in, and determined in accordance with, the Sharing in Transfers and Refinancings Agreement) by two then recognized rating agencies, or is otherwise acceptable to the Counterparty, acting reasonably.
- (b) The Generator may, subject to compliance with Laws and Regulations and provided that there is not a Generator Event of Default that has not been remedied, assign this Agreement without the consent of the Counterparty to a Limited Partner of the Generator which is a Limited Partner holding more than a 15% limited partnership interest in the Generator as at the date hereof.
- (c) 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 the 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 18.7, the other Party acknowledges and agrees that, upon such assignment and assumption and notice thereof by the assigning Party to the other Party, the assigning Party shall be relieved of and released from all its duties, obligations and liabilities hereunder.
- (d) If the Generator or the Counterparty (the "**Assignor**", as applicable) assigns this Agreement to a non-resident of Canada (the "**Assignee**"), as that term is defined in the ITA, and the other Party that is not the Assignor (the "**Original Party**") incurs any additional Taxes, including withholding Taxes, at any time thereafter, solely as the result of such assignment, then the amount of such additional Taxes shall be deducted by the Original Party from payments made to the Assignee under this Agreement and the Original Party shall remit such additional Taxes to the applicable taxing authorities. The Original Party shall within sixty (60) days after remitting such Taxes, notify the Assignee in writing, providing reasonable detail of such payment so that the Assignee may claim any applicable rebates, refunds or credits from the applicable taxing authorities. If after the Original Party has paid such amounts, the Original Party receives a

refund, rebate or credit on account of such Taxes, then the Original Party shall promptly remit such refund, rebate or credit amount to the Assignee.

18.8 Sharing in Transfers and Refinancings Agreement

The Generator and the Counterparty acknowledge that they have concurrently entered into an amended and restated Sharing in Transfers and Refinancings Agreement with TransCanada Corporation and OMERS Administration Corporation.

18.9 Opinion of Party's Counsel

Concurrently with the execution and delivery hereof, each Party shall deliver to the other Party (i) a legal opinion from a law firm acceptable to the other Party, acting reasonably, and in form and substance acceptable to the other Party, acting reasonably, that this Agreement is enforceable against the first Party in accordance with its terms and, in the case of the opinion of counsel to the Counterparty, that this Agreement is a procurement contract for purposes of the Electricity Act; and (ii) an officer's certificate addressed to such law firm and the other Party setting out the factual matters upon which such law firm is relying in order to deliver such opinion.

18.10 Survival

The provisions of Sections 1.14, 2.10(d)(i), 3.7, 4.5, 5.7, 5.8, 5.9, Article 11, Sections 13.2, 16.1, 17.1, 18.1, 18.2, 18.3, 18.7(b), 18.10 and 18.14 shall survive the expiration of the Term or earlier termination of this Agreement. The provisions of Article 8 shall survive the expiration of the Term or earlier termination of this Agreement for a period of two (2) years. The expiration of the Term or a termination of this Agreement shall not affect or prejudice any rights or obligations that have accrued or arisen under this Agreement prior to the time of expiration or termination and such rights and obligations shall survive the expiration of the Term or the termination of this Agreement for a period of time equal to the applicable statute of limitations.

18.11 References to HOEP

The Parties acknowledge that the Generator is paid the 5-minute market clearing price for Electricity delivered to the IESO-Controlled Grid from Bruce A and Bruce B for each 5-minute dispatch interval during which Electricity is so delivered. To the extent that the Generator continues to be paid such market clearing price based upon 5-minute dispatch intervals, the Parties agree that (i) references in this Agreement (including in the formulae in Exhibit 4.2) to HOEP shall be deemed to be references to such 5-minute market clearing price and (ii) references to an hour corresponding to an HOEP shall be deemed to be references to 5-minute dispatch intervals corresponding to the relevant 5-minute market clearing price, (iii) calculations of Monthly Payments and Deemed Electricity shall be made on the basis of such 5-minute market clearing prices and 5-minute dispatch intervals, and (iv) references to price signals or revenues calculated on an hourly basis on the assumption that they correspond to HOEP (including the definition of Actual Hourly Energy Payment and the day-ahead hourly Electricity price contemplated by the definition of Day Ahead Energy Forward Market) shall be deemed to be calculated on the basis of the relevant 5-minute market clearing price or 5-minute dispatch interval.

18.12 Counterparts

This Agreement may be executed in two or more counterparts, and both 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. Either Party may deliver an executed copy of this Agreement by facsimile but such Party shall promptly deliver to the other Party an originally executed copy of this Agreement.

18.13 Use of Insignia

The Generator shall not use any insignia, trade-mark or logo of the Government of Ontario or the Counterparty except where required in order to comply with its obligations hereunder, and only if it has received the prior written permission of the Government of Ontario, for use of insignia, trade-marks or logos of the Government of Ontario, or the Counterparty, for use of insignia, trade-marks or logos of the Counterparty, to do so.

18.14 Rights and Remedies Not Limited to Contract

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

18.15 Further Assurances

Each of the Parties shall, from time to time on written request of the 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. The Parties agree to promptly execute and deliver any documentation required by any Governmental Authority in connection with any termination of this Agreement.

18.16 Time of Essence

Other than for all matters relating to the Refurbishment of the Units, the timing of which is addressed in Article 2, time is of the essence in the performance of the Parties' respective obligations under this Agreement; provided, however, that any rights and remedies in respect of the Generator's failure to act on a timely basis, including in respect of Article 2, shall be governed by Sections 11.2(a)(i) and 11.2(a)(ii) and provided, however, that any remedies in respect of the Counterparty's failure to act on a timely basis shall be governed by Sections 11.4(a)(i) and 11.4(a)(ii).

18.17 Third Party Beneficiaries

Each of the Parties hereby acknowledges and agrees that the Indemnitees are third party beneficiaries of the rights of indemnification provided for under this Agreement. It is further acknowledged and agreed that the Counterparty is acting as agent and trustee for the Counterparty Indemnitees as regards the covenants of the Generator under this Agreement with respect to indemnification of the Counterparty Indemnitees, and the Generator is acting as agent and trustee for its respective Generator Indemnitees as regards the covenants of the Counterparty under this Agreement with respect to indemnification of the Generator Indemnitees.

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.**

By: _____

Name: Duncan Hawthorne
Title: President and Chief
Executive Officer

**INDEPENDENT ELECTRICITY SYSTEM
OPERATOR**

By: _____

Name: Bruce Campbell
Title: President and Chief Executive
Officer

By: _____

Name: Kevin Kelly
Title: Chief Financial Officer
and Executive Vice President,
Finance and Commercial
Services

Exhibit 1.1(a)

FORM OF BASIS OF ESTIMATE REPORT

Refer to Exhibit 1.1(a) of the Technical Schedule.

Exhibit 1.1(b)

BUILDING TRADES

Refer to Exhibit 1.1(b) of the Technical Schedule.

Exhibit 1.1(c)
FINANCIAL MODEL

Refer to Exhibit 1.1(c) of the Technical Schedule.

Exhibit 1.1(d)

CAS INSTRUCTIONS

Refer to Exhibit 1.1(d) of the Technical Schedule.

Exhibit 2.1

REFURBISHMENT WORK AND ONE-TIME COSTS

Refurbishment Work

The Refurbishment Work shall be comprised of all inspection, testing, design, engineering, construction, procurement (including the procurement of spares necessary or advisable in accordance with Good Engineering Practice for the Refurbishment Work taking into account the Fully Scoped Refurbishment Duration of the applicable Unit), management, installation, commissioning, training and all other work (including the disposition of any findings of any inspections) associated with, related to or ancillary to the scope described below which shall apply to one Refurbishment for each Unit to be Refurbished. For greater certainty, Refurbishment Work does not include any work included in Operating Costs or Asset Management Work.

(a) Replacement of Fuel Channels (Detube/Retube)

The scope of detube/retube is:

- to design, remove, inspect, procure, dispose of and install all 480 fuel channel assemblies and calandria tubes;
- inspection of the calandria and shield tank reactor structures to ensure integrity and fitness for continued service;
- calandria cleaning and debris retrieval;
- inspection of the annulus gas system;
- other than for the First Unit, repair, maintenance, upgrading, updating and refurbishment of detube/retube tooling; and
- design and procure or use of (or both) tooling required as a result of Unit specific physical difference such as the west end stop collar configuration on Unit 3.

(b) Replacement of Feeder Pipes

The scope of feeder replacement is:

- to design, remove, inspect, procure, dispose of and install all 960 PHT feeders from the grayloc mechanical joint to the PHT header nozzle;
- removal and replacement (with existing or new components) of feeder cabinets;
- removal and replacement (with existing or new components) of feeder hardware;
- removal and replacement (with existing or new components) of instrumentation and instrumentation tubing; and
- other than for the First B Unit and First A Unit, repair, maintenance, upgrading, updating and refurbishment of feeder replacement tooling.

(c) Replacement of Steam Generators

The scope of steam generator replacement is:

- to design, procure and install new steam generators (note the new steam generators have already been procured for Units 3 and 4);
- receipt, storing, handling and preparing new steam generators;

- removal and disposal of the existing steam generators;
- the removal and replacement (with existing or new components) of all interfering structures, systems and components;
- removal, inspection and refurbishment (or potentially replace) of the steam drum portion of steam generator assembly for Bruce B Units;
- inspection and refurbishment of steam drum portion of steam generator assembly for Bruce A Units; and
- inspection and disposition or replacement of steam generator containment bellows.

(d) Bulkheads Installation and Removal

The scope of the bulkheads installation and removal is:

- structure modifications to support bulkhead panels load;
- removal of interferences to support installation;
- design, fabrication and installation of bulkhead panels;
- design, fabrication and installation of box beam;
- design and install filling in floor structure and floor ramps;
- testing vault pressure after vault isolation;
- testing vault pressure before bulkhead removal;
- bulkhead removal and disposal; and
- replacement of interferences (with existing or new components) after bulkhead removal.

(e) Enabling, Associated and Other Work

The scope of the enabling, associated and other work is comprised of the following for one Refurbishment of each Unit to be Refurbished:

(i) Program Controls Office (the "PCO")

The scope of the PCO is:

- provision by the PCO of project management support services required or advisable in accordance with Good Engineering Practices including oversight, audit, estimating, scheduling, cost planning and controlling, budget forecasting, risk assessment, reporting, change control support services, legal and claims management services, commercial support, operations and work management functions, quality assurance, quality control and management and interface with portions of the Generator's business that supports the Refurbishment;
- PCO management and oversight to address adherence to standard industry approach for project management; and
- PCO management and oversight to address alignment to evolving industry best practice, including alignment with the Generator's process and procedures.

(ii) Lead In and Lead Out

The scope of lead in is all of the enabling or associated work required or advisable in accordance with Good Engineering Practice to safely take each Unit

from an operational state to a state that allows the Refurbishment Work to be executed, comprised of:

- fuelling duct and vault radiation surveys and laser mapping of the entire vault for purposes of the Refurbishment;
- defuelling the reactor and system lay-up;
- vault readiness maintenance (e.g., airlocks and breathing air);
- installation of temporary air conditioning and munter;
- installation of vault vapour recovery (VVR) bypass;
- refurbishment of fuel machine bridge;
- refurbishment of carriage; and
- removal and re-installation of reactor area bridge (RAB) ball screws to address potential interferences with retube or feeder work platform.

The scope of lead out is all of the enabling or associated work required or advisable in accordance with Good Engineering Practice to place the Unit in a safe state to allow for commissioning and to synchronize the Unit with the IESO-Controlled Grid following Refurbishment of such Unit, comprised of:

- return to service and commissioning of all systems;
- completion of a full core refuel with new fuel bundles;
- re-establishment of the containment structure; and
- completion of a final series of tests before returning the Unit to operational control.

(iii) Primary Heat Transport System ("PHT") Drain and Dry

The scope of PHT drain and dry is all work required or advisable in accordance with Good Engineering Practice to place the PHT system and associated auxiliaries in a state that supports the safe completion of the Refurbishment comprised of:

- draining and storage of the PHT heavy water for the required Refurbishment Outage; and
- drying and recovering the residual PHT heavy water for the required Refurbishment Outage.

(iv) Moderator System Drain and Dry

The scope of moderator system drain and dry is all work required or advisable in accordance with Good Engineering Practice to place the moderator and associated auxiliaries in a state that supports the safe completion of the Refurbishment, comprised of:

- draining and storage of the moderator heavy water from the main moderator, moderator purification, moderator cover gas, moderator collection and moderator liquid poison systems for the required Refurbishment Outage; and
- drying and recovering the residual moderator heavy water from the main moderator, moderator purification, moderator cover gas, moderator collection and moderator liquid poison systems for the required Refurbishment Outage.

(v) Unit Specific Facilities and Infrastructure

The scope of Unit specific facilities and infrastructure is to provide the following incremental facilities and infrastructure required or advisable in accordance with Good Engineering Practice to meet the requirements of the Refurbishment of a Unit, comprised of:

- Electrical power supplies and jumpers:
 - provision of EVEN and ODD electrical power for tools, welding and control equipment;
 - maintenance and refurbishment of the equipment required for the provision of electrical power;
 - provision of EVEN or ODD temporary power jumpers to supply alternate power to the loads to support the maintenance of the electrical equipment;
 - design, materials for, and construction of the initial equipment required for the provision of EVEN and ODD electrical power;
 - design, materials for, and construction of the initial equipment required for the provision of EVEN or ODD temporary power jumpers;
 - design, materials for, and construction of the initial equipment required for the provision of temporary lighting;
 - maintenance and refurbishment of the equipment required for the provision of temporary power jumpers;
 - installation of equipment required for the provision of temporary lighting; and
 - maintenance and refurbishment of the equipment required for the provision of temporary lighting.
- Information technology (IT) and workstations:
 - installation, maintenance, refurbishment, and relocation or replacement of IT infrastructure and hardware;
 - software license fees;
 - IT support services including troubleshooting and user profile management;
 - procurement of standard office equipment including desks, chairs, and phones;
 - maintenance and refurbishment or replacement of standard office equipment including desks, chairs, and phones;
 - upgrades required for IT infrastructure and backbones; and
 - procurement of IT hardware.
- Temporary facilities and modifications:
 - installation and maintenance of temporary or leased space for offices, workshops for maintenance and fabrication areas, laydown and storage areas, lunch areas, locker areas, mock up and training facilities;
 - provision and maintenance of temporary or portable decontamination facilities;
 - temporary modifications to security fencing;

- temporary modifications to station ingress or egress equipment; and
- temporary modifications to roadways and parking lots.

(vi) Balance of Plant

The scope of balance of plant is all work required or advisable in accordance with Good Engineering Practice to execute the following fifteen projects:

- preheater inspections;
- inspection of PHT pumps and replacements of seals;
- PHT valves – refurbishment of 33120-MV23;
- replacement of PHT pump seal bellows;
- replacement of PHT feed, bleed and relief control system;
- replacement of control distribution frame (CDF) terminals;
- inspection of PHT snubbers;
- internal inspection of pressurizer and supports;
- replacement of catalyst in liquid zone control (LZC) recombiner unit;
- implementation of the inspection program for turbines and auxiliaries;
- inspections of feedwater heaters;
- turbine valve refurbishment;
- inspections of moderator cover gas recombiner and replacement of catalyst;
- installation of moderator purification commissioning filter; and
- installation of in Core Fission Chambers for new core start-up instrumentation.

(vii) Waste Management and Project Demobilization

The scope of waste management and project demobilization is comprised of:

- management and disposal of the radioactive wastes related to the reactor components, feeders, steam generators, bulkheads and infrastructure waste arising from the Refurbishment Work; and
- management and disposal of radioactive and non-radioactive wastes (conventional and hazardous wastes) arising from the Refurbishment Work.

(viii) Radiation Protection Improvements

The scope of radiation protection improvements is to consider and execute source term reduction through a PHT decontamination and execute inlet header shielding, reactor face shielding, low-dose areas, reactor face shielding canopies, containment isolation and improved training programs.

One-Time Costs

The One-Time Costs described below includes all testing, design, engineering, construction, manufacturing, procurement (including the procurement of spares necessary or desirable in accordance with Good Engineering Practice for the Refurbishment Work taking into account the Fully Scoped Refurbishment Duration of the applicable Unit), management, installation, commissioning, training, and all other work associated with, or related to or ancillary to, the scope described below.

The One-Time Costs refer to the following Refurbishment Costs required or advisable in accordance with Good Engineering Practice for the Refurbishment Work:

- (i) if such Unit is the First Unit, the design and procurement or use (or both) of, and all repair and maintenance of, detube/retube tooling, subject to the limitations set forth in the definition of "One-Time Costs";
- (ii) if such Unit is the first Bruce A Unit to be Refurbished, the design and procurement or use (or both) of, and all repair and maintenance of, feeder tooling and all centralized and common facilities and infrastructure for the refurbishment of the Bruce A Units; and
- (iii) if such Unit is the first Bruce B Unit to be Refurbished, the design and procurement or use (or both) of, and all repair and maintenance of, feeder tooling and all centralized and common facilities and infrastructure for the refurbishment of the Bruce B Units.

For the purposes of the scope for One Time Costs, "centralized and common facilities and infrastructure" means the following facilities and infrastructure which is required or advisable in accordance with Good Engineering Practices for multiple Refurbishments:

- design and refurbishment or replacement of existing site structures to provide space for offices, workshops, storage areas, lunch areas, locker areas, mock up and training facilities;
- design, construction and installation of facilities for the management and control of the detube/retube work such as the retube control centre
- design, construction and installation or lease of new structures to provide space for offices, workshops, storage areas, lunch areas, locker areas, mock up and training facilities;
- design and installation of simulator upgrades;
- design and installation of permanent decontamination facilities;
- permanent modifications to security fencing;
- permanent modifications of station ingress or egress points or equipment; and
- permanent modifications to roadways and parking lots.

Exhibit 2.4(d)

ACCELERATED DISPUTE RESOLUTION

If the Generator has provided to the Counterparty a Generator Accelerated Dispute Notice in accordance with Sections 2.4(d) or 2.4(e), or both, then a binding and mandatory arbitration (an “**Accelerated Dispute Resolution**”) will be conducted and any dispute subject to such Accelerated Dispute Resolution (an “**Accelerated Dispute**”) shall be determined in accordance with the accelerated dispute resolution procedures set out in this Exhibit 2.4(d) (“**Accelerated Dispute Resolution**”).

1. Within fourteen (14) days from the receipt of the applicable Generator Accelerated Dispute Notice, the Counterparty shall provide to the Generator a notice describing the reasons (the “**Counterparty Decision Reasons**”) for the Counterparty’s disagreement with the Generator regarding any of the following:
 - (a) that a Prior Unit Cost Divergence or a Prior Unit Duration Divergence is Beneficial to the Ratepayer;
 - (b) that the Generator is entitled to a Prior Unit Cost Divergence specified in clause (h) of the definition of Adjusted Prior Unit Cost; and
 - (c) that the Generator is entitled to a Prior Unit Duration Divergence specified in paragraph (g) of the definition of Adjusted Prior Unit Duration.
2. Within ten (10) days after receipt by the Generator of the Counterparty Decision Reasons, the Parties shall provide to the other Party a brief (each a “**Dispute Brief**”) setting out such Party’s remedy (a “**Remedy**”), being either the amount of the Prior Unit Cost Divergence or the period of the Prior Unit Duration Divergence subject to the Accelerated Dispute, and in either or both cases stating the Inputs arising therefrom that would be necessary to determine the Contract Price Adjustment arising therefrom, and containing all the additional information and data supporting such Party’s position, including whether a Prior Unit Cost Divergence or a Prior Unit Duration Divergence is Beneficial to the Ratepayer. No later than five (5) days after the delivery of their respective Dispute Briefs, the parties shall attend a meeting at a mutually acceptable time and place to discuss the Accelerated Dispute and attempt to come to a resolution. If at such meeting either Party wishes to modify its Dispute Brief in any way, any such modifications shall be provided for by the Parties so that when each Party finalizes and submits its Dispute Brief it shall do so with full knowledge of the content of the other Party’s final Dispute Brief. The finalization of such Dispute Briefs and the delivery of same by each Party to the other Party shall occur at the meeting unless by mutual agreement the Parties agree that they may deliver finalized Dispute Briefs after the close of the meeting or agree to have one or more additional meetings for such purposes. No such additional meetings will take place more than twenty (20) days following receipt by the Generator of the Counterparty Decision Reasons; provided, however, the time period provided for in Clause 5 of this Exhibit 2.4(d) will be extended by the period of time that the last of any such additional meetings occur within such twenty (20) day period.
3. It is the intent of the Parties that, to the extent practicable, an Accelerated Dispute Resolution shall be conducted by an individual knowledgeable and experienced in

commercial litigation. The arbitrator of an Accelerated Dispute (the “**Arbitrator**”) shall be chosen in accordance with the following procedure:

- (a) The Parties shall, within three (3) Business Days, select an individual to act as Arbitrator by mutual agreement.
 - (b) If the Parties cannot agree on an Arbitrator pursuant to Clause 3(a) of this Exhibit, then the Arbitrator will be selected by the ADR Chambers. ADR Chambers shall be instructed to select an Arbitrator who shall not have any current or past business or financial relationships with any Party (except prior arbitration), is knowledgeable and experienced in commercial litigation, and is available to serve as the Arbitrator of the Accelerated Dispute Resolution and able to deliver a Decision within the time limit provided for in Clause 5 of this Exhibit 2.4(d) (as such time limit may be extended pursuant to this Exhibit).
 - (c) The Parties agree that the steps provided for in Clause 3(a) or, if necessary, Clause 3(b), shall be completed within ten (10) days following the final meeting of the Parties held pursuant to Clause 2 of this Exhibit.
4. Within one (1) day after the Parties have selected an Arbitrator pursuant to Clause 3 of this Exhibit, each Party shall submit its Dispute Brief to the Arbitrator.
5. Upon receipt by the Arbitrator of each Party’s Dispute Brief, the Arbitrator shall, as expeditiously as possible and in any event no later than sixty (60) days following the date of delivery by the Generator to the Counterparty of the Generator Accelerated Dispute Notice commencing the Accelerated Dispute Resolution for a particular Accelerated Dispute, unless the Parties otherwise agree, render a decision (the “**Decision**”) on the Accelerated Dispute and shall notify the Parties in writing of such decision and the reasons therefor. If one of the Parties does not deliver a Dispute Brief to the Arbitrator, the Arbitrator shall nonetheless proceed to provide a Decision. In the Decision, the Arbitrator shall be required to select one Remedy from the Dispute Briefs delivered and shall have no power whatsoever to reach any other result. Aside from selecting one Remedy or the other, the Arbitrator shall have no power to modify or change the Adjusted Prior Unit Cost or the Adjusted Prior Unit Duration that was the subject of an Accelerated Dispute. The Arbitrator shall select the Remedy in the Dispute Brief that in its judgment most closely meets the principles set out in Sections 2.4(d) and 2.4(e) of the Agreement. Subject to adjustments made in accordance with Clause 8(e) of this Exhibit, each Party shall bear (and be solely responsible for) its own costs incurred during the arbitration process, and each Party shall bear (and be solely responsible for) an equal share of the costs of the Arbitrator.
6. An Accelerated Dispute Resolution, including the rendering of a Decision, shall take place in Toronto, Ontario, which shall be the location of the arbitral proceedings. The language to be used in an Accelerated Dispute Resolution shall be English. A Decision shall be conclusive, final and binding upon the Parties, with no right of appeal, even on a question of law.
7. The Arbitrator will be permitted to engage its own independent technical expert to assist the Arbitrator in the determination of the Accelerated Dispute as the Arbitrator may deem necessary in the Arbitrator’s sole opinion. The Arbitrator will only select a technical

expert that has no current or past business or financial relationship with either of the Parties. Costs of the technical expert will be shared equally by the Parties.

8. Notwithstanding Clause 5 of this Exhibit, either the Arbitrator may order, or the Counterparty may request, an extension of the sixty (60) day period within which to complete an Accelerated Dispute Resolution by up to an additional 3 months (the “**ADR Extension Period**”). In the case of such an order (provided that such order was not made by the Arbitrator as a result of the Generator’s failure to comply with its obligations under an Accelerated Dispute Resolution) or request:
 - (a) the Generator will be deemed to have agreed to such order or request;
 - (b) the Generator will be deemed to have been delayed in its performance of the Refurbishment of the Unit that is the subject of the Accelerated Dispute for a period of time equal to the ADR Extension Period;
 - (c) the Refurbishment Lock-In Date, the Scheduled Refurbishment Outage Date, the Milestone Date and each other milestone date in the Agreement related to the subject Unit, including those set out in Section 10.2(a) will be postponed on a day-for-day basis for a period of time equal to the ADR Extension Period;
 - (d) the Generator will be relieved of its obligations with respect to the subject Unit (other than payment obligations) during such ADR Extension Period; and
 - (e) if such Accelerated Dispute is resolved by decision of the Arbitrator pursuant to an Accelerated Dispute Resolution, and:
 - (i) the Generator’s position is chosen by the Arbitrator, (A) the Contract Price will be adjusted for the amount of any increase in Refurbishment Costs arising as a result of such ADR Extension Period, and (B) the Counterparty shall pay to the Generator within sixty (60) days the Generator’s costs and expenses incurred in respect of such Accelerated Dispute, which costs shall include all reasonable legal fees and out-of-pocket expenses incurred by the Generator in respect of such Accelerated Dispute, including the Generator’s share of the Arbitrator’s fees and costs; and
 - (ii) the Counterparty’s position is chosen by the Arbitrator, the Generator shall pay to the Counterparty within sixty (60) days the Counterparty’s costs and expenses incurred in respect of such Accelerated Dispute, which costs shall include all reasonable legal fees and out-of-pocket expenses incurred by the Counterparty in respect of such Accelerated Dispute, including the Counterparty’s share of the Arbitrator’s fees and costs.
9. If the amount of any increase in cost or duration that is the subject of an Accelerated Dispute Resolution, including by reason of an ADR Extension Period, has caused the Counterparty Cost Threshold or the Counterparty Duration Threshold, or both, to be exceeded such that in the absence of such Accelerated Dispute the Counterparty or the Generator would have been entitled to make an election not to proceed pursuant to Section 9.1(a) or 9.1(b), then by commencing such Accelerated Dispute Resolution the

Counterparty will be deemed to have waived its right to elect not to proceed with the Refurbishment of the subject Unit pursuant to Section 9.1(a).

Exhibit 2.11(a)**ASSET MANAGEMENT WORK**

In respect of the components and systems listed below, the activities, including any one or more of inspection, refurbishment, upgrade, testing and replacement of such components and systems, advisable in accordance with Good Engineering Practices for such systems and components to enable the operation of Units 3 to 8, inclusive, for the assumed operating lives thereof following their respective Refurbishment; provided, however, such Asset Management Work activities will not include the refurbishment or replacement of any particular component or system more than once (for certainty, the Generator shall be entitled to refurbish or replace a particular component, but shall not be entitled to refurbish and replace a particular component). Notwithstanding that the names of such systems and components may be similar or identical to the names of the work specified in Exhibit 2.1, Asset Management Work does not include Refurbishment Work. Asset Management Work will not be undertaken after the dates with respect to the Units set out in Exhibit 2.11(a) of the Technical Schedule.

An asterisk (*) beside the name of a component or system listed below indicates components and systems for which the Generator has determined that Asset Management Work is not currently required to be planned and, therefore, for which the Initial Lifetime Asset Management Plan has no associated entry. This determination has been made pursuant to the Generator's asset management process, which includes assessing the condition of the system or component and its ability to fulfil its required function until the associated Unit's Expected End-of-Life Date. Routine inspection and testing (for certainty, not comprising Asset Management Work and therefore not included in Asset Management Costs) or other operational experience or activities may reveal the need for Asset Management Work in respect of such components or systems. In such circumstances, such necessary Asset Management Work will be included in a subsequent updated Lifetime Asset Management Plan delivered pursuant to Section 2.11.

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
Air Systems and Compressors								
Breathing Air Compressors and Dryers	X	X						
Service Air/ Instrument Air Compressors and Dryers	X	X	X	X	X	X	X	X
Annulus Gas Compressors*			X	X	X	X	X	X
Liquid Zone Control Compressors*			X	X	X	X	X	X
Moderator Cover Gas Compressors			X	X	X	X	X	X
Battery Banks								
250Vdc Battery Banks	X	X	X	X	X	X	X	X
Buildings and Structures								
Cooling Water Intake Structure*	X	X						
Fuel Bays	X	X						
Powerhouse Siding	X	X						
Vacuum Building Roof Seal	X	X						

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
PHT Pump base structure*			X	X				
Reactivity Mechanism Deck Seal*			X	X	X	X	X	X
Turbine Tables*			X	X	X	X	X	X
Buses, Switches and Switchgear								
13.8kV Switchgear Buses	X	X	X	X	X	X	X	X
13.8 kV Transfer Buses	X	X						
13.8kV SST & UST Bus Ducts	X	X	X	X	X	X	X	X
250Vdc Switchgear and Buses	X	X	X	X	X	X	X	X
4.16kV Switchgear Buses	X	X	X	X	X	X	X	X
600Vac Switchgear Buses	X	X	X	X	X	X	X	X
EPS Switchgear Buses		X						
QPS Distribution Equipment*			X	X				
Calandria and Shield Tank Assembly								
Calandria Relief Ducts			X	X	X	X	X	X
Shield Tank Containment Seal*			X	X	X	X	X	X
Circuit Breakers								
Medium Voltage Circuit Breakers	X	X	X	X	X	X	X	X
250Vdc Circuit Breakers	X	X	X	X	X	X	X	X
600V Circuit Breakers	X	X	X	X	X	X	X	X
13kV Circuit Breakers	X							
Computer Systems								
SSMC MP100s	X	X	X	X	X	X	X	X
SSMC MP200s	X	X	X	X	X	X	X	X
DCC Analog Inputs			X	X	X	X	X	X
DCC Cables and WIBAs			X	X	X	X	X	X
DCC Displays			X	X	X	X	X	X
DCC Scanners	X	X	X	X	X	X	X	X
DCC Varian V72 Computers			X	X	X	X	X	X
Cranes								
FMMA Shop Crane	X	X						
Primary Irradiated Fuel Bay Crane	X	X						
Secondary Irradiated Fuel Bay Crane	X	X						

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
SIFB Dry Storage Crane	X	X						
Turbine Hall Cranes	X	X						
Reactivity Deck Cranes			X	X	X	X	X	X
Vault Cranes			X	X	X	X	X	X
D2O Upgraders								
Heavy Water Upgrader Distillation Towers*	X	X						
Heavy Water Upgrader Support Equipment	X	X						
Electrical Cables								
EQ Cables	X	X	X	X	X	X	X	X
High Voltage Power Cables	X	X	X	X	X	X	X	X
I&C Cables*	X	X	X	X	X	X	X	X
Low Voltage Power Cables	X	X	X	X	X	X	X	X
Medium Voltage Power Cables	X	X	X	X	X	X	X	X
Fuel Route								
CSA Ball Jacks and Screws	X	X						
RAB Ball Jacks and Screws			X	X	X	X	X	X
D2O Flow Injection Valves*	X	X	X	X	X	X	X	X
Fuel Handling Computers	X	X						
Fuel Handling Inverters	X	X						
Fuel Handling Shaft encoders	X	X	X	X	X	X	X	X
Fuel Port Valves	X	X						
Fuel Bay Valves	X	X						
Fuel D2O Vent and Drain Valves	X	X						
Fuel D2O Control Valves	X	X						
Fuel Flow Injection Control Valves	X	X						
Fueling Air Auxiliaries	X	X						
Fueling Machine Air Aux Flow Fuses	X	X						
Fuelling machine Bridges	X	X	X	X	X	X	X	X
Heat Exchangers								
ECI Heat Exchangers*	X	X						
PIFB Heat Exchangers	X	X						

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
SIFB Heat Exchangers	X	X						
Small Heat Exchangers*	X	X	X	X	X	X	X	X
Bleed Condensers			X	X	X	X	X	X
Bleed Coolers			X	X	X	X	X	X
Closed loop Demin Water Heat Exchangers*			X	X	X	X	X	X
Condensers			X	X	X	X	X	X
Drain Coolers, LP & HP Feedwater Heaters			X	X	X	X	X	X
End Shield Cooling Heat Exchangers			X	X	X	X	X	X
Maintenance Cooling Heat Exchangers			X	X	X	X	X	X
Moderator Heat Exchangers			X	X	X	X	X	X
Reheaters			X	X				
Shutdown Cooling Heat Exchangers			X	X	X	X	X	X
Instrumentation and Control								
45V DC Power Supplies	X	X	X	X	X	X	X	X
Airpax Alarm Units	X		X	X				
CDF Terminal Blocks	X	X	X	X	X	X	X	X
Condensate Controllers			X	X	X	X	X	X
Control Relays	X	X	X	X	X	X	X	X
F&P Alarm Units	X	X	X	X	X	X	X	X
F&P and Foxboro Pressure Transmitters	X		X	X				
F&P Controllers	X	X	X	X	X	X	X	X
Foxboro Alarm Units*	X		X	X				
MCR Panel I&C	X	X	X	X	X	X	X	X
Printed Circuit Cards	X	X	X	X	X	X	X	X
Process Control in FB&R System			X	X	X	X	X	X
Rosemount 1151 Pressure Transmitters	X	X	X	X	X	X	X	X
Rosemount 1152 Pressure Transmitters	X	X	X	X	X	X	X	X
Solenoid Valves*	X	X	X	X	X	X	X	X
Temperature Bridge Cards	X	X	X	X	X	X	X	X
Temperature Sensors and Reactor Vault Junction Boxes	X	X	X	X	X	X	X	X

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
Temperature Transmitters	X	X	X	X	X	X	X	X
Inverters, Converters, Rectifiers								
120 Vac Class II Inverters	X	X	X	X	X	X	X	X
48 Vdc Converters	X	X	X	X	X	X	X	X
600 Vac Class II Inverters	X	X	X	X	X	X	X	X
Test Rectifiers	X	X	X	X	X	X	X	X
Isolated Phase Bus								
Isolated Phase Bus and Cooling			X	X	X	X	X	X
Large Power Transformers								
10MVA DSTs	X	X	X	X	X	X	X	X
Station Service Transformers	X	X						
Main Output Transformers			X	X	X	X	X	X
PHT Pump Transformers			X	X	X	X	X	X
CLIII/IV Dry Type Distribution Transformers	X	X	X	X	X	X	X	X
Unit Service Transformers			X	X	X	X	X	X
Main Generators and Auxiliaries								
Excitation System			X	X	X	X	X	X
Generator Hydrogen Cooling System*			X	X	X	X	X	X
Generator Monitoring System			X	X	X	X	X	X
Generator Rotor Forging, Windings and Rings			X	X	X	X	X	X
Generator Seal Oil System*			X	X	X	X	X	X
Generator Stator Cooling System*			X	X	X	X	X	X
Stator Waterboxes			X					
Stator Winding, Core and Frame			X	X	X	X	X	X
Motor Control Centers								
600V Motor Control Centres	X	X	X	X	X	X	X	X
Motors								
Boiler Feed Pump Motors			X	X	X	X	X	X
Condensate Extraction Pump Motors			X	X	X	X	X	X
Condenser Cooling Water Pump Motors			X	X	X	X	X	X

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
Low Pressure Service Water Pump Motors			X	X	X	X	X	X
Main Moderator Pump Motors			X	X	X	X	X	X
Maintenance Cooling System Pump Motors			X	X	X	X	X	X
PHT Feed Pump Motors			X	X	X	X	X	X
PHT Pump Motors			X	X	X	X	X	X
Shutdown Cooling Pump Motors			X	X	X	X	X	X
Common Service Water Pump Motors	X	X						
Emergency Coolant Injection Pump Motors	X	X						
Emergency Water Supply Pump Motors		X						
Small Motors	X	X	X	X	X	X	X	X
Negative Pressure Containment System Components								
Air Locks & Transfer Chambers Harsh Environment Elastomers*	X	X	X	X	X	X	X	X
Air Locks & Transfer Chambers Mechanical Equipment*	X	X	X	X	X	X	X	X
Air Locks & Transfer Chambers Mild Environment Elastomers	X	X	X	X	X	X	X	X
Containment Penetration Boiler Seal Bellows*			X	X	X	X	X	X
Containment Penetration PHT Pump Seal Bellows*			X	X	X	X	X	X
Containment Penetration Boiler Feedwater Seal Bellows*			X	X	X	X	X	X
Containment Penetration Seal Elastomers	X	X	X	X	X	X	X	X
Passive Autocatalytic Recombiner*	X	X	X	X	X	X	X	X
Pressure Relief Valve Adhesive	X	X						
Pressure Relief Valve Elastomers	X	X						
Pressure Relief Valve Mechanical*	X	X						
Piping								
Above Ground Piping – Closed Loop Demin*	X	X	X	X	X	X	X	X

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
Above Ground Piping – Common Service Water	X	X	X	X	X	X	X	X
Above Ground Piping – Condensate Make-up	X	X	X	X	X	X	X	X
Above Ground Piping – Condenser Circulating	X	X	X	X	X	X	X	X
Above Ground Piping – Domestic Water	X	X	X	X	X	X	X	X
Above Ground Piping – Emergency Boiler Cooling Water	X		X	X				
Above Ground Piping – Emergency Water		X			X	X	X	X
Buried Ground Piping – Emergency Water Supply		X						
Above Ground Piping – Fire Protection	X	X	X	X	X	X	X	X
Above Ground Piping – High Pressure Service Water	X	X	X	X	X	X	X	X
Above Ground Piping – Low Pressure Service Water	X	X	X	X	X	X	X	X
Above Ground Piping – Vacuum Priming	X	X	X	X	X	X	X	X
Buried Piping – Air Foam Fire Protection System	X	X						
Buried Piping – Common Service Water	X	X						
Buried Piping – Condenser Circulating Water System			X	X	X	X	X	X
Buried Piping – Conventional Systems	X	X						
Buried Piping – Demineralize Water*	X	X						
Buried Piping – Fire Water	X	X						
Buried Piping – Generator Hydrogen Storage & Transfer	X	X						
Buried Piping – Lube Oil Storage & Transfer	X	X						
Buried Piping – Spent Resin Storage & Transfer	X	X						
Buried Piping – Low Pressure Service Water			X	X	X	X	X	X
Standby Generator Fuel Lines*	X	X						
Nuclear Piping – other systems*	X	X	X	X	X	X	X	X

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
Nuclear Piping – PHT systems*	X	X	X	X	X	X	X	X
Secondary Side Heat Balance Piping*			X	X	X	X	X	X
Pressure Vessels & Tanks								
Pressure Vessels & Tanks	X	X	X	X	X	X	X	X
Protective Relays								
Protective Relays	X	X	X	X	X	X	X	X
Auxiliary Relays*	X	X	X	X	X	X	X	X
Pumps								
Common Service Water Pumps	X	X						
Emergency Coolant Injection Pumps*	X	X						
Emergency Water Supply Pumps*		X						
Aux Boiler Feed Pumps*			X	X	X	X	X	X
Condensate Extraction Pumps			X	X	X	X	X	X
Condenser Cooling Water Pumps			X	X	X	X	X	X
Low Pressure Service Water Pumps			X	X	X	X	X	X
Main Boiler Feed Pumps			X	X	X	X	X	X
Main Moderator Pumps			X	X	X	X	X	X
Maintenance Cooling System Pumps			X	X	X	X	X	X
PHT Feed Pumps			X	X	X	X	X	X
PHT Pumps			X	X	X	X	X	X
Shutdown Cooling Pumps			X	X	X	X	X	X
Small Pumps	X	X	X	X	X	X	X	X
Reactivity Control Units								
Horizontal Flux Detectors			X	X	X	X	X	X
Horizontal Ion Chambers			X	X	X	X	X	X
Horizontal Ion Chamber Detectors			X	X	X	X	X	X
Neutron Over Power Amplifiers			X	X	X	X	X	X
In Core Flux Detector Amplifiers			X	X	X	X	X	X
Shutoff Rod and Control Absorber Assemblies			X	X	X	X	X	X
Vertical Flux Detectors			X	X	X	X	X	X
Vertical Ion Chambers			X	X	X	X	X	X
Vertical Ion Chamber Detectors			X	X	X	X	X	X

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
Start-up Instrumentation*			X	X	X	X	X	X
Standby Generators								
QPS Standby Diesel generator Controls	X							
QPS Standby Diesel Generators	X							
QPS Standby Diesel Generator Fuel Tanks	X							
Emergency Power Generator Controls		X						
Emergency Power Generators		X						
Standby Generator Controls	X	X						
Standby Generators	X	X						
Steam Generators and Preheaters								
Preheaters*			X	X	X	X	X	X
Travelling and Trash Bar Screens								
Bar Screens			X	X	X	X	X	X
Trash Racks	X	X	X	X	X	X	X	X
Travelling Screens	X	X	X	X	X	X	X	X
Travelling Screens – Screen Wash*	X	X	X	X	X	X	X	X
Turbines and Auxiliaries								
Electro Hydraulic Governing System			X	X	X	X	X	X
FRF System*			X	X	X	X	X	X
HP Turbine			X	X	X	X	X	X
LP Turbine			X	X	X	X	X	X
Lube Oil System*			X	X	X	X	X	X
Turbine Control Valves			X	X	X	X	X	X
Turbine Exhaust Hood Cooling System*			X	X	X	X	X	X
Turbine Gland Steam System*			X	X	X	X	X	X
Turbine Turning Gear			X	X	X	X	X	X
Turbo Supervisory Instruments			X	X	X	X	X	X
Valves								
Manual Valves	X	X	X	X	X	X	X	X
Check Valves	X	X	X	X	X	X	X	X
Air Operated Valves	X	X	X	X	X	X	X	X

Component	U0A	U0B	U3	U4	U5	U6	U7	U8
Motor Operated Valves	X	X	X	X	X	X	X	X
Temperature Control Valve*	X	X	X	X	X	X	X	X
Control Valves*	X	X	X	X	X	X	X	X
Relief Valves*	X	X	X	X	X	X	X	X
Pressure Relief Devices*	X	X	X	X	X	X	X	X
APRV Actuators	X	X						
Hydraulic Actuated Valves	X	X	X	X	X	X	X	X
Electric MOVs – EQ	X	X	X	X	X	X	X	X
Electric MOVs – Not EQ	X	X	X	X	X	X	X	X
Containment Dampers			X	X	X	X	X	X
CSDV Instrumentation			X	X	X	X	X	X
Digital Positioners*			X	X	X	X	X	X
Water Treatment Plant								
Water Treatment Plant	X	X						
Other								
ACUs	X	X	X	X	X	X	X	X
On-line Analyzers	X	X	X	X	X	X	X	X
DN Monitoring Equipment	X	X	X	X	X	X	X	X
Environmental Monitoring Equipment	X	X	X	X	X	X	X	X
Fire Protection Equipment	X	X	X	X	X	X	X	X
Steam Traps	X	X	X	X	X	X	X	X

Exhibit 2.11(b)

INITIAL LIFETIME ASSET MANAGEMENT PLAN

Refer to Exhibit 2.11(b) of the Technical Schedule

Exhibit 2.11(c)

N AND N+1 DELIVERABLES REPORT

Refer to Exhibit 2.11(c) of the Technical Schedule.

Exhibit 2.18(a)

SPECIFIED FUEL SUPPLY ARRANGEMENTS

Refer to Exhibit 2.18(a) of the Technical Schedule.

Exhibit 3.3

REFURBISHMENT – REPORTS

Each report contemplated by Section 3.3 will be a monthly progress report for each Unit issued by the twentieth (20th) Business Day of the Month immediately following the Month that is the subject matter of the report and containing the following:

1. An overview of major work accomplished.
2. A summary of schedule progress in comparison to a baseline schedule (containing key critical path milestones) issued with the final Basis of Estimate Report for each Unit. Schedule reporting will comprise:
 - (a) a statement of the actual progress versus the baseline schedule in relation to the next key milestone for each Refurbishment Work component listed in Exhibit 2.1 (expressed in terms of on schedule, “x” days ahead of schedule or “x” days behind schedule);
 - (b) a statement of the most likely date of Commercial Operation and major reasons for variance from the baseline schedule; and
 - (c) project schedule charts identifying baseline milestone dates (including critical path milestone dates) and all changes to such dates for each Refurbishment Work component listed in Exhibit 2.1 and reasons for such changes.
3. A summary of Refurbishment Costs for each Unit as follows:
 - (a) actual Refurbishment Costs to date and a statement of the percentage by which such costs are over or under budget for each Refurbishment Work component listed in Exhibit 2.1;
 - (b) updated projection of completion cost;
 - (c) major reasons for variances; and
 - (d) reconciliation of Unit Cost Overage.
4. A table updating the status of major project risks that may significantly affect schedule or cost.
5. A summary of any emerging issues that may significantly affect schedule, cost or risk (including labour, project management, regulatory, material delivery, contracting strategy, internal and contracted staff and project management complement).
6. Copies of press releases of the Generator issued in respect of the applicable Refurbishment during the currency of the report.
7. Subject to Section 8.3, overview of any significant safety or environmental events that have occurred and current plans to mitigate such events.

8. Other information related to the applicable Unit requested by the Counterparty, acting reasonably.

Each report will contain a statement from a senior officer of the Generator, without personal liability, attesting that the information provided contemplated in this Exhibit 3.3 is complete and accurate in all material respects.

For certainty, this report shall not constitute a notice given under any of Sections 9.4, 12.2, 14.3 or 15.3.

Exhibit 3.6(c)

FORM OF OPERATING COSTS REPORT

TO: INDEPENDENT ELECTRICITY SYSTEM OPERATOR
(the “**Counterparty**”)
120 Adelaide Street West, Suite 1600
Toronto, Ontario
M5N 1T1
Attention: Contract Management

FROM: Bruce Power L.P.
(the “**Generator**”)

RE: Operating Costs Report pursuant to Amended and Restated Bruce Power Refurbishment Implementation Agreement dated as of December 3, 2015 between the Generator and the Counterparty (the “**Agreement**”)

DATE: _____, 20__

In accordance with Section 3.6(c) of the Agreement, the Generator hereby provides the following information to the Counterparty for the completed Contract Year of the current Planning Period (or the just finished Planning Period in the case of the third Contract Year of such Planning Period):

1. Expected Annual Operating Costs and Expected Annual Generation for the subject Contract Year(s) as per the Financial Model on an annual and cumulative basis:
2. Actual Annual Operating Costs incurred and Actual Annual Generation for the subject Contract Year(s) on an annual and cumulative basis:
3. For items 1 and 2 described in this Report, such Operating Costs shall be presented in both a total and per MWh basis and shall be broken out as follows and as described in greater detail in Schedule A to Exhibit 4.3:
 - (a) staff costs
 - (b) other materials and service costs
 - (c) rent
 - (d) licence fees
 - (e) insurance costs
 - (f) severance costs and end of Unit life costs
 - (g) capital expenditures (excluding, for greater certainty, Refurbishment Costs and Asset Management Costs)

- (h) Asset Management Costs
4. For the report provided for the third Contract Year of a Planning Period, Operating Efficiency Amount, if any, for such Planning Period, calculated pursuant to Exhibit 4.3:
 5. The report will also contain relevant operating parameters for the Contract Year(s) that relate to Operating Costs for the Contract Year(s) covered in such report, where "Expected" refers to the following operating assumptions in the Financial Model:
 - (a) Expected versus actual scheduled outage days
 - (b) Expected versus actual forced outage days
 - (c) Expected versus actual year end staff numbers (FTE's)
 - (d) Actual Average Base Salary
 - (e) Actual number of hours of work performed by the Building Trades on work other than Refurbishment Work or Asset Management Work.
 6. Other information related to Operating Costs requested by the Counterparty, acting reasonably:
 7. For certainty, this Report will not constitute notice under any of Sections 9.4, 12.2, 14.3 or 15.3.
 8. Capitalized terms used in this Report have the meanings given to them in Section 1.1 of the Agreement or, failing being defined therein, Exhibit 4.3 to the Agreement.

Exhibit 4.2

MONTHLY PAYMENTS

1. Contingent Support Payments and Revenue Sharing Payments

The Contingent Support Payment (“**CSP_m**”) in Month “m” is calculated as follows:

If: $BCR_m - BAR_m > 0$
Then: $CSP_m = BCR_m - BAR_m$

The Revenue Sharing Payment (“**RSP_m**”) in Month “m” is calculated as follows:

If: $BAR_m - BCR_m > 0$
Then: $RSP_m = BAR_m - BCR_m$

Where, in respect to both the foregoing calculations

BCR_m	<p>is the Bruce contract revenue for Month “m” calculated as follows:</p> $BCR_m = \sum_{H=1}^{n_m} BE_H \times CP_H$
CP_H	is the Contract Price (in \$/MWh) for hour “H” in Month “m”
BAR_m	<p>is the Bruce revenue for Month “m” actually receivable by the Generator in respect of such Month, calculated as follows:</p> $BAR_m = \sum_{H=1}^{n_m} BE_H \times HOEP_H$
H	<p>is an integer number representing a specific hour in any Month “m”. H will be a series H = 1,2,3...n_m</p> <p>For example,</p> <p>H = 1 represents the hour which begins at the beginning of the hour ending 01:00 (ET) on the first day of each Month</p> <p>H = 2 represents the hour which begins at the beginning of the hour ending 02:00 (ET) on the first day of each Month</p> <p>...</p> <p>H = n_m represents the hour which begins at the beginning</p>

	of the hour ending 24:00 (ET) on the last day of Month “m”
HOEP_H	<p>is HOEP for hour “H” in Month “m”; for greater certainty, HOEP in any hour “H” can be a positive or negative amount; provided, however, that in respect of any hour in which HOEP is less than the Offer Floor Price, the HOEP for such hour shall be deemed to be the Offer Floor Price; provided, however, HOEP will not be so adjusted in either of the following circumstances:</p> <p>(i) the Generator has been constrained-on as contemplated by Section 2.16(a); or</p> <p>(ii) the Generator is relieved of its obligations as contemplated by Section 2.16(c)</p>
BE_H	is the Bruce Energy for hour “H” in Month “m”
H_m	is the total number of hours in Month “m”

2. Dynamic Capabilities Payments

The Dynamic Capabilities Payment (“**DCP_m**”) in Month “m” is calculated as follows:

DCP_m	$DCP_m = \sum_{H=1}^{H=n_m} BE_H \times DCF_m$ $H = 1$
DCF_m	is the DC Fee (in \$/MWh) for Hour “H” in Month “m”
H	<p>is an integer number representing a specific hour in any Month “m”. H will be a series H = 1,2,3...n_m</p> <p>For example,</p> <p>H = 1 represents the hour which begins at the beginning of the hour ending 01:00 (ET) on the first day of each Month</p> <p>H = 2 represents the hour which begins at the beginning of the hour ending 02:00 (ET) on the first day of each Month</p> <p>...</p> <p>H = n_m represents the hour which begins at the beginning of the hour ending 24:00 (ET) on the last day of Month “m”</p>
BE_H	is the Bruce Energy for hour “H” in Month “m”
H_m	is the total number of hours in Month “m”

Exhibit 4.2(d)

DETERMINATION OF FRONT-END FUEL COSTS FOR ANY SETTLEMENT MONTH

The Front-end Fuel Costs for any Settlement Month shall be determined in the following manner:

1. The aggregate of all Front-end Fuel Costs incurred by the Generator shall be allocated among the individual fuel bundles produced for use in Bruce A and Bruce B to determine the cost of each individual fuel bundle and the cost of each individual fuel bundle will be charged to the Counterparty for the Month in which such fuel bundle is loaded ("**Loaded**") into a Bruce A Unit or Bruce B Unit.
2. The Parties recognize that it may not be possible to determine the full actual cost of each fuel bundle as of the date such bundle is Loaded. Accordingly, the cost for each individual fuel bundle will be determined for the Settlement Month in which such fuel bundle was Loaded on an interim basis based on the Front-end Fuel Costs paid by the Generator and allocable to such individual fuel bundle as of the end of the Settlement Month in which such fuel bundle is Loaded (the "**Interim Fuel Bundle Cost**") and any adjustments to such Interim Fuel Bundle Cost will be passed through to the Counterparty as such adjustments occur.
3. To the extent it is not possible to determine the final cost of any individual fuel bundle as of the end of the Month (the "**Loading Month**") in which such fuel bundle is Loaded, then all costs (the "**Additional Fuel Bundle Cost**") allocable to such loaded fuel bundle which are incurred by the Generator subsequent to the Loading Month shall be added to the Front-end Fuel Costs for the Settlement Month during which such costs are incurred by the Generator.
4. In the event that any of the Interim Fuel Bundle Costs or Additional Fuel Bundle Costs are adjusted for any reason (the "**Retroactive Costs Adjustments**") then such Retroactive Costs Adjustments shall be passed through to the Counterparty through an appropriate adjustment to the Front-end Fuel Costs for the Settlement Month in which such Retroactive Costs Adjustments are identified. Examples of Retroactive Costs Adjustments include price adjustments payable by or credited to the Generator under the Specified Fuel Supply Arrangements as a result of changes in raw product pricing, scrap conversion reimbursement, foreign exchange rates and volume of production.
5. Accordingly, the Front-end Fuel Costs for any Settlement Month shall be the sum of:
 - (a) The aggregate of the Interim Fuel Bundle Cost for each fuel bundle Loaded during such Settlement Month;
 - (b) The aggregate of the Additional Fuel Bundle Cost incurred by the Generator during such Settlement Month for each fuel bundle Loaded at any time prior to such Settlement Month;
 - (c) The aggregate of the Retroactive Costs Adjustments for each fuel bundle Loaded at any time prior to such Settlement Month; and

- (d) if a LVRF Payment Date falls within such Settlement Month, the Reimbursable Amount in respect of such Settlement Month.
6. For purposes of determining the Interim Fuel Bundle Cost and the Additional Fuel Bundle Cost, there shall be added to the Interim Fuel Bundle Cost and the Additional Fuel Bundle Cost of each fuel bundle an amount representing interest on all costs that were included in the Interim Fuel Bundle Cost and the Additional Fuel Bundle Cost for such fuel bundle which were incurred by the Generator prior to the date that such fuel bundle is Loaded, provided that such interest relates to costs that were incurred by the Generator in accordance with the then current Approved Procurement Strategy, is not otherwise already included as part of the Front-end Fuel Costs and does not include interest on overdue amounts, such interest to be calculated at a rate equal to the Generator's cost of working capital (as paid by the Generator pursuant to working capital credit facility provided by an Arm's Length lender or an otherwise commercially reasonable rate, having regard to the circumstances, determined by the Generator, acting reasonably) from the date such costs were incurred by the Generator until the date that such fuel bundle is Loaded.
 7. For the purpose of determining Front-end Fuel Costs which are paid by the Generator in U.S. dollars, all such amounts shall be converted to Canadian dollars effective as of the date that the Generator actually pays such costs.
 8. A detailed and itemized breakdown of all LVRF Project Costs, PCA Costs and Recoverable Costs is attached as Schedule A to Exhibit 4.2(d) to the Technical Schedule.

Exhibit 4.3

O&M EFFICIENCY PAYMENTS

1. Interpretation

- (a) Capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the Agreement. The following capitalized terms shall have the meaning stated below when used in this Exhibit:

“Actual Annual Generation” means, in respect of a Contract Year, the Generator’s actual annual Bruce Energy for such Contract Year.

“Actual Annual Operating Costs” means, in respect of a Contract Year, the actual Operating Costs that were incurred in such Contract Year, as determined on a basis consistent with Schedule A for Base Operating Costs (excluding any costs for which the Generator receives Discriminatory Action Compensation), and including for greater certainty amounts received by the Generator for the return, credit or sale of unused equipment at the conclusion of Asset Management Work.

“Actual Planning Period per MWh Operating Costs” means, in respect of a Planning Period, the quotient, expressed in \$/MWh, of the sum of the three years of Actual Annual Operating Costs for such Planning Period divided by the sum of the three years of Actual Annual Generation for such Planning Period.

“Adjusted Expected Annual Operating Costs” means, in respect of a Contract Year, Expected Annual Operating Costs for such Contract Year as further adjusted for any acceleration or deferral of Asset Management Costs pursuant to this Exhibit 4.3.

“Expected Annual Operating Costs” means, in respect of a Contract Year, the Generator’s assumed annual Base Operating Costs and the portion of the Fixed Asset Management Costs for such Contract Year that is identified in the relevant LAMP, expressed in nominal dollars, as adjusted on each Adjustment Date pursuant to Sections 4.4 to 4.12 and 15.2, Exhibits 4.4 to 4.12 and 15.2 and the Financial Model, as applicable, results of which are set forth in the “O&M Efficiency Base Case” tab in the Financial Model.

“Expected Annual Generation” means, in respect of a Contract Year the Generator’s assumed annual Bruce Energy for such Contract Year, expressed in MWh, as may be adjusted for any Adjustment to Generation Profile made pursuant to Section 4.8, 4.9 and Section 4.11 and Exhibits 4.8, 4.9 and 4.11, results of which are set forth in the “O&M Efficiency Base Case” tab in the Financial Model.

“Expected Planning Period per MWh Operating Costs” means, in respect of any Planning Period, the quotient, expressed in \$/MWh, of the sum of the three years of Adjusted Expected Operating Costs for such Planning Period divided by the sum of the three years of Expected Annual Generation for such Planning Period.

“Fixed Asset Management Work” means, Asset Management Work for which Fixed Asset Management Costs have been determined.

“O&M Efficiency Amount” has the meaning ascribed to it in Clause 3.

- (b) The expression **“Clause”** or **“Schedule”** followed by a letter or a number means and refers to the specified clause of, or schedule attached to, this Exhibit unless otherwise specified.
- (c) The following Schedules are attached to this Exhibit 4.3:
 - (i) Schedule A – Base Operating Costs.
- (d) No Applicability to Other Provisions

The movement of Asset Management Costs set forth in this Exhibit are solely for the purposes of calculating the O&M Efficiency Amount and, for greater certainty, shall not apply to any other provision of the Agreement, including Section 4.10 or Exhibit 4.10 or any updates to be made for any LAMP.

2. Determination of Adjusted Expected Annual Operating Costs

- (a) If a LAMP Supplement is delivered pursuant to Section 2.11(e), the Expected Annual Operating Costs shall be adjusted to reflect the updated timing of Accelerated Asset Management Work or Postponed Asset Management Work, as the case may be, as follows:
 - (i) to the extent that Fixed Asset Management Work in the subject Planning Period for which the O&M Efficiency Amount is being calculated has been postponed to any other Planning Period, the Expected Annual Operating Costs for such Fixed Asset Management Work shall be removed from the relevant Contract Year(s) in the subject Planning Period and will be added to the Expected Annual Operating Costs for the relevant Contract Year in the Planning Period that the Asset Management Costs are expected to be actually incurred; and
 - (ii) to the extent that Asset Management Work originally scheduled for any Planning Period other than the subject Planning Period for which the O&M Efficiency Amount is being calculated has been accelerated to such subject Planning Period, the Expected Annual Operating Costs in the year(s) of the subject Planning Period shall be increased by such updated and fixed Asset Management Costs allocated to the relevant Contract Year(s) of the subject Planning Period and will be removed from such other Planning Period. In particular: (A) in the case of a Minor Acceleration (as such term is defined in Exhibit 4.10), the Fixed Asset Management Costs will be removed from the immediately following Planning Period; and (B) in the case of a Major Acceleration (as such term is defined in Exhibit 4.10), the Fixed Asset Management Costs will be removed from Planning Period N when Planning Period N+2 becomes such Planning Period N.

- (b) If the Agreement is terminated in respect of any Refurbished Unit pursuant to Section 10.2, there shall be no change to the Expected Annual Operating Costs.

3. Payments for Operating and Maintenance Cost Efficiencies

Commencing on the Adjustment Date of the Contract Year immediately following the Planning Period ending December 31, 2018, and on the first Adjustment Date of the Contract Year immediately following each subsequent Planning Period thereafter until the earlier of December 31, 2064 and the date that all of the Units have been Permanently Decommissioned or Effectively Decommissioned, the “**O&M Efficiency Amount**” shall be determined in accordance with Clauses 3 and 4, and shall be paid by the Generator to the Counterparty in thirty-six (36) equal monthly instalments, the first such monthly instalment commencing on the Adjustment Date of the next following Contract Year, and each subsequent instalment payable monthly thereafter in accordance with Section 5.3.

- (c) If the Actual Planning Period per MWh Operating Costs for the subject Planning Period are equal to or greater than the Expected Planning Period per MWh Operating Costs for the subject Planning Period, no O&M Efficiency Amount shall be payable in respect of such Planning Period.
- (d) If the Actual Planning Period per MWh Operating Costs for the subject Planning Period are less than the Expected Planning Period per MWh Operating Costs for the subject Planning Period, the O&M Efficiency Amount for the subject Planning Period shall be determined as follows:

O&M Efficiency Amount = ((Ep – Ap) x 50%) x AEp		
Where, for the subject Planning Period:		
Ap	=	Actual Planning Period per MWh Operating Costs
Ep	=	Expected Planning Period per MWh Operating Costs
AEp	=	The sum of the three years of Actual Annual Generation for the subject Planning Period

The Actual Annual Operating Costs, Actual Annual Generation, Actual Planning Period per MWh Operating Costs, Adjusted Expected Annual Operating Costs, Expected Annual Operating Costs, Expected Annual Generation, Expected Planning Period per MWh Operating Costs, Actual Annual Operating Costs, Adjusted Expected Annual Operating Costs, Expected Planning Period per MWh Operating Costs, O&M Efficiency Amount and the calculations determining same, will be set forth, as applicable, in the reports delivered by the Generator pursuant to Section 3.6(c).

4. Excluded Revenues and Costs

For greater certainty, and all costs and expenses related to the Excluded Business are excluded from the calculations in this Exhibit 4.3.

5. Disputes

Any disputes hereunder shall be resolved in accordance with Section 18.1 or Section 18.2.

Schedule A to Exhibit 4.3

Base Operating Costs

For the purposes hereof, “**Base Operating Costs**” means, in respect of a period of calculation, the total of the Generator’s operating and maintenance costs on an accrual basis (unless otherwise stated) for the Facility comprised of the following categories of expenses:

1. **Staff Costs:**

Staff costs include base salary, overtime, allowances, bonuses, profit sharing, long-term retention plans and all other current employment benefits plus actual annual Pension Service Costs and the actual annual cash benefit payments for Other Post-Employment Benefits payments. For greater certainty, staff costs of employees of the Generator whose compensation is capitalized but not included in Refurbishment Costs or Asset Management Costs, are included in Base Operating Costs.

2. **Other Materials and Services Costs:**

Other materials and services costs include the total cost of all consumables, services and contracted staff, and any other costs attributable to operating or maintaining the Facility, or both, and the facilities and equipment owned or leased by the Generator and used in respect of the Facility, on a day to day basis, such as the cost of base operations, Outages (whether expensed or capitalized), and non-capital projects. This includes payments to the System Operator or the Transmitter related to connection of the Units to the IESO-Controlled Grid and payments to third parties associated with house load of the Facility.

3. **Rent:**

Rent paid in respect of the Facility.

4. **Licence Fees:**

Licence fees include the total cost of obtaining and maintaining all necessary permits, certificates, licences and approvals in respect of the Facility and the facilities and equipment owned or leased by the Generator and used in respect of the Facility.

5. **Insurance Costs:**

Insurance costs are the total insurance costs associated with the Facility and the facilities and equipment owned or leased by the Generator and used in respect of the Facility.

6. **Severance Costs and End of Unit Life Costs:**

Severance costs are the total costs associated with severing Facility staff. End of life costs includes costs associated with de-fueling and de-watering the Unit and the maintenance of the site to meet minimum handback condition following closure of all Units prior to the handback of the site to OPG.

7. Capital Expenditures:

Capital expenditures include the total project costs for the Facility specific projects and the facilities and equipment owned or leased by the Generator and used in respect of the Facility but, for greater certainty, not including any Refurbishment Costs or Asset Management Costs.

All costs and expenses of maintaining any Unit in a laid up state after it has been Effectively Decommissioned and all of the costs in the foregoing Clauses 1 to 7, inclusive, shall be included in the total cash operating and maintenance costs for the remaining operating Units. For greater certainty, all direct and indirect costs associated with dewatering, defueling and bringing such Unit to its Effectively Decommissioned state shall be included in the total cash operating costs for the remaining operating Units.

For greater certainty, Front-End Fuel Costs, Used Fuel Costs and all costs and expenses related to the Excluded Business, shall not be included in Base Operating Costs.

Exhibit 4.4

ANNUAL ADJUSTMENTS TO CONTRACT PRICE

1. **Interpretation:**

Alphanumeric references in square brackets (e.g. "[1x]" refer to the specified instruction line in the CAS Instructions and the expression "Part" followed by a number means and refers to the specified part of the CAS Instructions.

2. **Annual Adjustments to Contract Price:**

Annual Adjustment for the Initial Contract Price: The Initial Contract Price shall, commencing April 1, 2016, be adjusted on an annual basis as described below but, for greater certainty, the amount by which the Initial Contract Price is increased by reason of Refurbishments or Asset Management Work (including by reason of Force Majeure) shall not be subject to annual adjustment.

1. **CPI Adjusted Portion of the Initial Contract Price:** Of the Initial Contract Price, the amount set forth at Exhibit 4.4(1) of the Technical Schedule (as it may have previously been adjusted pursuant to Section 4.4 and this Exhibit 4.4, the "**CPI Adjusted Portion**" or "**CPIAP**") shall be adjusted annually by the percentage change in the annual average CPI, if any. Accordingly, for the first and each succeeding Contract Year, the CPI Adjusted Portion shall be adjusted at the beginning of the hour ending 01:00 (ET) on the Adjustment Date of each such Contract Year by a factor based on the percentage change in the annual average CPI for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average CPI for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

CPIAP_y = CPIAP_{y-1} x CPI_{y-1}/CPI_{y-2}	
where:	
CPIAP_y	is the CPI Adjusted Portion in Contract Year "y"
CPIAP_{y-1}	is the CPI Adjusted Portion for the Contract Year immediately preceding Contract Year "y" and, if such portion of the price changed during such Contract Year, the portion of the price which was in effect on March 31 of such Contract Year; provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, CPIAP _{y-1} shall be the CPI Adjusted Portion set out in the Agreement (i.e., the amount set forth at Exhibit 4.4(1) of the Technical Schedule/MWh)
CPI_{y-1}	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year "y"; provided that if Contract Year "y-1" is the calendar year immediately preceding the first Contract Year, CPI _{y-1} shall be the twelve-month period ending on December 31, 2015

CPIy-2	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y-1”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPIy-2 shall be the twelve-month period ending on December 31, 2014
annual average CPI	is the simple average of the twelve monthly CPIs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada or, if no longer so published, as determined pursuant to Section 1.11, and rounded to the first decimal place.

For purposes of this calculation, the quotient of CPIy-1 divided by CPIy-2 shall be rounded to the third decimal place and the Input for CPI to the Financial Model shall be this quotient minus one and then multiplied by one hundred (((CPIy-1/CPIy-2)-1)x100) **[2a]**.

2. **WRE Adjusted Portion of the Initial Contract Price:** Of the Initial Contract Price, the amount set forth at Exhibit 4.4(2) of the Technical Schedule (as it may have been previously adjusted pursuant to Section 4.4 and this Exhibit 4.4, the “**WRE Adjusted Portion**” or “**WREAP**”) shall be adjusted annually by the percentage change in the annual Wage Rate Escalator (“**WRE**”), if any. Accordingly, for the first and each succeeding Contract Year, the WRE Adjusted Portion shall be adjusted at the beginning of the hour ending 01:00 (ET) on the Adjustment Date of each such Contract Year by a factor based on the percentage change in the annual average WRE for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average WRE for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

WREAPy = WREAPy-1 x WREy-1/WREy-2	
where:	
WREAPy	is the WRE Adjusted Portion in Contract Year “y”
WREAPy-1	is the WRE Adjusted Portion for the Contract Year immediately preceding Contract Year “y” and, if such portion of the price changed during such Contract Year, the portion of the price which was in effect on March 31 of such Contract Year; provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, WREAPy-1 shall be the WRE Adjusted Portion set out in the Agreement (i.e., the amount set forth at Exhibit 4.4(2) of the Technical Schedule/MWh)
WREy-1	is the annual average WRE calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, WREy-1 shall be the twelve-month period ending on December 31, 2015

WREy-2	is the annual average WRE calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y-1”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, WREy-2 shall be the twelve-month period ending on December 31, 2014
annual average WRE	is the simple average of the twelve monthly WREs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada or, if no longer so published, as determined pursuant to Section 1.11, and rounded to the first decimal place.

For purposes of this calculation, the quotient of WREy-1 divided by WREy-2 shall be rounded to the third decimal place and the Input for WRE to the Financial Model shall be this quotient minus one and then multiplied by one hundred ($((\text{WREy-1}/\text{WREy-2})-1) \times 100$) **[2b]**.

3. **Non-Escalated Portion:** Of the Initial Contract Price, the amount set forth at Exhibit 4.4(3) of the Technical Schedule (the “**Non-Escalated Portion**” (“**NEP**”)) shall not be adjusted annually.

Exhibit 4.5

ANNUAL ADJUSTMENTS FOR CERTAIN DOLLAR AMOUNTS

The dollar amounts referred to in the following Sections and Exhibits shall be adjusted as provided in this Exhibit 4.5 for the following provisions of the Agreement:

- (i) Section 2.16(d),
- (ii) the definition of "Technical Infeasibility" in Section 1.1,
- (iii) Section 11.1(j),
- (iv) Section 14.1, and
- (vi) Exhibit 9.1.

1. Annual Adjustment for DC Fee pursuant to Section 2.16(c):

The DC Fee (as it may have previously been adjusted pursuant to Section 4.5 and this Exhibit 4.5, the "**DC Fee (Adjusted)**" or "**DCFA**") shall be adjusted annually, commencing April 1, 2016, by the percentage change in the annual average CPI, if any. Accordingly, for the first and each succeeding Contract Year, the DC Fee (Adjusted) shall be adjusted at the beginning of the hour ending 01:00 (ET) on the Adjustment Date of each such Contract Year by a factor based on the percentage change in the annual average CPI for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average CPI for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

DCFA_y = DCFA_{y-1} x CPI_{y-1}/CPI_{y-2}	
where:	
DCFA_y	is the DC Fee (Adjusted) in Contract Year "y".
DCFA_{y-1}	is the DC Fee (Adjusted) on the Adjustment Date of the Contract Year immediately preceding Contract Year "y"; provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, DCFA _{y-1} shall be the DC Fee (Adjusted) set out in the Agreement (i.e., \$1.33/MWh).
CPI_{y-1}	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year "y"; provided that if Contract Year "y-1" is the calendar year immediately preceding the first Contract Year, CPI _{y-1} shall be the twelve-month period ending on December 31, 2015.
CPI_{y-2}	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year "y-1"; provided that if Contract Year "y-1" is the calendar year immediately preceding the first Contract Year, CPI _{y-2} shall be the

	twelve-month period ending on December 31, 2014.
annual average CPI	is the simple average of the twelve monthly CPIs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada (or, if no longer so published, replaced pursuant to Section 1.1) and rounded to the first decimal place.

For purposes of this calculation, the quotient of CPly-1 divided by CPly-2 shall be rounded to the third decimal place.

2. **Technical Infeasibility** – Section 9.4 and the Definition of “Technical Infeasibility”

CPI Adjusted Portion of Technical Infeasibility Amount: Sixty-five percent (65%) of the dollar amount referred to in the Definition of “Technical Infeasibility” in Section 1.1 of the Agreement (the “**CPI Adjusted Portion of the Technical Infeasibility Amount**” or “**CPITIA**”) shall be adjusted annually, commencing January 1, 2016, by the percentage change in the annual average CPI, if any. Accordingly, for the first and each succeeding Contract Year, the CPIAA shall be adjusted at the beginning of the hour ending 01:00 (ET) on January 1 of each such Contract Year by a factor based on the percentage change in the annual average CPI for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average CPI for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

CPITIAy = CPITIAy-1 x CPly-1/CPly-2	
where:	
CPITIAy	is the CPI Adjusted Portion of the Technical Infeasibility Amount in Contract Year “y”.
CPITIAy-1	is the CPI Adjusted Portion of the Technical Infeasibility Amount on the January 1 of the Contract Year immediately preceding Contract Year “y”; provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, CPITIAy-1 shall be 65% of the dollar amount referred to in the definition of “Technical Infeasibility” in Section 1.1 of the Agreement.
CPly-1	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPly-1 shall be the twelve-month period ending on December 31, 2015
CPly-2	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y-1”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPly-2 shall be the twelve-month period ending on December 31, 2014.

annual average CPI	is the simple average of the twelve monthly CPIs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada (or, if no longer so published, replaced pursuant to Section 1.1) and rounded to the first decimal place.
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For purposes of this calculation, the quotient of CPly-1 divided by CPly-2 shall be rounded to the third decimal place.

WRE Adjusted Portion of Technical Infeasibility Amount: Thirty-five percent (35%) of the dollar amount referred to in the Definition of "Technical Infeasibility" in Section 1.1 of the Agreement (each, a "**WRE Adjusted Portion of the Technical Infeasibility Amount**" or "**WRETIA**") shall be adjusted annually, commencing January 1, 2016 by the percentage change in the annual Wage Rate Escalator ("**WRE**"), if any. Accordingly, for the first and each succeeding Contract Year, the WRETIA shall be adjusted at the beginning of the hour ending 01:00 (ET) on January 1 of each such Contract Year by a factor based on the percentage change in the annual average WRE for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average WRE for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

WRETIA_y = WRETIA_{y-1} x WRE_{y-1}/WRE_{y-2}	
where:	
WRETIA_y	is the WRE Adjusted Portion of the Technical Infeasibility Amount in Contract Year "y".
WRETIA_{y-1}	is the WRE Adjusted Portion of the Technical Infeasibility Amount for the Contract Year immediately preceding Contract Year "y", provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, WRETIA _{y-1} shall be 35% of the dollar amount referred to in the definition of "Technical Infeasibility" in Section 1.1 of the Agreement.
WRE_{y-1}	is the annual average WRE calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year "y"; provided that if Contract Year "y-1" is the calendar year immediately preceding the first Contract Year, WRE _{y-1} shall be the twelve-month period ending on December 31, 2015.
WRE_{y-2}	is the annual average WRE calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year "y-1"; provided that if Contract Year "y-1" is the calendar year immediately preceding the first Contract Year, WRE _{y-2} shall be the twelve-month period ending on December 31, 2014.
annual average WRE	is the simple average of the twelve monthly WREs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada or, if no longer so published, as determined pursuant to Section 1.11, and rounded to the first decimal

	place.
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For purposes of this calculation, the quotient of WREy-1 divided by WREy-2 shall be rounded to the third decimal place.

3. **Debt Threshold for Cross Default**-Section 11.1(j)

One hundred percent (100%) of the dollar amount referred to in Section 11.1(j) of the Agreement (the “**Debt Threshold Amount**” or “**DTA**”) shall be adjusted annually, commencing January 1, 2016, by the percentage change in the annual average CPI, if any. Accordingly, for the first and each succeeding Contract Year, the DTA shall be adjusted at the beginning of the hour ending 01:00 (ET) on January 1 of each such Contract Year by a factor based on the percentage change in the annual average CPI for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average CPI for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

DTAy = DTA Ay-1 x CPly-1/CPly-2	
where:	
DTAy	is the Debt Threshold Amount in Contract Year “y”.
DTAy-1	is the Debt Threshold Amount on the January 1 of the Contract Year immediately preceding Contract Year “y”; provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, DTAy-1 shall be the Debt Threshold Amount set out in the Agreement (i.e., \$300 million).
CPly-1	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPly-1 shall be the twelve-month period ending on December 31, 2015.
CPly-2	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y-1”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPly-2 shall be the twelve-month period ending on December 31, 2014.
annual average CPI	is the simple average of the twelve monthly CPIs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada (or, if no longer so published, replaced pursuant to Section 1.1) and rounded to the first decimal place.

For purposes of this calculation, the quotient of CPly-1 divided by CPly-2 shall be rounded to the third decimal place.

4. **Discriminatory Action** – Section 14.1 and the Definition of “**DA Material Adverse Effect**”

One hundred percent (100%) of the dollar amount referred to in the Definition of “DA Material Adverse Effect” in Section 14.1 of the Agreement (the “**DA Material Adverse Effect Amount**” or “**DAA**”) shall be adjusted annually, commencing January 1, 2016, by the percentage change in the annual average CPI, if any. Accordingly, for the first and each succeeding Contract Year, the DAA shall be adjusted at the beginning of the hour ending 01:00 (ET) on January 1 of each such Contract Year by a factor based on the percentage change in the annual average CPI for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average CPI for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

DAA_y = DAA_{y-1} x CPI_{y-1}/CPI_{y-2}	
where:	
DAA_y	is the DA Material Adverse Effect Amount in Contract Year “y”.
DAA_{y-1}	is the DA Material Adverse Effect Amount on the January 1 of the Contract Year immediately preceding Contract Year “y”; provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, DCFA _{y-1} shall be the DA Material Adverse Effect Amount set out in the Agreement (i.e., \$12 million).
CPI_{y-1}	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPI _{y-1} shall be the twelve-month period ending on December 31, 2015.
CPI_{y-2}	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y-1”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPI _{y-2} shall be the twelve-month period ending on December 31, 2014.
annual average CPI	is the simple average of the twelve monthly CPIs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada (or, if no longer so published, replaced pursuant to Section 1.1) and rounded to the first decimal place.

For purposes of this calculation, the quotient of CPI_{y-1} divided by CPI_{y-2} shall be rounded to the third decimal place.

5. **Annual Adjustment for Unit Threshold Base Amount – Amounts Stated in Exhibit 9.1**

CPI Adjusted Portion of Exhibit 9.1 Amounts: Sixty-five percent (65%) of all of the dollar amounts referred to in Exhibit 9.1 (each, a “**CPI Adjusted Portion of an Exhibit 9.1 Amount**” or “**CPIAA**”) shall be adjusted annually, commencing January 1, 2016, by the percentage change in the annual average CPI, if any. Accordingly, for the first and each succeeding Contract Year, the CPIAA shall be adjusted at the beginning of the hour ending 01:00 (ET) on January 1 of each such Contract Year by a factor based on the percentage change in the annual average CPI for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average CPI for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

CPIAA_y = CPIAA_{y-1} x CPI_{y-1}/CPI_{y-2}	
where:	
CPIAA_y	is the CPI Adjusted Portion of an Exhibit 9.1 Amount in Contract Year “y”.
CPIAA_{y-1}	is the CPI Adjusted Portion of an Exhibit 9.1 Amount on the January 1 of the Contract Year immediately preceding Contract Year “y”; provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, CPIAA _{y-1} shall be 65% of the applicable dollar amount set out in Exhibit 9.1.
CPI_{y-1}	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPI _{y-1} shall be the twelve-month period ending on December 31, 2015
CPI_{y-2}	is the annual average CPI calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y-1”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, CPI _{y-2} shall be the twelve-month period ending on December 31, 2014.
annual average CPI	is the simple average of the twelve monthly CPIs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada (or, if no longer so published, replaced pursuant to Section 1.1) and rounded to the first decimal place.

For purposes of this calculation, the quotient of CPI_{y-1} divided by CPI_{y-2} shall be rounded to the third decimal place.

WRE Adjusted Portion of Exhibit 9.1 Amounts: Thirty-five percent (35%) of all of the dollar amounts referred to in Exhibit 9.1 (each, a “**WRE Adjusted Portion of an Exhibit 9.1 Amount**” or “**WREAA**”) shall be adjusted annually, commencing January 1, 2016 by the percentage

change in the annual Wage Rate Escalator (“**WRE**”), if any. Accordingly, for the first and each succeeding Contract Year, the WREAA shall be adjusted at the beginning of the hour ending 01:00 (ET) on January 1 of each such Contract Year by a factor based on the percentage change in the annual average WRE for the twelve-month period ending on December 31 of the Contract Year that just ended, over the annual average WRE for the immediately preceding twelve-month period ending on December 31, such factor to be calculated as follows:

WREAA_y = WREAA_{y-1} x WRE_{y-1}/WRE_{y-2}	
where:	
WREAA_y	is the WRE Adjusted Portion of an Exhibit 9.1 Amount in Contract Year “y”.
WREAA_{y-1}	is the WRE Adjusted Portion of an Exhibit 9.1 Amount for the Contract Year immediately preceding Contract Year “y”, provided that if such Contract Year y-1 is the calendar year immediately preceding the first Contract Year, WREAA _{y-1} shall be 35% of the applicable dollar amount set out in Exhibit 9.1.
WRE_{y-1}	is the annual average WRE calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, WRE _{y-1} shall be the twelve-month period ending on December 31, 2015.
WRE_{y-2}	is the annual average WRE calculated for the twelve-month period ending on December 31 of the Contract Year immediately preceding Contract Year “y-1”; provided that if Contract Year “y-1” is the calendar year immediately preceding the first Contract Year, WRE _{y-2} shall be the twelve-month period ending on December 31, 2014.
annual average WRE	is the simple average of the twelve monthly WREs in a specified twelve-month period ending on December 31, as calculated and published by Statistics Canada or, if no longer so published, as determined pursuant to Section 1.11, and rounded to the first decimal place.

For purposes of this calculation, the quotient of WRE_{y-1} divided by WRE_{y-2} shall be rounded to the third decimal place.

Exhibit 4.6

ADJUSTMENTS TO RATE OF RETURN

Adjustment to Rate of Return: On (i) the Refurbishment Lock-in Date for the Third Unit; (ii) the Refurbishment Lock-in Date for the Fifth Unit; (iii) if, either Party elects or is deemed to have elected not to proceed with the Refurbishment of all of the remaining Units to be Refurbished in accordance with the provisions of Section 9.1 prior to the Refurbishment Lock-in Date for the Third Unit and neither Party has elected to proceed with the Refurbishment of the subject Unit pursuant to Section 9.1, Section 9.2 or Section 9.3, as the case may be, October 1, 2023; and (iv) if either Party elects or is deemed to have elected not to proceed with the Refurbishment of all remaining Units to be Refurbished in accordance with the provisions of Section 9.1, Section 9.2 or Section 9.3, as the case may be, prior to the Refurbishment Lock-in Date for the Fifth Unit and neither Party has elected to proceed with the Refurbishment of the subject Unit pursuant to Section 9.1(d) or 9.1(c), if applicable, then on the later of (x) April 1, 2027 (such later date being the “**Second ARR Date**”) and (y) the date such election or deemed election not to proceed is made (such later date being the “**First ARR Date**”); the Rate of Return will be adjusted up or down by the difference, if any, between the then current Government of Canada Yield on the first Business Day following the date 30 days prior to the Refurbishment Lock-in Date (rounded up or down to the nearest increment of 25 basis points) and 3%. For greater certainty, if the difference is positive, the Rate of Return shall be increased, if the difference is negative, the Rate of Return, shall be decreased, and if the difference is zero, there shall be no change to the Rate of Return.

The Rate of Return, as adjusted as provided in the foregoing paragraph on the Refurbishment Lock-in Date for the Third Unit or the First ARR Date, as applicable, (the “**Rate of Return First Adjustment Date**”) shall apply only to the following:

- (a) Contract Price Adjustments pursuant to Sections 4.8, 4.9 and 4.11, as applicable, associated with Refurbishment Costs of the Third Unit and the Fourth Unit;
- (b) Contract Price Adjustments pursuant to Section 4.10 associated with Asset Management Costs relating to any Planning Period that becomes a new Planning Period N+1 following the Rate of Return First Adjustment Date and prior to the Rate of Return Second Adjustment Date (including the cost of Unit Extension Work) (for certainty, the adjusted Rate of Return shall not apply to any Planning Period N or Planning Period N+1 that is already included in the Contract Price or any subsequent adjustments related to such Planning Periods); and
- (c) a Contract Price Adjustment made pursuant to Section 4.12 and Exhibit 4.12 in connection with alternative arrangement for the de-tritiation required by the Generator pursuant to Section 2.22 following the Rate of Return First Adjustment Date and prior to the Rate of Return Second Adjustment Date;

(collectively, the “**Return Period 2 Adjustments**”).

The Rate of Return, as adjusted as provided in the first paragraph above on the Refurbishment Lock-in Date for the Fifth Unit or the Second ARR Date, as applicable (the “**Rate of Return Second Adjustment Date**”) shall apply only to the following:

- (a) Contract Price Adjustments pursuant to Sections 4.8, 4.9 and 4.11, as applicable, associated with Refurbishment Costs of the Fifth Unit or the Sixth Unit;
- (b) Contract Price Adjustments pursuant to Section 4.10 associated with Asset Management Costs relating to any Planning Period that becomes a new Planning Period N+1 following the Rate of Return Second Adjustment Date (including the cost of Unit Extension Work) (for certainty, the adjusted Rate of Return shall not apply to any Planning Period N or Planning Period N+1 that is already included in the Contract Price or any subsequent adjustments related to such Planning Periods); and
- (c) a Contract Price Adjustment made pursuant to Section 4.12 and Exhibit 4.12 in connection with alternative arrangement for the de-tritiation required by the Generator pursuant to Section 2.22 following the Rate of Return Second Adjustment Date;

(collectively, the “**Return Period 3 Adjustments**”).

For certainty, the Rate of Return applicable in all Contract Price Adjustments herein other than the Return Period 2 Adjustments and the Return Period 3 Adjustments shall remain as the amount set forth in Section 1.1(6) of the Technical Schedule.

Exhibit 4.7(a)

CONTRACT PRICE ADJUSTMENTS FOR CHANGES TO OPERATING COSTS

Refer to Exhibit 4.7(a) of the Technical Schedule.

Exhibit 4.7(c)

**CONTRACT PRICE ADJUSTMENT FOR OTHER POST-EMPLOYMENT BENEFITS
BURDEN RATE**

Refer to Exhibit 4.7(c) of the Technical Schedule.

EXHIBIT 4.8

ADJUSTMENTS TO CONTRACT PRICE RELATING TO REFURBISHMENT

Recital:

This Exhibit identifies all Contract Price Adjustments that may be required pursuant to Section 4.8 of the Agreement. This Exhibit relates Section 4.8 of the Agreement to the Financial Model in order to properly effect those Financial Model Adjustments arising from Section 4.8 of the Agreement.

1. Interpretation:

(a) Cross-References:

The expression "Clause" or "Schedule" followed by a letter or a number means and refers to the specified clause of, or schedule attached to, this Exhibit unless otherwise specified. All "Section" references in this Exhibit 4.8 are to Sections of the Agreement. Alphanumeric references in square brackets (e.g. "[1x]") refer to the specified instruction line in the CAS Instructions and the expression "Part" followed by a number means and refers to the specified part of the CAS Instructions.

(b) Financial Model References:

Capitalized terms used in this Exhibit 4.8 but not defined in the Agreement or this Exhibit 4.8 refers to the applicable line item in the Financial Model. References to the Financial Model at the time of a Contract Price Adjustment will be to the then current iteration of the Financial Model as maintained and updated from time to time pursuant to Exhibit 1.1(c).

(c) Outages:

For purposes of this Exhibit 4.8, "Outages" refers to planned Outages other than Refurbishment Outages and include, for greater certainty, Station Containment Outages (SCO) and Vacuum Building Outages, where "Vacuum Building Outages (VBO)" means, an Outage conducted on a periodic basis for the primary purpose of confirming the integrity of the equipment and infrastructure of the vacuum buildings at the Facility, and "Station Containment Outages (SCO)" means, an Outage conducted at the Facility on a periodic basis for the primary purpose of confirming the integrity between a reactor building and a vacuum building.

2. Section 4.8(a) – Adjustments to Contract Price Arising from Movement of Refurbishment Outage Pre-Refurbishment Lock-In Date:

(a) Adjustments Arising from Movement of Refurbishment Outage: On the Adjustment Date immediately following the approval by the Counterparty pursuant to Section 2.3(c) or Section 2.3(e) (or the next following Adjustment Date if such approval is received after March 1), as applicable, the Contract Price shall be adjusted to reflect the revised Scheduled Refurbishment Outage Date. **[32f]** Such revised Scheduled

Refurbishment Outage Date shall be an Input for the purposes of this Clause 2. The only other Inputs for the applicable Unit that may change and that may be reflected in the updated Financial Model pursuant to Section 2.3(c) or Section 2.3(e) of the Agreement are the following:

(i) **Pre Refurbishment Outage Date Inputs.**

- A. addition or reduction or change in duration of Outages, or changes to the nature of or replacement of Outages, for such Unit (expressed in days), as applicable; **[32h, 32i]**
- B. updated Outage (Expensed under IFRS) Costs, updated Outage (Capitalized under IFRS) Costs and updated Vacuum Building Outage / Station Containment Outage Costs, in each case corresponding to the change referred to in Clause 2(a)(i)(A) above; **[32k, 32l, 32m]**
- C. updated Rating for such Unit (expressed in MW for each Contract Year being updated); **[32g]**
- D. updated Unplanned Losses (expressed as a percentage for each Contract Year being updated); **[32j]**

(ii) **Post Refurbishment Outage Date Inputs.**

- A. the movement in timing of the Expected End of Life Date of such Unit but in doing so taking into account that at no time should it be planned for more than two (2) Units to reach their respective Expected End of Life Dates in any given Contract Year; and **[32d]**
- B. the Expected End of Life Date Revision Decision Point, **[32e]**

in each case, corresponding solely to the change in timing of the Scheduled Refurbishment Outage Date from that assumed in the Financial Model and, for greater certainty, without changing any duration of such Outages except pursuant to Clause 2(a)(i)(A).

(b) **Calculation of the Contract Price Adjustment:** The Inputs referred to in Clause 2(a) are referenced in Part **[32]** of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the Contract Price Adjustment.

3. Section 4.8(b) – Adjustments to Contract Price Determined in Connection with Fully-Scoped Refurbishment Cost and Fully-Scoped Refurbishment Duration:

- (a) **Adjustments Related to Fully-Scoped Refurbishment Cost:** On the Adjustment Date immediately following the Go Election for a Unit, the Contract Price shall be increased to reflect the applicable Fully-Scoped Refurbishment Cost of such Unit (except for the amount of the Unit Cost Overage if the provisions of Section 9.1(e)(i) are applicable) and the Rate of Return thereon. The Generator shall provide the Fully-Scoped Refurbishment Cost in accordance

with Section 2.5(a) expressed in nominal dollars of the year (in respect of Refurbishment Costs already spent, in the year spent, and in respect of Refurbishment Costs yet to be spent, in the year such Refurbishment Costs are expected to be spent). The only Inputs for the applicable Unit that may change and that will be reflected in the updated Financial Model are the Fully-Scoped Refurbishment Cost, the years in which such Costs are expected to be spent, and the Rate of Return. Such Inputs referred to in this Clause 3(a) are referenced in **[12a]**, **[18a]** and **[24a]** of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the applicable Contract Price Adjustment.

- (b) **Adjustments Related to Change That is Beneficial to the Ratepayer:** On the Adjustment Date immediately following the Go Election of a Unit, the Contract Price shall be adjusted in order to reflect any change that is Beneficial to the Ratepayer in respect of such Unit to the extent not already included in the Contract Price Adjustment referred to in Clause 3(a) or 3(c). **[8a, 8b, 8e, 31d, 31e, 31f, 31g, 31h, 31i, 31j, 31k, 31l, 31m]** The only Inputs for the applicable Unit that may change (pursuant to a change that is Beneficial to the Ratepayer) and that may be reflected in the updated Financial Model are Inputs that have been approved by the Counterparty or determined in accordance with Section 2.4(d) of the Agreement. Such Inputs referred to in this Clause 3(b) are referenced in Parts **[8]** and **[31]** of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the applicable Contract Price Adjustment.
- (c) **Adjustments Related to Fully-Scoped Refurbishment Duration:** On the Adjustment Date immediately following the Go Election for a Unit, the Contract Price shall be adjusted to reflect the applicable Fully-Scoped Refurbishment Duration of such Unit. The Generator shall provide the Fully-Scoped Refurbishment Duration expressed in days in accordance with Section 2.5(a). **[33g]** The only Inputs for the applicable Unit that may change and that will be reflected in the updated Financial Model are the Fully-Scoped Refurbishment Duration and:
- A. the movement in timing of the Expected End of Life Date of such Unit but in doing so taking into account that at no time should it be planned for more than two (2) Units to reach their Expected End of Life Dates in any given Contract Year; and **[33e]**
 - B. the Expected End of Life Date Revision Decision Point, **[33f]**

in each case, corresponding solely to the change in the Fully-Scoped Refurbishment Duration from that assumed in the Financial Model, so that such Inputs shall only reflect the movement in timing of the completion of the Refurbishment and, for greater certainty, do not change the duration of such Outages. Such Inputs referred to in this Clause 3(c) are referenced in Part **[33]** of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the CAS Instructions in order to calculate the applicable Contract Price Adjustment.

- (d) **Adjustments Related to ADR Extension Period:** On the Adjustment Date immediately following the Go Election of a Unit, the Contract Price shall be adjusted if required pursuant to Exhibit 2.4(d) of the Agreement, in respect of the increased Refurbishment Costs in connection with an ADR Extension Period. **[13a, 19a, 25a]** The only Inputs for the applicable Unit that may change and that will be reflected in the updated Financial Model are any increased Refurbishment Costs directly attributable to the ADR Extension Period if required pursuant to Exhibit 2.4(d) of the Agreement and the Rate of Return. Such Inputs are referenced in Part **[13]**, **[19]** and **[25]** of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the CAS Instructions in order to calculate the Contract Price Adjustment.
- (e) **Common Adjustment Date:** For greater certainty, one or all of the Contract Price Adjustments in Clauses 3(a) to 3(d), inclusive, may arise with respect to a Unit and any and all such Contract Price Adjustments shall occur on the same Adjustment Date for such Unit.
- (f) **Refurbishment Adjustment Disputes:** Notwithstanding the provisions of Clauses 3(a) to 3(e), inclusive:
 - (i) on the Adjustment Date immediately following the Go Election for a Unit, notwithstanding any unresolved disputes in respect of such Unit pursuant to Section 2.6(i) and (j) or Section 3.2(c) (a "Refurbishment Adjustment Dispute"), the Contract Price Adjustment pursuant to Section 4.8 in respect of such Unit shall be made using the Inputs provided by the Generator; and
 - (ii) on the Adjustment Date immediately following the resolution of any Refurbishment Adjustment Dispute, a subsequent Contract Price Adjustment shall be made pursuant to Section 4.8 in respect of such Unit to correct for the outcome of the dispute, using the Inputs that are finally determined in accordance with such dispute resolution process.

The Inputs determined pursuant to Clause 3(f)(ii) will be input in the CAS as a replacement of the corresponding Inputs used on the Adjustment Date referenced in Clause 3(f)(i).
- (g) **Postponement of Adjustment Date:** Notwithstanding the provisions of Clauses 3(a) to 3(f), inclusive, if any Input applicable to any of such Contract Price Adjustments has not been verified in accordance with the provisions of Section 2.5(c), the Contract Price Adjustment shall take place on the next following Adjustment Date and the Financial Model Adjustment shall take such postponement into account.

EXHIBIT 4.9

ADJUSTMENTS TO CONTRACT PRICE DETERMINED AT FINAL COMPLETION

Recital:

This Exhibit is intended to identify all Contract Price Adjustments which may be required pursuant to Section 4.9 of the Agreement. This Exhibit relates Section 4.9 of the Agreement to the Financial Model in order to properly effect those Financial Model Adjustments arising from Section 4.9 of the Agreement.

1. Interpretation:

(a) **Cross-References:**

The expression "Clause" or "Schedule" followed by a letter or a number means and refers to the specified clause of, or schedule attached to, this Exhibit unless otherwise specified. All "Section" references in this Exhibit 4.9 are to Sections of the Agreement. Alphanumeric references in square brackets (e.g. "[1x]") refer to the specified instruction line in the CAS Instructions and the expression "Part" followed by a number means and refers to the specified part of the CAS Instructions.

(b) **Financial Model References:**

Capitalized terms used in this Exhibit 4.9 but not defined in the Agreement or this Exhibit 4.9 refer to the applicable line item in the Financial Model. References to the Financial Model at the time of a Contract Price Adjustment will be to the then current iteration of the Financial Model as maintained and updated from time to time pursuant to Exhibit 1.1(c).

(c) **Definitions:**

In addition to the terms defined in Section 1.1 of the Agreement or defined elsewhere in this Exhibit 4.9, the following capitalized terms shall have the meanings stated below when used in this Exhibit:

"Contingency Savings" has the meaning set out in Clause 2(a).

"Final Refurbishment Cost" means the final actual Refurbishment Costs of a Refurbished Unit (which shall not include any FM Refurbishment Costs), and includes adjustments determined in accordance with Clause 3, if applicable.

"Final Refurbishment Duration" means the final actual duration of the Refurbishment Outage of a Refurbished Unit determined as at Final Completion, expressed in days, being the period starting on the Refurbishment Outage Date and ending on, and including the date of first synchronization with the IESO-Controlled Grid of such Unit, including for greater certainty any FM Refurbishment Duration that is not attributable to EA Force Majeure.

“FM Refurbishment Costs” means, in respect of a Unit, 100% of the increase in Refurbishment Costs of such Unit from Force Majeure.

“FM Refurbishment Duration” means, in respect of a Unit, 100% of the delay in the Refurbishment Work of such Unit resulting from Force Majeure.

“Net Variance” has the meaning set out in Clause 2(a).

“Shared Net Savings” has the meaning set out in Clause 2(a).

“Unit Cost Overrun” means, in respect of a Unit for which the Final Refurbishment Cost is greater than the Fully-Scoped Refurbishment Cost of such Unit, the positive amount in dollars equal to the Final Refurbishment Cost minus the Fully-Scoped Refurbishment Cost of such Unit. For greater certainty, if the Final Refurbishment Cost is less than or equal to the Fully-Scoped Refurbishment Cost of such Unit, then the Unit Cost Overrun is nil.

“Unit Cost Savings” means, in respect of a Unit for which the Final Refurbishment Cost is less than the Fully-Scoped Refurbishment Cost of such Unit, the positive amount in dollars equal to the Fully-Scoped Refurbishment Cost of such Unit minus the Final Refurbishment Cost. For greater certainty, if Final Refurbishment Cost is greater than or equal to the Fully-Scoped Refurbishment Cost of such Unit then the Unit Cost Saving is nil.

“Unit Incremental Revenue” means, in respect of a Unit for which the Final Refurbishment Duration is less than the Fully-Scoped Refurbishment Duration of such Unit, the amount in dollars equal to the actual Electricity generated by the electrical generating unit of such Unit and delivered to the Point of Delivery during such period, determined as commencing at the start of the hour immediately following the achievement of first synchronization with the IESO-Controlled Grid of such Unit and ending at the start of the hour in which such first synchronization was expected to be achieved based on the Fully-Scoped Refurbishment Duration of such Unit (expressed in MWh) multiplied by the sum of the Contract Price and the DC Fee (expressed in \$/MWh) applicable for each hour of such period. For greater certainty, if the Final Refurbishment Duration of such Unit is greater than or equal to the Fully-Scoped Refurbishment Duration of such Unit then Unit Incremental Revenue for such Unit is nil.

“Unit Lost Revenue” means, in respect of a Unit for which the Final Refurbishment Duration is greater than the Fully-Scoped Refurbishment Duration, the amount in dollars equal to the projected Electricity generated by the electrical generating unit of such Unit set forth in the Financial Model for the period commencing at the start of the first hour of the day of expected achievement of first synchronization with the IESO-Controlled Grid of such Unit and ending at the end of the last hour on the day of the actual achievement thereof (expressed in MWh) multiplied by the sum of the Contract Price and the DC Fee (expressed in \$/MWh) applicable for each hour of such period. For greater certainty, if Final Refurbishment Duration is less than or equal to Fully-Scoped Refurbishment Duration then Unit Lost Revenue is nil.

2. **Section 4.9 – Adjustments to Contract Price Determined at Final Completion:**

- (a) **Section 4.9(a) – Adjustments to Reflect Shared Net Savings:** On the Adjustment Date immediately following the Final Completion of a Unit, the Contract Price shall be reduced to reflect the Shared Net Savings applicable to such Unit, if any, calculated as follows:

If the Contract Price Adjustment is for either the First Unit or the Second Unit:

Shared Net Savings = 50% of Net Variance,

where Net Variance = Unit Incremental Revenue + Unit Cost Savings – (Unit Lost Revenue + Unit Cost Overruns),

and if Shared Net Savings is less than zero, Shared Net Savings shall be deemed to be zero.

If the Contract Price Adjustment is for either the Third Unit, the Fourth Unit, the Fifth Unit or the Sixth Unit:

Shared Net Savings = 50% of Net Variance + 25% of Contingency Savings,

where Contingency Savings = Unit Cost Savings and shall be deemed to be equal to Contingency if Unit Cost Savings is greater than Contingency,

where Net Variance = Unit Incremental Revenue + Unit Cost Savings – (Unit Lost Revenue + Unit Cost Overruns),

and if Shared Net Savings is less than zero, Shared Net Savings shall be deemed to be zero.

The only Input for the applicable Unit that may change pursuant hereto and that will be reflected in the updated Financial Model is the Shared Net Savings. **[14a, 20a, 26a]** Such Input is referenced in Parts **[14]**, **[20]** and **[26]** of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the Contract Price Adjustment.

- (b) **Adjustments Related to Increased Refurbishment Costs due to Force Majeure:** On the Adjustment Date immediately following the Final Completion of a Unit, the Contract Price shall be increased to reflect 50% of the FM Refurbishment Costs as determined pursuant to Section 12.1(f)(i) and the Rate of Return. **[15a, 21a, 27a]** For greater certainty, there will be no Contract Price Adjustment for any FM Refurbishment Costs solely attributable to EA Force Majeure for the First Unit and there will be a Contract Price Adjustment for 50% of FM Refurbishment Costs solely attributable to EA Force Majeure for the Second to Sixth Unit, inclusive. The only Inputs for the applicable Unit that may change and that may be reflected in the updated Financial Model is the amount of such FM Refurbishment Costs and the Rate of Return. Such Inputs are

referenced in Parts [15], [21] and [27] of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the Contract Price Adjustment.

- (c) **Adjustments Related to EA Force Majeure and Corresponding Adjustment to Generation Profile:** On the Adjustment Date immediately following the Final Completion of a Unit, the Contract Price shall be adjusted in respect of EA Force Majeure and the corresponding Adjustment to Generation Profile of such Unit as provided in Sections 12.1(f)(iii), 12.1(f)(iv) and 12.1(f)(v); provided, however, if an EA Force Majeure has occurred in respect of a Unit other than the First Unit there shall also be an adjustment pursuant to Clause 2(b). For greater certainty, the Contract Price shall be adjusted by 100% of the FM Refurbishment Duration for the First Unit and 50% of the FM Refurbishment Duration for all remaining Units in respect of any FM Refurbishment Duration attributable to EA Force Majeure. The only Inputs that may change pursuant hereto and that will be reflected in the updated Financial Model are:
- (i) the FM Refurbishment Duration that is solely attributable to EA Force Majeure; **[34g]**
 - (ii) the Scheduled Refurbishment Outage Date; **[34f]**
 - (iii) Pre Refurbishment Outage Date Inputs:
 - A. addition or reduction or change in duration of Outages, or changes to the nature of or replacement of Outages, for such Unit (expressed in days), as applicable; **[34i, 34j]**
 - B. updated Outage (Expensed under IFRS) Costs, updated Outage (Capitalized under IFRS) Costs and updated Vacuum Building Outage / Station Containment Outage Costs, in each case corresponding to the change referred to in Clause 2(c)(iii)A; **[34l, 34m, 34n]**
 - C. updated Rating for such Unit (expressed in MW for each Contract Year being updated); **[34h]**
 - D. updated Unplanned Losses (expressed as a percentage for each Contract Year being updated); **[34k]**
 - (iv) Post Refurbishment Outage Date Inputs:
 - A. the movement in timing of the Expected End of Life Date of such Unit but in doing so taking into account that at no time should it be planned for more than two (2) Units to reach their respective Expected End of Life Dates in any given Contract Year; and **[32d]**
 - B. the Expected End of Life Date Revision Decision Point, **[32e]**

in each case, corresponding solely to the change in timing of the Scheduled Refurbishment Outage Date from that assumed in the Financial Model and, for greater certainty, without changing any duration of such Outages except pursuant to Clause 2(c)(iii)A. Such Inputs referenced in this Clause 2(c) are referenced in Part [34] of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS instructions in order to calculate the Contract Price Adjustment.

- (d) **Common Adjustment Date:** For greater certainty, one or all of the Contract Price Adjustments in Clauses 2(a) to 2(c), inclusive, may arise with respect to a Unit and any and all such Contract Price Adjustments may occur on the same Adjustment Date for such Unit.
- (e) **Postponement of Adjustment Date:** Notwithstanding the provisions of Clauses 2(a) to 2(d), inclusive, if any Input applicable to any of such Contract Price Adjustments has not been verified in accordance with the provisions of Section 3.1(b), the Contract Price Adjustment shall take place on the next following Adjustment Date and the Financial Model Adjustment shall take such postponement into account.

3. **Refurbishment Costs for Purposes of Determining Final Refurbishment Cost**

The Final Refurbishment Cost in respect of a Refurbished Unit shall be calculated when the Generator achieves Final Completion following such Unit's Commercial Operation Date. The Final Refurbishment Cost calculation for such Unit shall include adjustments in accordance with this Clause 3. The determination of such adjustments and, to the extent any such adjustments have not been determined by Final Completion, an estimation thereof, shall be made by the Generator acting reasonably and in good faith, including the following:

- (a) All liquidated damages received by the Generator from contractors, subcontractors or suppliers in excess of liquidated damages payable by the Generator to the Counterparty pursuant to Section 2.10, in each case in respect of such Unit, shall be subtracted from the Refurbishment Costs otherwise determined as at such date.
- (b) All insurance proceeds received or receivable by the Generator from the Generator's insurers in respect of an insurable claim for property damage or delay relating to such Refurbished Unit and not paid or required to be paid to any suppliers, contractors or subcontractors of any tier in accordance with any applicable agreement with such suppliers, contractors or subcontractors of any tier, in each case in connection with such Refurbished Unit, shall be subtracted from the Refurbishment Costs otherwise determined as at such date. If any such insurance proceeds become unreceivable, the Final Refurbishment Cost shall be re-determined, if applicable, by reference to the actual insurance proceeds received by the Generator and any under payment in respect of the applicable Adjustment Date, together with interest thereon at the Interest Rate, and such re-determined Final Refurbishment Cost will be included on the next following Adjustment Date in a Financial Model Adjustment pursuant to the Financial Model to reflect the Contract Price Adjustment that should have been implemented on the relevant Adjustment Date.

- (c) The cost of completing all punch list items relating to Refurbishment of such Refurbished Unit, and all similar Refurbishment Costs which have been incurred by the Generator in connection with such Refurbished Unit after its Commercial Operation Date, shall be added to the Refurbishment Costs otherwise determined as at such date.
- (d) In the event that at the time of Final Completion, there is any outstanding dispute pursuant to a dispute resolution process under Sections 18.1 or 18.2 of the Agreement, the results of which are relevant to the determination of the Final Refurbishment Cost, the Parties shall acting reasonably and in good faith, estimate the appropriate provisional Contract Price Adjustment to the Final Refurbishment Cost as at the time of Final Completion taking into account a reasonably estimated amount of the award in such dispute and the reasonable costs, expenses and disbursements of the Generator related to such dispute resolution. Upon final resolution of the dispute resolution in question, the Final Refurbishment Cost shall be re-determined, if applicable, by reference to the actual outcome of such dispute resolution and any over or under payment in respect of the applicable Contract Price Adjustment, and such re-determined Final Refurbishment Cost will be included on the next following Adjustment Date in a Financial Model Adjustment pursuant to the Financial Model to reflect the applicable Contract Price Adjustment that should have been implemented on the applicable Adjustment Date.
- (e) In the event that the Counterparty identifies, as a result of any audit completed by or on behalf of the Counterparty in accordance with Section 3.7(b) of the Agreement, that there was an error in the Generator's calculation of the Final Refurbishment Cost in respect of a Unit, then the Counterparty shall notify the Generator of such error and, upon final resolution of the matter, the Final Refurbishment Cost shall be re-determined, if applicable, by reference to the actual Final Refurbishment Cost and such re-determined Final Refurbishment Cost will be included on the next following Adjustment Date in a Financial Model Adjustment pursuant to the Financial Model to reflect the Contract Price Adjustment that should have been implemented on the relevant Adjustment Date. Any disputes arising pursuant to this Clause 3(e) shall be resolved in accordance with Section 18.1 or 18.2 of the Agreement.
- (f) The return, credit or sale of unused inventory or equipment at the conclusion of Refurbishment Work.

EXHIBIT 4.10

MOVEMENT OF ASSET MANAGEMENT AND ADJUSTMENTS TO CONTRACT PRICE RELATING TO ASSET MANAGEMENT

Recitals:

- (a) This Exhibit and Section 2.11(e) set forth the manner in which Asset Management Work may be moved between Planning Periods. This Exhibit identifies all Contract Price Adjustments that may be required in relation to Asset Management Work (but not including those circumstances where a Refurbishment of a Unit is not to proceed and that itself triggers a Contract Price Adjustment pursuant to an Off-Ramp LAMP or a Unit Extension Plan as provided in Exhibit 4.11).
- (b) This Exhibit relates several provisions of the Agreement pertaining to Asset Management Work and the Contract Price Adjustments arising in connection therewith (in particular, Sections 2.11, 4.10 and 12.1) to the Financial Model.

1. Interpretation:

(a) **Cross-References:**

The expression "Clause" or "Schedule" followed by a letter or a number means and refers to the specified clause of, or schedule attached to, this Exhibit unless otherwise specified. All "Section" references in this Exhibit 4.10 are to Sections of the Agreement. Alphanumeric references in square brackets (e.g. "[1x]") refer to the specified instruction line in the CAS Instructions and the expression "Part" followed by a number means and refers to the specified part of the CAS Instructions.

(b) **Financial Model References:**

Capitalized terms used in this Exhibit 4.10 but not defined in the Agreement or this Exhibit 4.10 refer to the applicable line item in the Financial Model. References to the Financial Model at the time of a Contract Price Adjustment will be to the then current iteration of the Financial Model as maintained and updated from time to time pursuant to Exhibit 1.1(c).

(c) **Definitions:**

In addition to the terms defined in Section 1.1 in of the Agreement or defined elsewhere in this Exhibit 4.10, the following capitalized terms shall have the meanings stated below when used in this Exhibit:

"Accelerated Asset Management Costs" means any Asset Management Costs associated with Accelerated Asset Management Work.

"Accelerated Asset Management Work" means Asset Management Work that is accelerated from a later Planning Period to an earlier Planning Period.

“Estimated Asset Management Costs” means the estimated amount of the total Asset Management Costs for Asset Management Work for Planning Period N+1 determined in accordance with Sections 2.11(b), 2.11(c) and 2.11(e) and identified in a LAMPn.

“Fixed Asset Management Costs” means the fixed amount of the total Asset Management Costs for Asset Management Work for Planning Period N determined in accordance with Sections 2.11(b), 2.11(c) and 2.11(e) and identified in a LAMPn, as adjusted pursuant to Clause 2, if applicable.

“FME-Asset Management Costs” means 100% of the increase in Asset Management Costs of Force Majeure-Eligible Asset Management Work resulting from Force Majeure, as agreed by the Parties or finally determined in accordance with Sections 12.1 and 12.2.

“LAMPi” means the initial Lifetime Asset Management Plan prepared in accordance with Section 2.11(b) and effective on the Effective Date for the Planning Period commencing on January 1, 2016 and ending on December 31, 2018, the Planning Period commencing on January 1, 2019 and ending on December 31, 2021, and for each Planning Period of the Term thereafter. For greater certainty, the Planning Period commencing on January 1, 2019 and ending on December 31, 2021 will be the Planning Period N for the first LAMPn after the LAMPi.

“LAMPn” means the Lifetime Asset Management Plan prepared no later than six months prior to the start of a Planning Period in accordance with Section 2.11(c) (which Planning Period, for greater certainty, is “Planning Period N”).

“LAMPn-1” means the Lifetime Asset Management Plan that immediately precedes LAMPn.

“LAMPn+1” means the Lifetime Asset Management Plan that immediately follows LAMPn.

“LAMPn+2” means the Lifetime Asset Management Plan that immediately follows LAMPn+1.

“LAMPn+x” means any Lifetime Asset Management Plan that follows LAMPn+1.

“LAMP Supplement” means a supplement to a LAMPn-1 provided in accordance with Section 2.11(e)(i) or Section 2.11(e)(ii).

“Major Acceleration” means Accelerated Asset Management Work as described in Clause 4(b)(i).

“Major Postponement” means Postponed Asset Management Work as described in Clause 4(a)(ii).

“Minor Acceleration” means Accelerated Asset Management Work as described in Clause 4(b)(ii).

“Minor Postponement” means Postponed Asset Management Work as described in Clause 4(a)(iii).

“Planning Period N” means the first Planning Period that is the subject of LAMPi (being January 1, 2016 to December 31, 2018) or the first Planning Period that is the subject of a LAMPn and that comprises the three Contract Year period commencing on the Triennial Date of such Planning Period and ending on December 31 of the third Contract Year of such Planning Period.

“Planning Period N-1” means the Planning Period immediately preceding Planning Period N identified in a LAMPn.

“Planning Period N+1” means the Planning Period immediately following Planning Period N identified in LAMPi or a LAMPn.

“Planning Period N+2” means the second Planning Period following Planning Period N identified in LAMPi or a LAMPn.

“Planning Period N+x” means any Planning Period following Planning Period N+1 identified in LAMPi or a LAMPn.

“Planning Period N+1 Threshold Amount” means, in respect of any Planning Period N+1, 125% of the Estimated Asset Management Costs for such Planning Period N+1, as the same may be adjusted as provided herein.

“Postponed Asset Management Costs” means any Asset Management Costs associated with Postponed Asset Management Work.

“Postponed Asset Management Work” means Asset Management Work that is postponed from an earlier Planning Period to a later Planning Period.

(d) References to Dollars:

References to dollars in this Exhibit 4.10 are to nominal dollars of the specified Contract Year in which the Asset Management Costs associated with such dollars are stated to be incurred.

(e) Schedules:

The following Schedules are attached to this Exhibit 4.10:

- (i) Schedule A – Illustrative Examples (for Movement of Asset Management Cost and Asset Management Work)
- (ii) Schedule B – Movement Schematics for Asset Management Work

2. Reduction of Fixed Asset Management Costs by Operating Efficiency Amount where Planning Period N Exceeds Planning Period N+1 Threshold Amount:

- (i) The calculation in Clause 2(ii) will be made after any movement in Asset Management Work referred to in Clause 4, and if the Fixed Asset Management Costs are adjusted pursuant to this Clause 2, such adjusted Fixed Asset Management Costs shall be used for purposes of Clause 5.

- (ii) If in any LAMP_n the Fixed Asset Management Costs for Planning Period N (prior to any adjustment pursuant to this Clause 2(ii)) exceeds the Planning Period N+1 Threshold Amount contained in the corresponding LAMP_{n-1} and there was an Operating Efficiency Amount in Planning Period N-1, then the Fixed Asset Management Costs for such Planning Period N will be adjusted by reducing the amount thereof by the lesser of:
 - A. the 50% portion of the amount of the Operating Efficiency Amount to which the Generator is entitled to retain pursuant to Section 4.3 for such Planning Period N-1; and
 - B. the positive difference between (A) the Fixed Asset Management Costs for Planning Period N (prior to any adjustment pursuant to this Clause 2(ii)) and (B) the Planning Period N+1 Threshold Amount contained in the LAMP_{n-1},and such Fixed Asset Management Costs, as adjusted pursuant to this Clause 2(ii), shall be the Fixed Asset Management Costs for purposes of Clause 3.

3. Updates to Lifetime Asset Management Plan

(a) LAMP Updates Every Planning Period:

Pursuant to Section 2.11(c), the Generator shall update the LAMP every Planning Period no later than six (6) months prior to the start of the next Planning Period by delivering to the Counterparty a LAMP_n. For each LAMP_n, the new Planning Period N and all remaining Planning Periods in such LAMP_n are updated from the previous LAMP_{n-1}, and in particular:

- (i) previous Planning Period N becomes new Planning Period N-1;
- (ii) previous Planning Period N+1 becomes new Planning Period N; and
- (iii) previous Planning Period N+2 becomes new Planning Period N+1.

For greater certainty, references to "Planning Period N-1" or "Planning Period N" or "Planning Period N+1" refer to such Planning Periods as contained in an updated LAMP_n, unless referred to as "previous" Planning Period N-1, "previous" Planning Period N or "previous" Planning Period N+1, in which case such references will be to such Planning Periods as contained in the applicable LAMP_{n-1}.

(b) LAMP Supplements:

Any LAMP Supplement delivered pursuant to Section 2.11(e) will be incorporated into the next LAMP_n. Any LAMP Supplement pursuant to which Asset Management Work is Accelerated to Planning Period N-1 or Planning Period N shall include the Fixed Asset Management Costs of such Accelerated Asset Management Work and shall be delivered by the Generator to the Counterparty prior to the commencement of such Accelerated Asset Management Work. For greater certainty, any new LAMP_n shall incorporate any

and all LAMP Supplements that have been delivered to the Counterparty in a Planning Period following delivery of LAMP_{N-1} for such Planning Period.

(c) Update of Asset Management Costs:

For each LAMP_N, the Asset Management Costs for Planning Period N-1, Planning Period N and Planning Period N+1 will be determined as follows (illustrative examples of which are set forth in Schedule A to this Exhibit 4.10):

- (i) The Fixed Asset Management Costs for Planning Period N-1 shall be reduced in the event that any Asset Management Work for previous Planning Period N as set forth in the LAMP_{N-1} was postponed to Planning Period N+1 or later (for greater certainty, a Major Postponement) as specified in Clause 4(a)(i).
- (ii) The Estimated Asset Management Costs from previous Planning Period N+1 as set forth in the LAMP_{N-1} shall be updated and fixed as determined in accordance with Sections 2.11(b), 2.11(c) and 2.11(e), and shall be the Fixed Asset Management Costs for Planning Period N. Such Fixed Asset Management Costs may be further adjusted for any movement in Asset Management Work as follows:
 - A. Postponed Asset Management Costs as described in Clause 4(a); and
 - B. Accelerated Asset Management Costs as described in Clause 4(b),

and the Planning Period N+1 Threshold Amounts may also be correspondingly adjusted as provided in Clauses 4(a) and 4(b).

- (iii) Following the determination of the Fixed Asset Management Costs pursuant to Clause 3(c)(ii) and if the provisions of Clause 2(ii) are applicable, such Fixed Asset Management Costs shall be adjusted pursuant to Clause 2(ii).
- (iv) The estimate for the Asset Management Costs for previous Planning Period N+2 as set forth in the LAMP_{N-1} shall be updated and included in Planning Period N+1 and the Estimated Asset Management Costs for such Planning Period N+1 and the Planning Period N+1 Threshold Amount shall be determined in accordance with Section 2.11(b) and (c).

(d) Off-Ramp LAMPs and Unit Extension Plans:

The revised scope of Asset Management Work set forth in any Off-Ramp LAMP or Unit Extension Plan chosen or deemed to be chosen pursuant to any of Sections 9.1(f)(i), 9.2(c)(i), 9.3(d)(i)(A) or 9.3(d)(ii)(A) will replace such LAMP_N in its entirety with respect to the Terminated Unit and will be subject to the applicable Contract Price Adjustment, if any, made pursuant to Section 4.11 and Exhibit 4.11.

4. Movement of Asset Management Work and Asset Management Costs between Planning Periods

Asset Management Work may be moved either earlier or later as determined by the Generator in accordance with Section 2.11(e). If applicable, each LAMPn will include this movement in time of Asset Management Work and Asset Management Costs in accordance with the following and as illustrated in Schedule B:

(a) Postponed Asset Management Work Pursuant to Section 2.11(e)(ii):

- (i) Where a Major Postponement has occurred:
 - A. the scope of such Asset Management Work will remain unchanged other than the postponement of its timing to Planning Period N+1 or the applicable Planning Period N+x to which such Postponed Asset Management Work has been postponed;
 - B. the Fixed Asset Management Costs, if any, attributable to such Postponed Asset Management Work will be postponed from Planning Period N-1 to Planning Period N+1 or the applicable Planning Period N+x to which such Postponed Asset Management Work has been postponed; provided, however, that such Fixed Asset Management Costs will be updated in such Planning Period N+1 or applicable Planning Period N+x in accordance with Section 2.11(c) as part of the current LAMPn and any applicable LAMPn delivered in the future pursuant to Section 2.11(c);
 - C. the Estimated Asset Management Costs, if any, attributable to such Postponed Asset Management Work will be postponed from Planning Period N to the Planning Period N+1 or the applicable Planning Period N+x to which such Postponed Asset Management Work has been postponed; provided, however, that such Estimated Asset Management Costs will be updated in such Planning Period N+1 or applicable Planning Period N+x in accordance with Section 2.11(c) as part of the current LAMPn and any applicable LAMPn delivered in the future pursuant to Section 2.11(c);
 - D. in respect of the Postponed Asset Management Work that is postponed from Planning Period N-1, if any, the Fixed Asset Management Costs of Asset Management Work for such Planning Period N-1 will be decreased by the Fixed Asset Management Costs of the Postponed Asset Management Work and the Fixed Asset Management Costs for such Planning Period N-1 recalculated in accordance with Section 2.11(c) as part of the current LAMPn and the corresponding Planning Period N+1 Threshold Amount applicable to such Planning Period N-1 will be decreased by 125% of such amount; and
 - E. in respect of the Postponed Asset Management Work that is postponed from Planning Period N, if any, the Estimated Asset

Management Costs of Asset Management Work for the corresponding Planning Period (i.e. the previous Planning Period N+1 in LAMPn-1) will be decreased by the Estimated Asset Management Costs of the Postponed Asset Management Work and the corresponding Planning Period N+1 Threshold Amount applicable to such Planning Period N will be decreased by 125% of such amount.

For greater certainty, nothing in this Exhibit 4.11 will preclude such Postponed Asset Management Work from being re-included in the Contract Price as part of the applicable Estimated Asset Management Costs or Fixed Asset Management Costs in a LAMPn to be delivered in the future.

- (ii) A “**Major Postponement**” shall result if a LAMPn provides that Asset Management Work originally scheduled for Planning Period N-1 or Planning Period N (i.e. the previous Planning Period N or previous Planning Period N+1), the Asset Management Costs of which had been previously included in the Contract Price because the Fixed Asset Management Costs or the Estimated Asset Management Costs associated with such Postponed Asset Management Work had been included in the Contract Price in the LAMPn-1, has been postponed to Planning Period N+1 or a later Planning Period identified in such LAMPn.
- (iii) A “**Minor Postponement**” shall result if a LAMPn provides that Asset Management Work originally scheduled for Planning Period N-1, the Asset Management Costs of which had been previously included in the Contract Price because the Fixed Asset Management Costs associated with such Postponed Asset Management Work had been included in the Contract Price in the LAMPn-1, has been postponed to Planning Period N identified in such LAMPn:
 - A. the scope of such Postponed Asset Management Work will remain unchanged other than the postponement of its timing to Planning Period N; and
 - B. the Fixed Asset Management Costs for such Postponed Asset Management Work shall remain in Planning Period N-1 and no Contract Price Adjustment shall occur;

provided, however, that if following the delivery of such LAMPn such Postponed Asset Management Work is further postponed to Planning Period N+1 or later (as any such Planning Period is provided in such LAMPn), then such Postponed Asset Management Work will be a Major Postponement and then a Contract Price Adjustment will occur pursuant to Clause 5.

(b) Accelerated Asset Management Work Pursuant to Section 2.11(e)(i):

- (i) A “**Major Acceleration**” shall result if a LAMPn provides that: (x) Asset Management Work originally scheduled for Planning Period N+1,

Planning Period N+2 or Planning Period N+x (i.e. the previous Planning Period N+2 or later) has been accelerated to the Planning Period N-1 or Planning Period N identified in such LAMP_n; or (y) Asset Management Work originally scheduled for Planning Period N+2 or Planning Period N+x has been accelerated to Planning Period N+1 identified in such LAMP_n, and the following shall apply:

- A. the scope of such Accelerated Asset Management Work will remain unchanged other than the acceleration of its timing to such Planning Period N-1 or Planning Period N;
- B. any Asset Management Costs that are set forth in LAMP_{n-1} in any previous Planning Period N+2 or previous Planning Period N+x and that are accelerated to Planning Period N-1 or Planning Period N will be fixed and added to the Asset Management Costs set forth in LAMP_n for the Planning Period N+2 and shall stay in that Planning Period in each subsequent updated LAMP, notwithstanding that such Accelerated Asset Management Work shall be actually performed in Planning Period N-1 or Planning Period N; and
- C. the Accelerated Asset Management Costs of such Accelerated Asset Management Work in Clause 4(b)(i)B will not be included in the Planning Period N+1 Threshold Amount set out in LAMP_{n+1} that pertains to Planning Period N+2 when it becomes Planning Period N in such LAMP_{n+2}, but will be treated as a separate fixed cost item recoverable by the Generator on the applicable Adjustment Date that corresponds to such LAMP_{n+2} plus the Rate of Return.

(ii) A “**Minor Acceleration**” shall result if a LAMP_n provides that Asset Management Work originally scheduled for the Planning Period N (i.e. the previous Planning Period N+1) has been accelerated to the Planning Period N-1 identified in such LAMP_n (i.e. the previous Planning Period N). In such case:

- A. the scope of such Accelerated Asset Management Work remain unchanged other than the acceleration of its timing to such Planning Period N-1; and
- B. the Accelerated Asset Management Costs for such Accelerated Asset Management Work shall remain in the Planning Period N and will be Fixed Asset Management Costs as provided in the relevant LAMP Supplement.

5. Contract Price Adjustments:

For each of Units 3 to 8, the initial Contract Price on the Effective Date includes 100% of the Asset Management Costs identified in the LAMP_i for the first two Planning Periods plus the Rate of Return thereon. On the first Adjustment Date of each Planning Period N following the first

Planning Period N set forth in LAMPi, a Contract Price Adjustment shall occur in respect of the following, as applicable:

(a) Contract Price Adjustment for Fixed Asset Management Costs Pursuant to Section 2.11(c) and (d):

- (i) To reflect any reduction in the Fixed Asset Management Costs for Planning Period N-1 referred to in Clause 3(c)(i).
- (ii) To reflect the Fixed Asset Management Costs for Planning Period N in the updated LAMPn delivered pursuant to Section 2.11(c) (reflecting the difference between the amount that was already included in the Contract Price for the previous Planning Period N+1), as follows:
 - A. if and to the extent that such Fixed Asset Management Costs are less than or equal to the Planning Period N+1 Threshold Amount for the previous Planning Period N+1 set forth in LAMPn-1, as may have been adjusted pursuant to Clause 3(c)(ii), the Contract Price shall be adjusted to reflect the amount of Fixed Asset Management Costs for such Planning Period N, plus the Rate of Return thereon; and
 - B. if and to the extent that such Fixed Asset Management Costs exceed the Planning Period N+1 Threshold Amount for the previous Planning Period N+1 set forth in such LAMPn-1 as may have been adjusted pursuant to Clause 3(c)(ii), then in addition to the adjustment pursuant to Clause 5(a)(ii)A, the Contract Price shall be increased to reflect the amount of the excess Fixed Asset Management Costs for such Planning Period N, but there shall be no Rate of Return applicable to such excess Fixed Asset Management Costs.

For certainty, if the Rate of Return is adjusted pursuant to Section 4.6 prior to the Adjustment Date on which such Contract Price Adjustment is made, such Contract Price Adjustment shall be made at the Rate of Return applicable prior to such Adjustment Date.

(b) Estimated Asset Management Costs for Planning Period N+1 Pursuant to Section 2.11(c) and (d): To reflect 100% of the Estimated Asset Management Costs for the Planning Period N+1 as such amount is provided in the LAMPn, plus the Rate of Return thereon. For greater certainty, (a) if the Rate of Return is adjusted pursuant to Section 4.6 prior to the Adjustment Date on which such Contract Price Adjustment is made, such Contract Price Adjustment shall be made at the Rate of Return applicable on such Adjustment Date, and (b) such Contract Price Adjustment will itself be subject to adjustment on the next Adjustment Date as provided in Clause 5(a)(ii), using the same Rate of Return that applied to such Asset Management Costs as determined in accordance with this Clause 5(b).

(c) FME-Asset Management Costs Pursuant to Section 12.1(f)(ii): In respect of FME-Asset Management Costs, there shall be a Contract Price Adjustment in respect of fifty percent (50%) of the FME-Asset Management Costs, plus the Rate of Return thereon.

(d) **Exhibit 4.11 Adjustments:** Any Asset Management Work that is reflected in an Off-Ramp Lamp or a Unit Extension Plan and that resulted in an adjustment pursuant to Exhibit 4.11 shall not be included in a Contract Price Adjustment contemplated in this Exhibit 4.10, including, for certainty, any Contract Price Adjustment made pursuant to this Clause 5.

(e) **Calculation of the Contract Price Adjustment:**

The Inputs applicable to the Contract Price Adjustments referred to in Clauses 5(a) to 5(c), inclusive, and 5(f) are as follows:

- (i) updated Fixed Asset Management Costs for Planning Period N at or below the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N); **[16a, 22a, 28a]**
- (ii) Planning Period N+1 Estimated Asset Management Costs (expressed in millions of dollars for each Contract Year of Planning Period N+1); **[16b, 22b, 28b]**
- (iii) reduction in Fixed Asset Management Costs for Planning Period N-1 at or below the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N-1); **[16c, 22c, 28c]**
- (iv) Planning Period N Fixed Asset Management Costs that exceed the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N); **[30a]**
- (v) adjustment to Fixed Asset Management Costs for Planning Period N-1 that exceed the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N-1); **[30b]** and
- (vi) 50% of any FME-Asset Management Costs. **[16d, 22d, 28d]**

(f) **Section 2.6 Asset Management Disputes:** Notwithstanding the provisions of Clauses 5(a) to 5(i), inclusive:

- (i) on the applicable Adjustment Date, notwithstanding any unresolved disputes pursuant to Section 2.6(i) and (j) or Section 3.5(c) (an "Asset Management Adjustment Dispute") with respect to Asset Management Costs, the Contract Price Adjustment pursuant to Section 4.10 shall be made using the Inputs provided by the Generator; and
- (ii) on the Adjustment Date of the Planning Period immediately following the resolution of any Asset Management Adjustment Dispute, a subsequent Contract Price Adjustment shall be made pursuant to this Exhibit 4.10 to correct for the outcome of the dispute, using the Inputs that are finally determined in accordance with such dispute resolution process.

The Inputs determined pursuant to this Clause 5(f) will be input pursuant to Clause 5(e).

- (g) **Calculation of the Contract Price Adjustment:** The Inputs referred to in Clause 5(e) are referenced in Parts [16], [22], [28] and [30] of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the Contract Price Adjustment.
- (h) **Common Adjustment Date:** For greater certainty, one or all of the Contract Price Adjustments in Clauses 5(a) to 5(c), inclusive, may arise with respect to a LAMPn and any and all such Contract Price Adjustments shall occur on the same Adjustment Date for such LAMPn.

Schedule A to EXHIBIT 4.10

Illustrative Examples for Movement of Asset Management Cost and Asset Management Work

1. Minor Postponement

Example: Asset Management Work (\$20 of Fixed Asset Management Cost) in Planning Period N in the LAMP_{N-1} postponed to the Planning Period N in LAMP_N

LAMP _{N-1}	Period N Fixed Cost = \$100	Period N+1 Estimated Cost = \$120		
LAMP _N	Period N-1 Fixed Cost = \$100	Period N Fixed Cost = \$120		

The Postponed Asset Management Work shall be performed in Planning Period N in LAMP_N remains in Period N-1 in LAMP_N

The Estimated Asset Management Cost in LAMP_{N-1} for the Postponed Asset Management Work in LAMP_N remains in Period N-1 in LAMP_N and the Contract Price does not get adjusted

2. Major Postponement

Example 1: Asset Management Work (\$20 of Fixed Asset Management Cost) in Planning Period N in LAMP_{N-1} postponed to Planning Period N+x in the LAMP_N

LAMP_{N-1}: Corresponding Planning N+1 Threshold Amount = $\$120 \times 125\% = \150

LAMP _{N-1}	Period N Fixed Cost = \$100	Period N+1 Estimated Cost = \$120	Period N+2 Preliminary Cost = \$110	
LAMP _N	Period N-1 Fixed Cost \$80 (\$100-\$20)	Period N Fixed Cost = \$120	Period N+1 Estimated Cost = \$110	Period N+x Preliminary Cost increased by \$20

The Fixed Asset Management Cost in LAMP_{N-1} for the Postponed Asset Management Work is removed from Planning Period N-1 in LAMP_N and Contract Price is adjusted (reduced)

Example 2: Asset Management Work (\$20 of Estimated Asset Management Cost) in Planning Period N+1 in the LAMP_{N-1} postponed to a Planning Period N+x in the LAMP_N

LAMP_{N-1}: Corresponding Planning Period N+1 Threshold Amount = $\$120 \times 125\% = \150 is reduced when in LAMP_N: by $(\$20 \times 125\%) = \25 and the new threshold amount when Planning Period N+1 of LAMP_{N-1} becomes Planning Period N in LAMP_N is $(\$120-\$20) \times 125\% = \$125$

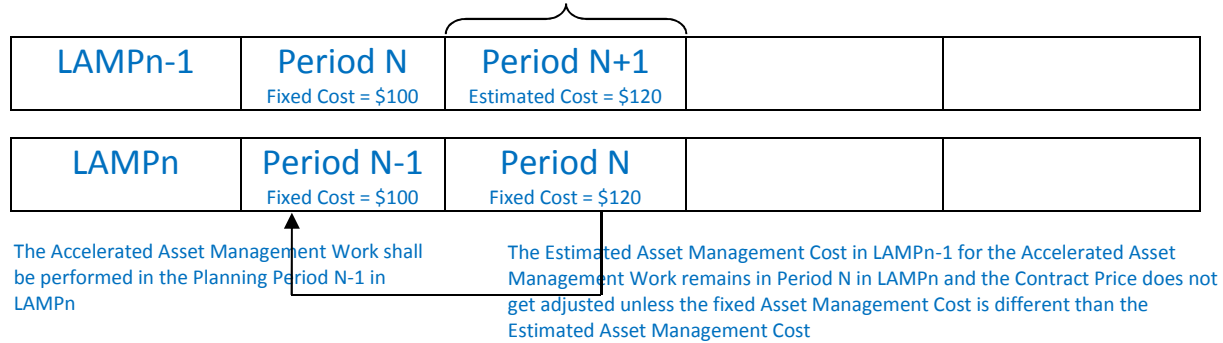
LAMP _{N-1}	Period N Fixed Cost = \$100	Period N+1 Estimated Cost = \$120	Period N+2 Preliminary Cost = \$110	
LAMP _N	Period N-1 Fixed Cost = \$100	Period N Fixed Cost = \$100 (\$120-\$20)	Period N+1 Estimated Cost = \$110	Period N+x Preliminary Cost increased by \$20

The Estimated Asset Management Cost in LAMP_{N-1} for the Postponed Asset Management Work is removed from Planning Period N+1 in LAMP_{N-1} and Contract Price is adjusted (reduced) as Planning Period N+1 in LAMP_{N-1} becomes Period N in LAMP_N

3. Minor Acceleration

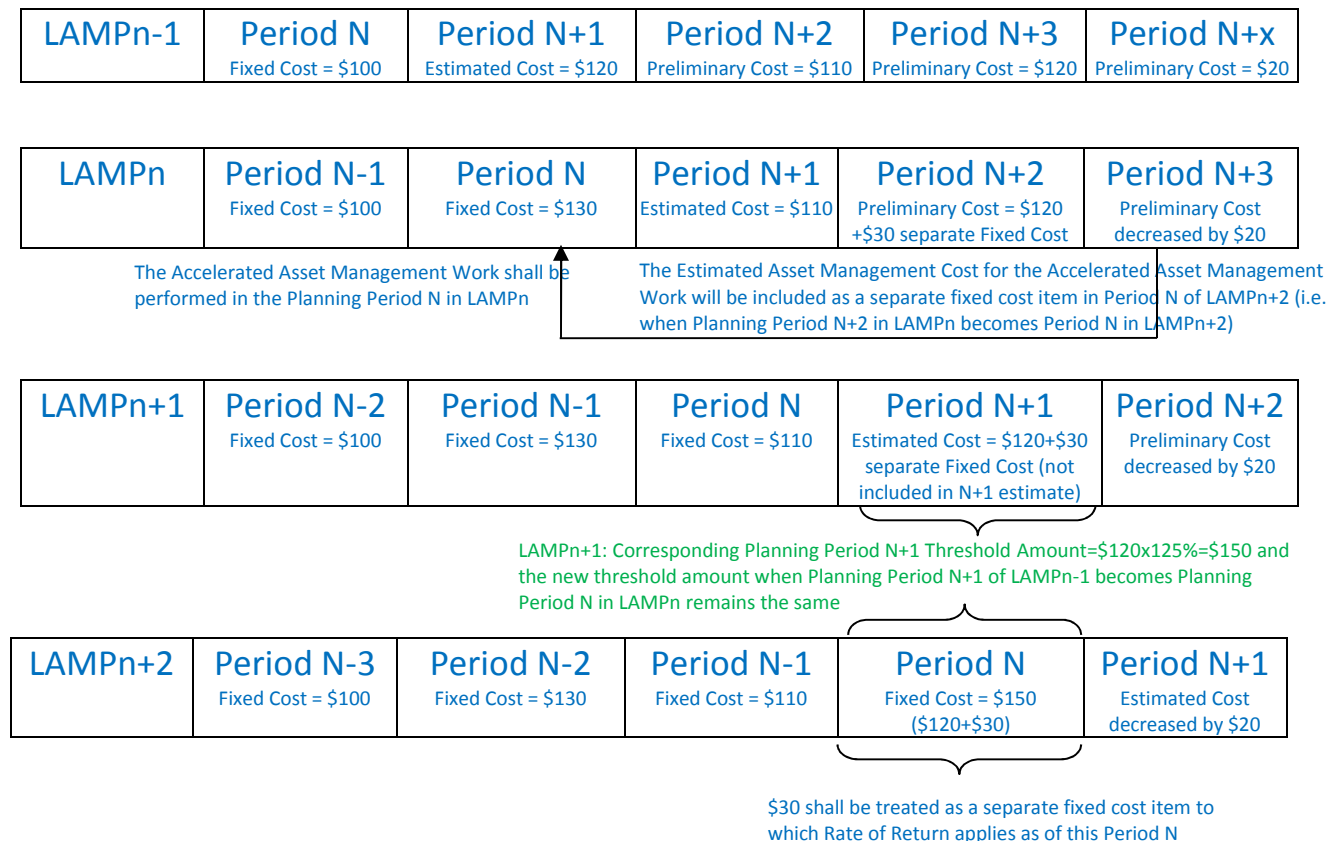
Example: Asset Management Work (\$20 of Estimated Asset Management Cost) in Planning Period N+1 in the LAMP_{N-1} accelerated to Planning Period N+1 Period N-1 in LAMP_N and fixed at \$20 in Planning Period N

LAMP_{N-1}: Corresponding Planning Period N+1 Threshold Amount= \$120x125%=\$150 and the new threshold amount when Planning Period N+1 of LAMP_{N-1} becomes Period N in LAMP_N remains the same



4. Major Acceleration

Example: Asset Management Work (\$20 of Estimated Asset Management Cost) in Planning Period N+x in the LAMP_{N-1} (N+3 in LAMP_N in example) accelerated to the Planning Period N in the LAMP_N and fixed at \$30 in Planning Period N

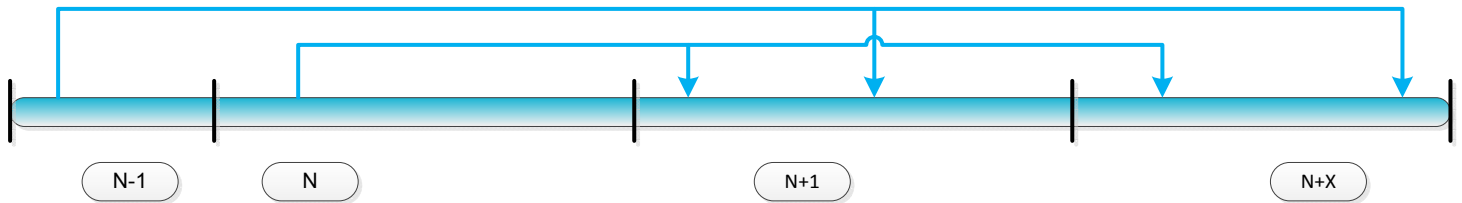


Schedule B to EXHIBIT 4.10

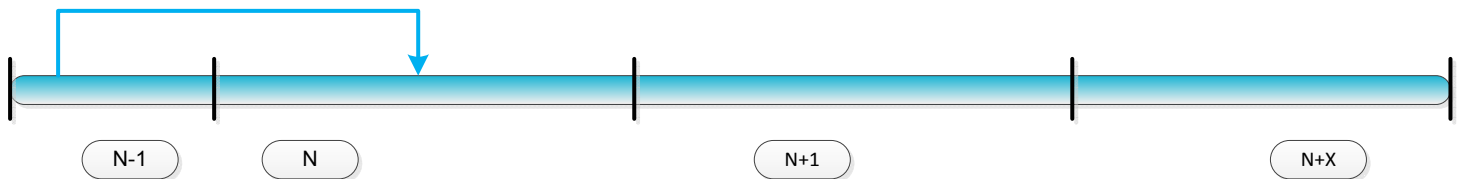
Movement Schematics for Asset Management Work

LAMP_N (Including LAMP supplement) provides for movement of Asset Management Work as follows:

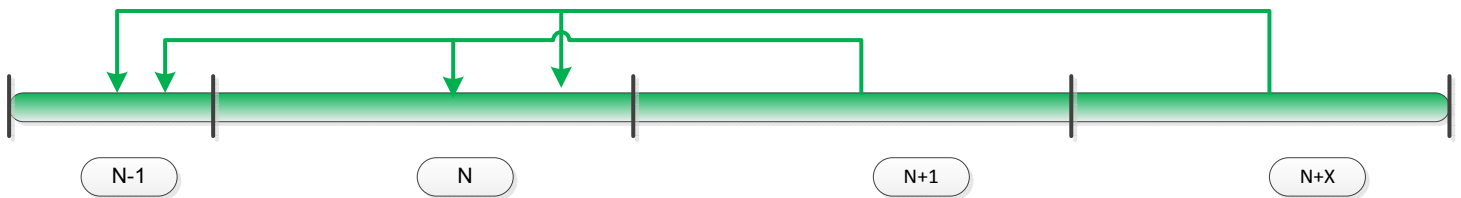
Major Postponement



Minor Postponement



Major Acceleration



Minor Acceleration



EXHIBIT 4.11

ADJUSTMENTS TO CONTRACT PRICE RELATING TO REFURBISHMENT TERMINATION

Recital:

This Exhibit identifies all Contract Price Adjustments that may be required upon the termination of a Refurbishment. This Exhibit relates Section 4.11 of the Agreement to the Financial Model in order to properly effect those Financial Model Adjustments arising from Section 4.11, 9.1, 9.2, 9.3, 9.4, 10.2 and 11.2(a)(iii) in which a Refurbishment can be terminated.

1. Interpretation:

(a) Cross-References:

The expression "Clause" or "Schedule" followed by a letter or a number means and refers to the specified clause of, or schedule attached to, this Exhibit unless otherwise specified. All "Section" references in this Exhibit 4.11 are to Sections of the Agreement. Alphanumeric references in square brackets (e.g. "[1x]") refer to the specified instruction line in the CAS Instructions and the expression "Part" followed by a number means and refers to the specified part of the CAS Instructions.

(b) Financial Model References:

Capitalized terms used in this Exhibit 4.11 but not defined in the Agreement or this Exhibit 4.11 refers to the applicable line item in the Financial Model. References to the Financial Model at the time of a Contract Price Adjustment will be to the then current iteration of the Financial Model as maintained and updated from time to time pursuant to Exhibit 1.1(c).

(c) Outages:

For purposes of this Exhibit 4.11, "Outages" refers to planned Outages other than Refurbishment Outages and include, for greater certainty, Station Containment Outages (SCO) and Vacuum Building Outages (VBO), where "Vacuum Building Outages (VBO)" means, an Outage conducted on a periodic basis for the primary purpose of confirming the integrity of the equipment and infrastructure of the vacuum buildings at the Facility, and "Station Containment Outages (SCO)" means, an Outage conducted at the Facility on a periodic basis for the primary purpose of confirming the integrity between a reactor building and a vacuum building.

(d) Definitions:

"**Continuing Units**" means Units that have been Refurbished or that have received a Go Election and have not ceased Refurbishment pursuant to Sections 9.4, 10.2 or 11.2(a)(iii) and, for certainty, includes Units 1 and 2.

"**End of Life Date Revision Decision Point**" means, in respect of:

- (i) a Terminated Unit, the date on which an election to terminate the Refurbishment of such Unit is made or deemed to be made pursuant to Section 9.1(a), 9.1(b), 9.2(a) or 9.3, as the case may be;
- (ii) a Unit, the Refurbishment of which is terminated pursuant to Section 9.4, the date on which the Parties agree or it is finally determined pursuant to Section 9.4 that a Technical Infeasibility has occurred in respect of such Unit;
- (iii) a Unit, the Refurbishment of which is terminated pursuant to Section 10.2, the date on which the Refurbishment of such Unit is terminated pursuant to Section 10.2; and
- (iv) a Unit, the Refurbishment of which is terminated pursuant to Section 11.2(a)(iii), the date that is the later of the date which is thirty-three (33) months after the Original Milestone Date for the Unit and the actual date on which such Unit is terminated pursuant to Section 11.2(a)(iii).

“Return of Capital” means recovery by the Generator of all Sunk Refurbishment Costs for the applicable Unit.

“Sunk One-Time Costs” means those Sunk Refurbishment Costs that relate to One-Time Costs only, less expected recoveries (as determined in a manner consistent with Clause 3 of Exhibit 4.9, as applicable) estimated by the Generator acting reasonably and in good faith.

“Sunk Refurbishment Costs” means all Refurbishment Costs in respect of a Unit that have been incurred or are irrevocably committed to be incurred and, for greater certainty, includes 50% of Sunk Refurbishment Costs due to Force Majeure as provided in Section 12.1(f)(i), less expected recoveries (as determined in a manner consistent with Clause 3 of Exhibit 4.9, as applicable) estimated by the Generator acting reasonably and in good faith.

“Termination Event” means (i) an election or deemed election to terminate one or more Units pursuant to Section 9.1, 9.2 or 9.3, (ii) an agreement or determination pursuant to Section 18.2 to terminate a Unit pursuant to Section 9.4, or (iii) a termination of a Unit pursuant to Section 10.2 or 11.2(a)(iii), as applicable.

(e) **References to Dollars**

References to dollars in this Exhibit 4.11 are to nominal dollars of the specified Contract Year in which the costs associated with such dollars are stated to be incurred.

2. **Contract Price Adjustments Following Elections to Off-Ramp by the Counterparty Pursuant to Sections 9.1 and 9.2**

On the Adjustment Date immediately following an election or deemed election by the Counterparty not to proceed with the Refurbishment of one or more Units pursuant to a

Termination Event arising under Section 9.1 or 9.2, as applicable, the Contract Price shall be adjusted to reflect the following, as applicable:

- (a) **Adjustment to Generation Profile:** There will be a Contract Price Adjustment to effect an Adjustment to Generation Profile for each such Terminated Unit. Subject to Clauses 2(b), 2(c) and 2(d), such Adjustment to Generation Profile shall:
 - (i) provide for the recovery by the Generator of Refurbishment Costs and the Rate of Return thereon and Asset Management Costs and the Rate of Return thereon to the extent applicable, in each case for which a Contract Price Adjustment has been made pursuant to Sections 4.8, 4.9 and/or 4.10, related to each of the Continuing Units having regard to the expected future lost generation of each such Terminated Unit over the Term, taking into account the Off-Ramp LAMP or Unit Extension Plan that is applicable; and
 - (ii) provide for the recovery by the Generator to reflect changes to the timing and amount of costs that will be incurred by the Generator and changes to the costs of operating Bruce A, Bruce B, or both, as the case may be directly arising from such Termination Event as reflected in the assumptions that are incorporated in the Original Financial Model for such Termination Event.

The only Inputs for each such Terminated Unit that may change and that will be reflected in the updated Financial Model are the following:

- A. the movement in timing of the Expected End-of-Life Date to reflect the Off-Ramp LAMP or Unit Extension Plan, as applicable, for each such Terminated Unit; **[35d or 36d]**
 - B. the End of Life Date Revision Decision Point for each such Terminated Unit; and **[35e or 36e]**
 - C. the Refurbishment Outage Duration of each such Terminated Unit will be set to zero (0). **[35f or 36f]**
- (b) **Avoided Asset Management Costs That Have Already Been Included in the Contract Price:** If the Counterparty has or is deemed to have elected to proceed with an Off-Ramp LAMP in connection with such Termination Event, there will be a Contract Price Adjustment to remove the Asset Management Costs (and the Rate of Return thereon to the extent applicable) that have not yet been incurred or irrevocably committed to be incurred for the Asset Management Work for each such Terminated Unit that has not yet been performed and that will no longer be performed and where such Asset Management Costs have been previously included in the Contract Price (for greater certainty, after such adjustment, subsequent adjustments related to such Off-Ramp LAMP will be included in subsequent updates of the LAMP in accordance with Section 4.10 and Exhibit 4.10). The only Inputs for each such Terminated Unit that may change and that will be reflected in the updated Financial Model to remove such Asset Management Costs and Rate of Return (to the extent applicable) are:

- (i) removal of Fixed Asset Management Costs for Planning Period N at or below the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N); **[35l, 35t, 35aa]** and
 - (ii) removal of Planning Period N+1 Estimated Asset Management Costs (expressed in millions of dollars for each Contract Year of Planning Period N+1); and **[35l, 35t, 35aa]**
 - (iii) removal of Planning Period N Fixed Asset Management Costs that exceed the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N); **[35hh]**
- (c) **Unit Extension Plan:** If the Counterparty has elected to proceed with one or more Unit Extension Plans in connection with a Termination Event, there shall be a Contract Price Adjustment: (x) to remove the Asset Management Costs (including the Rate of Return thereon to the extent applicable) that have not yet been incurred or irrevocably committed to be incurred for the Asset Management Work for each such Terminated Unit that has not yet been performed and that will no longer be performed and where such Asset Management Costs have been previously included in the Contract Price, (y) to add the amount required for the Generator to recover any capital costs for Planning Period N or Planning Period N+1 related to Unit Extension Work and not previously included in Planning Period N or Planning Period N+1 (for greater certainty, after such adjustment, subsequent adjustments related to such Unit Extension Work will be included in subsequent updates of the LAMP in accordance with Section 4.10 and Exhibit 4.10), and (z) to adjust for the Contract Price Off-Ramp Date of each of such Terminated Units and to provide for changes to the planned Outages and the cost of such Outages for each of such Units. The only Inputs for each such Terminated Unit that may change and that will be reflected in the updated Financial Model are:
- (i) adjustments to Fixed Asset Management Costs for Period N at or below the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N); **[36s, 36z, 36gg]**
 - (ii) adjustments to Planning Period N+1 Estimated Asset Management Costs (expressed in millions of dollars for each Contract Year of Period N+1); **[36s, 36z, 36gg]**
 - (iii) adjustments to Planning Period N Fixed Asset Management Costs that exceed the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N); **[36nn]**
 - (iv) updates to each such Terminated Unit's future Ratings (expressed in MW for each Contract Year being updated); **[36g]**
 - (v) addition or reduction or change in duration of Outages, including to reflect the different type of Outages or replacement of Outages, for each such Terminated Unit (expressed in days), as applicable; **[36h, 36i]**

- (vi) updates to each such Terminated Unit's future Unplanned Losses (expressed as a percentage for each Contract Year being updated); **[36j]** and
 - (vii) updated Outage (Expensed under IFRS) Costs, updated Outage (Capitalized under IFRS) Costs and updated Vacuum Building Outage/Station Containment Outage Costs, in each case corresponding to the change referred to in Clause 2(c)(v) above. **[36k, 36l, 36m]**
- (d) **Applicable Return of Capital and Rate of Return on Sunk Refurbishment Costs Incurred or Committed in Respect of each such Terminated Unit:**

There will be a Contract Price Adjustment to reflect a Return of Capital on Sunk Refurbishment Costs (for greater certainty including Sunk One-Time Costs), incurred by the Generator for each such Terminated Unit, less expected recoveries; provided, however:

- (i) if the termination arises pursuant to a Termination Event pursuant to Section 9.1 (except as provided in Clause 2(f)), no Rate of Return will be added to any such Sunk Refurbishment Costs (other than Sunk One-Time Costs for which there will be added the Rate of Return); or
- (ii) if the termination arises pursuant to a Termination Event pursuant to Section 9.2, the Rate of Return will be added to any such Sunk Refurbishment Costs.

The Inputs for each such Terminated Unit that may change and that will be reflected in the updated Financial Model are:

- A. Sunk Refurbishment Costs to which the Rate of Return will apply (expressed in millions of dollars per Contract Year); **[35k, 35s, 35z or 36r, 36y, 36ff]** and
 - B. Sunk Refurbishment Costs to which the Rate of Return will not apply (expressed in millions of dollars per Contract Year). **[35gg or 36mm]**
- (e) **Common Adjustment Date:** For greater certainty, the Contract Price Adjustments in Clause 2 that arise with respect to a Terminated Unit shall occur on the same Adjustment Date for such Terminated Unit.
- (f) **Section 9.1:** Notwithstanding the foregoing, in the event of a termination of a Refurbishment by the Counterparty pursuant to Section 9.1 where the Fully-Scoped Refurbishment Cost of the Terminated Unit would not have exceeded the Counterparty Cost Threshold but for the inclusion in the Fully-Scoped Refurbishment Cost of the increased cost to the Generator of performing the Refurbishment Work due to: (i) a Change of Law (including a Change of Law that constituted Force Majeure on a prior Unit); or (ii) the issuance of terms or conditions of any permit, certificate, impact assessment, licence, registration, authorization, consent or approval held or necessary to be held by or on behalf of the Generator; except where, and to the extent, in the case of either (i) or (ii),

such Change of Law or issuance of terms or conditions was (x) in response to, or was implemented specifically to address, an act or omission on the part of the Generator that is contrary to Laws and Regulations (as such Laws and Regulations existed prior to such change) or (y) caused by the Generator's negligence or willful misconduct, then the Contract Price Adjustment in respect of such election shall be made as if the Counterparty had made its election pursuant to Section 9.2 and not pursuant to Section 9.1.

3. Contract Price Adjustments Following Elections to Off-Ramp by the Generator Pursuant to Sections 9.1 and 9.3

- (a) **Section 9.1:** In the event of a termination of a Refurbishment by the Generator pursuant to Section 9.1, on the Adjustment Date immediately following such termination there will be a Contract Price Adjustment and Clause 2(a) shall apply and either of Clause 2(b) or 2(c) shall apply. For greater certainty, Clause 2(d) shall not apply and there shall be no Return of Capital or Rate of Return in respect of Sunk Refurbishment Costs or Sunk One-Time Costs incurred in connection with each such Terminated Unit.
- (b) **Section 9.3(e)(i):** In the event of a termination of a Refurbishment by the Generator pursuant to Section 9.3(e)(i), on the Adjustment Date immediately following such termination there will be a Contract Price Adjustment and Clause 2(a) shall apply and either of Clause 2(b) or 2(c) shall apply. For greater certainty, Clause 2(d) shall not apply and there shall be no recovery of Return of Capital or Rate of Return in respect of Sunk Refurbishment Costs or Sunk One-Time Costs incurred in connection with each such Terminated Unit.
- (c) **Section 9.3(e)(ii):** In the event of a termination of a Refurbishment by the Generator pursuant to Section 9.3(e)(ii), on the Adjustment Date immediately following such termination there will be a Contract Price Adjustment and either of Clause 2(b) or Clause 2(c) shall apply. For greater certainty, Clauses 2(a) and 2(d) shall not apply and there shall be no Adjustment to Generation Profile and no recovery of Return of Capital nor Rate of Return in respect of Sunk Refurbishment Costs or Sunk One-Time Costs incurred in connection with each such Terminated Unit.

4. Contract Price Adjustments Following Termination by Reason of Technical Infeasibility Pursuant to Section 9.4

In the event of a termination of a Refurbishment of a Unit due to Technical Infeasibility, on the Adjustment Date immediately following such termination there will be a Contract Price Adjustment to reverse the Contract Price Adjustment previously made in respect of such Unit pursuant to Section 4.8 and Clauses 2(a) and 2(d) shall apply; provided, however:

- (a) in respect of the Adjustment to Generation Profile in Clause 2(a), the Adjustment to Generation Profile will be calculated from the date the Parties have agreed that a Technical Infeasibility has occurred or it has been finally determined in accordance with the provisions of Sections 18.1 or 18.2 that a Technical Infeasibility has occurred;

- (b) in respect of Sunk Refurbishment Costs (other than Sunk One-Time Costs) incurred in connection with such Unit, only 50% of the Return of Capital, and the Rate of Return thereon, shall be included in the Contract Price Adjustment;
- (c) in respect of Sunk One-Time Costs incurred in connection with such Unit (i) provided that another Unit will be thereafter Refurbished, 100% of the Return of Capital and Rate of Return thereon shall be included in the Contract Price Adjustment, and (ii) otherwise, 50% of the Return of Capital and Rate of Return thereon shall be included in the Contract Price Adjustment; and
- (d) to remove all Asset Management Costs that have been previously included in the Contract Price in respect of such Unit that have not been incurred or irrevocably committed by the Generator.

For greater certainty, Clauses 2(b) and 2(c) shall not apply. The Inputs for each such Unit that may change and that will be reflected in the updated Financial Model are:

- (i) the movement in timing of the Expected End-of-Life Date to the date set out in Clause 4(a) for such Unit; **[35d]**
- (ii) the End of Life Date Revision Decision Point for such Unit; and **[35e]**
- (iii) the Refurbishment Outage Duration of such Unit will be Reduced to reflect the date of the termination to the extent the Unit is terminated during the originally planned Refurbishment Outage Duration; **[35f]**
- (iv) Sunk Refurbishment Costs to which the Rate of Return (expressed in dollars per Contract Year) will apply; **[35k, 35s, 35z]**
- (v) removal of Fixed Asset Management Costs for Planning Period N at or below the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N); **[35l, 35t, 35aa]**
- (vi) removal of Planning Period N+1 Estimated Asset Management Costs (expressed in millions of dollars for each Contract Year of Planning Period N+1); **[35l, 35t, 35aa]** and
- (vii) removal of Planning Period N Fixed Asset Management Costs that exceed the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N). **[35hh]**

5. Contract Price Adjustments Following Termination Pursuant to Section 10.2(a)(i), (iii) or (iv) or Termination Pursuant to Section 11.2(a)(iii):

In the event of a termination of a Refurbishment pursuant to Section 10.2(a)(i), (iii) or (iv) or pursuant to Section 11.2(a)(iii), on the Adjustment Date immediately following such termination there will be a Contract Price Adjustment and Clause 2(a) shall apply; provided, however:

- (a) in respect of the Adjustment to Generation Profile in Clause 2(a), the Adjustment to Generation Profile will be calculated from the date of termination of such Unit

except in the case of a termination pursuant to Section 11.2(a)(iii), in which case the Adjustment to Generation Profile will be calculated from the date that is the later of the date which is thirty-three (33) months after the Original Milestone Date for the Unit and the actual date on which such Unit is terminated;

- (b) in circumstances where all or any portion of the delay is attributable to EA Force Majeure, such Adjustment to Generation Profile will also reflect 100% of the reduced amount of remaining over-life generation attributable to such EA Force Majeure if such Unit is the First Unit, and 50% of the reduced amount of remaining over-life generation attributable to such EA Force Majeure on any Unit other than the First Unit;
- (c) in respect of Refurbishment Costs incurred as a result of Force Majeure in connection with each such Unit, 50% of such Refurbishment Costs and Rate of Return thereon, shall be included in the Contract Price Adjustment;
- (d) remove all Asset Management Costs that have been previously included in the Contract Price in respect of such Unit that have not been incurred or irrevocably committed by the Generator;
- (e) reverse the Contract Price Adjustment previously made in respect of such Unit pursuant to Section 4.8; and
- (f) such adjustment will include the recovery of the Clawback Payment over the remaining Term.

For greater certainty, Clauses 2(b), 2(c) and 2(d) shall not apply. The Inputs for each such Unit that was terminated that may change and that will be reflected in the updated Financial Model are:

- (i) the movement in timing of the Expected End-of-Life Date to the date set out in Clause 5(a), adjusted for any period of delay attributable to EA Force Majeure; **[37g]**
- (ii) the End of Life Date Revision Decision Point; **[37h]**
- (iii) the Fully-Scoped Refurbishment Costs added under Exhibit 4.8 Clause 3(a) associated with the Unit being terminated (expressed in millions of \$ per year); **[37b]**
- (iv) the 50% of Refurbishment Costs incurred as a result of Force Majeure that are to be added to the CAS and the Rate of Return thereon (expressed in millions of \$ per year); **[37q, 37z, 37ii]**
- (v) the Clawback Payment associated with the amounts of the Contract Price Adjustment related to CPIAP, WREAP and NEP as made at the time of the Contract Price Adjustment pursuant to Section 4.8(b) in respect of such Unit (expressed in millions of \$ per year); and **[37i, 37l, 37p, 37x, 37hh]**

- (vi) the amounts of the Contract Price Adjustment related to CPIAP, WREAP and NEP and the Adjustment to Generation Profile as made at the time of the Contract Price Adjustment pursuant to Section 4.8(b) in respect of such Unit (expressed in \$/MWh); **[37a]**
- (vii) removal of Fixed Asset Management Costs for Period N at or below the Planning Period N+1 Threshold Amount (expressed in millions of \$ for each Contract Year of Planning Period N); and **[37o, 37y, 37gg]**
- (viii) removal of Planning Period N+1 Estimated Asset Management Costs (expressed in millions of \$ for each Contract Year of Period N+1); **[37o, 37y, 37gg]**
- (ix) removal of Planning Period N Fixed Asset Management Costs that exceed the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N). **[37pp]**

6. Contract Price Adjustments Following Termination Pursuant to Section 10.2(a)(ii):

In the event of a termination of a Refurbishment pursuant to Section 10.2(a)(ii), on the Adjustment Date immediately following such termination there will be a Contract Price Adjustment and Clause 2(a) shall apply; provided, however:

- (a) in respect of the Adjustment to Generation Profile in Clause 2(a), the Adjustment to Generation Profile will be calculated from the date of termination of such Unit;
- (b) in respect of the Adjustment to Generation Profile in Clause 2(a), in circumstances where all or any portion of the delay is attributable to EA Force Majeure, such Adjustment to Generation Profile will also reflect 100% of the reduced amount of remaining over-life generation attributable to such EA Force Majeure if such Unit is the First Unit, and 50% of the reduced amount of remaining over-life generation attributable to such EA Force Majeure on any Unit other than the First Unit;
- (c) in respect of Sunk Refurbishment Costs (other than Sunk One-Time Costs and Sunk Refurbishment Costs due to Force Majeure) incurred in connection with such Unit, only 50% of the Return of Capital, and the Rate of Return thereon, shall be included in the Contract Price Adjustment;
- (d) remove all Asset Management Costs that have been previously included in the Contract Price in respect of such Unit that have not been incurred or irrevocably committed by the Generator;
- (e) in respect of Refurbishment Costs incurred as a result of Force Majeure in connection with such Unit, 50% of such Refurbishment Costs and Rate of Return thereon, shall be included in the Contract Price Adjustment; and
- (f) reverse the Contract Price Adjustment previously made in respect of the Unit pursuant to Section 4.8; and

- (g) such adjustment will include the recovery of 50% of the amount of any Unit Cost Overages for such Unit that have been funded by the Counterparty pursuant to Section 9.1(e).

For greater certainty, Clauses 2(b), 2(c) and 2(d) shall not apply. The Inputs for each such Terminated Unit that may change and that will be reflected in the updated Financial Model are:

- (i) the movement in timing of the Expected End-of-Life Date to the date of termination, adjusted for any period of delay attributable to EA Force Majeure; **[37g]**
- (ii) the End of Life Date Revision Decision Point; **[37h]**
- (iii) the Fully-Scoped Refurbishment Costs added under Exhibit 4.8 Clause 3(a) associated with the Unit being terminated (expressed in millions of \$ per year); **[37b]**
- (iv) the 50% of Refurbishment Costs (other than Sunk One-Time Costs) incurred as a result of Force Majeure and the Rate of Return thereon (expressed in \$ per year); and **[37q, 37z, 37ii]**
- (v) the Clawback Payment associated with the amounts of the Contract Price Adjustment related to CPIAP, WREAP and NEP as made at the time of the Contract Price Adjustment pursuant to Section 4.8(b) in respect of such Unit (expressed in millions of \$ per year); and **[37i, 37l, 37p, 37x, 37hh]**
- (vi) the amounts of the Contract Price Adjustment related to CPIAP, WREAP and NEP and the Adjustment to Generation Profile as made at the time of the Contract Price Adjustment pursuant to Section 4.8(b) in respect of such Unit (expressed in \$/MWh); **[37a]**
- (vii) removal of Fixed Asset Management Costs for Period N at or below the Planning Period N+1 Threshold Amount (expressed in millions of \$ for each Contract Year of Planning Period N); and **[37o, 37y, 37gg]**
- (viii) removal of Planning Period N+1 Estimated Asset Management Costs (expressed in millions of \$ for each Contract Year of Period N+1). **[37o, 37y, 37gg]**
- (ix) removal of Planning Period N Fixed Asset Management Costs that exceed the Planning Period N+1 Threshold Amount (expressed in millions of dollars for each Contract Year of Planning Period N). **[37pp]**
- (x) 50% of the Sunk Refurbishment Costs (other than Sunk One-Time Costs and Sunk Refurbishment Costs due to Force Majeure) incurred in connection with such the Terminated Unit; **[37r, 37aa, 37jj]**

7. Calculation of the Contract Price Adjustment:

The Inputs referred to in Clauses 2, 3, 4, 5 or 6 as applicable are referenced in Part 37 of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the Contract Price Adjustment. For greater certainty, attached as Schedule A hereto is a table showing each potential Contract Price Adjustment to be made upon each applicable Termination Event. In the event of a discrepancy between this Exhibit 4.11 and Schedule A, the provisions of this Exhibit 4.11 shall govern.

Schedule A

Contract Price Adjustment Allocation Matrix

	Counter-party Cost Threshold Termination (Section 9.1)	Counter-party Economic Termination (Section 9.2)	Generator Cost Threshold Termination (Section 9.1)	Counterparty Cost Threshold Termination (Change of Law) (Section 9.1)	Generator Impairment Termination 1 (Section 9.3(e)(i))	Generator Impairment Termination 2 (Section 9.3(e)(ii))	Technical Infeasibility (Section 9.4)	Termination for Delay (Section 10.2 (a)(i), (iii), (iv))	Termination for Force Majeure (Section 10.2 (a)(ii))	Termination for Default (Section 11.2 (a)(iii))
Adjustment to Generation Profile (Clause 2(a))	√	√	√	√	√	X	√	√ Clauses 5(a) and 5(b)	√ Clauses 6(a) and 6(b)	√ Clauses 5(a) and 5(b)
Remove Asset Management Cost Clause 2(b)	√ (Alternative to Clause 2(c))	√ (Alternative to Clause 2(c))	√ (Alternative to Clause 2(c))	√ (Alternative to Clause 2(c))	√ (Alternative to Clause 2(c))	√ (Alternative to Clause 2(c))	√ 4(d)	√ 5(d)	√ 6(d)	√ 5(d)
Unit Extension Plan (Cost + Rate of Return) (Clause 2(c))	√ (Alternative to Clause 2(b))	√ (Alternative to Clause 2(b))	√ (Alternative to Clause 2(b))	√ (Alternative to Clause 2(b))	√ (Alternative to Clause 2(b))	√ (Alternative to Clause 2(b))	X	X	X	X
Sunk One-Time Costs (Return of Capital) Clause 2(d)	√	√	X	√	X	X	√	X	X	X
Sunk One-Time Cost (Rate of Return) (Clause 2(d))	√	√	X	√	X	X	√	X	X	X
Sunk Refurbishment Costs (Return of Capital) (Clause 2(d))	√	√	X	√	X	X	50%	X	50%	X
Sunk Refurbishment Costs (Rate of Return) (Clause 2(d))	X	√	X	√	X	X	50%	X	50%	X
Additional Contract Price Adjustments	X	X	X	X	X	X	X	Clauses 5(e), 5(f)	Clauses 6(e), 6(f), 6(g)	Clauses 5(e), 5(f)

EXHIBIT 4.12

ADJUSTMENTS TO CONTRACT PRICE RELATING TO CHANGES PURSUANT TO THE OPG LEASE/ANCILLARY AGREEMENTS

Recital:

This Exhibit identifies all Contract Price Adjustments that may be required pursuant to Section 4.12 of the Agreement. This Exhibit relates Section 4.12 of the Agreement to the Financial Model in order to properly effect those Financial Model Adjustments arising from Section 4.12 of the Agreement.

1. Interpretation:

(a) Cross-References:

The expression "Clause" or "Schedule" followed by a letter or a number means and refers to the specified clause of, or schedule attached to, this Exhibit unless otherwise specified. All "Section" references in this Exhibit 4.12 are to Sections of the Agreement. Alphanumeric references in square brackets (e.g. "[1x]") refer to the specified instruction line in the CAS Instructions and the expression "Part" followed by a number means and refers to the specified part of the CAS Instructions.

(b) Financial Model References:

Capitalized terms used in this Exhibit 4.12 but not defined in the Agreement or this Exhibit 4.12 refers to the applicable line item in the Financial Model. References to the Financial Model at the time of a Contract Price Adjustment will be to the then current iteration of the Financial Model as maintained and updated from time to time pursuant to Exhibit 1.1(c).

2. Section 4.12(a) – Adjustments to Contract Price Arising from changes pursuant to the OPG Lease:

On the Adjustment Date immediately following any change in the Base Rent payable pursuant to the OPG Lease, there will be a Contract Price Adjustment to account for such change. The Input that may change and that will be reflected in the updated Financial Model pursuant to Section 4.12(a) is the following:

- (i) updated Post 2018 Base Rent Payments (in 2019 dollars). **[6e]**

3. Section 4.12(b) – Adjustments to Contract Price Arising from changes in the L&ILW Fees pursuant to the L&ILW Agreement:

On the Adjustment Date immediately following any change in the L&ILW Fees payable pursuant to the L&ILW Agreement, there will be a Contract Price Adjustment to account for such change. The Inputs that may change and that will be reflected in the updated Financial Model pursuant to Section 4.12(b) are the following:

- (i) updated Low Level Waste Costs per m³ (in 2016 dollars); **[6a]** and

- (ii) updated Intermediate Level Waste Costs as a rate per m³ (in 2016 dollars). **[6b]**

4. Section 4.12(c) – Adjustments to Contract Price Arising from changes in the HWAS Fees made pursuant to the HWAS Agreement.

On the Adjustment Date immediately following any change in the HWAS Fees payable pursuant to the HWAS Agreement, there will be a Contract Price Adjustment to account for such change. The Inputs that may change and that will be reflected in the updated Financial Model pursuant to Section 4.12(c) are the following:

- (i) updated Detritiation Costs per Kg (in 2016 dollars); **[6c]** and
- (ii) updated Detritiation Transport Cost per shipment (in 2016 dollars). **[6d]**

In the event of a proposal by the Generator pursuant to Section 2.22 of the Agreement, for the purpose of calculating the applicable Contract Price Adjustment, the Inputs above will be provided in the Generator's proposal. Following a Contract Price Adjustment pursuant to Section 2.22 there will be no further Contract Price Adjustment in respect of HWAS Fees.

5. Calculation of the Contract Price Adjustment:

- (a) On any Contract Price Adjustment as contemplated herein, it is assumed that such new price will apply for the balance of the Lease Term, so that, in the case of an increase in Base Rent, L&ILW Fees and HWAS Fees, the full cost reimbursement is recovered by the Generator during the Term, and in the case of a decrease in Base Rent, L&ILW Fees and HWAS Fees the Generator is not overcompensated.
- (b) The Inputs referred to in Clauses 2, 3 and 4 are referenced in Part [6] of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the Contract Price Adjustment.
- (c) **Postponement of Adjustment Date:** Notwithstanding the provisions of Clauses 2 to 4, inclusive, if any Input applicable to any of such Contract Price Adjustments has not been verified in accordance with the provisions of Section 3.1(b), the Contract Price Adjustment shall take place on the next following Adjustment Date and the Financial Model Adjustment shall take such postponement into account.

Exhibit 4.14

Notice of Contract Price Adjustment

TO: INDEPENDENT ELECTRICITY SYSTEM OPERATOR
(the “**Counterparty**”)
120 Adelaide Street West, Suite 1600
Toronto, Ontario
M5N 1T1
Attention: Contract Management

FROM: Bruce Power L.P.
(the “**Generator**”)

RE: Contract Price Adjustment pursuant to Amended and Restated Bruce Power
Refurbishment Implementation Agreement dated as of December 3, 2015 between the
Generator and the Counterparty (the “**Agreement**”)

In accordance with Section 4.14 of the Agreement, the following Contract Price Adjustments apply to the Adjustment Date April 1, _____ [INSERT YEAR] (the “**Subject Adjustment Date**”).

1. On the Subject Adjustment Date the following Contract Price Adjustments are to be made:

Applicability Yes/No	Exhibit	Adjustment	CPIAP	WREAP	NEP	Total
The Contract Price prior to the adjustments to be made on the Subject Adjustment Date						
	4.4	Annual Adjustment to Contract Price				
	4.7(a)	Pension Service Cost Burden Rate				
	4.7(c)	Other Post-Employment Benefits Burden Rate				
	4.8	Adjustments to Contract Price Related to Fully Scoped Refurbishment Cost and Fully Scoped Refurbishment Duration				
	4.9	Adjustment to Contract Price Related to Final Completion				
	4.10	Adjustments to Contract Price Related to Successive Planning Periods				
	4.11	Adjustments to Contract Price Related to Termination of Units				
	4.12	Adjustments to Contract Price Related to for Changes Pursuant				

Applicability Yes/No	Exhibit	Adjustment	CPIAP	WREAP	NEP	Total
		to the OPG Lease/Ancillary Agreements				
	15.2	Adjustments to Contract Price Related for Relevant Change of Law				
The net aggregate Contract Price Adjustment to be made on the Subject Adjustment Date.						
The Contract Price following such adjustments						

2. Attached to this Notice are Schedules 4.8 and 4.10 (if applicable), which list all Inputs applicable to each Contract Price Adjustment to be made on the Subject Adjustment Date.
3. Listed below is a list of any unresolved disputes pursuant to Sections 2.6(i) and 2.6(j), Section 3.2(c) and Section 3.5(c) of which the Generator is aware:
4. Attached to this Notice are Schedules 4.4, 4.7(a), 4.7(c), 4.8, 4.9, 4.10, 4.11, 4.12, 15.2 (as applicable) which list the applicable Inputs each Contract Price Adjustment to be made on the Subject Adjustment Date other than those identified in paragraph 2 above.
5. Enclosed with this Notice is the updated Financial Model reflecting such Inputs.
6. In accordance with Section 2.16(c) the following adjustment applies to DC Fee on the Subject Adjustment Date:

Adjustment to DC Fee

Applicability Yes/No	Exhibit	Adjustment	\$ Adjustment
The DC Fee prior to adjustment			
	4.5	Annual Adjustment to Certain Dollar Amounts	
The DC Fee following the above adjustment:			

7. Other Comments:

Exhibit 6.1

DEEMED GENERATION CRITERIA

1. Factors to consider in determining Deemed Electricity

In order to determine “Electricity that could have been delivered from the Facility to a Point of Delivery” for the purpose of calculating Deemed Electricity pursuant to Section 6.1(a) and Section 6.1(c) of the Agreement, the Generator shall have regard to the following, acting reasonably:

- (i) the start of a Disruption Event will be the start of the Dispatch Interval (as defined in the IESO Market Rules) in which a Unit is curtailed, derated or constrained off in accordance with a Dispatch Instruction as a result or in anticipation of the applicable Disruption Event, as the case may be. The average of the last twenty-four (24) consecutive Dispatch Intervals before the start of such Disruption Event will be used as a reference point for the Unit Electricity output prior to the start of the applicable Disruption Event; provided that other facts, occurrences, events or assumptions that are reasonably relevant to the determination, including the relevant Unit’s or Units’ historic planned and forced Outage rates and seasonal variations in ratings, will be considered;
- (ii) the period for calculating Deemed Electricity following the end of a Disruption Event for a Unit will include the time to the end of the Dispatch Interval required to ramp up such Unit to an amount equal to, or greater than, the reference output as determined pursuant to Clause 1(i) above (or if the Unit is not able to return to such reference output for any reason, an output level determined by the Generator, acting reasonably and taking into account any reasonable facts, occurrences, events and assumptions); and
- (iii) any other facts, occurrences, events or assumptions that are reasonably relevant to the determination contemplated by this Clause 1.

2. Deemed Generation Reporting

For each Statement that includes amounts for Deemed Electricity the Generator shall provide:

- (i) Relevant detailed information that supports the Deemed Electricity amounts associated with each Disruption Event. The detailed information shall include the Generator’s calculation of Deemed Electricity amounts and must include on a Dispatch Interval basis the start and end time of the Disruption Event, meter data, Dispatch Instructions, and congestion management settlement credits associated with the applicable Unit; and
- (ii) A written description of each Disruption Event that outlines if the Disruption Event was due to either (i) a Transmission System Inadequacy, or (ii) because one or more Units was curtailed, derated, constrained off, or taken off-line, by a Dispatch Instruction by reason of surplus Electricity supply on the IESO-Controlled Grid.

If the Generator claims pursuant to Section 6.1(c) that a forced Outage directly arose from a Disruption Event then, in addition to the foregoing, the Generator shall provide the following information:

- Summary of the initiating event and emergent scope associated with the forced Outage;
- Engineering and operational assessment report that establishes a cause and effect for the equipment issues that delayed the return to service of the applicable Unit. The report should also specifically address whether or not equipment issues that contributed to the delay resulted from equipment conditions that existed prior to the forced Outage and Disruption Event;
- Station Condition Records for the initiating event and any other Station Condition Records that document any delay whether equipment or human performance issues;
- ANO logs from three (3) days prior to the start of the Disruption Event up until the time when the Unit returns to service and ramps up generation to maximum output;
- Outage Managers logs; and
- Written summary of the Outage critical path justification.

The Generator shall provide such additional information as may be requested by the Counterparty, acting reasonably, that is not referenced above in order to support any Deemed Electricity amounts included on a Statement, including:

- Any apparent root cause evaluations of the Station Condition Records;
- Any transient review meeting minutes;
- Any Operational Decision Making minutes and decisions taken if applicable; and
- Any graphs and trends of pertinent system parameters associated with the transient if applicable.

Exhibit 9.1

UNIT THRESHOLD BASE AMOUNT

Refer to Exhibit 9.1 of the Technical Schedule.

Exhibit 12.2(a)

FORM OF NOTICE OF FORCE MAJEURE

Notice of Force Majeure

To: INDEPENDENT ELECTRICITY SYSTEM OPERATOR (the
“**Counterparty**”)
120 Adelaide Street West, Suite 1600
Toronto, Ontario M5N 1T1
Attention: General Counsel

And to: INDEPENDENT ELECTRICITY SYSTEM OPERATOR
120 Adelaide Street West, Suite 1600
Toronto, Ontario M5N 1T1
Attention: Director, Contract Management

And to: MINISTRY OF ENERGY
4th Floor, Hearst Block
900 Bay Street
Toronto, Ontario M7A 2E1
Attention: Deputy Minister

From: BRUCE POWER L.P.
(the “**Generator**”)

Re: Amended and restated Bruce Power refurbishment implementation
agreement dated as of December ●, 2015 between the Generator and
the Counterparty (the “**Contract**”)

EA Force Majeure: This is an EA Force Majeure: ☐ Yes ☐ No

Force Majeure No.: ____ (“**FM ●**”)

Title of Force Majeure: _____

Date of Notice: _____, 20____

Unit affected: Bruce [A/B] [3, 4, 5, 6, 7, 8]

Type of Notice: ☐ This is a new Force Majeure. Event start date
 (“**Commencement Date**”):

☐ This is an update to an existing Force Majeure. Update date:

☐ This is a termination notice for an existing Force Majeure.
Termination date: _____

* If the Counterparty is claiming Force Majeure, references to addressee and claiming party to be changed throughout.

1. Capitalized terms not defined herein have the meanings ascribed thereto in the Contract.
2. Pursuant to Section 12.2(a) of the Contract, the Generator is hereby invoking Force Majeure with effect from the Commencement Date by submitting this Force Majeure notice to the Counterparty.
3. **Details of the Force Majeure event and its cause.** Attached hereto as Schedule A are:
 - (a) reasonably full particulars of the act, event, cause or condition that is beyond the reasonable control of the Generator relating to the Force Majeure being invoked and an estimate of its expected duration;
 - (b) reasonably full particulars of the events, if any, leading to the Force Majeure and the Generator's determination of the cause of the Force Majeure; and
 - (c) the Master Project Schedule if a Refurbishment is affected or, in the case of Force Majeure Eligible Asset Management Work occurring outside of a Refurbishment Outage, the project plan therefor as contemplated in Section 12.4(a) of the Contract.
4. **Effect of Force Majeure on performance of obligations.** Attached hereto as Schedule B are:
 - (a) reasonably full particulars of the effect of the claimed Force Majeure on the Generator's ability to perform or comply with its obligations under the Agreement and the probable impact on the performance of its obligations, including the specific obligation(s) that the Generator has been unable, wholly or partially, to perform or comply with or that it has been delayed in performing or (in the case of Refurbishment Work or Force Majeure – Eligible Asset Management Work) would have been delayed in performing but for remediation efforts, including with reference to the Master Project Schedule if a Refurbishment is affected or, if Force Majeure Eligible Asset Management Work occurring outside of a Refurbishment Outage is affected, the project plan therefor as contemplated in Section 12.4(a) of the Contract; and
 - (b) details of any such remediation efforts.
5. **Efforts to Prevent or Remedy the Force Majeure.** Attached hereto as Schedule C are reasonably full particulars of efforts, if any, undertaken or contemplated by the Generator to prevent or remedy the Force Majeure and remove, so far as possible and within a reasonable time period, the Force Majeure.
6. **Increased Refurbishment Costs or Asset Management Costs.** Attached hereto as Schedule D are, if applicable, reasonably full particulars of any increased Refurbishment Costs or increased Asset Management Costs for Force Majeure – Eligible Asset Management Work and a description of the efforts taken by the Generator to minimize the cost of the Force Majeure event. If applicable, in the case of EA Force Majeure, Schedule D includes a description of efforts taken by the Generator to minimize impact of lost or delayed generation.

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

By: _____

Name:

Title:

Exhibit 12.2(b)

REQUIRED FORCE MAJEURE INFORMATION

All relevant documentary or other evidence of the act, event, cause or condition that is beyond the reasonable control of the Generator relating to the Force Majeure being invoked and an estimate of its expected duration, and reasonably full particulars of the events, if any, leading to the Force Majeure and the Generator's determination of the cause of the Force Majeure, including the following:

- Master Project Schedule if a Refurbishment is affected or, in the case of Force Majeure-Eligible Asset Management Work occurring outside of a Refurbishment Outage, the project plan therefor as contemplated in Section 12.4(a) of the Agreement; and
- as applicable but subject to Sections 3.12 and 8.3: correspondence; emails; notes; reports; memoranda and any other documentation or information relevant to establishing Force Majeure.

All relevant documentary or other evidence of the effect of the claimed Force Majeure and the effect of the claimed Force Majeure on the Generator's ability to perform or comply with its obligations under the Agreement and the Generator's determination of the most likely impact (or potential ranges of impacts) on the performance of its obligations, including the specific obligation(s) that the Generator has been unable, wholly or partially, to perform or comply with or that it has been delayed in performing or (in the case of Refurbishment Work or Force Majeure – Eligible Asset Management Work) would have been delayed in performing if remediation efforts had not been implemented by the Generator, and details of any remediation efforts, including, as applicable, but subject to Sections 3.12 and 8.3:

- any reports (internal or external);
- correspondence;
- notes;
- memoranda;
- any other documentation relevant to establishing the effect; and
- the Master Project Schedule or, in the case of Force Majeure-Eligible Asset Management Work occurring outside of a Refurbishment Outage, the project plan therefor as contemplated in Section 12.4(a) of the Agreement, if the effect of the claimed Force Majeure includes a delay to Refurbishment or if there would have been a delay if remediation efforts had not been implemented by the Generator.

All relevant documentary evidence of efforts, if any, undertaken or planned by the Generator to prevent or remedy the Force Majeure and remove, so far as possible and within a reasonable time period, the Force Majeure, including the following as applicable, but subject to Sections 3.12 and 8.3:

- meeting requests with third parties;

- notes from meetings or telephone calls;
- minutes of meetings;
- letter or email correspondence with third parties; and
- copies of reports, policies, proposals and any other relevant documentation.

All relevant documentary evidence of any increased Refurbishment Costs or increased Asset Management Costs for Force Majeure – Eligible Asset Management Work.

Exhibit 12.4

FORCE MAJEURE – ELIGIBLE ASSET MANAGEMENT WORK

The Asset Management Work relating to the following components will be eligible for Force Majeure whether or not the work occurs during a Refurbishment Outage for a Unit in accordance with the definition of Force Majeure – Eligible Asset Management Work.

Component
Turbines and Auxiliaries - HP Turbine
Turbines and Auxiliaries - LP Turbine
Turbines and Auxiliaries - Electro Hydraulic Governing System
Main Generators and Auxiliaries - Generator Rotor Forging, Windings and Rings
Main Generators and Auxiliaries - Stator Winding, Core and Frame
Standby Generators - Standby Generators
Standby Generators - Standby Generator Controls
Standby Generators - Emergency Power Generator Controls
Standby Generators - Emergency Power Generators
Standby Generators - QPS Standby Diesel Generator Controls
Standby Generators - QPS Standby Diesel Generators
Heat Exchangers - Moderator Heat exchangers
Heat Exchangers - Shutdown Cooling Heat Exchangers
Heat Exchangers - Main Condensers
Heat Exchangers - Maintenance Cooling Heat Exchanger
D2O Upgraders - Heavy Water Upgrader Distillation Towers
D2O Upgraders - Heavy Water Upgrader Support Equipment
Large Power Transformers - Main Output Transformers (MOT)
Fuel Route - Fuel Handling Computers
Pressure Vessels and Tanks - Deaerator

Exhibit 14.3

ONTARIO PROVINCIAL STATUTES

Business Corporations Act

Corporations Tax Act

Dangerous Goods Transportation Act

Electricity Act, 1998

Employment Standards Act, 2000

Endangered Species Act, 2007

Environmental Bill of Rights, 1993

Environmental Protection Act

Fire Protection and Prevention Act, 1997

Freedom of Information and Protection of Privacy Act

Income Tax Act

Labour Relations Act, 1995

Limited Partnerships Act

Occupational Health and Safety Act

Ontario Energy Board Act, 1998

Ontario Water Resources Act

Retail Sales Tax Act

Safe Drinking Water Act, 2002

Taxation Act, 2007

Technical Standards and Safety Act, 2000

Workplace Safety and Insurance Act, 1997

In addition to the foregoing, any statutes introduced after the Discriminatory Action Set Date that are not included in this Exhibit 14.3 by operation of Section 1.6 of this Agreement but that have substantially similar subject matter to the foregoing or are principally directed at or principally borne by operators of nuclear reactors, operators of nuclear reactors and other electricity generators in Ontario or any subset thereof that includes the Generator shall be deemed to be included in this Exhibit 14.3.

EXHIBIT 15.2

CONTRACT PRICE ADJUSTMENT FOR RELEVANT CHANGE OF LAW

Recital:

This Exhibit identifies all Contract Price Adjustments that may be required pursuant to Section 15.2 and Section 15.3 of the Agreement. This Exhibit relates to Section 15.2 and Section 15.3 of the Agreement to the Financial Model in order to properly effect those Financial Model Adjustments arising from Section 15.2 and Section 15.3 of the Agreement.

1. Interpretation:

(a) Cross-References:

The expression “Clause” or “Schedule” followed by a letter or a number means and refers to the specified clause of, or schedule attached to, this Exhibit unless otherwise specified. All “Section” references in this Exhibit 15.2 are to Sections of the Agreement. Alphanumeric references in square brackets (e.g. “[1x]”) refer to the specified instruction line in the CAS Instructions and the expression “Part” followed by a number means and refers to the specified part of the CAS Instructions.

(b) Financial Model References:

Capitalized terms used in this Exhibit 15.2 but not defined in the Agreement or this Exhibit 15.2 refer to the applicable line item in the Financial Model. References to the Financial Model at the time of a Contract Price Adjustment will be to the then current iteration of the Financial Model as maintained and updated from time to time pursuant to Exhibit 1.1(c).

2. Sections 15.2 and 15.3(f) – Adjustments to Contract Price Arising from Relevant Change of Law:

(a) Adjustments to Contract Price Arising from Relevant Change of Law: On the Adjustment Date immediately following the latest of: (i) the determination that a Relevant Change of Law has occurred as evidenced by the agreement of the Parties, a determination pursuant to dispute resolution as contemplated by Section 15.3(c), or the date the Counterparty remedies or causes to be remedied the Relevant Change of Law pursuant to Section 15.4; (ii) the determination of the Relevant Change of Law Compensation by the agreement of the Parties or a determination pursuant to dispute resolution as contemplated by Section 15.3(c); and (iii) the date 180 days after a notice by the Counterparty pursuant to Section 15.4 if the Counterparty has not remedied the Relevant Change of Law, the Contract Price shall be adjusted to reflect the Relevant Change of Law Compensation. [7a, 7b, 7f, 38d, 38e, 38f, 38g, 38h, 38i, 38j, 38k, 38l, 38m] The only Inputs that may change and that will be reflected in the updated Financial Model pursuant to a Relevant Change of Law are Inputs that have been agreed by the Parties or determined in accordance with the foregoing provisions of this Clause 2(a).

- (b) **Adjustments to Contract Price Arising from Re-Adjustment:** On the Adjustment Date immediately following an event or circumstance contemplated by Section 15.3(f), the Contract Price shall be adjusted as contemplated by Section 15.3(f). The only Inputs that may change and that may be reflected in the updated Financial Model pursuant to a Re-Adjustment are Inputs that were previously determined in accordance with Clause 2(a) and any additional Inputs that have been agreed by the Parties or determined in accordance with dispute resolution pursuant to Section 18.1 or 18.2 in order to properly reflect the Adjustment Event pursuant to Section 15.3(f).
- (c) **Calculation of the Contract Price Adjustment:** The Inputs referred to in Clause 2(a) and 2(b) are referenced in Parts [7] and [38] of the CAS Instructions and will be input in the CAS and applied to the Financial Model in accordance with the steps and methodology set out in the CAS Instructions in order to calculate the Contract Price Adjustment.

Exhibit 18.2

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 after it has agreed in writing to arbitrate a dispute in accordance with Section 18.2(b), 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 18.2(b) other than matters arising under Sections 2.4(d) or 2.4(e) (a “**Dispute**”) including 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 a 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 a 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 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 Clause 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 in reasonable detail 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 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 Superior Court of Justice 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, the material facts upon which it intends to rely, and in the case of a Dispute related to a Contract Price Adjustment, the Inputs that would

be necessary to determine the Contract Price Adjustment, if any, requested by each of the Applicant and the Respondent in connection with its requested remedy.

- (ii) If the Applicant fails to deliver a Claim within the time limit referred to in Clause 9(i), 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 Clause 9(iii), 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 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 either 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 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 Clause 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 neither 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.

Nothing contained in these Rules prohibits either Party hereto from making an offer or offers of settlement relating to a Dispute during the course of Arbitration.