

1 **Undertaking Request (U-77)**

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3 ***Transcript Reference: July 25, 2018, Pg. 112, line 18 to Pg. 113, line 6***

4 Undertake to look into providing any agreements or schedules to the Jurisdictional Muskrat

5 Falls Purchase Power Agreement.

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8 **Undertaking Response**

9 Please refer to U-77, Attachment 1 (Transmission Funding Agreement Schedules) and U-77,

10 Attachment 2 (Power Purchase Agreement Schedules).

TRANSMISSION FUNDING AGREEMENT

SCHEDULE 1

LIL PROJECT DESCRIPTION

Transmission Funding Agreement
Schedule 1 - LIL Project Description
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**SCHEDULE 1
LIL PROJECT DESCRIPTION**

Section 1 Labrador - Island Link (LIL)

Overall HVdc system consists of a 900 MW HVdc Island Link between Labrador and Newfoundland.

Section 2 Construction Power

The following power supply sources will be used for construction power:

- Muskrat Falls: A 25 kV tap from the construction power system for the Muskrat Falls Generating Facility (see Construction Power)
- Forteau Point: A 25 kV tap from an existing distribution system located approximately 2.5 km away.
- Shoal Cove: A 25 kV tap from an existing distribution system located approximately 700m away.
- L'Anse Au Diable: A 14.4 kV tap from an existing distribution system located approximately 400 m away.
- Dowden's Point: A 14.4 kV tap from an existing distribution system located approximately 1.5 km away.
- Soldiers Pond: A 25 kV tap from an existing distribution system located approximately 4 km away.

Section 3 Construction Telecommunication Systems - Labrador-Island Link

Provision of telecommunications services and infrastructure during the construction phase to the end of the Project along the 315 kV HVac and the ± 350 kV HVdc transmission lines and associated construction camps, including the CF Extension Switchyard construction camp.

- Services along the transmission line rights-of-way
- Land Mobile Radio System (LMRS)
- Services available at the various remote campsites
- Data (corporate and personal)
- Telephony (corporate and personal)
- Network Management System (NMS)
- Closed Circuit Television (CCTV) and
- Security and Access Control System (SACS)

Section 4 Labrador Converter Station

- 900 MW, ± 350 kV bi-pole, LCC *converter station* capable of operating in mono-polar mode.
- Each pole rated at 450 MW with 100% overload capacity for ten minutes and 50% overload capacity for continuous operation.
- Situated on the south side of the Churchill River on a level fenced site.

- Concrete foundations and galvanized steel structures to support the electrical equipment and switchgear.
- Mono-polar operation shall be supported by an *electrode*.

Section 5 Electrode Line - Labrador

- An *electrode line* carrying two conductors with the first 370 km to be supported on the HVdc lattice steel towers from Muskrat Falls to Forteau Point and the remaining section from Forteau Point to L'Anse au Diable to be supported on a wood pole line.
- 50-year *Reliability Level Return Period* of loads.
- *Electrode line* will have provision for arcing horns.

Section 6 Electrode Labrador

- A shoreline pond *electrode* to be located at L'Anse au Diable on the Labrador side of the SOBI.
- Nominal monopolar rating of 450 MW with 100% overload capacity for ten minutes and 50% overload capacity for continuous operation.

Section 7 Labrador - Island Overland HVdc Transmission

- An HVdc overhead transmission line, ± 350 kV bi-pole, to connect the Muskrat Falls *Converter Station* to the Labrador Transition Compound at the Strait of Belle Isle and then to connect the Northern Peninsula Transition Compound at the Strait of Belle Isle to the Soldiers Pond *Converter Station*.
- Transmission line to carry both poles (single conductor per pole) and one OPGW. The Labrador section is to carry two *electrode* conductors from the Muskrat Falls *Converter Station* to Forteau Point (see 6310 Electrode Line - Labrador).
- The HVdc transmission line is to have a designed nominal power capacity of 900 MW; however, given the mono-polar operation criteria, each pole is to have a nominal rating of 450 MW with 100% overload capacity for ten minutes and 50% overload capacity for continuous operation.
- *Counterpoise* installed from station-to-station.
- Towers are to be galvanized lattice steel, with self-supported angles and dead ends, and guyed suspension towers.
- 50 year *Reliability Level Return Period* of loads, with respect to Nalcor Energy operating experience and LCP specific modeling and test programs.

Section 8 Transition Compound - Labrador

- Situated on a level fenced site at Forteau Point.
- Enclosed building and provision for submarine cable termination system and associated switching requirements.
- Concrete pads and steel structures to support the electrical equipment and switchgear.
- Overhead line to cable transition equipment.

- High-speed switching, control, protection, monitoring and communication equipment.

Section 9 Marine Crossing - SOBI - General

- ± 350 kV, 900 MW submarine cable system to transmit power across the SOBI in bipolar mode for 50-year design life, with capabilities to allow configuration in monopolar mode.
- Each cable to have a nominal rating of 1286 A (one pu per pole) and a transient rating of 2572 A (two pu per pole) for five minutes in mono-pole mode.
- Consists of three *mass impregnated* submarine cables and associated components, inclusive of one spare submarine cable.
- Land cables shall connect submarine cables to cable termination system within the transition compound.
- The route for the submarine cable(s) crossing shall be designed to meet the transmission, protection, reliability, and design life requirements, and give consideration to technical and economic optimization.
- Cables shall be adequately protected along the entire length of the crossing as required. Cable protection methodology will employ proven technologies only, and may include rock placement, trenching, horizontal directional drilling (HDD) and concrete mattresses.
- Where discrete protection application is required, protection measures shall be designed to meet the transmission and reliability requirements.

Section 10 Transition Compound - Northern Peninsula

- Situated on a level fenced site at Shoal Cove.
- Enclosed building and provision for submarine cable termination system and associated switching requirements.
- Concrete pads and steel structures to support the electrical equipment and switchgear.
- Cable to overhead line transition equipment.
- High-speed switching, control, protection, monitoring and communication equipment.

Section 11 Soldiers Pond Converter Station

- 900 MW, ± 350 kV bi-pole, LCC *converter station* capable of operating in mono-polar mode.
- Each pole rated at 450 MW with 100% overload protection for ten minutes and 50% overload protection for continuous operation.
- Situated next to the Soldiers Pond switchyard on the Avalon Peninsula on a level fenced site.
- Concrete foundations and galvanized steel structures to support the electrical equipment and switchgear.
- Mono-polar operation shall be supported by an *electrode*.

Section 12 Electrode Line - Newfoundland East

- An *electrode line* carrying two conductors generally follows the existing transmission ROW from Soldiers Pond to Conception Bay.
- Wood pole construction.

- 50-year *Reliability Level Return Period* of loads.
- *Electrode line* will have provision for arcing horns.

Section 13 Electrode Newfoundland East

- A shoreline pond *electrode* to be located at Dowden’s Point on the east side of Conception Bay.
- Nominal rating of 450 MW with 100% overload protection for ten minutes and 50% overload protection for continuous operation.

Section 14 Soldiers Pond Switchyard

- Situated on the north-east side of Soldiers Pond on a level, fenced site.
- Concrete foundations and galvanized steel structures to support the electrical equipment and switchgear.
- Electrical layout of the switchyard is to be in accordance with the proposed SLD.
- Switchyard to interconnect six 230 kV HVac transmission lines (three existing transmission lines looped in), the synchronous condensers and the Soldiers Pond *Converter Station*.

Section 15 Island System Upgrades East

- Three 175 MVAR high-inertia synchronous condensers at Soldiers Pond.
- 230 kV circuit breaker replacements including Holyrood, B1B11, B1L17, B12L17, B2B11, B2L42, B12L42, B2L18, B3B13 and B12B15 and Bay d’Espoir B4B5.
- 66 kV circuit breaker replacements including Hardwoods B7T1, B7T5 and B7B8 230 kV and 138 kV circuit breaker replacements.
- Replacement of conductors, 230 kV transmission line - Bay d’Espoir to Sunnyside.
- Splitting and Re-termination of three existing 230 kV transmission lines (TL201, TL217 and TL242) into the new Soldier’s Pond Terminal Station forming six 230 kV line terminations. This requires construction of 6 x 1.6 km of 230 kV transmission line complete with overhead ground wire to provide lightening protection for the six new transmission line terminations.
- Upgrade of the protection and control systems at Hardwoods, Oxen Pond, Holyrood and Western Avalon Terminal Stations.

Section 16 Operations Telecommunications System - Island Link

- Telecommunication System shall be comprised of three separate layers: Optical Transport Network (OTN), Convergence, and Access Layers.
- OTN Layer shall be the telecommunications backbone and utilize the OPGW, All Dielectric Self Supporting (ADSS) or equivalent fibre optic infrastructure. The OTN Layer equipment nodes shall be designed based upon the least total cost of ownership alternative.
- Convergence Layer shall be based on the Synchronous Optical Network (SONET) international standard. It shall be used to create logical point-to-point telecommunication links between all MF locations. It will multiplex and de-multiplex the Access Layer subsystems for transmission on the OTN.

- Access Layer shall be based on the Ethernet (IEEE 802.3) standard. It shall be comprised of a minimum of three separate telecommunication systems: Protection and Control, SCADA, and Administrative systems. The Administrative system may include the following subsystems: telephony, corporate data, security access control system, and video surveillance.

The Island Transmission Link Telecommunication Assets specifically includes the following.

- HVdc OPGW fibre optics connecting
 - Muskrat Falls *Converter Station* to Forteau Point Transition Compound
 - Shoal Cove Transition Compound to Soldiers Pond *Converter Station*
- ADSS fibre optics connecting
 - Forteau Point Transition Compound to the L'Anse au Diable *Electrode*
 - Soldiers Pond *Converter Station* to Dowden's Point *Electrode*
- Fibre optic infrastructure shall also be used to connect
 - Forteau Point Transition Compound to Shoal Cove Transition Compound by optic fibres embedded in each power cable being installed across the SOBI
 - Soldiers Pond *Converter Station* to the NLH Energy Control Centre (ECC) in St. John's
 - Soldiers Pond *Converter Station* to the NLH Backup Control Centre (BCC)
- OTN Layer optical-electronics associated with the above referenced HVdc OPGW fibre optic interconnections.
- Convergence and Access Layers telecommunication systems associated with all of the above referenced fibre optic interconnections, except these telecommunication layers at MF.
- NLH ECC and BCC SCADA system upgrades

TRANSMISSION FUNDING AGREEMENT

SCHEDULE 2

FORM OF ASSIGNMENT

Transmission Funding Agreement
Schedule 2 - Form of Assignment
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**SCHEDULE 2
FORM OF ASSIGNMENT**

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ASSIGNMENT OF TRANSMISSION FUNDING AGREEMENT

THIS ASSIGNMENT AGREEMENT is made effective the ● day of ●, 20__.

AMONG:

LABRADOR-ISLAND LINK LIMITED PARTNERSHIP, a limited partnership formed pursuant to the laws of Newfoundland and Labrador, by its general partner, Labrador-Island Link General Partner Corporation (the "**Partnership**")

- and -

LABRADOR-ISLAND LINK OPERATING CORPORATION, a corporation incorporated under the laws of Newfoundland and Labrador, and a wholly-owned subsidiary of Nalcor ("**Opc**")

- and -

NEWFOUNDLAND AND LABRADOR HYDRO, a corporation continued pursuant to the *Hydro Corporation Act* 2007 (Newfoundland and Labrador), and a wholly-owned subsidiary of Nalcor ("**NLH**")

- and -

<@>, a [type of entity and jurisdiction or statute of incorporation or formation], [*insert basis on which assignee is permitted*] (the "**Assignee**")

WHEREAS:

- A. Opc, NLH and the Partnership entered into the Transmission Funding Agreement on [], 201_ (the "**TFA**"); and
- B. Opc, NLH and the Partnership entered into the LIL Remedies Agreement on 201__ (the "**LRA**" and together with the TFA, the "**Assigned Agreements**");

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants and agreements hereinafter contained the Parties, intending to be legally bound, agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, including the recitals:

“Affiliate” means, with respect to any Person, any other Person who directly or indirectly Controls, is Controlled by, or is under common Control with, such Person, provided however that the NL Crown shall be deemed not to be an affiliate of Nalcor;

“Agreement” means this agreement, as it may be modified, amended, supplemented or restated by written agreement between the Parties;

“Applicable Law” means, in relation to any Person, property, transaction or event, all applicable laws, statutes, rules, codes, regulations, treaties, official directives, policies and orders of and the terms of all judgments, orders and decrees issued by any Authorized Authority by which such Person is bound or having application to the property, transaction or event in question;

“Assigned Agreements” has the meaning set forth in the recitals;

“Assignee” means [*] an Affiliate of [Opco/the Partnership] [or a Holder], a Qualified Assignee of the Assignor;

“Assigned Rights” means the Assigned Agreements and the [Opco Rights][Partnership Rights];

“Assignor” means the [Partnership/Opco or an Affiliate of the Partnership/Opco, as applicable];

“Authorized Authority” means, in relation to any Person, property, transaction or event, any (a) federal, provincial, state, territorial, municipal or local governmental body (whether administrative, legislative, executive or otherwise), (b) agency, authority, commission, instrumentality, regulatory body, court or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, (c) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions, (d) private regulatory entity, self-regulatory organization or other similar Person, or (e) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, in each case having jurisdiction over such Person, property, transaction or event;

“Business Day” means any day that is not a Saturday, Sunday or legal holiday recognized in the City of St. John’s, NL;

“Consenting Parties” means [Opco/the Partnership, of if applicable as a result of prior assignments, specified Affiliates] and NLH;

“Control” of a Person means the possession, direct or indirect, of the power to elect or appoint a majority of such Person’s board of directors or similar governing body, or to direct or cause the direction of the management, business and/or policies of such Person, whether through ownership of Voting Shares, by contract or otherwise, and, without limiting the

generality of the foregoing, a Person shall be deemed to “**Control**” any partnership of which, at the time, the Person is a general partner, in the case of a limited partnership, or is a partner who, under the partnership agreement, has authority to bind the partnership, in all other cases (and the terms “**Controlled by**” and “**under common Control with**” have correlative meanings);

“**Dispute Resolution Procedure**” has the meaning set forth in **Section 4.1(a)**;

“**Effective Date**” means []; [NTD: Since the Assignee has to be a Qualified Assignee and therefore has to have all of the transmission assets and contracts transferred to it the Effective Date is to be the date when all of those transfers are effective.]

“**Excise Tax Act**” means the *Excise Tax Act* (Canada);

“**HST**” means all amounts exigible pursuant to Part IX of the Excise Tax Act, including, for greater certainty, the Taxes commonly referred to as the goods and services tax (GST) and the harmonized sales tax (HST);

“**Income Tax Act**” means the *Income Tax Act* (Canada);

“**Insolvency Event**” means, in relation to any Party, the occurrence of one or more of the following:

- (a) an order is made, or an effective resolution passed, for the winding-up, liquidation or dissolution of such Party;
- (b) such Party voluntarily institutes proceedings for its winding up, liquidation or dissolution, or to authorize or enter into an arrangement under the *Corporations Act* (Newfoundland and Labrador) or similar legislation in any other jurisdiction affecting any of its creditors, or takes action to become bankrupt, or consents to the filing of a bankruptcy application against it, or files an assignment, a proposal, a notice of intention to make a proposal, an application, or answer or consent seeking reorganization, readjustment, arrangement, composition, protection from creditors, or similar relief under any bankruptcy or insolvency law or any other similar Applicable Law, including the *Bankruptcy and Insolvency Act* (Canada) and the *Companies’ Creditors Arrangement Act* (Canada), or consents to the filing of any such application for a bankruptcy order, or consents to the appointment of an interim receiver, receiver, monitor, liquidator, restructuring officer or trustee in bankruptcy of all or substantially all of the property of such Party or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they come due or commits any other act of bankruptcy or insolvency, or suspends or threatens to suspend transaction of its usual business, or any action is taken by such Party in furtherance of any of the foregoing;

- (c) a court having jurisdiction enters a judgment or order adjudging such Party a bankrupt or an insolvent person, or approving as properly filed an application or motion seeking an arrangement under the *Corporations Act* (Newfoundland and Labrador) or similar legislation in any other jurisdiction affecting any of its creditors or seeking reorganization, readjustment, arrangement, composition, protection from creditors, or similar relief under any bankruptcy or insolvency law or any other similar Applicable Law, or an order of a court having jurisdiction for the appointment of an interim receiver, receiver, monitor, liquidator, restructuring officer or trustee in bankruptcy of all or substantially all of the undertaking or property of such Party, or for the winding up, liquidation or dissolution of its affairs, is entered and such order is not contested and the effect thereof stayed, or any material part of the property of such Party is sequestered or attached and is not returned to the possession of such Party or released from such attachment within 30 days thereafter;
- (d) any proceeding or application is commenced respecting such Party without its consent or acquiescence pursuant to any Applicable Law relating to bankruptcy, insolvency, reorganization of debts, winding up, liquidation or dissolution, and such proceeding or application (i) results in a bankruptcy order or the entry of an order for relief and a period of 30 days has elapsed since the issuance of such order without such order having been reversed or set aside or (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the commencement of such proceeding or application; or
- (e) such Party has ceased paying its current obligations in the ordinary course of business as they generally become due;

“Knowledge” means in the case of a Party, as applicable, the actual knowledge of any of the executive officers of such Party and other facts or matters that such executive officers could reasonably be expected to discover or otherwise become aware of in the course of performing their ordinary responsibilities as executive officers of such Party;

“Legal Proceedings” means any actions, suits, investigations, proceedings, judgments, rulings or orders by or before any Authorized Authority;

“LRA” has the meaning set forth in the recitals;

“NLH” has the meaning set forth in the preamble to this Agreement, and includes its successors and permitted assigns;

“Nalcor” means Nalcor Energy, a NL corporation existing pursuant to the *Energy Corporation Act* (Newfoundland and Labrador), and includes its successors;

“Notice” means a communication required or contemplated to be given by either Party to the other under this Agreement, which communication shall be given in accordance with **Section 5.1**;

“**Opc**o” has the meaning set forth in the preamble to this Agreement, and includes its successors and permitted assigns;

“**Opc**o Rights” has the meaning set forth in the TFA;

“**Parties**” means the parties to this Agreement, and “**Party**” means one of them;

“**Partnership**” has the meaning set forth in the preamble to this Agreement, and includes its successors and permitted assigns;

“**Partnership Rights**” has the meaning set forth in the TFA;

“**Person**” includes an individual, a partnership, a corporation, a company, a trust, a joint venture, an unincorporated organization, a union, a government or any department or agency thereof and the heirs, executors, administrators or other legal representatives of an individual;

“**Qualified Assignee**” has the meaning set forth in the TFA;

“**Regular Business Hours**” means 8:30 a.m. through 4:30 p.m. local time on Business Days in St. John’s, NL;

“**Regulatory Approval**” means any approval required by any Authorized Authority, including any regulatory, environmental, development, zoning, building, subdivision or occupancy permit, licence, approval or other authorization;

“**Tax**” or “**Taxes**” means any tax, fee, levy, rental, duty, charge, royalty or similar charge including, for greater certainty, any federal, state, provincial, municipal, local, aboriginal, foreign or any other assessment, governmental charge, imposition or tariff (other than a tariff or fees in respect of electricity transmission services) wherever imposed, assessed or collected, and whether based on or measured by gross receipts, income, profits, sales, use and occupation or otherwise, and including any income tax, capital gains tax, payroll tax, fuel tax, capital tax, goods and services tax, harmonized sales tax, value added tax, sales tax, withholding tax, property tax, business tax, ad valorem tax, transfer tax, franchise tax or excise tax, together with all interest, penalties, fines or additions imposed, assessed or collected with respect to any such amounts;

“**TFA**” has the meaning set forth in the recitals; and

“**Voting Shares**” means shares issued by a corporation in its capital stock, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or Persons performing similar functions) of such Person, even if such right to vote has been suspended by the happening of such contingency.

1.2 Construction of Agreement

- (a) Interpretation Not Affected by Headings, etc. - The division of this Agreement into articles, sections and other subdivisions, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless otherwise indicated, all references to an “**Article**” or “**Section**” followed by a number and/or a letter refer to the specified article or section of this Agreement. The terms “**this Agreement**”, “**hereof**”, “**herein**”, “**hereby**”, “**hereunder**” and similar expressions refer to this Agreement and not to any particular Article or Section hereof. All references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made.
- (b) Singular/Plural; Derivatives - Whenever the singular or masculine or neuter is used in this Agreement, it shall be interpreted as meaning the plural or feminine or body politic or corporate, and vice versa, as the context requires. Where a term is defined herein, a capitalized derivative of such term has a corresponding meaning unless the context otherwise requires.
- (c) “Including” - The word “**including**”, when used in this Agreement, means “**including without limitation**”.
- (d) Trade Meanings - Terms and expressions that are not specifically defined in this Agreement, but which have generally accepted meanings in the custom, usage and literature of the electricity industry in Canada as of the date of this Agreement, shall have such generally accepted meanings when used in this Agreement, unless otherwise specified elsewhere in this Agreement.
- (e) Statutory References - Any reference in this Agreement to a statute shall include, and shall be deemed to be, a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto (including changes to section numbers referenced herein) and in force from time to time, and to any statute or regulation that may be passed that has the effect of supplementing or replacing the statute so referred to or the regulations made pursuant thereto, and any reference to an order, ruling or decision shall be deemed to be a reference to such order, ruling or decision as the same may be varied, amended, modified, supplemented or replaced from time to time.
- (f) Calculation of Time - Where, in this Agreement, a period of time is specified or calculated from or after a date or event, such period is to be calculated excluding such date or the date on which such event occurs, as the case may be, and including the date on which the period ends.

- (g) Time Falling on Non-Business Day - Whenever the time for doing something under this Agreement falls on a day that is not a Business Day such action is to be taken on the first following Business Day.
- (h) No Drafting Presumption - The Parties acknowledge that their respective legal advisors have reviewed and participated in settling the terms of this Agreement and agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting Party shall not apply to the interpretation of this Agreement.

1.3 Applicable Law and Submission to Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and the Federal laws of Canada applicable therein, but excluding all choice-of-law provisions. Subject to **Article 4**, the Parties irrevocably consent and submit to the exclusive jurisdiction of the courts of the Province of Newfoundland and Labrador with respect to all matters relating to this Agreement, subject to any right of appeal to the Supreme Court of Canada. Each Party waives any objection that it may now or hereafter have to the determination of venue of any proceeding in such courts relating to this Agreement or that it may now or hereafter have that such courts are an inconvenient forum.

ARTICLE 2 ASSIGNMENT

2.1 Assignment to a Qualified Assignee

As of the Effective Date, the Assignor hereby assigns, transfers and sets over to the Assignee, its successors and permitted assigns, all of the Assignor's right, title and interest in the Assigned Rights and all the benefits and advantages derived therefrom for the remainder of the term of the Assigned Rights and any renewals or extensions thereof.

2.2 Assumption of Liabilities

The Assignee hereby accepts the within assignment of the Assigned Rights as of the Effective Date and covenants and agrees with the Assignor and the Consenting Parties to assume the covenants and obligations of the Assignor under the Assigned Rights. The Assignee hereby agrees to assume all liabilities for, and in due and proper manner, to pay, satisfy, discharge, perform and fulfill all covenants, obligations and liabilities of the Assignor under the Assigned Rights arising on and in respect of matters occurring after the Effective Date.

2.3 Confirmation of Status of Assigned Rights

The Assignor hereby confirms to the Assignee that neither it nor, to its Knowledge, the Consenting Parties are in default of any of their obligations under the Assigned Rights. The Consenting Parties hereby confirm to the Assignee that neither they nor, to their Knowledge, the Assignor are in default of any of their respective obligations under the Assigned Rights.

2.4 Acknowledgement of Consenting Parties

The Consenting Parties acknowledge, consent to and accept the within assignment and assumption of the Assigned Rights subject to the terms and conditions herein, and confirm to the Assignor and the Assignee that this consent constitutes any prior written consent stipulated in the Assigned Rights. The Consenting Parties agree that from and after the Effective Date the Assignor shall not have any obligation to the Consenting Parties to observe and perform the conditions and obligations set forth in the Assigned Rights. This **Section 2.4** does not apply if Section 14.1(d) or 14.2(d) of the TFA, as applicable, does not require consent to assignment.

2.5 Supplies and Payments Exclusive of Taxes

- (a) Payment of Taxes - Each Party is separately responsible for, and shall in a timely manner discharge, its separate obligations in respect of the payment, withholding and remittance of all Taxes in accordance with Applicable Law.
- (b) HST - Notwithstanding **Section 2.5(a)**, each of the Parties acknowledges and agrees that:
 - (i) all amounts of consideration, or payments and other amounts due and payable to or recoverable by or from another Party, under this Agreement are exclusive of any Taxes that may be exigible in respect of such payments or other amounts (including, for greater certainty, any applicable HST), and if any such Taxes shall be applicable, such Taxes shall be in addition to all such amounts and shall be paid, collected and remitted in accordance with Applicable Law; and
 - (ii) if one Party is required to collect Taxes pursuant to this Agreement, it shall forthwith provide to the other applicable Party such documentation required pursuant to **Section 2.7**.

2.6 Determination of Value for Tax Compliance Purposes

- (a) Subject to the right of final determination as provided under **Section 2.6(b)**, the Parties agree to co-operate in determining a value for any property or service supplied pursuant to this Agreement for non-cash consideration.
- (b) If a Party supplying a property or service under this Agreement for non-cash consideration is required to collect Taxes in respect of such supply, or if a Party acquiring a property or service under this Agreement for non-cash consideration is required to self-assess for Taxes in respect of such property or service, that Party shall determine a value expressed in Canadian dollars for such property or service for purposes of calculating the Taxes collectable or self-assessable, as applicable.

2.7 Invoicing

All invoices issued pursuant to this Agreement shall include all information prescribed by Applicable Law together with all other information required to permit the Party required to pay Taxes, if any, in respect of such supplies to claim input tax credits, refunds, rebates, remission or other recovery, as permitted under Applicable Law. Without limiting the foregoing, except as otherwise agreed to by the Parties in writing, all invoices issued pursuant to this Agreement shall include all of the following particulars:

- (a) the HST registration number of the supplier;
- (b) the subtotal of all HST taxable supplies;
- (c) the applicable HST rate(s) and the amount of HST charged on such HST taxable supplies; and
- (d) a subtotal of any amounts charged for any “exempt” or “zero-rated” supplies as defined in Part IX of the Excise Tax Act.

2.8 Payment and Offset

- (a) Subject to **Section 2.8(b)**, Taxes collectable by one Party from another Party pursuant to this Agreement will be payable in immediately available funds within 30 days of receipt of an invoice.
- (b) A Party may offset amounts of Taxes owing to another Party under this Agreement against Taxes or other amounts receivable from such other Party pursuant to this Agreement or any of the other Formal Agreements, subject to reporting and remittance of such offset Taxes in accordance with Applicable Law.

2.9 HST Registration Status

- (a) The Assignee represents and warrants that it is registered for purposes of the HST and that its registration number is ●.
- (b) The Assignor represents and warrants that it is registered for purposes of the HST and that its registration number is ●.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Assignor and Assignee Representations and Warranties

Each of the Assignor and the Assignee hereby jointly and severally represents and warrants to the Consenting Parties that, as of the Effective Date:

- (a) it is duly organized and validly existing under the Applicable Law of the jurisdiction of its formation and is qualified to conduct its business to the extent necessary in each jurisdiction in which it will perform its obligations under this Agreement;
- (b) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action on its part and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;
- (c) this Agreement has been duly executed and delivered on its behalf by its appropriate officers and constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity whether considered in a proceeding in equity or at law;
- (d) no Insolvency Event has occurred, is pending or being contemplated by it or, to its Knowledge, threatened against it;
- (e) there are [no Legal Proceedings **NTD: or set out Legal Proceedings, if any**] pending or, to its Knowledge, threatened against it that may materially adversely affect its ability to perform its obligations under this Agreement;
- (f) no consent or other approval, order, authorization or action by, or filing with, any Person is required to be made or obtained by such Party for such Party's lawful execution, delivery and performance of this Agreement, except for (i) such consents, approvals, authorizations, actions and filings that have been made or obtained prior to the date hereof, (ii) such consents, approvals, authorizations, actions and filings the failure of which would not have, or could not reasonably be expected to have, a material adverse effect on such Party's ability to perform its obligations under this Agreement and [**NTD: set out any required Regulatory Approvals**];
- (g) it is not a non-resident of Canada for the purposes of the Income Tax Act; and
- (h) the Assignee is an [**Affiliate**][**Qualified Assignee**] of the Assignor.

[NTD: Add more detailed representations as to why the Assignee is a Qualified Assignee as well as to the other transactions that need to take place concurrently with this assignment to permit the Assignee to be a Qualified Assignee.]

**ARTICLE 4
DISPUTE RESOLUTION PROCEDURE**

4.1 General

- (a) Dispute Resolution Procedure - The Parties agree to resolve all Disputes pursuant to the dispute resolution procedure set out in Schedule 3 to the TFA (the “**Dispute Resolution Procedure**”).

- (b) Undisputed Amounts - In the event of a Dispute concerning any amount payable by one Party to another Party, the Party with the payment obligation shall pay the whole of such payment in full. **[NTD: Conform to Assigned Agreement]**

**ARTICLE 5
MISCELLANEOUS PROVISIONS**

5.1 Notices

Notices, where required herein, shall be in writing and shall be sufficiently given if delivered personally or by courier or sent by electronic mail or facsimile transmission, directed as follows:

- (a) To Assignor:

[•]

- (b) To Assignee:

[•]

- (c) To Consenting Parties:

[•]

Such Notice shall (i) if delivered personally or by courier, be deemed to have been given or made on the day of delivery, and (ii) if sent by electronic mail or facsimile transmission, and be confirmed by a copy immediately sent by courier, be deemed to have been given or made on the day it was successfully transmitted by electronic mail or facsimile transmission as evidenced by automatic confirmation of receipt, provided however that if in any case such day is not a Business Day or if the Notice is received after Regular Business Hours (time and place of receipt), the Notice shall be deemed to have been given or made on the next Business Day. Any Party may change its address or fax number hereunder from time to time by giving Notice of such change to the other Parties.

5.2 Prior Agreements

This Agreement supersedes all prior communications, understandings, negotiations and agreements between the Parties, whether oral or written, express or implied with respect to

the subject matter hereof. There are no representations, warranties, collateral agreements or conditions affecting this Agreement other than as expressed herein. Each of the Parties further acknowledges and agrees that, in entering into this Agreement, it has not in any way relied upon any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings, expressed or implied, not specifically set forth in this Agreement or the Assigned Agreements.

5.3 Counterparts

This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Signatures delivered by facsimile or electronic mail shall be deemed for all purposes to be original counterparts of this Agreement.

5.4 Expenses of Parties

Except as otherwise provided herein, each Party shall bear its own costs and expenses in connection with all matters relating to this Agreement, including the costs and expenses of its legal, tax, technical and other advisors.

5.5 Announcements

No announcement with respect to this Agreement shall be made by any Party without the prior approval of the other Parties. The foregoing shall not apply to any announcement by a Party required in order to comply with Applicable Law; provided that such Party consults with the other Parties before making any such announcement and gives due consideration to the views of the other Parties with respect thereto. The Parties shall use reasonable efforts to agree on the text of any proposed announcement.

5.6 Relationship of the Parties

The Parties hereby disclaim any intention to create by this Agreement any partnership, joint venture, association, trust or fiduciary relationship between them. Except as expressly provided herein, this Agreement shall not be construed or considered as creating any such partnership, joint venture, association, trust or fiduciary relationship, or as constituting any Party as the agent or legal representative of the other Parties for any purpose nor to permit any Party to enter into agreements or incur any obligations for or on behalf of the other Parties.

5.7 Further Assurances

Each of the Parties shall, from time to time, do all such acts and things and execute and deliver, from time to time, all such further documents and assurances as may be reasonably necessary to carry out and give effect to the terms of this Agreement.

5.8 **Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be wholly or partially illegal, invalid, void, voidable or unenforceable in any jurisdiction for any reason, such illegality, invalidity or unenforceability shall not affect the legality, validity and enforceability of the balance of this Agreement or its legality, validity or enforceability in any other jurisdiction. If any provision is so determined to be wholly or partially illegal, invalid or unenforceable for any reason, the Parties shall negotiate in good faith a new legal, valid and enforceable provision to replace such illegal, invalid or unenforceable provision, which, as nearly as practically possible, has the same effect as the illegal, invalid or unenforceable provision.

5.9 **Time of the Essence**

Time shall be of the essence.

5.10 **Amendments**

No amendment or modification to this Agreement shall be effective unless it is in writing and signed by all Parties.

5.11 **No Waiver**

Any failure or delay of a Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the Term shall not affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision. Any consent or approval given by a Party pursuant to this Agreement shall be limited to its express terms and shall not otherwise increase the obligations of the Party giving such consent or approval or otherwise reduce the obligations of a Party receiving such consent or approval.

5.12 **No Third Party Beneficiaries**

Except as otherwise provided herein or permitted hereby, this Agreement is not made for the benefit of any Person not a Party to this Agreement, and no Person other than the Parties or their respective successors and permitted assigns shall acquire or have any right, remedy or claim under or by virtue of this Agreement.

5.13 **Survival**

All provisions of this Agreement that expressly or by their nature are intended to survive the termination (however caused) of this Agreement, including covenants, warranties, guarantees, releases and indemnities, continue as valid and enforceable rights and obligations (as the case may be) of the Parties, notwithstanding any such termination, until they are satisfied in full or by their nature expire.

5.14 Waiver of Sovereign Immunity

A Party that now or hereafter has a right to claim sovereign immunity for itself or any of its assets hereby waives any such immunity to the fullest extent permitted by Applicable Law. This waiver includes immunity from (i) any proceedings under the Dispute Resolution Procedure; (ii) any judicial, administrative or other proceedings to aid the Dispute Resolution Procedure; and (iii) any confirmation, enforcement or execution of any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from the Dispute Resolution Procedure or any judicial, administrative or other proceedings commenced pursuant to this Agreement. Each Party acknowledges that its rights and obligations under this Agreement are of a commercial and not a governmental nature.

5.15 Successors and Assigns

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

[ASSIGNOR]

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the [company]/[corporation][the general partner; the general partner has authority to bind the Assignor].

[ASSIGNEE]

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the [company]/[corporation][the general partner; the general partner has authority to bind the Assignee].

[CONSENTING PARTY]

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the [company]/[corporation][the general partner; the general partner has authority to bind the Partnership].

[CONSENTING PARTY]

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the [company]/[corporation][the general partner; the general partner has authority to bind the Partnership].

TRANSMISSION FUNDING AGREEMENT

SCHEDULE 3

DISPUTE RESOLUTION PROCEDURE

Transmission Funding Agreement
Schedule 3 - Dispute Resolution Procedure
MC//15906222_6.DOC

**SCHEDULE 3
DISPUTE RESOLUTION PROCEDURE**

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**SCHEDULE 3
DISPUTE RESOLUTION PROCEDURE**

Section 1 Interpretation

1.1 Definitions

In this Schedule, the definitions set forth in the Articles of Agreement apply and in addition thereto:

“**Agreement**” means the agreement to which this Schedule is attached;

“**Appointment Date**” has the meaning set forth in **Section 6.4**;

“**Arbitration Act**” means the *Arbitration Act* (Newfoundland and Labrador);

“**Arbitration Notice**” has the meaning set forth in **Section 5.1(a)(i)**;

“**Arbitration Procedure**” means the provisions of **Section 5**;

“**Arbitrator**” means an arbitrator appointed pursuant to the Arbitration Procedure;

“**Articles of Agreement**” means the main body of the Agreement;

“**Chair**” means the person elected or appointed to chair the Tribunal;

“**Code**” means the Commercial Arbitration Code as set out in the *Commercial Arbitration Act* (Canada) as of the Effective Date, a copy of which is attached hereto as **Appendix A**;

“**Consent to Arbitration**” means, with respect to an Arbitration Notice, a Notice given by the Notified Party to the Notifying Party stating that the Notified Party consents to arbitration of the Dispute referred to in the Arbitration Notice;

“**Delegate**” has the meaning set forth in **Section 6.3(c)**;

“**Dispute Context**” has the meaning set forth in **Section 6.6**;

“**Document**” includes a film, photograph, videotape, chart, graph, map, plan, survey, book of account, recording of sound, and information recorded or stored by means of any device;

“**Expert Determination Procedure**” means the provisions of **Section 6**;

“**General Dispute**” means a Dispute that is not a Specified Dispute;

“**Independent Expert**” means the Person appointed as such to conduct an expert determination in accordance with the Expert Determination Procedure;

“Information” means all documents and information, including Confidential Information, disclosed by a Party for the purposes of this Dispute Resolution Procedure;

“Initial Meeting” has the meaning set forth in **Section 6.8**;

“Mediation Notice” has the meaning set forth in **Section 4.1(a)**;

“Mediation Procedure” means the provisions of **Section 4**;

“Mediation Response” has the meaning set forth in **Section 4.1(d)**;

“Mediator” means the mediator appointed pursuant to the Mediation Procedure;

“Negotiation Procedure” means the provisions of **Section 3**;

“Non-Consent to Arbitration” means, with respect to an Arbitration Notice, a Notice given by the Notified Party to the Notifying Party stating that the Notified Party does not consent to arbitration of the Dispute referred to in the Arbitration Notice;

“Notified Parties” has the meaning set forth in **Section 5.1(a)(i)**;

“Notifying Party” has the meaning set forth in **Section 5.1(a)(i)**;

“Referral Notice” has the meaning set forth in **Section 6.1**;

“Referring Party” has the meaning set forth in **Section 6.1**;

“Requesting Party” has the meaning set forth in **Section 4.1(a)**;

“Responding Party” has the meaning set forth in **Section 6.1**;

“Response” has the meaning set forth in **Section 6.9(b)**;

“Review Notice” has the meaning set forth in **Section 3.1**;

“Specified Dispute” means a Dispute required by the Agreement, or agreed in writing by the Parties interested in the Dispute, to be finally resolved by expert determination pursuant to this Schedule;

“Submission” has the meaning set forth in **Section 6.9(a)**;

“Terms of Reference” has the meaning set forth in **Section 6.4**; and

“Tribunal” means either a single Arbitrator or a panel of Arbitrators, as the case may be, appointed pursuant to the Arbitration Procedure to serve as the arbitrator or arbitrators of a General Dispute.

1.2 Section References

Unless otherwise indicated, all references in this Schedule to a “**Section**” followed by a number and/or a letter refer to the specified Section of this Schedule.

1.3 Appendix

The following Appendix is attached to and incorporated by reference in this Schedule, and is deemed to be part hereof:

Appendix A - Commercial Arbitration Code (Canada)

Section 2 Alternative Dispute Resolution

2.1 Purpose and Sequence of Dispute Resolution

The purpose of this Schedule is to set forth a framework and procedures to resolve any Disputes that may arise under the Agreement in an amicable manner, in private and confidential proceedings, and where possible, without resort to litigation. The Parties agree to exclusively utilize the following process to achieve this goal, which shall be undertaken in the following order:

- (a) first, by referring the Dispute to negotiation pursuant to the Negotiation Procedure; and
- (b) in the case of a General Dispute:
 - (i) second, by way of mediation pursuant to the Mediation Procedure; and
 - (ii) third, either:
 - (A) by arbitration pursuant to the Arbitration Procedure where the Parties agree or are deemed to have agreed to arbitration; or
 - (B) by litigation, where the Parties do not agree and are not deemed to have agreed to arbitration pursuant to the Arbitration Procedure; or
- (c) in the case of a Specified Dispute, second by expert determination in accordance with the Expert Determination Procedure.

2.2 Confidentiality

- (a) Subject to **Section 2.2(b)**, all Information disclosed by a Party pursuant to the Negotiation Procedure, the Mediation Procedure, the Arbitration Procedure or the Expert Determination Procedure shall be treated as confidential by the Parties and any Mediator, Arbitrator or Independent Expert. Neither the disclosure nor production of Information will represent any waiver of privilege by the disclosing

Party. Each Party agrees not to disclose Information provided by the other Party for the purposes hereof to any other Person for any other purpose. Further, such Information shall not be used in any subsequent proceedings without the consent of the Party that disclosed it.

- (b) **Section 2.2(a)** does not prevent a Party from disclosing or using Information not received by it exclusively pursuant to the Negotiation Procedure, the Mediation Procedure, the Arbitration Procedure or the Expert Determination Procedure as and to the extent permitted under the Agreement.

2.3 Interim Measures

Either Party may apply to a court for interim measures to protect its interest during the period that it is attempting to resolve a Dispute prior to the constitution of a Tribunal, including preliminary injunction or other equitable relief concerning that Dispute. The Parties agree that seeking and obtaining any such interim measure will not waive the Parties' obligation to proceed in accordance with **Section 2.1**.

2.4 Mediator or Arbitrator as Witness

The Parties agree that any Mediator or Arbitrator appointed hereunder shall not be compelled as a witness in any proceedings for any purpose whatsoever in relation to the Agreement.

Section 3 Negotiation Procedure

3.1 Negotiation of Dispute

All Disputes shall be first referred in writing to appropriate representatives of the Parties, as designated by each Party, or in the absence of a Party's specific designation, to the CEO of that Party. References to such representatives hereunder may be initiated at any time by any Party requesting a review under this **Section 3** by Notice to the other Parties (a "**Review Notice**"). Each Party shall be afforded a reasonable opportunity to present all relevant Information regarding its position to the other Party's representative. The Parties shall consider the Information provided and seek to resolve the Dispute through negotiation. Negotiations shall be concluded within 15 Business Days from the date of delivery of the Review Notice or within such extended period as may be agreed in writing by the Parties.

3.2 Reservation of Rights

Except to the extent that such negotiations result in a settlement, such negotiations and exchange of Information will be without prejudice and inadmissible against a Party's interest in any subsequent proceedings and no Party will be considered to have waived any privilege it may have. No settlement will be considered to have been reached until it is reduced to writing and signed by the Parties.

3.3 Failure of Negotiations

If the Parties have not resolved the Dispute to the satisfaction of both Parties within 15 Business Days after delivery of the Review Notice, or within such extended period as may be agreed in writing by the Parties, negotiations will be deemed to have failed to resolve the Dispute and any Party may then request that the matter be referred to non-binding mediation pursuant to the Mediation Procedure.

Section 4 **Mediation Procedure**

4.1 Request for Mediation

- (a) If the Parties are unable to resolve a Dispute through the Negotiation Procedure, a Party (the “**Requesting Party**”), by Notice to the other Party given within five Business Days after expiry of the period set forth in or agreed by the Parties under **Section 3.3**, may request that the Dispute be mediated through non-binding mediation under this **Section 4** by delivering to the other Party a Notice (a “**Mediation Notice**”) containing a written summary of relevant Information relative to the matters that remain in Dispute and the names of three individuals who are acceptable to the Requesting Party to act as a sole Mediator.
- (b) Any Mediator must be impartial and independent of each of the Parties, be an experienced commercial mediator, and preferably have experience and knowledge concerning the subject matter of the Dispute.
- (c) Any mediation commenced under this Mediation Procedure will continue only until the first of the following occurs:
 - (i) the Party in receipt of a Mediation Notice declines to submit to mediation and gives Notice thereof to the Requesting Party;
 - (ii) the Party in receipt of a Mediation Notice fails to send a Mediation Response in accordance with **Section 4.1(d)**;
 - (iii) the Parties are unable to appoint a Mediator within the period allowed by **Section 4.2**;
 - (iv) a Party gives Notice to the other Parties that it terminates the mediation;
 - (v) the Mediator provides the Parties with a written determination that the mediation is terminated because the Dispute cannot be resolved through mediation;
 - (vi) **Section 4.3(d)** applies; or
 - (vii) the Dispute is settled as provided in **Section 4.4**.

- (d) If the mediation proceeds, within five Business Days after receiving the Mediation Notice the receiving Party shall send a written response to the Mediation Notice (the “**Mediation Response**”) to the Requesting Party including a summary of Information relating to the matters that remain in Dispute and accepting one of the individuals proposed as Mediator in the Mediation Notice, or proposing another individual or individuals, up to a maximum of three, as Mediator.

4.2 Appointment of Mediator

Within 10 Business Days after receipt of the Mediation Response by the Requesting Party, the Parties shall attempt to appoint a Mediator to assist the parties in resolving the Dispute. The appointment shall be in writing and signed by the Parties and the Mediator.

4.3 Mediation Process

- (a) The Parties shall participate in good faith and in a timely and responsive manner in the Mediation Procedure. A copy of the Mediation Notice and the Mediation Response shall be delivered to the Mediator within two Business Days after his or her appointment. The Mediator shall, after consultation with the Parties, set the date, time and place for the mediation as soon as possible after being appointed.
- (b) The location of the mediation will be St. John’s, Newfoundland and Labrador, unless otherwise agreed to by the Parties, and the language of the mediation will be English.
- (c) The Parties shall provide such assistance and produce such Information as may be reasonably necessary, and shall meet together with the Mediator, or as otherwise determined by the Mediator, in order to resolve the Dispute.
- (d) If the mediation is not completed within 10 Business Days after appointment of the Mediator pursuant to **Section 4.2**, the mediation will be considered to have failed to resolve the Dispute and the Mediation Procedure will be deemed to be terminated, unless the Parties agree in writing to extend the time to resolve the Dispute by mediation.
- (e) Each Party shall each bear its own costs and expenses associated with the mediation, but the Parties shall share the common costs of the mediation equally (or in such other proportions as they may agree), including the costs of or attributable to the Mediator and the facilities used for the mediation.

4.4 Reservation of Rights

Any mediation undertaken hereunder will be non-binding, and except to the extent a settlement is reached, will be considered without prejudice and inadmissible against a Party’s interest in any subsequent proceedings and no Party will be considered to have waived any

privilege it may have. No settlement will be considered to have been reached until it is reduced to writing and signed by the Parties.

Section 5 **Arbitration Procedure**

5.1 Submission to Binding Arbitration

- (a) If the Parties are unable to resolve a General Dispute through the Negotiation Procedure or the Mediation Procedure, then following termination of the mediation, or, if no Mediation Notice is given, following failure of negotiations as provided in **Section 3.3**:
 - (i) a Party (the “**Notifying Party**”) may submit the General Dispute to binding arbitration under this **Section 5** and give Notice to the other Parties (the “**Notified Parties**”) of such submission (an “**Arbitration Notice**”); or
 - (ii) if **Section 5.1(e)** does not apply, any Party may elect, by giving notice thereof to the other Parties, to proceed with resolution of the General Dispute pursuant to **Section 2.1(b)(ii)(B)**.
- (b) A Notified Party may consent to arbitration of the Dispute referred to in the Arbitration Notice by giving a Consent to Arbitration within 10 Business Days after the day the Arbitration Notice was given.
- (c) If the Notified Party does not give a Consent to Arbitration within 10 Business Days after the day the Arbitration Notice was given, the Notified Party will be deemed to have given a Consent to Arbitration on the last day of such 10 Business Day period.
- (d) If the Notified Party delivers a Non-Consent to Arbitration with 10 Business Days after the day the Arbitration Notice was given, **Section 2.1(b)(ii)(B)** will apply.
- (e) Notwithstanding **Sections 5.1(b), 5.1(c)** and **5.1(d)**, where under the Agreement the Parties are deemed to have agreed pursuant to this **Section 5.1** to resolve the Dispute by arbitration, the Notified Party will be deemed to have given a Consent to Arbitration on the day the Arbitration Notice is given.
- (f) When a Notifying Party has given an Arbitration Notice and the Notified Party has given or been deemed pursuant to **Section 5.1(c)** or **5.1(e)** to have given a Consent to Arbitration, the Dispute referred to in the Arbitration Notice shall be resolved by arbitration pursuant to this **Section 5**. The arbitration will be subject to the Arbitration Act and conducted in accordance with the Code, as supplemented and modified by this **Section 5**.

5.2 Provisions Relating to the Arbitration Act and the Code

- (a) The Tribunal will not have the power provided for in subsection 10(b) of the Arbitration Act.

- (b) Notwithstanding Article 3 of the Code, Notices for the purposes of an arbitration under this **Section 5** shall be given and deemed received in accordance with the provisions of the Agreement relating to Notices.
- (c) For the purposes of Article 7 of the Code, this **Section 5** constitutes the “arbitration agreement”.
- (d) A reference in the Code to “a court or other authority specified in article 6”, will be considered to be a reference to the Trial Division of the Supreme Court of Newfoundland and Labrador.
- (e) The rules of law applicable to a General Dispute arbitrated under this **Section 5** will be the laws of Newfoundland and Labrador.
- (f) Nothing in Article 5 or Article 34 of the Code will be interpreted to restrict any right of a Party pursuant to the Arbitration Act.
- (g) For the purposes of Section 3 of the Arbitration Act, once a Consent to Arbitration has been given or deemed to have been given, the submission to arbitration will be deemed to be irrevocable.
- (h) For greater certainty, Articles 8 and 9 of the Code shall only apply when the Parties have agreed or been deemed to have agreed to binding arbitration under the Agreement or this **Section 5**.
- (i) Where there is a conflict between this **Section 5** and the Code, this **Section 5** will prevail.

5.3 Appointment of Tribunal

- (a) Subject to **Section 5.4**, the arbitration will be heard and determined by three Arbitrators. Each Party shall appoint an Arbitrator of its choice within 20 Business Days after delivery or deemed delivery of the Consent to Arbitration. The Party-appointed Arbitrators shall in turn appoint a third Arbitrator, who shall act as Chair of the Tribunal, within 20 Business Days after the appointment of both Party-appointed Arbitrators. If the Party-appointed Arbitrators cannot reach agreement on a third Arbitrator, or if a Party fails or refuses to appoint its Party-appointed Arbitrator within 20 Business Days after delivery or deemed delivery of the Consent to Arbitration, the appointment of the Chair of the Tribunal and the third Arbitrator will be made in accordance with Article 11 of the Code.
- (b) Except for the appointment of an Arbitrator pursuant to the Code, the appointment of an Arbitrator must be in writing and accepted in writing by the Arbitrator.

5.4 Arbitration by Single Arbitrator

The arbitration will be heard and determined by one Arbitrator where the Parties agree to arbitration by a single Arbitrator and jointly appoint the Arbitrator within 15 Business Days after the Consent to Arbitration is given or deemed to have been given. If the Parties do not agree to arbitration by a single Arbitrator and appoint the Arbitrator within such time, the arbitration will be heard by three Arbitrators appointed pursuant to **Section 5.3**.

5.5 Procedure

- (a) Unless otherwise agreed by the Parties, the place of the arbitration will be St. John's, Newfoundland and Labrador.
- (b) The arbitration shall be conducted in the English language and the Arbitrators must be fluent in the English language.
- (c) If the Parties initiate multiple arbitration proceedings under the Agreement and any other agreement to which they are all parties, the subject matters of which are related by common questions of law or fact and which could result in conflicting awards or obligations, then all such proceedings may, with the written consent of all Parties in all such proceedings, be consolidated into a single arbitration proceeding.
- (d) The Parties may agree as to the manner in which the Tribunal shall promptly hear witnesses and arguments, review documents and otherwise conduct the arbitration. Failing such agreement within 20 Business Days from the date of selection or appointment of the Tribunal, the Tribunal shall promptly and expeditiously conduct the arbitration proceedings in accordance with the Code. The Parties intend that the arbitration hearing should commence as soon as reasonably practicable following the appointment of the Tribunal.
- (e) Nothing in this **Section 5** will prevent either Party from applying to a court of competent jurisdiction pending final disposition of the arbitration proceeding for such relief as may be necessary to assist the arbitration process, to ensure that the arbitration is carried out in accordance with the Arbitration Procedure, or to prevent manifestly unfair or unequal treatment of either Party.
- (f) In no event will the Tribunal have the jurisdiction to amend or vary the terms of this Schedule or of the Code.

5.6 Awards

- (a) The arbitration award shall be given in writing, will be final and binding on the Parties, and will not be subject to any appeal.
- (b) Each Party shall bear its own costs in relation to the arbitration, but the Parties shall equally bear the common costs of the Arbitration, including the costs of or attributable to the Tribunal and the facilities used for the arbitration.

- (c) No arbitration award issued hereunder will expand or increase the liabilities, obligations or remedies of the Parties beyond those permitted by the Agreement.
- (d) Judgment upon the arbitration award may be entered in any court having jurisdiction, or application may be made to such court for a judicial recognition of the arbitration award or an order of enforcement thereof, as the case may be.
- (e) The amount of the arbitration award including costs will bear interest at the Prime Rate plus 3% per annum, or such other rate, and from such date, as determined by the Tribunal, until the amount of the arbitration award, costs and interest thereon is Paid in Full.
- (f) Subject to **Section 5.5(e)**, the Parties agree that arbitration conducted pursuant to this Arbitration Procedure will be the final and exclusive forum for the resolution of General Disputes.

5.7 Settlement

If the Parties settle the Dispute before the Tribunal delivers its written award, the arbitration will be terminated and the Tribunal shall record the terms of settlement in the form of an award made on consent of the Parties.

Section 6 Expert Determination Procedure

6.1 Referral for Expert Determination

A Party (the “**Referring Party**”) may by Notice to another Party (the “**Responding Party**”) require referral of a Specified Dispute to an Independent Expert for determination pursuant to this **Section 6** (the “**Referral Notice**”).

6.2 Qualifications of Independent Expert

Any Independent Expert appointed under this **Section 6** shall be:

- (a) independent of each of the Parties;
- (b) of national or international standing;
- (c) well qualified by education, technical training and experience, and hold the appropriate professional qualifications, to determine the matters in issue in the Specified Dispute; and
- (d) impartial and have no interest or obligation in conflict with the task to be performed as an Independent Expert for the Parties. Without limiting the generality of the foregoing, a conflict will be deemed to exist, unless otherwise agreed in writing by the Parties, if the Independent Expert at any time previously performed work in connection with matters covered by the Agreement, or during the preceding three

years performed any other work for either of the Parties or any of their Affiliates. Any direct or beneficial equity interest the Independent Expert has in one or more of the Parties or their Affiliates, or *vice versa*, shall be declared by each Party and the Independent Expert prior to the Independent Expert being retained.

6.3 **Selection of the Independent Expert**

- (a) Within 10 Business Days after delivery of the Referral Notice, each Party shall deliver to the other Party, in a simultaneous exchange, a list of the names of five Persons (ranked 1 - 5 in order of preference, 5 being that Party's first preference) who are acceptable to the Party to act as the Independent Expert. If one Person only is named in both lists, that Person shall be the Independent Expert to determine the Specified Dispute. If more than one Person is named in both lists, the Person with the highest total numerical ranking, determined by adding the rankings from both lists, shall be the Independent Expert to determine the Specified Dispute. In the event of a tie in the rankings, the Person to be the Independent Expert shall be selected by lot from among those of highest equal rank.
- (b) If the Parties fail to select an Independent Expert from the initial lists provided pursuant to **Section 6.3(a)**, the process under **Section 6.3(a)** shall be repeated with a second list of five names from each Party, except that the Parties shall exchange lists within five Business Days after the end of the 10 Business Day period under **Section 6.3(a)**.
- (c) If the Parties fail to select an Independent Expert pursuant to **Section 6.3(a)** or **6.3(b)** or otherwise within 15 Business Days after the Referral Notice is given, within a further period of five Business Days after the end of such 15 day period the Parties shall jointly request the President of ADR Chambers in Toronto, Ontario or his or her designate (the "**Delegate**") to appoint the Independent Expert from a list submitted by the Parties with the request. Each Party may nominate up to three proposed Independent Experts for inclusion on the list. The Parties shall not advise the Delegate which Party nominated a particular nominee. Each Party shall be responsible for one-half of the costs of the Delegate.

6.4 **Terms of Reference**

Once an Independent Expert is selected pursuant to **Section 6.3**, the Parties shall use commercially reasonable efforts to enter into an appropriate engagement agreement with the Independent Expert (the "**Terms of Reference**") as soon as practicable, and in any event within 20 Business Days, after selection of the Independent Expert pursuant to **Section 6.3**. Failure of the Parties and the Independent Expert to agree upon the Terms of Reference will be deemed to be a General Dispute and the Terms of Reference will be resolved by a single Arbitrator pursuant to the Arbitration Procedure. The date of execution of the Terms of Reference by all of the Parties and the Independent Expert is herein called the "**Appointment Date**".

6.5 Information Provided to Independent Expert

For the purpose of the Expert Determination Procedure, the Parties shall provide to the Independent Expert the following within five Business Days after the Appointment Date:

- (a) a copy of the Agreement, including the Schedules;
- (b) copies of or full access to all documents relevant to the Specified Dispute to be determined by the Independent Expert; and
- (c) other data and reports as may be mutually agreed by the Parties.

6.6 Dispute Context

The Independent Expert shall review and analyze, as necessary, the materials provided to it by the Parties pursuant to **Section 6.5**. The Independent Expert shall make its determination pursuant to the Terms of Reference based upon the materials provided by the Parties and in accordance with the Article, Section or Schedule of the Agreement under which the Specified Dispute to be determined arose (the “**Dispute Context**”).

6.7 No ex parte Communication

No communication between the Independent Expert and either of the Parties shall be permitted from the Appointment Date until after delivery of the Independent Expert’s final decision except:

- (a) with the approval of both Parties;
- (b) as provided by this **Section 6**; or
- (c) to address strictly administrative matters.

All communications permitted by this **Section 6.7** between either Party and the Independent Expert shall be conducted in writing, with copies sent simultaneously to the other Party in the same manner.

6.8 Initial Meeting and Joint Presentations by the Parties

Within 10 Business Days after the Appointment Date, the Independent Expert and the Parties shall attend an initial informational meeting (the “**Initial Meeting**”) in St. John’s, Newfoundland and Labrador, or at such other location as may be mutually agreed by the Parties, at a time, date and location as determined by the Independent Expert, at which the Parties shall provide an overview of the Specified Dispute to be determined, review the Expert Determination Procedure, and establish a timetable and deadlines for the Independent Expert’s review, all of which are to be consistent with the Agreement.

6.9 **Written Submissions and Responses**

- (a) Within the time specified at the Initial Meeting, but in any event not later than 20 Business Days after the Initial Meeting, each Party shall provide to the Independent Expert a written submission (a “**Submission**”) respecting its interpretation and evaluation of the Specified Dispute.
- (b) Within the time specified at the Initial Meeting, but in any event not later than 20 Business Days after receipt of the other Party’s Submission, each Party shall have the opportunity to provide comments on the other Party’s Submission by written submissions (a “**Response**”) provided to the Independent Expert and the other Party.
- (c) The Parties shall provide any Information deemed necessary by the Independent Expert to complete the evaluation required pursuant to this **Section 6**.
- (d) A Party that fails to submit a Submission or a Response to the Independent Expert within the time allowed by this **Section 6.9** will be deemed to have waived its right to make a Submission or Response, as the case may be.

6.10 **Independent Expert Clarifications**

- (a) Following receipt of the Submissions and Responses, the Independent Expert may, at its discretion, seek any number of clarifications with respect to any aspect of either Party’s Submission or Response. Such requests for clarifications shall be made by the Independent Expert in writing and the clarifications by the Parties shall be made in writing as requested by the Independent Expert, provided that the other Party shall be provided with a copy of such requests and clarifications.
- (b) The purpose of such clarifications will be to allow the Independent Expert to fully understand the technical and/or financial basis and methodologies used in the preparation of the Submission and Response of each Party, it being understood that each Party’s Submission and Response will be the primary basis upon which the Independent Expert shall make its determination.
- (c) All requests for clarifications and all questions in relation thereto will be initiated or posed exclusively by the Independent Expert to the Party from whom clarification is sought as seen fit by the Independent Expert, in its sole discretion, and free of any interruption or interjection by the other Party. Neither Party will have any right to cross-examine the other Party in respect of such Party’s Submission or Response or its responses to the Independent Expert pursuant to this **Section 6.10**.

6.11 **Method of Evaluation**

- (a) The Independent Expert’s assessment shall include the method of evaluation elements set forth in the Dispute Context.

- (b) The Independent Expert's assessment, including its economic model, cash flows and analysis, if any, will be made available to the Parties.

6.12 Decision and Presentation of Report

The Independent Expert shall complete its assessment and deliver a written decision of its determination of the Specified Dispute within 40 Business Days after the Independent Expert's receipt of the Responses.

6.13 Costs of Expert Determination

Each Party shall be responsible for one-half of the costs of the Independent Expert. Each Party shall bear its own costs related to the expert determination.

6.14 Effect of Determination

- (a) The Independent Expert's determination pursuant to this **Section 6** will be final and binding upon the Parties and not reviewable by a court for any reason whatsoever.
- (b) The Independent Expert is not an arbitrator of the Specified Dispute and is deemed not to be acting in an arbitral capacity. The Independent Expert's determination pursuant to this **Section 6** is not an arbitration under the Arbitration Act or any other federal or provincial legislation.

6.15 Settlement

If the Parties settle the Specified Dispute before the Independent Expert delivers its written decision, the Expert Determination Procedure will be terminated and the Independent Expert shall record the settlement in the form of a consent decision of the Parties.

TRANSMISSION FUNDING AGREEMENT

APPENDIX A

TO

DISPUTE RESOLUTION PROCEDURE

COMMERCIAL ARBITRATION CODE

Transmission Funding Agreement
Schedule 3 - Dispute Resolution Procedure
Appendix A - Commercial Arbitration Code
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COMMERCIAL ARBITRATION CODE

(Based on the Model Law on International Commercial Arbitration as adopted by the United Nations Commission on International Trade Law on June 21, 1985)

Note: The word "international", which appears in paragraph (1) of article 1 of the Model Law, has been deleted from paragraph (1) of article 1 below. Paragraphs (3) and (4) of article 1, which contain a description of when arbitration is international, are deleted. Paragraph (5) appears as paragraph (3).

Any additions or substitutions to the Model Law are indicated by the use of italics.

Except as otherwise indicated, the material that follows reproduces exactly the Model Law.

CHAPTER I. GENERAL PROVISIONS

ARTICLE 1 SCOPE OF APPLICATION

- (1) This Code applies to commercial arbitration, subject to any agreement in force between Canada and any other State or States.
- (2) The provisions of this Code, except articles 8, 9, 35 and 36, apply only if the place of arbitration is in Canada.
- (3) This Code shall not affect any other law of Parliament by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Code.

ARTICLE 2 DEFINITIONS AND RULES OF INTERPRETATION

For the purposes of this Code:

- (a) "arbitration" means any arbitration whether or not administered by a permanent arbitral institution;
- (b) "arbitral tribunal" means a sole arbitrator or a panel of arbitrators;
- (c) "court" means a body or organ of the judicial system of a State;
- (d) where a provision of this Code, except article 28, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination;
- (e) where a provision of this Code refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- (f) where a provision of this Code, other than in articles 25(a) and 32(2)(a), refers to a claim, it also applies to a counterclaim, and where it refers to a defence, it also applies to a defence to such counter-claim.

(Based on the Model Law on International Commercial Arbitration as adopted by the United Nations Commission on International Trade Law on June 21, 1985)

Note: The word "international", which appears in paragraph (1) of article 1 of the Model Law, has been deleted from paragraph (1) of article 1 below. Paragraphs (3) and (4) of article 1, which contain a description of when arbitration is international, are deleted. Paragraph (5) appears as paragraph (3).

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- (d) where a provision of this Code, except article 28, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination;
- (e) where a provision of this Code refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- (f) where a provision of this Code, other than in articles 25(a) and 32(2)(a), refers to a claim, it also applies to a counterclaim, and where it refers to a defence, it also applies to a defence to such counter-claim.

ARTICLE 8
ARBITRATION AGREEMENT AND SUBSTANTIVE CLAIM BEFORE COURT

(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(2) Where an action referred to in paragraph (1) of this article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

ARTICLE 9
ARBITRATION AGREEMENT AND INTERIM MEASURES BY COURT

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

CHAPTER III. COMPOSITION OF ARBITRAL TRIBUNAL

ARTICLE 10
NUMBER OF ARBITRATORS

- (1) The parties are free to determine the number of arbitrators.
- (2) Failing such determination, the number of arbitrators shall be three.

ARTICLE 11
APPOINTMENT OF ARBITRATORS

(1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.

(3) Failing such agreement,

(a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6;

(b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.

(4) Where, under an appointment procedure agreed upon by the parties,

(c) a party fails to act as required under such procedure, or

(d) the parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure, or

(e) a third party, including an institution, fails to perform any function entrusted to it under such procedure.

any party may request the court or other authority specified in article 6 to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

(5) A decision on a matter entrusted by paragraph (3) or (4) of this article to the court or other authority specified in article 6 shall be subject to no appeal. The court or other authority, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

ARTICLE 12 GROUNDS FOR CHALLENGE

(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

(2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

ARTICLE 13 CHALLENGE PROCEDURE

(1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of paragraph (3) of this article.

(2) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstances referred to in article 12(2), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court or other authority specified in article 6 to decide on the challenge, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

ARTICLE 14 FAILURE OR IMPOSSIBILITY TO ACT

(1) If an arbitrator becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this article or article 13(2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this article or article 12 (2).

**ARTICLE 15
APPOINTMENT OF SUBSTITUTE ARBITRATOR**

Where the mandate of an arbitrator terminates under article 13 or 14 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

CHAPTER IV. JURISDICTION OF ARBITRAL TRIBUNAL

**ARTICLE 16
COMPETENCE OF ARBITRAL TRIBUNAL TO RULE ON ITS JURISDICTION**

(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(3) The arbitral tribunal may rule on a plea referred to in paragraph (2) of this article either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the court specified in article 6 to decide the matter, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

**ARTICLE 17
POWER OF ARBITRAL TRIBUNAL TO ORDER INTERIM MEASURES**

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with such measure.

CHAPTER V. CONDUCT OF ARBITRAL PROCEEDINGS

**ARTICLE 18
EQUAL TREATMENT OF PARTIES**

The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

**ARTICLE 19
DETERMINATION OF RULES OF PROCEDURE**

(1) Subject to the provisions of this Code, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this Code, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

**ARTICLE 20
PLACE OF ARBITRATION**

(1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

**ARTICLE 21
COMMENCEMENT OF ARBITRAL PROCEEDINGS**

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

**ARTICLE 22
LANGUAGE**

(1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

**ARTICLE 23
STATEMENTS OF CLAIM AND DEFENCE**

(1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(2) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

ARTICLE 24
HEARINGS AND WRITTEN PROCEEDINGS

(1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property or documents.

(3) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

ARTICLE 25
DEFAULT OF A PARTY

Unless otherwise agreed by the parties, if, without showing sufficient cause,

(a) the claimant fails to communicate his statement of claim in accordance with article 23(1), the arbitral tribunal shall terminate the proceedings;

(b) the respondent fails to communicate his statement of defence in accordance with article 23(1), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;

(c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

ARTICLE 26
EXPERT APPOINTED BY ARBITRAL TRIBUNAL

(1) Unless otherwise agreed by the parties, the arbitral tribunal

(a) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;

(b) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

ARTICLE 27
COURT ASSISTANCE IN TAKING EVIDENCE

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of *Canada* assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.

CHAPTER VI. MAKING OF AWARD AND TERMINATION OF PROCEEDINGS

ARTICLE 28 RULES APPLICABLE TO SUBSTANCE OF DISPUTE

- (1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.
- (2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.
- (3) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized it to do so.
- (4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

ARTICLE 29 DECISION-MAKING BY PANEL OF ARBITRATORS

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

ARTICLE 30 SETTLEMENT

- (1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.
- (2) An award on agreed terms shall be made in accordance with the provisions of article 31 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

ARTICLE 31 FORM AND CONTENTS OF AWARD

- (1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signature of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.
- (2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under article 30.
- (3) The award shall state its date and the place of arbitration as determined in accordance with article 20(1). The award shall be deemed to have been made at that place.
- (4) After the award is made, a copy signed by the arbitrators in accordance with paragraph (1) of this article shall be delivered to each party.

**ARTICLE 3
RECEIPT OF WRITTEN COMMUNICATIONS**

- (1) Unless otherwise agreed by the parties:
- (a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it;
- (b) the communication is deemed to have been received on the day it is so delivered.
- (2) The provisions of this article do not apply to communications in court proceedings.

**ARTICLE 4
WAIVER OF RIGHT TO OBJECT**

A party who knows that any provision of this Code from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

**ARTICLE 5
EXTENT OF COURT INTERVENTION**

In matters governed by this Code, no court shall intervene except where so provided in this Code.

**ARTICLE 6
COURT OR OTHER AUTHORITY FOR CERTAIN FUNCTIONS OF ARBITRATION ASSISTANCE AND SUPERVISION**

The functions referred to in articles 11(3), 11(4), 13(3), 14, 16(3) and 34(2) shall be performed by *the Federal Court or any superior, county or district court.*

CHAPTER II. ARBITRATION AGREEMENT

**ARTICLE 7
DEFINITION AND FORM OF ARBITRATION AGREEMENT**

- (1) "Arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.
- (2) The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

ARTICLE 8
ARBITRATION AGREEMENT AND SUBSTANTIVE CLAIM BEFORE COURT

(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(2) Where an action referred to in paragraph (1) of this article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

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ARBITRATION AGREEMENT AND INTERIM MEASURES BY COURT

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

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- (2) Failing such determination, the number of arbitrators shall be three.

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(1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.

(3) Failing such agreement,

(a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6;

(b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.

(4) Where, under an appointment procedure agreed upon by the parties,

(c) a party fails to act as required under such procedure, or

(d) the parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure, or

ARTICLE 32
TERMINATION OF PROCEEDINGS

- (1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with paragraph (2) of this article.
- (2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:
 - (a) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;
 - (b) the parties agree on the termination of the proceedings;
 - (c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of articles 33 and 34(4).

ARTICLE 33
CORRECTION AND INTERPRETATION OF AWARD; ADDITIONAL AWARD

- (1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:
 - (a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature;
 - (b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.
- (2) The arbitral tribunal may correct any error of the type referred to in paragraph (1)(a) of this article on its own initiative within thirty days of the date of the award.
- (3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.
- (4) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award under paragraph (1) or (3) of this article.
- (5) The provisions of article 31 shall apply to a correction or interpretation of the award or to an additional award.

TRANSMISSION FUNDING AGREEMENT

SCHEDULE 4

CONFIDENTIAL INFORMATION

Transmission Funding Agreement
Schedule 4 - Confidential Information
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**SCHEDULE 4
CONFIDENTIAL INFORMATION**

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**SCHEDULE 4
CONFIDENTIAL INFORMATION**

Section 1 Interpretation

1.1 Definitions

In this Schedule, unless otherwise defined herein, capitalized terms shall have the meaning set forth in the Agreement:

“**Agreement**” means the agreement to which this Schedule is attached;

“**ATIPPA**” means the *Access to Information and Protection of Privacy Act* (Newfoundland and Labrador);

“**Authorized Purpose**” means a purpose associated with the rights and obligations set forth in the Agreement;

“**ECA**” means the *Energy Corporation Act* (Newfoundland and Labrador);

“**Lender Recipient**” has the meaning set forth in **Section 2.3**;

“**Representatives**” means Affiliates, partners, directors, officers and employees of a Party or any of its Affiliates, as well as representatives, consultants, agents and financial, tax, legal and other advisors, engaged or retained by or assisting such Party or any of its Affiliates in any way in connection with the Authorized Purpose;

“**Schedule**” means this **Schedule 4 - Confidential Information**;

“**Trade Secret**” means information that (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other Persons who can obtain economic value from its disclosure or use, and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 2 Confidentiality and Restricted Use

2.1 Subject to the terms and conditions of this Schedule, the Receiving Party shall not use the Confidential Information furnished to it by the Disclosing Party or its Representatives for any purpose other than for the Authorized Purpose and shall take reasonable steps to maintain the Confidential Information in confidence, and shall implement adequate and appropriate safeguards to protect the Confidential Information from disclosure or misuse, which shall in no event be less rigorous than the Receiving Party uses for protecting its own information of like character.

2.2 The Receiving Party shall not disclose the Confidential Information directly or indirectly to any third party without the prior written consent of the Disclosing Party, except as provided in **Section 2.3** and **Section 4** of this **Schedule**.

2.3 The Receiving Party may disclose Confidential Information to its Representatives, and to its lenders or prospective lenders and their advisors (each a “**Lender Recipient**”), who need to know it for the Authorized Purpose, to be used only for the Authorized Purpose, provided that prior to such disclosure to a Representative or Lender Recipient, each such Representative or Lender Recipient shall:

- (a) be informed by the Receiving Party of the confidential nature of such Confidential Information; and
- (b) unless such Representative or Lender Recipient is already bound by a duty of confidentiality to the Receiving Party that is substantially similar to the obligations under the Agreement, be directed by the Receiving Party, and such Representative or Lender Recipient shall agree in writing, before receipt of such Confidential Information, to be bound by the obligations of, and to treat such Confidential Information in accordance with the terms and conditions of, the Agreement as if it were a Party hereto.

2.4 The Receiving Party shall return and deliver, or cause to be returned and delivered, to the Disclosing Party, or, if so requested in writing by the Disclosing Party, destroy and certify such destruction (such certificate to be signed by an officer of the Receiving Party), all Confidential Information, including copies and abstracts thereof, and all documentation prepared by or in the possession of the Receiving Party or its Representatives relating to the Confidential Information of the Disclosing Party, within thirty days of a written request by the Disclosing Party. Notwithstanding the foregoing, the Receiving Party may retain one copy of such Confidential Information only for administering compliance with the Agreement or if required to retain such information for regulatory purposes, but such copies must be securely maintained and segregated from other records of the Receiving Party.

2.5 The obligations of confidentiality with respect to Confidential Information shall endure and remain in force until the fifth anniversary of the expiry of the TFA Term (the “**Term**”), provided that such obligations with respect to any information that constitutes a Trade Secret shall survive following the fifth anniversary of the expiry of the Term for such additional period as such information remains a Trade Secret. The provisions hereof which expressly or by their nature survive termination or expiration shall survive termination or expiration of the Agreement.

2.6 Notwithstanding the foregoing, the obligations set forth herein shall not extend to any information which:

- (a) the Receiving Party can establish was known by the Receiving Party or its Representatives prior to the disclosure thereof by the Disclosing Party without a breach of this Schedule or other obligation of confidentiality;
- (b) is independently acquired or developed by the Receiving Party or its Representatives without reference to the Confidential Information and without a breach of this Schedule or other obligation of confidentiality;

- (c) is legally in the possession of the Receiving Party or its Representative prior to receipt thereof from the Disclosing Party;
- (d) at the time of disclosure was in or thereafter enters the public domain through no fault of the Receiving Party or its Representatives;
- (e) is disclosed to the Receiving Party or its Representatives, without restriction and without breach of this Schedule or any other obligation of confidentiality, by a third party who has the legal right to make such disclosure; or
- (f) is approved in writing in advance for release by the Disclosing Party.

2.7 Each Party agrees that it shall ensure compliance with and be liable for any violation of this Schedule by that Party's Representatives and that it will indemnify and hold harmless the other Party and its Representatives against any losses, costs, damages and claims suffered or incurred by or asserted against such Party or its Representatives flowing from such violation. This indemnity shall survive termination of the Agreement.

2.8 Each Receiving Party agrees that each Disclosing Party may be irreparably damaged by any unauthorized disclosure, communication or use of the Disclosing Party's Confidential Information by the Receiving Party or its Representatives and that monetary damages may not be sufficient to remedy any breach by the Receiving Party or its Representatives of any term or provision of the Agreement and each Receiving Party further agrees that the Disclosing Party shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach hereof, in addition to any other remedy available at law or in equity.

Section 3 Acknowledgments

The Receiving Party agrees with the Disclosing Party that:

- (a) except as may be explicitly set forth in a separate agreement involving the Parties, the Disclosing Party and its Representatives do not make any representation or warranty, express or implied, as to the accuracy or completeness of the Disclosing Party's Confidential Information and the Receiving Party shall rely upon its own investigations, due diligence and analyses in evaluating and satisfying itself as to all matters relating to the Confidential Information and the Disclosing Party and its business, affairs and assets or otherwise in any way related to the Authorized Purpose;
- (b) except as may be explicitly set forth in a separate agreement involving the Parties, the Disclosing Party and its Representatives shall not have any liability to the Receiving Party or its Representatives resulting from any use of or reliance upon the Confidential Information by the Receiving Party or its Representatives;
- (c) ownership of and title to Confidential Information of the Disclosing Party shall at all times remain exclusively vested in the Disclosing Party; and

- (d) no licence to the Receiving Party under any copyright, trademark, patent or other intellectual property right is either granted or implied by the conveying of Confidential Information to the Receiving Party.

Section 4 Disclosures Required By Law

4.1 Opco and its Affiliates, NLH and its Affiliates and the Partnership and its Affiliates are at all times subject to the provisions of Newfoundland and Labrador legislation as such legislation may be amended or varied, including ATIPPA. Each of the Parties acknowledge that the other Parties and their respective Affiliates may incur disclosure obligations pursuant to the provisions of ATIPPA or other provincial legislation, and disclosure pursuant to such an obligation shall not be a breach of the Agreement.

4.2 The Parties hereby acknowledge and agree that the Confidential Information disclosed by another Party is “commercially sensitive information” as defined in the ECA and that the disclosure of the Confidential Information may harm the competitive position of, interfere with the negotiating position of or result in financial loss or harm to the other Parties, as applicable. It is further acknowledged and agreed that each Party has represented to the other Parties that the Confidential Information disclosed is treated consistently in a confidential manner by each of them and is customarily not provided to their competitors. Therefore, the Parties shall each refuse to disclose such Confidential Information. Where there is a challenge to such refusal, a review by the Access to Information and Privacy Commissioner for NL, and ultimately the Supreme Court of NL Trial Division, may occur. To the extent permitted by ATIPPA at each step in this process, the Parties, as applicable, will argue against disclosure, support any submission against disclosure, and be entitled to be represented and make arguments in support of non-disclosure.

4.3 If the Receiving Party or any of its Representatives is required by Applicable Law or requested by any Person pursuant to ATIPPA, or by any Authorized Authority under any circumstances, to disclose any Confidential Information, then, subject to Applicable Law, the Receiving Party may only disclose Confidential Information if, to the extent permitted by Applicable Law, it has:

- (a) promptly given Notice to the Disclosing Party of the nature and extent of the request or requirements giving rise to such required or requested disclosure in order to enable the Disclosing Party to seek an appropriate protective order or other remedy;
- (b) obtained a written legal opinion that disclosure is required;
- (c) cooperated with the Disclosing Party in taking any reasonable practicable steps to mitigate the effects of disclosure, and not opposed any action by the Disclosing Party to seek an appropriate protective order or other remedy;
- (d) advised the recipient of the confidentiality of the information being disclosed and used commercially reasonable efforts, in the same manner as it would to protect its own information of like character, to ensure that the information will be afforded confidential treatment;

- (e) in the case of a stock exchange announcement, agreed on the wording with the Disclosing Party; and
- (f) disclosed only that portion of the Confidential Information that is legally required to be disclosed.

4.4 Any disclosure of Confidential Information pursuant to a legal obligation to make such disclosure shall not be a breach of the Agreement, provided that all relevant obligations under the Agreement, including **Section 4.3**, have been met. For the avoidance of doubt, each Party and its respective Affiliates shall have no liability to the other Parties and their Affiliates for any disclosure of Confidential Information that is lawfully required to be made pursuant to ATIPPA.

4.5 In the event that any of the following occur or are reasonably foreseeable and involve or are anticipated to involve the disclosure of Confidential Information of a Party or any of its Affiliates, each of the Parties shall do all things reasonably necessary to secure the confidentiality of such Confidential Information, including applying for court orders of confidentiality in connection with the following:

- (a) any proceeding among the Parties or any of their Affiliates; or
- (b) any proceeding between a Receiving Party and another Person.

In connection with the foregoing, every Receiving Party shall consent to such an order of confidentiality upon request of the relevant Disclosing Party. Any Confidential Information that is required to be disclosed but is subject to an order of confidentiality or similar order shall continue to be Confidential Information subject to protection under this Schedule.

TRANSMISSION FUNDING AGREEMENT

SCHEDULE 5

OPCO STEP-IN AGREEMENT

Transmission Funding Agreement
Schedule 5 - Opco Step-In Agreements
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**SCHEDULE 5
OPCO STEP-IN AGREEMENT**

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STEP-IN AGREEMENT

THIS STEP-IN AGREEMENT is made effective the ___ day of _____, 2013 (the “**Effective Date**”).

BETWEEN:

LABRADOR-ISLAND LINK OPERATING CORPORATION, a corporation incorporated pursuant to the laws of NL, and a wholly-owned subsidiary of Nalcor (“**Opco**”)

- and -

COMPUTERSHARE TRUST COMPANY OF CANADA, in its capacity as collateral trustee under the deed of trust and mortgage dated [●], (such deed of trust and mortgage, as changed and in effect from time to time, the “**Collateral Trust Deed**”), for and on behalf of the Senior Secured Bondholders (as defined therein) (the “**Security Trustee**”)

- and -

TORONTO DOMINION BANK, in its capacity as collateral agent under the collateral agency agreement dated [●], executed in its favour by, *inter alia*, Opco (as changed and in effect from time to time, the “**Collateral Agency Agreement**”), for and on behalf of the GAA Finance Parties (as defined therein) (the “**Collateral Agent**”)

- and -

NEWFOUNDLAND AND LABRADOR HYDRO, a corporation continued pursuant to the *Hydro Corporation Act, 2007* (Newfoundland and Labrador) being Chapter H-7 of the Statutes of Newfoundland and Labrador, 2007, and a wholly-owned subsidiary of Nalcor (“**NLH**”)

- and -

LABRADOR-ISLAND LINK LIMITED PARTNERSHIP, a limited partnership formed pursuant to the laws of NL, acting by its general partner **LABRADOR-ISLAND LINK GENERAL PARTNER CORPORATION** (the “**Partnership**”)

(each one of NLH and the Partnership shall be referred to as a “**Contracting Party**” and collectively as the “**Contracting Parties**”)

WHEREAS:

- A. Opco has entered into the LIL Assets Agreement made as of [●] with the Partnership (such agreement, as changed and in effect from time to time, any provisions thereof and/or the rights of Opco therein (as the context requires and/or so admits) collectively the “**LIL Assets Agreement**”);
- B. Opco has entered into the LIL Lease made as of [●] with the Partnership (and NLH for certain limited purposes) (such agreement, as changed and in effect from time to time, any provisions thereof and/or the rights of Opco therein (as the context requires and/or so admits) collectively the “**LIL Lease**”);
- C. Opco has entered into the Transmission Funding Agreement made as of [●] with the Contracting Parties (such agreement, as changed and in effect from time to time, any provision thereof and/or any rights of Opco therein (as the context requires and/or so admits) collectively, the “**TFA**”);
- D. Opco has entered into the LIL Remedies Agreement made as of [●] with the Contracting Parties (such agreement, as changed and in effect from time to time, any provision thereof and/or any rights of Opco therein (as the context requires and/or so admits) collectively the “**LRA**” and together with the LIL Assets Agreement, the LIL Lease and the TFA, the “**Contracts**”); and
- E. Pursuant to the Collateral Trust Deed and various other security documents, the Security Trustee has been or will be granted Liens in all of the assets and rights of Opco, including the Contracts (collectively, the “**Security Interests**”).

NOW THEREFORE in consideration of the premises and the agreements herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the parties hereto), the parties hereto agree as follows:

1. Definitions

The words and expressions (capitalized or not), wherever used in this Agreement, or in any agreement supplemental or ancillary hereto, unless there be something in the subject or the context inconsistent therewith, shall have the following meanings ascribed thereto.

(a) General Definitions - Unless the context otherwise requires, in this Agreement:

“**Account Holder**” has the meaning set forth in the Collateral Trust Deed;

“**Acquiror**” has the meaning set forth in **Section 5(a)(v)**;

“**Agent Party**” has the meaning set forth in **Section 5(a)(iv)**;

“**Business Day**” means any day excluding Saturday, Sunday or any other day which in the City of St. John’s, Newfoundland and Labrador, is a legal holiday or a day on which banks are authorized by Law or by local proclamation to close;

“**Canada**” means Her Majesty the Queen in Right of Canada;

“**Collateral Agency Agreement**” has the meaning set forth at the commencement hereof;

“**Collateral Agent**” has the meaning set forth at the commencement hereof;

“**Collateral Trust Deed**” has the meaning set forth at the commencement hereof;

“**Consent**” has the meaning set forth in **Section 5(b)**;

“**Contracts**” has the meaning set forth in **Recital D**;

“**Contracting Party**” and “**Contracting Parties**” have the meanings set forth at the commencement hereof;

“**Default Notice**” has the meaning set forth in **Section 5(a)(iv)**;

“**Enforcing Party**” has the meaning set forth in **Section 5(b)**;

“**Financing Documents**” has the meaning set forth in the TFA;

“**GAA Finance Parties**” has the meaning set forth in the Financing Documents;

“**Law**” means all applicable provisions of laws, ordinances, codes, rules, regulations, orders, orders in council, directives, decrees, administrative orders, guidelines, policies of any governmental entity, as well as the applicable provisions of any treaty and any order and decree of any tribunal and arbitrator after the expiration of any appeal period;

“**Lien**” means (i) any right of set-off or combination of accounts intended to secure the payment or performance of an obligation, (ii) any interest in property securing an obligation owed to, or a claim by, a Person other than the owner (which for the purposes hereof shall include a possessor under a title retention agreement and a lessee under a capital lease or in a sale and leaseback transaction), including by way of mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, hire purchase agreement, conditional sale agreement, deposit arrangement, deemed trust, title retention, capital lease, discount, factoring or securitization arrangement deemed trust, on recourse terms, (iii) any preference, priority, adverse claim, levy, execution, seizure, attachment, garnishment or other encumbrance which binds property, and (iv) any agreement to grant any of the foregoing rights or interests;

“**LIL LP Agreement**” has the meaning set forth in the TFA;

“**LRA**” has the meaning set forth in **Recital D**;

“**NLH**” has the meaning set forth at the commencement hereof;

“**Opc**” has the meaning set forth in the commencement hereof;

“Opco Revenue Account” means the account of Opco maintained with the Account Holder and bearing number <*>;

“Partnership” has the meaning set forth at the commencement hereof;

“Qualified Assignee” has the meaning set forth in the TFA;

“Secured Obligations” has the meaning set forth in the Collateral Trust Deed;

“Security Interests” has the meaning set forth in **Recital E**;

“Security Trustee” has the meaning set forth at the commencement hereof;

“Senior Secured Bondholders” has the meaning set forth in the Collateral Trust Deed;

“Subordinated Security” means the Opco Security Agreements entered into between Opco and each of NLH and the Partnership substantially in the form attached as Schedule 1 to the LRA, which has been subordinated to the Security Interests by a Subordination Acknowledge in the form of Appendix A thereto; and

“TFA” shall have the meaning ascribed thereto in the first preamble paragraph hereof.

(b) Extended Meanings - To the extent the context so admits, in this Agreement the following words and expressions shall be given the extended meanings set forth opposite them:

an **“agreement”** - any agreement, oral or written, simple contract or specialty, bond, bill of exchange, indenture, instrument or undertaking;

“asset” - any undertaking, business, property (real, personal or mixed, tangible or intangible) or other asset;

a **“breach”** - any breach, default, event of default, or any equivalent or similar event however described under any agreement;

“cancel” - cancel, surrender, repudiate, disclaim, terminate or suspend;

“change” - change, modify, alter, amend, supplement, restate, extend, renew, compromise, novate, replace, terminate, release, discharge, cancel, suspend or waive;

“claim” - claim, claim over, cross-claim, counter-claim, defence, demand, liability, proceeding, judgment or order or award of any court, other governmental authority, arbitrator or other alternative dispute resolution authority;

a **“document”** - a written agreement, consent, waiver, certificate, notice or other written document or instrument;

a **“government”** - (i) the Crown in right of Canada or in the right of any Province of Canada, (ii) the government of a Territory in Canada, (iii) a municipality in Canada or (iv) the government of a foreign country or any political subdivision of it;

“governmental authority” - any court, administrative tribunal, regulatory authority, government, union of nations or any agency or other authority of a government or union of nations;

“include” - include without limitation, and such term shall not be construed to limit any word or statement which it follows to the specific items or matters immediately following it or similar terms or matters;

“losses and expenses” - losses, costs, expenses, damages, penalties and judgments and awards of any court or other governmental authority, arbitrator, mediator or other alternative dispute resolution authority, including any applicable awarded costs, and legal fees and disbursements on a solicitor and client basis;

“obligations” - indebtedness, obligations, promises, covenants, responsibilities, acts, duties and liabilities (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise;

a **“person”** - an individual, including an individual in his or her capacity as trustee, executor, administrator or other representative, a sole proprietorship, a partnership, an unincorporated association, an unincorporated syndicate, an unincorporated organization, a trust, including a business trust, a corporation organized under the laws of any jurisdiction, a government or agency of a government or any other legal or commercial entity;

“proceeding” - any legal action, lawsuit, arbitration, mediation, alternative dispute resolution proceeding or other proceeding;

“receiver” - a privately appointed or court appointed receiver or receiver and manager, and, except in the definition of “Agent Party”, an interim receiver, liquidator, trustee in bankruptcy, administrator, administrative receiver and any other like or similar official;

a **“registration”** - any notice to or filing, publication, recording or registration with any governmental authority having jurisdiction with respect to any specified person, transaction or event, or any of such person's assets;

“rights” - rights, titles, benefits, interests, powers, authorities, discretions, privileges, immunities, recourses and remedies (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise;

a **“successor”** of a person (the **“relevant party”**) - (i) any amalgamated or other body corporate of which the relevant party or any of its successors is one of the amalgamating or

merging body corporates and (ii) any person to whom all or substantially all of the assets of the relevant party are transferred;

“written” and “in writing” - an original writing, a pdf or facsimile copy of a writing or an email.

2. Representations and Warranties

Each Contracting Party, for itself only, hereby represents, warrants, acknowledges and confirms to the Security Trustee, with the knowledge that the Security Trustee and the Senior Secured Bondholders are relying on such representations, warranties, acknowledgments and confirmations for the purpose of entering into the Collateral Trust Deed and the Financing Documents, that:

- (a) NLH is a corporation and the Partnership is a limited partnership duly and validly existing under the laws of Newfoundland and Labrador and each of them are qualified to conduct its business to the extent necessary in each jurisdiction in which it will perform its obligations under this Agreement and the Contracts;
- (b) each Contracting Party has the legal capacity and right to enter into this Agreement and the Contracts and do all acts and things and execute and deliver all documents as are required hereunder and thereunder to be done, observed or performed by it in accordance with the terms and conditions hereof and thereof;
- (c) each Contracting Party has taken all necessary action to authorize the execution and delivery of this Agreement and the Contracts, the creation and performance of its obligations hereunder and thereunder as well as the consummation of the transactions contemplated hereunder and thereunder;
- (d) each Contracting Party has duly executed and delivered this Agreement and the Contracts;
- (e) none of the authorization, execution, delivery or performance of this Agreement or the Contracts by each Contracting Party, nor the consummation of any of the transactions contemplated hereby or thereby:
 - (i) requires any authorization to be obtained or registration to be made (except such as have already been obtained or made and are now in full force and effect and those not yet required);
 - (ii) conflicts with, contravenes or gives rise to any breach under (A) any of the articles (which, in the case of NLH, are the provisions of the *Hydro Corporation Act, 2007* (Newfoundland and Labrador), the *Energy Corporations Act* (Newfoundland and Labrador) or by-laws of either Contracting Party, (B) the provisions of any document or obligation to which

either Contracting Party is a party or by which such Contracting Party or any of its assets are or may become bound or (iii) any Law;

- (iii) has resulted or will result in the creation or imposition of any Lien upon any of the assets of either Contracting Party, other than Liens subordinated to the Security Interests;
- (f) each of this Agreement and each of the Contracts constitutes a valid and legally binding obligation of each Contracting Party enforceable against it in accordance with its terms, subject only to Laws relating to bankruptcy, insolvency, winding-up, dissolution, administration, reorganization, arrangement or other statutes or judicial decisions affecting the enforcement of creditors' rights in general and to general principles of equity under which specific performance and injunctive relief may be refused by a court in its discretion;
- (g) each Contract is in full force and effect and has not been changed and there is no dispute (to the best of its knowledge) thereunder now existing, and after giving effect to the granting of the Security Interests by Opco to the Security Trustee in each Contract, and after giving effect to this Agreement by each Contracting Party, there exists no event or condition which would constitute a breach, or which, with the giving of notice or lapse of time or both, would have constituted a breach under the Contracts;
- (h) each:
 - (i) Contracting Party; and
 - (ii) to the best of the knowledge, information and belief of such Contracting Party, and after due inquiry, Opco,

is in full compliance in all material respects with and has performed its obligations under the Contracts which are required to be complied with and/or performed to date;
- (i) each Contracting Party has no outstanding claims of a material nature against Opco in respect of the Contracts;
- (j) there are no existing circumstances which could give rise to a material breach by either Contracting Party or, to the best of the knowledge, information and belief of such Contracting Party, and after due inquiry, Opco, under either Contract; and
- (k) neither Contracting Party has delivered to or received from Opco, any notice purporting to cancel either Contract.

3. Benefits hereunder independent to those of Opco

Each Contracting Party hereby acknowledges and agrees that the rights of each Agent Party under this Agreement shall be independent to those of Opco under each Contract and may be enforced by such Agent Party independently from Opco.

4. Agent Party not bound to exercise rights

Each Contracting Party hereby acknowledges and agrees that, save as otherwise expressly agreed to in writing, nothing herein contained shall be construed or interpreted as obliging any Agent Party, nor shall any Agent Party be liable for the failure, to exercise any of the rights afforded to it hereunder or under the Collateral Trust Deed. Each Contracting Party hereby further acknowledges and agrees that no Agent Party shall be liable for any loss and expense incurred or suffered by such Contracting Party as a result of any delay by, or any failure of, such Agent Party to exercise any of, the rights afforded to such Agent Party hereunder or under the Collateral Trust Deed.

5. Consent to Liens and Subordination

- (a) In furtherance of the terms and conditions of the Contracts, each Contracting Party hereby expressly:
 - (i) acknowledges and irrevocably consents to the Security Interests granted by Opco in favour of the Security Trustee in the Contracts and any future grant of any Security Interests by Opco in favour of the Security Trustee in the Contracts, and, in connection with any such creation of Security Interests, the filing or registration of any financing statements, registration forms, or any similar documents;
 - (ii) agrees that, save as is otherwise expressly agreed to in writing, no Agent Party shall incur any obligation of Opco or otherwise whatsoever to the Contracting Parties under the terms of the Contracts;
 - (iii) agrees that, save as is otherwise expressly agreed to in writing, any Agent Party shall have the right, but not the obligation, to perform any obligation required of Opco under the Contracts at any time. Nothing herein shall require any Agent Party to cure any breach by Opco of either Contract or to perform such obligation of Opco thereunder;
 - (iv) agrees that upon the Security Interests becoming enforceable, the Security Trustee, or any nominee or designee thereof, or any receiver of Opco or any receiver of the assets of Opco appointed by or on the application of the Security Trustee (the Security Trustee, any such nominee, designate or receiver shall be referred to herein as an “Agent Party”) shall, upon written notice (a “Default Notice”) to each Contracting Party, and in accordance with its respective interest, be entitled to enforce the Security Interests

against the Contracts, including the right to enforce and enjoy all of the rights that Opco has or may have under the Contracts to the same extent and in the same manner as if it were an original party thereto in the place of Opco. Each Contracting Party hereby acknowledges that it shall not have the right to require any such Agent Party to pay any amounts that may be accrued or past due by Opco under either Contract;

- (v) agrees that whether or not an Agent Party gives a Default Notice, an Agent Party may assign the Contracts to a third party that is a Qualified Assignee subject to the provisions of the Contracts (an “**Acquiror**”). Such an assignment to the Acquiror is conditional upon such Acquiror agreeing to observe and perform all of Opco's obligations under the Contracts arising after the date of such assignment. Each Contracting Party hereby acknowledges that it shall not have the right to require any such Acquiror to pay any amounts that may be accrued or past due by Opco under either Contract;
- (vi) upon any Agent Party completing such an assignment to an Acquiror, each Agent Party shall be released from any and all obligations that such Agent Party may have hereunder to perform the obligations of Opco to the Contracting Parties under the Contracts. Nothing in this Agreement, and neither the giving of a Default Notice nor any assignment pursuant to **Section 5(a)(v)**, releases Opco from its obligations to the Contracting Parties under and in relation to the Contracts;
- (vii) agrees that, except as provided in the LRA, it shall not have any right to cancel or terminate a Contract including in the event of any breach by Opco of such Contract that is particular to Opco and that is not curable by the Security Trustee or any other Agent Party at such time, such as the insolvency, bankruptcy, general assignment for the benefit of creditors or the appointment of a receiver of Opco and that the Contracts shall remain in full force and effect until all Secured Obligations are paid in full;
- (viii) agrees to provide to the Security Trustee or any other Agent Party at such time, at the same time that any notice is provided to Opco of any breach of any Contract or of any proceedings under any Contract, the same notice that it provides to Opco. All notices to any Agent Party shall be in writing and shall be delivered to such Agent Party at the addresses set forth in **Section 18** or any other address confirmed to each Contracting Party from time to time; and
- (ix) subordinates and postpones the payment of all amounts owing to it and security taken with respect to such amounts from time to time by Opco pursuant to the Contracts to the prior and indefeasible payment in full of all Secured Obligations.

- (b) In the event that either NLH or the Partnership (each an “**Enforcing Party**”) takes steps to exercise its rights as subordinated secured creditor pursuant to the Subordinated Security, after having received the written consent of the Collateral Agent (the “**Consent**”), which may only be provided in accordance with the Requisite Instructions (as such term is defined in the Collateral Agency Agreement), such Enforcing Party acknowledges, confirms and agrees that, as a condition to the Consent, whether it is explicitly expressed in the Consent or not, and as a condition to the exercise of such rights under the Subordinated Security, that such Enforcing Party shall have taken such steps and actions as shall be legally required to ensure the continuation, on an enforceable, valid, binding, and unconditional as to continuance, basis, of the obligations and requirements of each of the parties to the Contracts, including explicitly those relating to the construction, operation and maintenance of the LIL and the payment of all payment amounts required to be made under the Contracts such that payments will continue to be made, on the terms and on the basis, as required by the Contracts without interruption, reduction, adjustment, termination or otherwise, and strictly in accordance with the terms of the Contracts. Each Enforcing Party acknowledges and confirms that it is the intention of this provision, and that it is a condition to the Consent, that there be no change to the obligations under the Contracts in the event of any exercise of the security under the Subordinated Security, including no delay to the payments required pursuant to the Contracts, regardless of the legal effect of the exercise of the security, and that all payments shall continue and shall be paid such that they will be received by the Collateral Agent for and on behalf of the GAA Finance Parties and for application in accordance with the terms of the Contracts and the Financing Documents. Each of the parties hereto acknowledges that the Financing Documents, and the guarantees and assurances in relation thereto provided by, inter alia, Canada have been provided based upon the continued requirement for the construction, operation and maintenance of the LIL and the continuation of the payments and obligations pursuant to the terms of the Contracts throughout the term expressed in the Contracts and the Financing Documents. As a covenant and agreement directly in favour of the Collateral Agent for the benefit of the GAA Finance Parties, and specifically for and on behalf of Canada, such Enforcing Party as the secured party under the Subordinated Security will take such steps and actions, provide such further assurances, and enter into such agreements with the Collateral Agent, or such other party as may be designated or named by the Collateral Agent, in order to preserve and continue the contractual obligations of the Contracts, as applicable, and to achieve the intention of this provision.

6. Arrangements Regarding Payments

All payments to be made by a Contracting Party to Opco under either Contract shall be made, in lawful money of Canada, directly for deposit into the [<*>Opco Revenue Account<*>], and shall be accompanied by a notice from such Contracting Party stating that such payments are made under such Contract. Opco hereby authorizes and irrevocably directs each Contracting Party

to make such payments as aforesaid and agrees such payment shall satisfy each Contracting Party's obligation to pay such amounts to Opco under the Contracts.

7. Communications from Contracting Parties

Until such time as an Agent Party notifies the Contracting Parties in writing of its exercise of rights under the Collateral Trust Deed, each Contracting Party shall continue to communicate directly with Opco with regard to its continuing obligations under each Contract. Upon receipt by a Contracting Party of written instructions from an Agent Party pursuant to its exercise of rights under the Collateral Trust Deed, such Contracting Party agrees to and shall comply with and treat any and all written instructions received from such Agent Party as if they came directly from Opco.

8. Obligations of the Contracting Parties under the Contracts

Each Contracting Party acknowledges and agrees with the Security Trustee that neither this Agreement nor any Security Interests created by Opco in favour of the Security Trustee shall in any way lessen or relieve such Contracting Party from its obligation to observe, satisfy and perform each and every term, condition, other provision and obligation set forth in or required to be observed by such Contracting Party in order to fulfill its obligations under the Contracts or any obligations of such Contracting Party to Opco.

9. Assignments to other trustees, administrative agents

Opco and each Contracting Party agrees that the Security Trustee may assign the rights under this Agreement, in whole or in part, to any other trustee from time to time to the same extent, and on and subject to the same terms and conditions, as the Security Trustee may assign its rights under the Collateral Trust Deed without the consent of the Contracting Parties or Opco, and that each such assignee shall be entitled to rely on the representations, warranties, acknowledgements, confirmations, covenants and agreements of each of Opco and of each Contracting Party herein contained. All references to the Security Trustee in this Agreement shall be deemed to refer to the Security Trustee and/or to any such assignee, and all its actions permitted to be taken by the Security Trustee under this Agreement may be taken by any such assignee. The Security Trustee shall provide notice of any such assignment to each Contracting Party.

10. Commitment in the event of a Step-In

Notwithstanding anything to the contrary in this Agreement, the Security Trustee agrees that it and any Agent Party shall be bound by Sections 2.5(c), (d), (e), (f), (g) and (h) of the LRA, and such sections shall be enforceable by the Contracting Parties, in each case as if the Security Trustee and any Agent Party was a signatory to the LRA.

11. Further Assurances

Each of the parties hereto agrees to do all such other acts and things and to execute all such other documents as may be reasonably required to give effect to the purpose and intent of this Agreement.

12. Grammatical variations, plural, gender, headings

In this Agreement, unless the context otherwise requires, (i) words and expressions (including words and expressions (capitalized or not) defined or given extended meanings) in the singular include the plural and vice versa (the necessary changes being made to fit the context), (ii) words in one gender include all genders and (iii) grammatical variations of words and expressions (capitalized or not) which are defined or given extended meanings shall be construed in like manner. Headings appearing herein are used solely for convenience and are not intended to affect the interpretation of any provision of this Agreement.

13. Agreements

Each reference in this Agreement to any document (including this Agreement, the Contracts and any other defined term that is a document) shall be construed so as to include such document (including any attached schedules, appendices and exhibits) and each change thereto, made at or before the time in question. The terms “**this Agreement**”, “**hereof**”, “**hereunder**” and similar expressions refer to this Agreement and not to any particular Recital, Article, Section, subsection, paragraph, subparagraph, clause or other portion of this Agreement.

14. Severability

If any provision of this Agreement is found to be invalid or unenforceable, by a final judgment of a court of competent jurisdiction, that provision shall be deemed to be severed herefrom and the remaining provisions of this Agreement shall not be affected thereby but shall remain valid and enforceable. Each Contracting Party and Opco shall, at the request of the Security Trustee or any Agent Party, negotiate in good faith with the requesting party to replace any invalid or unenforceable provision contained in this Agreement with a valid and enforceable provision that has the commercial effect as close as possible to that of the invalid or unenforceable provisions, to the extent permitted by applicable Law.

15. Governing Law

This Agreement shall be governed by, and interpreted and enforced in accordance with, the Laws in force in the Province of Newfoundland and Labrador, including the federal Laws of Canada applicable therein, but excluding any conflict of law rules. Each Party hereby irrevocably submits to the exclusive jurisdiction of the courts of Newfoundland and Labrador with respect to any matter arising under, by reason of or otherwise in respect of this Agreement. Each Party hereby irrevocably waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

16. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Transmission of a copy of an executed signature page of this Agreement (including any change to this Agreement) by any party hereto to the other parties to this Agreement by facsimile transmission or email in pdf format shall be as effective as delivery of a manually executed counterpart hereof.

17. Conflict

If there is any inconsistency or conflict between this Agreement and the Contracts, this Agreement shall govern.

18. Notices

Any demand, notice or other communication to be made or given hereunder (“**Notice**”) shall be in writing and may be made or given by mailing it by prepaid registered mail or by transmitting it by facsimile addressed to the respective parties as follows:

(a) if to Opco:

Labrador-Island Link Operating Corporation
500 Columbus Drive
P.O. Box 15050, Station A
St. John’s, NL
A1B 0M5
Attention: Corporate Secretary
Fax: (709) 737-1782

(b) with a copy to:

Lower Churchill Management Corporation
500 Columbus Drive
P.O. Box 15150, Station A
St. John’s, NL
A1B 0M7
Attention: Corporate Secretary
Fax: (709) 737-1782

(c) if to the Security Trustee:

Computershare Trust Company of Canada
100 University Avenue
11th Floor
Toronto, Ontario

M5J 2Y1
Attention: Manager, Corporate Trust Services
Fax: 416-981-9777

(d) if to the Collateral Agent:

The Toronto-Dominion Bank, as Collateral Agent
TD Bank Tower
66 Wellington St. W., 9th Floor
Toronto, Ontario, Canada. M5K 1A2
Telephone: 416 982-2196
Attention: Michael A. Freeman, Vice President Loan Syndications-Agency
Fax: 416 944-6976
Email: michael.freeman@tdsecurities.com

(e) if to NLH:

Newfoundland and Labrador Hydro
500 Columbus Drive
P.O. Box 12400, Station A
St. John's, NL
A1B 4K7
Attention: Corporate Secretary
Fax: (709) 737-1782

(f) to the Partnership:

Labrador-Island Link General Partner Corporation, as General Partner
of Labrador-Island Link Limited Partnership.
500 Columbus Drive
P.O. Box 13000, Station A
St. John's, NL
A1B 0M1
Attention: Corporate Secretary
Fax: (709) 737-1782

(g) with a copy to:

Lower Churchill Management Corporation
500 Columbus Drive
P.O. Box 15150, Station A
St. John's, NL
A1B 0M7
Attention: [●]
Fax: [●]

or to such other address, email or facsimile number as may be designated by notice given by any party to the other. Any Notice mailed by prepaid registered mail will be conclusively deemed to have been given on the fourth day after mailing thereof and, if given by email or facsimile, will be conclusively deemed to have been given on the day of transmittal thereof if given during the normal business hours of the recipient and on the next Business Day during which such normal business hours next occur if not given during such hours on any day; provided that, in each case, confirmation of receipt is received by the party giving the Notice. If the party giving any Notice knows or ought reasonably to know any difficulties with the postal system that might affect the delivery of mail, any such Notice must not be mailed but must be given by facsimile.

19. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon Opco, the Security Trustee, each Agent Party and each Contracting Party and their respective successors and permitted assigns; provided that, the Contracting Parties shall not assign or transfer any of their respective rights hereunder without the prior written consent of the Security Trustee and each Agent Party.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

LABRADOR-ISLAND LINK OPERATING CORPORATION

Per:

Name:

Title:

**COMPUTERSHARE TRUST COMPANY OF CANADA,
as Security Trustee**

Per:

Name:

Title:

Per:

Name:

Title:

TORONTO DOMINION BANK,

as Collateral Agent

Per:

Name:

Title:

Per:

Name:

Title:

**NEWFOUNDLAND AND LABRADOR HYDRO,
as a contracting party**

Per:

Name:

Title:

Per:

Name:

Title:

LABRADOR-ISLAND LINK PARTNERSHIP, by its general partner, Labrador-Island Link General Partner Corporation, as a Contracting Party

Per:

Name:

Title:

Per:

Name:

Title:

POWER PURCHASE AGREEMENT

SCHEDULE 1

BASE BLOCK CAPITAL COSTS RECOVERY

SCHEDULE 1
BASE BLOCK CAPITAL COSTS RECOVERY

Section 1 **Definitions**

In this **Schedule 1**:

“Assigned IRR” means **8.4%**;

“BB” means **Base Block Energy**;

“Base Block Capital Costs Recovery” or **“BCCCR”** means the recovery over the Supply Period of the following costs, without duplication:

- (a) Development Capital Costs, which shall provide for the repayment of principal under the Financing and the return of equity capital to the equity holder;
- (b) Development Financing Costs; and
- (c) distributions to equity holders sufficient to enable Muskrat to achieve its Assigned IRR;

“Base Block Capital Costs Recovery Adjustment” or **“BCCRA”** has the meaning set forth in **Section 4** of this **Schedule 1**;

“Base Block Capital Supply Price” or **“BBCSP”** has the meaning set forth in **Section 5** of this **Schedule 1**;

“Base Year” means 2013 and **“by”** shall be construed accordingly;

“Escalation Factor” or **“ESC”** means **2%**;

“IRR” means the internal rate of return on equity capital earned by Muskrat’s equity investor over the period beginning with Sanction and ending at the end of the Supply Period, the IRR being the percentage discount rate which, if applied to the series of equity cash flows over the period beginning with Sanction and ending at the end of the Supply Period including all equity investments and distributions to equity, results in a discounted value of zero;

“M” means the number of months in an Operating Year;

“m” means the value attributable to a month within a given Operating Year;

“y” means the value attributable to a given Operating Year; and

“^” means raised to the power of.

Section 2 Introduction

This **Schedule 1** sets out the methodology for calculation of the Base Block Capital Costs Recovery. The result of these calculations is set forth in **Appendix A** to this **Schedule 1** for illustrative purposes. Base Block Capital Costs Recovery calculations are performed from time to time in a manner set forth in **Section 5** of this **Schedule 1**.

Nothing in this **Schedule 1** modifies the provisions in **Article 3** of this Agreement concerning Energy and Capacity management, nor does the actual delivery of Energy from Muskrat to NLH pursuant to **Article 3** of this Agreement affect the Base Block Capital Costs Recovery.

Base Block Capital Costs Recovery is a dollar value applicable to and recovered in each Operating Year.

The calculation and implementation of the Base Block Capital Costs Recovery develops from the Effective Date through the Commissioning Period and the Supply Period as follows:

Period	Base Block Capital Costs Recovery Change?	Money Change Hands?
Effective Date to immediately before Commissioning Period	Yes, prospectively to reflect changes in amount and timing of Development Capital Costs, Development Financing Costs, the prospective terms and conditions for the Financing during the Supply Period, and prospective Commissioning Date	No
Commissioning Period	Yes, prospectively to reflect changes in amount and timing of Development Capital Costs, Development Financing Costs, the prospective terms and conditions for the Financing during the Supply Period, prospective Commissioning Date, and any Commissioning Period Block Payments	Yes if Commissioning Period Block purchased by NLH and if so, Commissioning Period Block Payments pursuant to Section 4.1
Supply Period	No	Yes, Base Block Capital Costs Recovery

Prior to commencement of the Commissioning Period, no payments are made under the Agreement. The Base Block Capital Costs Recovery is calculated from time to time (as set forth in **Section 3** through **Section 5** of this **Schedule 1**) on a prospective basis to reflect changes in the amount and timing of Development Capital Costs and Development Financing Costs, the prospective terms and conditions for the Financing during the Supply Period, and the projected Commissioning Date.

Throughout the Commissioning Period, Commissioning Period Payments will be made in accordance with **Section 4.1**. The Base Block Capital Costs Recovery continues to be recalculated as necessary on a prospective basis reflecting the amount and timing of Development Capital Costs and Development Financing Costs, the prospective terms and conditions for the Financing during the Supply Period, the projected Commissioning Date and the amount and timing of any Commissioning Period Payments (which are applied to reduce Development Capital Costs in accordance with **Section 4.1(c)**).

The Base Block Capital Costs Recovery is recalculated on or about the Commissioning Date. The Base Block Capital Costs Recovery calculation is at such time fixed based on final determination of Development Capital Costs (net of any Commissioning Period Block Payments), Development Financing Cost, the terms and conditions of the Financing during the Supply Period, and the Commissioning Date. Should final Development Costs and Development Financing Costs, including claims, differ from those used in the calculation as at the Commissioning Date, the Base Block Capital Costs Recovery will be revised prospectively for the remainder of the Supply Period. The Base Block Capital Costs Recovery does not change thereafter, subject to **Section 4** of this **Schedule 1**.

Section 3 Base Block Capital Costs Recovery Calculation Based On Base Block Energy

The Base Block Capital Costs Recovery in each Operating Year, in dollars, is calculated prior to the Commissioning Date in the first instance (and subject to subject to **Section 4** of this **Schedule 1**) as:

- The Base Block Energy value in each such Operating Year (in GWh); times
- The Base Block Capital Supply Price applicable to such Operating Year (in dollars per MWh); times
- 1,000; and
- The amount attributable to a given month within the Operating Year is this value divided by the number of months in that Operating Year.

Algebraically (and before consideration of the provisions of **Section 4** of this **Schedule 1**):

$BBCRy = BBy \times BBCSPy \times 1,000$; and

$BBCRm = BBCRy \div My$

Section 4 Base Block Capital Costs Recovery Adjustment

If, in any month, the Base Block Capital Costs Recovery is projected to be insufficient to enable Muskrat to meet all of its obligations under applicable Financing Documents, the recovery for Base Block Capital Costs Recovery shall be adjusted to enable Muskrat to meet all its obligations in such month. Any such adjustments will be a Base Block Capital Costs Recovery Adjustment and shall always be a positive amount.

For as long as such Base Block Capital Costs Recovery Adjustment remains unreimbursed as described below, the balance of such unreimbursed Base Block Capital Costs Recovery Adjustment will accrue interest at a rate equal to NLH's prevailing regulated cost of capital.

Base Block Capital Costs Recovery Adjustment will be reimbursed to NLH, subject to availability of funds and to the provisions of the Financing Documents. Such reimbursements (including reimbursement of accrued interest) will be considered Base Block Capital Costs Recovery Adjustment and shall always be a negative amount. If, in any period, Muskrat is unable to reimburse NLH fully as described above, the obligation to do so will carry over to subsequent periods.

Therefore, including Base Block Capital Costs Recovery Adjustment:

$$\text{BBCCR}_m = \text{BBCCR}_y \div M_y + \text{BBCCR}_{Am}$$

Recognizing that any LTA Capital Costs Recovery Adjustments payable by Muskrat to Labrador Transco as contemplated by Section 4 of Schedule 1 of the GIA, are payable by NLH to Muskrat as O&M Costs under this Agreement, and that any such LTA Capital Costs Recovery Adjustment shall accumulate interest at a rate equal to NLH's prevailing regulated cost of capital; immediately upon receipt by Muskrat from Labrador Transco, LTA Costs Recovery Adjustments will be reimbursed to NLH, subject to availability of funds and to the provisions of the Financing Documents.

NLH shall not rely on this **Section 4** for the purposes of defraying or reallocating any portion of the O&M Costs payable under this Agreement.

Section 5 Derivation of the Base Block Capital Supply Price

The BBCSP is an escalating supply price in dollars per MWh applied to Base Block Energy for the sole purpose of calculating the Base Block Capital Costs Recovery. The BBCSP is subject to escalation at the Escalation Factor each January 1 with the first such escalation being on January 1 of the first Operating Year after the Base Year.

$$\text{BBCSP}_y = \text{BBCSP}_{by} \times (1 + \text{ESC})^{(y - by)}$$

The BBCSP will be derived using an agreed financial model to be finalized prior to funding under the Financing, and two identical copies of which will be stored on compact discs or other storage medium as agreed by the Parties, each disc or other digital storage medium identified as "Muskrat Base Block Capital Costs Recovery Calculation [INSERT FUNDING DATE], **Schedule 1** to the Power Purchase Agreement between Newfoundland and Labrador Hydro and Muskrat Falls Corporation made effective November 29, 2013" each disc initialled by authorized representatives of Muskrat and NLH.

This financial model derives the BBCSP as at the Base Year (BBCSP_{by}) which enables Muskrat to achieve its Assigned IRR. Calculations in the financial model will conform to applicable provisions of the Financing Documents. The BBE, Assigned IRR, Base Year, Escalation Factor and maximum debt:equity ratio of 65:35 are not subject to change after the Effective Date. The inputs to the

financial model that may vary between the Effective Date and the Commissioning Date are as follows:

Tab	Line/cell	Description	Source
Control	F11, F21	Supply price optimization inputs	Muskrat model operator
Control	M73 - M77	Cost overrun apportionment – part of IRR optimization	
AS	F47	COREA IRR mode	
AS	F31	Reporting date	Muskrat model operator
AS	F14, F16, F18, F20, F22, F24	Commissioning date	Muskrat, as verified by the Independent Engineer or actual date
AS	F46	Mark-to-Actual toggle	Muskrat model operator
AS	F50	Interest on DSRA and LRA	Muskrat assumption, based on financial market forward projections
AS	F74, F76, F80, F81, F82, F83, F85, F86	SDN parameters	Muskrat, Financing Documents
ASM	R8 – T705	SDN series	Muskrat, Financing Documents
AS	F98, F119, F140	Interest rate on BSF	Muskrat assumption, based on financial market forward projections
ASM	AB8 – AC705	Capex cash flow series	Muskrat, as verified by the Independent Engineer
ASM	AF8 – AG705	Innu payments	Muskrat
ASM	AH8 – AH705	Revenue before Commissioning	Muskrat
ASM	AJ8 – AJ705	Interest earned on Bond Holding Account/Working Capital Reserve	Muskrat financial reporting

Tab	Line/cell	Description	Source
ASM	AK8 – AS705	Interest earned on deposits – BSF, DSEA, LRA, DSRA, cash balances (actuals)	Muskrat forecast assumption
IrA	Lines 11 and 12	Interest rates to be used on short term deposits during construction phase (calculated)	Muskrat, from financial market forecasts

The formulae and amounts contained in the financial model have been agreed upon by Muskrat and NLH with the exception of the inputs described in the table above which shall be adjusted as necessary from time to time.

POWER PURCHASE AGREEMENT

APPENDIX A

TO

SCHEDULE 1 - BASE BLOCK CAPITAL COSTS RECOVERY

BASE BLOCK CAPITAL COSTS RECOVERY BY OPERATING YEAR

Power Purchase Agreement
Schedule 1 - Base Block Capital Costs Recovery
Appendix A - Specifications and Key Mechanics of Financial Model
MC//15894110_9.DOC

Appendix A to Schedule 1

Base Block Capital Costs Recovery by Operating Year

Version Date: December 11, 2013

Operating Year	Number of months in Operating Year	Base Block Capital Costs Recovery (\$ millions)
1	7	\$ 82.4 million
2	12	\$ 148.5 million
3	12	\$ 147.3 million
4	12	\$ 156.1 million
5	12	\$ 167.8 million
6	12	\$ 179.8 million
7	12	\$ 189.6 million
8	12	\$ 199.8 million
9	12	\$ 210.2 million
10	12	\$ 221.0 million
11	12	\$ 239.5 million
12	12	\$ 258.7 million
13	12	\$ 270.9 million
14	12	\$ 283.4 million
15	12	\$ 296.4 million
16	12	\$ 309.7 million
17	12	\$ 323.5 million

Operating Year	Number of months in Operating Year	Base Block Capital Costs Recovery (\$ millions)
18	12	\$ 337.7 million
19	12	\$ 352.3 million
20	12	\$ 367.4 million
21	12	\$ 382.9 million
22	12	\$ 398.9 million
23	12	\$ 415.4 million
24	12	\$ 434.9 million
25	12	\$ 451.2 million
26	12	\$ 467.0 million
27	12	\$ 483.2 million
28	12	\$ 499.9 million
29	12	\$ 515.4 million
30	12	\$ 525.7 million
31	12	\$ 536.2 million
32	12	\$ 546.9 million
33	12	\$ 557.9 million
34	12	\$ 569.0 million
35	12	\$ 580.4 million
36	12	\$ 625.9 million
37	12	\$ 644.3 million
38	12	\$ 663.3 million

Operating Year	Number of months in Operating Year	Base Block Capital Costs Recovery (\$ millions)
39	12	\$ 682.7 million
40	12	\$ 702.7 million
41	12	\$ 723.1 million
42	12	\$ 744.1 million
43	12	\$ 765.7 million
44	12	\$ 787.8 million
45	12	\$ 810.5 million
46	12	\$ 833.8 million
47	12	\$ 857.8 million
48	12	\$ 882.3 million
49	12	\$ 907.4 million
50	12	\$ 933.3 million
51	5	\$ 398.8 million

POWER PURCHASE AGREEMENT

SCHEDULE 2

INITIAL LOAD FORECAST AND BASE BLOCK ENERGY

**SCHEDULE 2
INITIAL LOAD FORECAST AND BASE BLOCK ENERGY**

Operating Year	Assumed year for purpose of calculation	NL Native Load Forecast for Supply Period as of the Effective Date (GWh)	Base Block Energy (GWh)
1*	2018	4637	1133
2	2019	8880	2002
3	2020	8931	1948
4	2021	9023	2024
5**	2022	9147	2132
6	2023	9222	2241
7	2024	9314	2317
8	2025	9407	2392
9	2026	9474	2468
10	2027	9565	2544
11***	2028	9640	2703
12	2029	9694	2863
13	2030	9773	2938
14	2031	9858	3014
15	2032	9920	3090
16	2033	9989	3166
17	2034	10058	3242
18	2035	10128	3317
19	2036	10197	3393
20	2037	10267	3469
21	2038	10330	3545
22	2039	10394	3621
23	2040	10458	3696
24****	2041	10522	3793
25	2042	10585	3859
26	2043	10642	3916
27	2044	10699	3972
28	2045	10755	4029
29	2046	10812	4072
30	2047	10869	4072
31	2048	10909	4072
32	2049	10949	4072
33	2050	10989	4072
34	2051	11029	4072
35	2052	11069	4072
36****	2053	11109	4305
37	2054	11149	4345

Operating Year	Assumed year for purpose of calculation	NL Native Load Forecast for Supply Period as of the Effective Date (GWh)	Base Block Energy (GWh)
38	2055	11189	4385
39	2056	11229	4425
40	2057	11269	4465
41	2058	11309	4505
42	2059	11349	4545
43	2060	11389	4585
44	2061	11429	4625
45	2062	11469	4665
46	2063	11509	4705
47	2064	11549	4745
48	2065	11589	4785
49	2066	11629	4825
50	2067	11669	4865
51*	2068	4879	2038

*First operating year assumed to be 1 Jun 2018 to 31 Dec 2018, last operating year is 1 Jan to 31 May 2068

**CBPP Co-gen assumed to be retired mid 2022 (51.6 GWh)

***Fermeuse and St. Lawrence wind farms assumed to be retired mid 2028 (167 GWh)

****Emera Agreement assumed to end 1 Jul 2053

*****Emera Block limits the energy available to Hydro in 2048 to 2052. The deficit has been added to the Base Block in 2041 to 2047.

POWER PURCHASE AGREEMENT

SCHEDULE 3

MF PROJECT DESCRIPTION

**SCHEDULE 3
MF PROJECT DESCRIPTION**

Section 1 Access - General

- Site roads to be gravel surfaced unless conditions dictate otherwise e.g. to limit dust and flying stones in areas such as accommodations complex and other site facilities.
- Permanent site access from south, along south side of river via TLH.
- Temporary site access to north side from TLH.

Section 2 Permanent Accommodations

- No permanent accommodations required.

Section 3 Construction Power

- Construction power will be supplied from the existing 138 kV transmission line between CF and HVGB by means of a temporary tap station at MF, to be located on the north side of the Churchill River. It will be comprised of a 50 MVA, 138 - 25 kV transformer with an on-load tap changer (OLTC), 138 kV circuit breakers and associated disconnects for the transformer and the line feeder to HVGB and capacitor banks to provide voltage regulation. The installation will be capable of providing 12 MW peak load and will be remotely controlled and supervised from the NLH Energy Control Centre in St. John's. It will also have backup diesel generation (3.6 MW).
- Construction power will be supplied to the south side of the Churchill River with a 25 kV distribution feeder that will take off from this tap station and cross the river to provide power to the construction sites and the campsite located approximately 10.5 km east of Muskrat Falls.
- A new 125 MVA, 230 - 138 kV transformer with OLTC will be installed in CF as a replacement for one of the two existing 42 MVA transformers without OLTC to accommodate the increase of power transfer to provide 12 MW of power at MF.
- Once the 315 kV HVac network is energized during construction, power may be supplied from the 315 - 138 kV substation transformer tertiary winding until all construction facilities are demobilized.

Section 4 Construction Telecommunications - Muskrat Falls

- Communications during early works of access road, camp start-up and start of site excavations will be by land mobile radio system and cellular phones.
- Communications during the main construction phase will be linked to a new high-speed fibre-optic network being constructed in Labrador and will include:
 - Data (business and personal)
 - Telephone (business and personal)
 - Video Conferencing
 - Television

- Land Mobile Radio System (LMRS)
- Cellular Telephone System (CTS)
- Mobile Internet System (MIS)
- Building Management Systems (BMS)
- Network Management Systems (NMS)
- Closed Circuit Television (CCTV)
- Security and Access Control System (SACS)
- Supervisory Control and Data Acquisition (SCADA) and Protection

Section 5 Accommodations Complex

- Staged, modular construction to accommodate up to 1,500 persons with appropriate offices, cooking, dining, sleeping, washing, medical, firefighting, entertainment, recreational, power, water, sewage, and administrative and other life support facilities within the project area.
- Main site facilities to be located on south side of river approximately 10.5 km southeast of Muskrat Falls.
- Includes substation and distribution system for construction power supplied from the 25 kV feeder and backup diesel generation at the site.
- Designed for removal following construction.

Section 6 Offsite Logistics, Infrastructure and Support - General

- Approximately 15 ha of marshalling yards, potentially in multiple locations. Yards to include grading, fencing, storage racks and equipment for loading/offloading.
- Upgrading and/or replacement of the Paradise River and Kenamu River bridges, or some acceptable alternate solution, on the Cartwright access road to accommodate a design load of 250 t.

Section 7 Reservoir

- Full Supply Level (“FSL”) = 39 m; Low Supply Level (“LSL”) = 38.5 m; Maximum Flood Level (“MFL”) = 45.1 m without Gull Island and 44.3 m with Gull Island.
- Remove all trees that grow in, or extend into the area between 3 m above FSL and 3 m below LSL, except where determined otherwise by the reservoir preparation strategy.
- Trash management system to include an automated hydraulically operated trash removal system explained in detail under “Intake and Penstocks - General”. Trash management also includes a series of trash booms, one located approximately 2.3 km upstream of the intake and a second located approximately 5 km downstream of the plant. Both trash booms will be designed to restrict the movement of floating trash and debris, and guide it to shoreline design and access roads to enable removal and disposal. Both trash booms are to be designed with either mid-channel or shoreline gaps to allow boat travel.
- A series of safety booms, one located approximately 1.4 km upstream of the intake and a second one located downstream of the plant. The design is to include suitable anchorage

and shoreline design. The downstream boom is to have a mid-channel gap with several safety buoys.

Section 8 Diversion

- Through spillway structure.
- Capacity = 5,990 m³ /s based on a 1:20 year return period.
- *Fish Compensation Flow* will be approximately 550 m³ /s equivalent to 30% of mean annual flow.
- *Fish Compensation Flow* will be through spillway structure.

Section 9 Dams & Cofferdams - General

- Development flood capacity is based on the PMF, equal to 25,060 m³ /s at 45.1 m without GI and 44.3 m with GI.
- South Dam to be an earth/rockfill dam with a central core crest elevation to be El. 45.5 m.
- North Dam to be a RCC overflow dam, acting as a secondary spillway with a crest elevation of El. 39.3 m over a 430 m long overflow section. The north end of the dam will be rotated slightly downstream in order to improve the north abutment against the rock knoll and eliminate potential erosion during spilling.
- Transition dams to be conventional concrete.
- All concrete dams to be designed with necessary drainage galleries and monitoring equipment.
- All dams are to be founded directly on bedrock.
- *Cofferdams* are to be of the most economical and proven material and technology.

Section 10 Spillway - General

- Primary spillway structure.
- Concrete structure in rock excavation.
- Capacity = PMF in conjunction with North RCC Dam.
- Five surface vertical lift gates on parabolic rollways, 10.5 m wide with top of gate at El. 40.0 m and sill at El. 18.0 m.
- Gates with heating and hoisting mechanisms designed for severe cold climate operation.
- Structure designed to accommodate an automated, hydraulically operated trash removal system explained in detail under "3200 Intake and Penstocks - General". The system includes a permanent hoist capable of lifting the upstream *stoplogs*.
- One set of upstream steel *stoplogs* with a permanent hoist system.
- One set of downstream steel *stoplogs* operated by a mobile crane.
- *Stoplog* storage on site.
- One emergency diesel *generator* set, complete with fuel storage system, for emergency load requirements sufficient for heating and operation of two surface gates only.

Section 11 North Spur - General

- The deep well system installed in 1981 is to be placed in standby mode.
- Measures are required to prevent water infiltration and to physically stabilize the upstream and downstream slopes. Pressure relief wells are to be installed in the downstream section of the North Spur to lower the groundwater pressure.
- Measures are required to prevent groundwater infiltration into the North Spur from the Kettle Lakes region.
- Piezometers are to be outfitted with data loggers to monitor the water table levels in the North Spur.

Section 12 Powerhouse Channels

- Approach channels excavated in bedrock with minimum rock reinforcement required.
- Draft tubes discharge directly into river in rock excavation.
- *Tailrace* channel excavated in bedrock with minimum rock reinforcement required.

Section 13 Intake & Penstocks - General

- Approach channel in open cut earth/rock excavation and designed to eliminate frazil ice.
- Concrete structure in rock excavation.
- Four intakes (one per unit).
- Four sets of vertical lift operating gates with individual wire rope hoists in heated enclosures.
- One set of steel bulkhead stoplogs able to close only one single intake passage opening (1 of 12) at any one time.
- Four sets of removable steel *trash racks*.
- An automated, hydraulically operated trash removal system capable of cleaning both the upstream side of the intake and the gated spillway. System is to include interchangeable heads that will enable cleaning of floating debris, submerged debris, debris lodged in *trash racks*, and debris in rock traps. The system will include a permanent hoist capable for removing the intake bulkhead *stoplogs*.
- No *penstocks*; four individual water passages in concrete (close-coupled intake/powerhouse).

Section 14 Powerhouse

- Concrete structure in rock excavation.
- Structural steel super-structure with metal cladding.
- Designed, constructed and operated in accordance with applicable requirements of the Provincial Government's Build Better Buildings policy.
- Four-unit powerhouse with two maintenance bays.
 - The south maintenance bay shall be large enough to assemble one complete turbine/*generator* unit, plus assembly and transfer of one extra *rotor*, and include

provision of an unloading area. After completion of turbine/*generator* installation, the south maintenance bay will be reduced in size to accommodate permanent offices and warehousing while leaving space for the dismantling of one entire turbine/*generator* unit.

- The north maintenance bay shall be used to stage civil works construction and shall become a space for mechanical and electrical auxiliary equipment at the completion of the Project.
- Area for offices, maintenance shops and warehouse. Offices, maintenance shops, and warehouse will occupy the south of the maintenance bay.
- All systems are to be designed using *good utility practice*.
- Two sets of steel draft tube *stoplogs* with a permanent hoist system in a heated enclosure.

Section 15 Turbines and Generators

- Four 206 MW units, approximately, @ 0.90 pf vertical axis *Generators*.
- Inertia constant H not less than 4.1 kWs/kVA.
- Four *Kaplan turbines with Cavitation Resistant Design*.
- Unitized approach from intake to *generator* step-up transformer.
- Failure of any equipment/system of one unit not to affect the operation of the remaining units.

Section 16 Electrical Ancillary Equipment

- Dual 125V dc battery systems with dual chargers per battery system for control and protection.
- Independent 125V dc battery system with dual chargers for field flashing and other dc power.
- Dual 48V dc battery systems with dual chargers per battery system for telecommunication system.
- A minimum of two independent sources of station service.
- Arc flash category two for all electrical panels of 600V ac or greater.
- Dual digital protection systems.
- One standby emergency diesel *generator* for the powerhouse essential load auxiliaries, complete with fuel storage systems.

Section 17 Mechanical Ancillary Equipment

- Water systems, for supply of turbine and *generator* cooling water, fire protection water, domestic water and auxiliary water.
- Separate high and low pressure compressed air systems.
- Domestic waste water to septic tank and disposal field.
- HVAs systems using the *generators'* cooling systems as a source of powerhouse heating.
- Two overhead powerhouse cranes, with the capability to operate in tandem having a combined design capacity to lift a fully assembled *rotor*.

- Elevator access to all levels of powerhouse.
- Dewatering and drainage systems complete with oil interception system.
- Permanent waste hydraulic and lubricating oil storage and handling system complete with a permanent centrifuge filtration system.
- Oil water separator for drainage from *generator* transformer basins, powerhouse diesel room and tank room.
- Permanent hoist system in each turbine pit.

Section 18 Protection, Control & Monitoring

- Redundant protection systems for each element from two different manufacturers.
- Main and backup systems to be installed in two separate panels.
- Protection shall be stable during system transients and operate correctly during system faults.
- A distributed digital control and monitoring system.
- Dual CPU for control system functions.

Section 19 Generator Transformers

- Four step-up transformers (315/15 kV, 229 MVA), plus one spare step-up transformer (same rating), located on powerhouse draft tube deck.
- Each unit will have a *generator* circuit breaker.
- Each transformer will include drainage to a common oil water separator.
- Transformers will be separated from each other by a concrete firewall.

Section 20 Collector Lines - Powerhouse to Switchyard

- Four 315 kV HVac overhead transmission lines to connect the high side of the step up transformers to the switchyard.

Section 21 Fish Habitat Compensation

- *Fish habitat compensation* will include delta enhancements at the Pinus River and Edward's Brook and enhancements of spawning areas located in Gull Lake.

Section 22 Terrestrial Habitat Compensation

- *Terrestrial habitat compensation* will be based on conditions of EA release and *terrestrial habitat compensation* plans to be agreed to with applicable regulatory bodies.

Section 23 Operations Telecommunications System - Muskrat Falls

- Telecommunication System shall be comprised of three separate layers: Optical Transport Network (OTN), Convergence, and Access Layers.
- OTN Layer shall be the telecommunications backbone and utilize the single OPGW, All Dielectric Self Supporting (ADSS) or equivalent fibre optic infrastructure. The OTN Layer

equipment nodes shall be designed based upon the least total cost of ownership alternative.

- Convergence layer shall be based on the Synchronous Optical Network (SONET) international standard. It shall be used to create logical point-to-point telecommunication links between all MF locations. It will multiplex and de-multiplex the access layer subsystems for transmission on the OTN.
- Access Layer shall be based on the Ethernet (IEEE 802.3) standard. It shall be comprised of a minimum of three separate telecommunication systems: Protection and Control, SCADA, and Administrative systems. The Administrative system may include the following subsystems: telephony, corporate data, security access control system, and video surveillance.
- The Muskrat Falls telecommunication assets specifically include the following:
 - Convergence and access layers telecommunication systems at the MF generating plant, *converter station* and switchyards.
 - NLH ECC and BCC SCADA system upgrades.
 - Network Management System to monitor, notify, and provision the OTN, convergence and access layers telecommunication systems.

POWER PURCHASE AGREEMENT

SCHEDULE 4

FORM OF ASSIGNMENT

**SCHEDULE 4
FORM OF ASSIGNMENT**

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ASSIGNMENT OF [NAME OF] AGREEMENT

THIS ASSIGNMENT AGREEMENT is made effective the ___ day of _____, 20__.

AMONG:

NEWFOUNDLAND AND LABRADOR HYDRO, a corporation continued pursuant to the *Hydro Corporation Act, 2007 (Newfoundland and Labrador)* and a wholly-owned subsidiary of Nalcor (“**NLH**”)

- and -

MUSKRAT FALLS CORPORATION, a corporation incorporated pursuant to the laws of the Province of Newfoundland and Labrador and a wholly-owned subsidiary of Nalcor (“**MF**”)

- and -

<@> [type of entity and jurisdiction or statute of incorporation or formation] [*insert basis on which assignee is permitted*] (the “Assignee”)

WHEREAS:

- A. NLH and Muskrat entered into the Power Purchase Agreement on [], 201_ (the “PPA”);

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants and agreements hereinafter contained the Parties, intending to be legally bound, agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, including the recitals:

“**Affiliate**” means, with respect to any Person, any other Person who directly or indirectly Controls, is Controlled by, or is under common Control with, such Person, provided however that the NL Crown shall be deemed not to be an affiliate of Nalcor;

“**Agreement**” means this agreement, as it may be modified, amended, supplemented or restated by written agreement between the Parties;

“**Applicable Law**” means, in relation to any Person, property, transaction or event, all applicable laws, statutes, rules, codes, regulations, treaties, official directives, policies and orders of and the terms of all judgments, orders and decrees issued by any Authorized

Authority by which such Person is bound or having application to the property, transaction or event in question;

“Assignee” means [], a Qualified Assignee of the Assignor;

“Assigned Rights” means the PPA and the **Muskrat Rights**;

“Assignor” means **[Muskrat or an Affiliate of Muskrat, or NLH or an Affiliate of NLH, as applicable]**;

“Authorized Authority” means, in relation to any Person, property, transaction or event, any (a) federal, provincial, state, territorial, municipal or local governmental body (whether administrative, legislative, executive or otherwise), (b) agency, authority, commission, instrumentality, regulatory body, court or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, (c) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions, (d) private regulatory entity, self-regulatory organization or other similar Person, or (e) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, in each case having jurisdiction over such Person, property, transaction or event;

“Business Day” means any day that is not a Saturday, Sunday or legal holiday recognized in the City of St. John’s, NL;

“Consenting Parties” means **[NLH, Muskrat and Labrador Transco]**;

“Control” of a Person means the possession, direct or indirect, of the power to elect or appoint a majority of such Person’s board of directors or similar governing body, or to direct or cause the direction of the management, business and/or policies of such Person, whether through ownership of Voting Shares, by contract or otherwise, and, without limiting the generality of the foregoing, a Person shall be deemed to **“Control”** any partnership of which, at the time, the Person is a general partner, in the case of a limited partnership, or is a partner who, under the partnership agreement, has authority to bind the partnership, in all other cases (and the terms **“Controlled by”** and **“under common Control with”** have correlative meanings);

“Dispute Resolution Procedure” has the meaning set forth in **Section 4.1(a)**;

“Effective Date” means []; **[NTD: Since the Assignee has to be a Qualified Assignee and therefore has to have all of the transmissions assets and contracts transferred to him, the Effective Date to be the date when all of those transfers are effective.]**

“Excise Tax Act” means the *Excise Tax Act* (Canada);

“**HST**” means all amounts exigible pursuant to Part IX of the Excise Tax Act, including, for greater certainty, the Taxes commonly referred to as the goods and services tax (GST) and the harmonized sales tax (HST);

“**Income Tax Act**” means the *Income Tax Act* (Canada);

“**Insolvency Event**” means, in relation to any Party, the occurrence of one or more of the following:

- (a) an order is made, or an effective resolution passed, for the winding-up, liquidation or dissolution of such Party;
- (b) such Party voluntarily institutes proceedings for its winding up, liquidation or dissolution, or to authorize or enter into an arrangement under the *Corporations Act* (Newfoundland and Labrador) or similar legislation in any other jurisdiction affecting any of its creditors, or takes action to become bankrupt, or consents to the filing of a bankruptcy application against it, or files an assignment, a proposal, a notice of intention to make a proposal, an application, or answer or consent seeking reorganization, readjustment, arrangement, composition, protection from creditors, or similar relief under any bankruptcy or insolvency law or any other similar Applicable Law, including the *Bankruptcy and Insolvency Act* (Canada) and the *Companies’ Creditors Arrangement Act* (Canada), or consents to the filing of any such application for a bankruptcy order, or consents to the appointment of an interim receiver, receiver, monitor, liquidator, restructuring officer or trustee in bankruptcy of all or substantially all of the property of such Party or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they come due or commits any other act of bankruptcy or insolvency, or suspends or threatens to suspend transaction of its usual business, or any action is taken by such Party in furtherance of any of the foregoing;
- (c) a court having jurisdiction enters a judgment or order adjudging such Party a bankrupt or an insolvent person, or approving as properly filed an application or motion seeking an arrangement under the *Corporations Act* (Newfoundland and Labrador) or similar legislation in any other jurisdiction affecting any of its creditors or seeking reorganization, readjustment, arrangement, composition, protection from creditors, or similar relief under any bankruptcy or insolvency law or any other similar Applicable Law, or an order of a court having jurisdiction for the appointment of an interim receiver, receiver, monitor, liquidator, restructuring officer or trustee in bankruptcy of all or substantially all of the undertaking or property of such Party, or for the winding up, liquidation or dissolution of its affairs, is entered and such order is not contested and the effect thereof stayed, or any material part of the property of such Party is sequestered or attached and is not returned to the possession of such Party or released from such attachment within 30 days thereafter;

- (d) any proceeding or application is commenced respecting such Party without its consent or acquiescence pursuant to any Applicable Law relating to bankruptcy, insolvency, reorganization of debts, winding up, liquidation or dissolution, and such proceeding or application (i) results in a bankruptcy order or the entry of an order for relief and a period of 30 days has elapsed since the issuance of such order without such order having been reversed or set aside or (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the commencement of such proceeding or application; or
- (e) such Party has ceased paying its current obligations in the ordinary course of business as they generally become due;

“Knowledge” means in the case of a Party, as applicable, the actual knowledge of any of the executive officers of such Party and other facts or matters that such executive officers could reasonably be expected to discover or otherwise become aware of in the course of performing their ordinary responsibilities as executive officers of such Party;

“Legal Proceedings” means any actions, suits, investigations, proceedings, judgments, rulings or orders by or before any Authorized Authority;

“Muskrat” has the meaning set forth in the preamble to this Agreement, and includes its successors and permitted assigns;

“Muskrat Rights” has the meaning set forth in the PPA;

“NLH” has the meaning set forth in the preamble to this Agreement, and includes its successors and permitted assigns;

“Notice” means a communication required or contemplated to be given by either Party to the other under this Agreement, which communication shall be given in accordance with **Section 5.1**;

“Nalcor” means Nalcor Energy, a NL corporation existing pursuant to the *Energy Corporation Act* (Newfoundland and Labrador), and includes its successors;

“PPA” has the meaning set forth in the recitals;

“Parties” means the parties to this Agreement, and **“Party”** means one of them;

“Person” includes an individual, a partnership, a corporation, a company, a trust, a joint venture, an unincorporated organization, a union, a government or any department or agency thereof and the heirs, executors, administrators or other legal representatives of an individual;

“Qualified Assignee” has the meaning set forth in the PPA;

“Regular Business Hours” means 8:30 a.m. through 4:30 p.m. local time on Business Days in St. John’s, NL;

“Regulatory Approval” means any approval required by any Authorized Authority, including any regulatory, environmental, development, zoning, building, subdivision or occupancy permit, licence, approval or other authorization;

“Tax” or **“Taxes”** means any tax, fee, levy, rental, duty, charge, royalty or similar charge including, for greater certainty, any federal, state, provincial, municipal, local, aboriginal, foreign or any other assessment, governmental charge, imposition or tariff (other than a tariff or fees in respect of electricity transmission services) wherever imposed, assessed or collected, and whether based on or measured by gross receipts, income, profits, sales, use and occupation or otherwise, and including any income tax, capital gains tax, payroll tax, fuel tax, capital tax, goods and services tax, harmonized sales tax, value added tax, sales tax, withholding tax, property tax, business tax, ad valorem tax, transfer tax, franchise tax or excise tax, together with all interest, penalties, fines or additions imposed, assessed or collected with respect to any such amounts; and

“Voting Shares” means shares issued by a corporation in its capital stock, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or Persons performing similar functions) of such Person, even if such right to vote has been suspended by the happening of such contingency.

1.2 Construction of Agreement

- (a) Interpretation Not Affected by Headings, etc. - The division of this Agreement into articles, sections and other subdivisions, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless otherwise indicated, all references to an **“Article”** or **“Section”** followed by a number and/or a letter refer to the specified article or section of this Agreement. The terms **“this Agreement”**, **“hereof”**, **“herein”**, **“hereby”**, **“hereunder”** and similar expressions refer to this Agreement and not to any particular Article or Section hereof. All references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made.
- (b) Singular/Plural; Derivatives - Whenever the singular or masculine or neuter is used in this Agreement, it shall be interpreted as meaning the plural or feminine or body politic or corporate, and vice versa, as the context requires. Where a term is defined herein, a capitalized derivative of such term has a corresponding meaning unless the context otherwise requires.
- (c) “Including” - The word **“including”**, when used in this Agreement, means **“including without limitation”**.

- (d) Trade Meanings - Terms and expressions that are not specifically defined in this Agreement, but which have generally accepted meanings in the custom, usage and literature of the electricity industry in Canada as of the date of this Agreement, shall have such generally accepted meanings when used in this Agreement, unless otherwise specified elsewhere in this Agreement.
- (e) Statutory References - Any reference in this Agreement to a statute shall include, and shall be deemed to be, a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto (including changes to section numbers referenced herein) and in force from time to time, and to any statute or regulation that may be passed that has the effect of supplementing or replacing the statute so referred to or the regulations made pursuant thereto, and any reference to an order, ruling or decision shall be deemed to be a reference to such order, ruling or decision as the same may be varied, amended, modified, supplemented or replaced from time to time.
- (f) Calculation of Time - Where, in this Agreement, a period of time is specified or calculated from or after a date or event, such period is to be calculated excluding such date or the date on which such event occurs, as the case may be, and including the date on which the period ends.
- (g) Time Falling on Non-Business Day - Whenever the time for doing something under this Agreement falls on a day that is not a Business Day such action is to be taken on the first following Business Day.
- (h) No Drafting Presumption - The Parties acknowledge that their respective legal advisors have reviewed and participated in settling the terms of this Agreement and agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting Party shall not apply to the interpretation of this Agreement.

1.3 Applicable Law and Submission to Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and the Federal laws of Canada applicable therein, but excluding all choice-of-law provisions. Subject to **Article 4**, the Parties irrevocably consent and submit to the exclusive jurisdiction of the courts of the Province of Newfoundland and Labrador with respect to all matters relating to this Agreement, subject to any right of appeal to the Supreme Court of Canada. Each Party waives any objection that it may now or hereafter have to the determination of venue of any proceeding in such courts relating to this Agreement or that it may now or hereafter have that such courts are an inconvenient forum.

ARTICLE 2 ASSIGNMENT

2.1 Assignment to a Qualified Assignee

As of the Effective Date, the Assignor hereby assigns, transfers and sets over to the Assignee, its successors and permitted assigns, all of the Assignor's right, title and interest in the Assigned Rights and all the benefits and advantages derived therefrom for the remainder of the term of the Assigned Rights and any renewals or extensions thereof.

2.2 Assumption of Liabilities

The Assignee hereby accepts the within assignment of the Assigned Rights as of the Effective Date and covenants and agrees with the Assignor and the Consenting Parties to assume the covenants and obligations of the Assignor under the Assigned Rights. The Assignee hereby agrees to assume all liabilities for, and in due and proper manner, to pay, satisfy, discharge, perform and fulfill all covenants, obligations and liabilities of the Assignor under the Assigned Rights arising on and in respect of matters occurring after the Effective Date.

2.3 Confirmation of Status of PPA

The Assignor hereby confirms to the Assignee that neither it nor, to its Knowledge, the Consenting Parties are in default of any of their obligations under the PPA. The Consenting Parties hereby confirm to the Assignee that neither they nor, to their Knowledge, the Assignor is in default of any of their respective obligations under the Assigned Rights.

2.4 Acknowledgement of Consenting Parties

The Consenting Parties acknowledge, consent to and accept the within assignment and assumption of the Assigned Rights, subject to the terms and conditions herein and confirm to the Assignor and the Assignee that this consent constitutes any prior written consent stipulated in the Assigned Rights. The Consenting Parties agree that from and after the Effective Date the Assignor shall not have any obligation to the Consenting Parties to observe and perform the conditions and obligations set forth in the Assigned Rights. This **Section 2.4** does not apply if Section 19.1(d) of the PPA does not require consent to assignment.

2.5 Supplies and Payments Exclusive of Taxes

- (a) Payment of Taxes - Each Party is separately responsible for, and shall in a timely manner discharge, its separate obligations in respect of the payment, withholding and remittance of all Taxes in accordance with Applicable Law.
- (b) HST - Notwithstanding **Section 2.5(a)**, each of the Parties acknowledges and agrees that:
 - (i) all amounts of consideration, or payments and other amounts due and payable to or recoverable by or from another Party, under this Agreement

are exclusive of any Taxes that may be exigible in respect of such payments or other amounts (including, for greater certainty, any applicable HST), and if any such Taxes shall be applicable, such Taxes shall be in addition to all such amounts and shall be paid, collected and remitted in accordance with Applicable Law; and

- (ii) if one Party is required to collect Taxes pursuant to this Agreement, it shall forthwith provide to the other applicable Party such documentation required pursuant to **Section 2.7**.

2.6 **Determination of Value for Tax Compliance Purposes**

- (a) Subject to the right of final determination as provided under **Section 2.6(b)**, the Parties agree to co-operate in determining a value for any property or service supplied pursuant to this Agreement for non-cash consideration.
- (b) If a Party supplying a property or service under this Agreement for non-cash consideration is required to collect Taxes in respect of such supply, or if a Party acquiring a property or service under this Agreement for non-cash consideration is required to self-assess for Taxes in respect of such property or service, that Party shall determine a value expressed in Canadian dollars for such property or service for purposes of calculating the Taxes collectable or self-assessable, as applicable.

2.7 **Invoicing**

All invoices issued pursuant to this Agreement shall include all information prescribed by Applicable Law together with all other information required to permit the Party required to pay Taxes, if any, in respect of such supplies to claim input tax credits, refunds, rebates, remission or other recovery, as permitted under Applicable Law. Without limiting the foregoing, except as otherwise agreed to by the Parties in writing, all invoices issued pursuant to this Agreement shall include all of the following particulars:

- (a) the HST registration number of the supplier;
- (b) the subtotal of all HST taxable supplies;
- (c) the applicable HST rate(s) and the amount of HST charged on such HST taxable supplies; and
- (d) a subtotal of any amounts charged for any “exempt” or “zero-rated” supplies as defined in Part IX of the Excise Tax Act.

2.8 **Payment and Offset**

- (a) Subject to **Section 2.8(b)**, Taxes collectable by one Party from another Party pursuant to this Agreement will be payable in immediately available funds within 30 days of receipt of an invoice.

- (b) A Party may offset amounts of Taxes owing to another Party under this Agreement against Taxes or other amounts receivable from such other Party pursuant to this Agreement or any of the other Formal Agreements, subject to reporting and remittance of such offset Taxes in accordance with Applicable Law.

2.9 HST Registration Status

- (a) The Assignee represents and warrants that it is registered for purposes of the HST and that its registration number is ●.
- (b) The Assignor represents and warrants that it is registered for purposes of the HST and that its registration number is ●.

**ARTICLE 3
REPRESENTATIONS AND WARRANTIES**

3.1 Assignor and Assignee Representations and Warranties

Each of the Assignor and the Assignee hereby jointly and severally represents and warrants to the Consenting Parties that, as of the Effective Date:

- (a) it is duly organized and validly existing under the Applicable Law of the jurisdiction of its formation and is qualified to conduct its business to the extent necessary in each jurisdiction in which it will perform its obligations under this Agreement;
- (b) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action on its part and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;
- (c) this Agreement has been duly executed and delivered on its behalf by its appropriate officers and constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity whether considered in a proceeding in equity or at law;
- (d) no Insolvency Event has occurred, is pending or being contemplated by it or, to its Knowledge, threatened against it;
- (e) there are [no Legal Proceedings **NTD: or set out Legal Proceedings, if any**] pending or, to its Knowledge, threatened against it that may materially adversely affect its ability to perform its obligations under this Agreement;
- (f) no consent or other approval, order, authorization or action by, or filing with, any Person is required to be made or obtained by such Party for such Party's lawful execution, delivery and performance of this Agreement, except for (i) such consents,

approvals, authorizations, actions and filings that have been made or obtained prior to the date hereof, (ii) such consents, approvals, authorizations, actions and filings the failure of which would not have, or could not reasonably be expected to have, a material adverse effect on such Party's ability to perform its obligations under this Agreement and **[NTD: set out any required Regulatory Approvals];**

- (g) it is not a non-resident of Canada for the purposes of the Income Tax Act; and
- (h) the Assignee is an **[Affiliate][Qualified Assignee]** of the Assignor.

[NTD: Add more detailed representations as to why the Assignee is a Qualified Assignee as well as to the other transactions that need to take place concurrently with this assignment to permit the Assignee to be a Qualified Assignee.]

ARTICLE 4 DISPUTE RESOLUTION PROCEDURE

4.1 General

- (a) Dispute Resolution Procedure - The Parties agree to resolve all Disputes pursuant to the dispute resolution procedure set out in Schedule 5 to the PPA (the "**Dispute Resolution Procedure**").
- (b) Undisputed Amounts - In the event of a Dispute concerning any amount payable by one Party to another Party, the Party with the payment obligation shall pay the whole of such payment in full. **[NTD: Conform to PPA]**

ARTICLE 5 MISCELLANEOUS PROVISIONS

5.1 Notices

Notices, where required herein, shall be in writing and shall be sufficiently given if delivered personally or by courier or sent by electronic mail or facsimile transmission, directed as follows:

- (a) To Assignor:
[•]
- (b) To Assignee:
[•]
- (c) To Consenting Parties
[•]

Such Notice shall (i) if delivered personally or by courier, be deemed to have been given or made on the day of delivery, and (ii) if sent by electronic mail or facsimile transmission, and be confirmed by a copy immediately sent by courier, be deemed to have been given or made on the day it was successfully transmitted by electronic mail or facsimile transmission as evidenced by automatic confirmation of receipt, provided however that if in any case such day is not a Business Day or if the Notice is received after Regular Business Hours (time and place of receipt), the Notice shall be deemed to have been given or made on the next Business Day. Any Party may change its address or fax number hereunder from time to time by giving Notice of such change to the other Parties.

5.2 Prior Agreements

This Agreement supersedes all prior communications, understandings, negotiations and agreements between the Parties, whether oral or written, express or implied with respect to the subject matter hereof. There are no representations, warranties, collateral agreements or conditions affecting this Agreement other than as expressed herein. Each of the Parties further acknowledges and agrees that, in entering into this Agreement, it has not in any way relied upon any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings, expressed or implied, not specifically set forth in this Agreement or the PPA.

5.3 Counterparts

This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Signatures delivered by facsimile or electronic mail shall be deemed for all purposes to be original counterparts of this Agreement.

5.4 Expenses of Parties

Except as otherwise provided herein, each Party shall bear its own costs and expenses in connection with all matters relating to this Agreement, including the costs and expenses of its legal, tax, technical and other advisors.

5.5 Announcements

No announcement with respect to this Agreement shall be made by any Party without the prior approval of the other Parties. The foregoing shall not apply to any announcement by a Party required in order to comply with Applicable Law; provided that such Party consults with the other Parties before making any such announcement and gives due consideration to the views of the other Parties with respect thereto. The Parties shall use reasonable efforts to agree on the text of any proposed announcement.

5.6 Relationship of the Parties

The Parties hereby disclaim any intention to create by this Agreement any partnership, joint venture, association, trust or fiduciary relationship between them. Except as

expressly provided herein, this Agreement shall not be construed or considered as creating any such partnership, joint venture, association, trust or fiduciary relationship, or as constituting any Party as the agent or legal representative of the other Parties for any purpose nor to permit any Party to enter into agreements or incur any obligations for or on behalf of the other Parties.

5.7 Further Assurances

Each of the Parties shall, from time to time, do all such acts and things and execute and deliver, from time to time, all such further documents and assurances as may be reasonably necessary to carry out and give effect to the terms of this Agreement.

5.8 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be wholly or partially illegal, invalid, void, voidable or unenforceable in any jurisdiction for any reason, such illegality, invalidity or unenforceability shall not affect the legality, validity and enforceability of the balance of this Agreement or its legality, validity or enforceability in any other jurisdiction. If any provision is so determined to be wholly or partially illegal, invalid or unenforceable for any reason, the Parties shall negotiate in good faith a new legal, valid and enforceable provision to replace such illegal, invalid or unenforceable provision, which, as nearly as practically possible, has the same effect as the illegal, invalid or unenforceable provision.

5.9 Time of the Essence

Time shall be of the essence.

5.10 Amendments

No amendment or modification to this Agreement shall be effective unless it is in writing and signed by all Parties.

5.11 No Waiver

Any failure or delay of a Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the Term shall not affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision. Any consent or approval given by a Party pursuant to this Agreement shall be limited to its express terms and shall not otherwise increase the obligations of the Party giving such consent or approval or otherwise reduce the obligations of a Party receiving such consent or approval.

5.12 No Third Party Beneficiaries

Except as otherwise provided herein or permitted hereby, this Agreement is not made for the benefit of any Person not a Party to this Agreement, and no Person other than the Parties or their respective successors and permitted assigns shall acquire or have any right, remedy or claim under or by virtue of this Agreement.

5.13 **Survival**

All provisions of this Agreement that expressly or by their nature are intended to survive the termination (however caused) of this Agreement, including covenants, warranties, guarantees, releases and indemnities, continue as valid and enforceable rights and obligations (as the case may be) of the Parties, notwithstanding any such termination, until they are satisfied in full or by their nature expire.

5.14 **Waiver of Sovereign Immunity**

A Party that now or hereafter has a right to claim sovereign immunity for itself or any of its assets hereby waives any such immunity to the fullest extent permitted by Applicable Law. This waiver includes immunity from (i) any proceedings under the Dispute Resolution Procedure; (ii) any judicial, administrative or other proceedings to aid the Dispute Resolution Procedure; and (iii) any confirmation, enforcement or execution of any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from the Dispute Resolution Procedure or any judicial, administrative or other proceedings commenced pursuant to this Agreement. Each Party acknowledges that its rights and obligations under this Agreement are of a commercial and not a governmental nature.

5.15 **Successors and Assigns**

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

[ASSIGNOR]

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the
[company]/[corporation].

[ASSIGNEE]

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the
[company]/[corporation].

[CONSENTING PARTY]

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the
[company]/[corporation].

[CONSENTING PARTY]

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the
[company]/[corporation].

POWER PURCHASE AGREEMENT

SCHEDULE 5

DISPUTE RESOLUTION PROCEDURE

Power Purchase Agreement
Schedule 5 - Dispute Resolution Procedure
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**SCHEDULE 5
DISPUTE RESOLUTION PROCEDURE**

Section 1 Interpretation

1.1 Definitions

In this Schedule, the definitions set forth in the Articles of Agreement apply and in addition thereto:

“Agreement” means the agreement to which this Schedule is attached;

“Appointment Date” has the meaning set forth in **Section 6.4**;

“Arbitration Act” means the *Arbitration Act* (Newfoundland and Labrador);

“Arbitration Notice” has the meaning set forth in **Section 5.1(a)(i)**;

“Arbitration Procedure” means the provisions of **Section 5**;

“Arbitrator” means an arbitrator appointed pursuant to the Arbitration Procedure;

“Articles of Agreement” means the main body of the Agreement;

“Chair” means the person elected or appointed to chair the Tribunal;

“Code” means the Commercial Arbitration Code as set out in the *Commercial Arbitration Act* (Canada) as of the Effective Date, a copy of which is attached hereto as **Appendix A**;

“Consent to Arbitration” means, with respect to an Arbitration Notice, a Notice given by the Notified Party to the Notifying Party stating that the Notified Party consents to arbitration of the Dispute referred to in the Arbitration Notice;

“Delegate” has the meaning set forth in **Section 6.3(c)**;

“Dispute Context” has the meaning set forth in **Section 6.6**;

“Document” includes a film, photograph, videotape, chart, graph, map, plan, survey, book of account, recording of sound, and information recorded or stored by means of any device;

“Expert Determination Procedure” means the provisions of **Section 6**;

“General Dispute” means a Dispute that is not a Specified Dispute;

“Independent Expert” means the Person appointed as such to conduct an expert determination in accordance with the Expert Determination Procedure;

“Information” means all documents and information, including Confidential Information, disclosed by a Party for the purposes of this Dispute Resolution Procedure;

“Initial Meeting” has the meaning set forth in **Section 6.8**;

“Mediation Notice” has the meaning set forth in **Section 4.1(a)**;

“Mediation Procedure” means the provisions of **Section 4**;

“Mediation Response” has the meaning set forth in **Section 4.1(d)**;

“Mediator” means the mediator appointed pursuant to the Mediation Procedure;

“Negotiation Procedure” means the provisions of **Section 3**;

“Non-Consent to Arbitration” means, with respect to an Arbitration Notice, a Notice given by the Notified Party to the Notifying Party stating that the Notified Party does not consent to arbitration of the Dispute referred to in the Arbitration Notice;

“Notified Party” has the meaning set forth in **Section 5.1(a)(i)**;

“Notifying Party” has the meaning set forth in **Section 5.1(a)(i)**;

“Referral Notice” has the meaning set forth in **Section 6.1**;

“Referring Party” has the meaning set forth in **Section 6.1**;

“Requesting Party” has the meaning set forth in **Section 4.1(a)**;

“Responding Party” has the meaning set forth in **Section 6.1**;

“Response” has the meaning set forth in **Section 6.9(b)**;

“Review Notice” has the meaning set forth in **Section 3.1**;

“Specified Dispute” means a Dispute required by the Agreement, or agreed in writing by the Parties interested in the Dispute, to be finally resolved by expert determination pursuant to this Schedule;

“Submission” has the meaning set forth in **Section 6.9**;

“Terms of Reference” has the meaning set forth in **Section 6.4**; and

“Tribunal” means either a single Arbitrator or a panel of Arbitrators, as the case may be, appointed pursuant to the Arbitration Procedure to serve as the arbitrator or arbitrators of a General Dispute.

1.2 Section References

Unless otherwise indicated, all references in this Schedule to a “**Section**” followed by a number and/or a letter refer to the specified Section of this Schedule.

1.3 Appendix

The following Appendix is attached to and incorporated by reference in this Schedule, and is deemed to be part hereof:

Appendix A - Commercial Arbitration Code (Canada)

Section 2 Alternative Dispute Resolution

2.1 Purpose and Sequence of Dispute Resolution

The purpose of this Schedule is to set forth a framework and procedures to resolve any Disputes that may arise under the Agreement in an amicable manner, in private and confidential proceedings, and where possible, without resort to litigation. The Parties agree to exclusively utilize the following process to achieve this goal, which shall be undertaken in the following order:

- (a) first, by referring the Dispute to negotiation pursuant to the Negotiation Procedure; and
- (b) in the case of a General Dispute:
 - (i) second, by way of mediation pursuant to the Mediation Procedure; and
 - (ii) third, either:
 - (A) by arbitration pursuant to the Arbitration Procedure where the Parties agree or are deemed to have agreed to arbitration; or
 - (B) by litigation, where the Parties do not agree and are not deemed to have agreed to arbitration pursuant to the Arbitration Procedure; or
- (c) in the case of a Specified Dispute, second by expert determination in accordance with the Expert Determination Procedure.

2.2 Confidentiality

- (a) Subject to **Section 2.2(b)**, all Information disclosed by a Party pursuant to the Negotiation Procedure, the Mediation Procedure, the Arbitration Procedure or the Expert Determination Procedure shall be treated as confidential by the Parties and any Mediator, Arbitrator or Independent Expert. Neither the disclosure nor production of Information will represent any waiver of privilege by the disclosing

Party. Each Party agrees not to disclose Information provided by the other Party for the purposes hereof to any other Person for any other purpose. Further, such Information shall not be used in any subsequent proceedings without the consent of the Party that disclosed it.

- (b) **Section 2.2(a)** does not prevent a Party from disclosing or using Information not received by it exclusively pursuant to the Negotiation Procedure, the Mediation Procedure, the Arbitration Procedure or the Expert Determination Procedure as and to the extent permitted under the Agreement.

2.3 Interim Measures

Either Party may apply to a court for interim measures to protect its interest during the period that it is attempting to resolve a Dispute prior to the constitution of a Tribunal, including preliminary injunction or other equitable relief concerning that Dispute. The Parties agree that seeking and obtaining any such interim measure will not waive Party's obligation to proceed in accordance with **Section 2.1**.

2.4 Mediator or Arbitrator as Witness

The Parties agree that any Mediator or Arbitrator appointed hereunder shall not be compelled as a witness in any proceedings for any purpose whatsoever in relation to the Agreement.

Section 3 Negotiation Procedure

3.1 Negotiation of Dispute

All Disputes shall be first referred in writing to appropriate representatives of the Parties, as designated by each Party, or in the absence of a Party's specific designation, to the CEO of that Party. References to such representatives hereunder may be initiated at any time by the Party requesting a review under this **Section 3** by Notice to the other Party (a "**Review Notice**"). Each Party shall be afforded a reasonable opportunity to present all relevant Information regarding its position to the other Party's representative. The Parties shall consider the Information provided and seek to resolve the Dispute through negotiation. Negotiations shall be concluded within 15 Business Days from the date of delivery of the Review Notice or within such extended period as may be agreed in writing by the Parties.

3.2 Reservation of Rights

Except to the extent that such negotiations result in a settlement, such negotiations and exchange of Information will be without prejudice and inadmissible against a Party's interest in any subsequent proceedings and no Party will be considered to have waived any privilege it may have. No settlement will be considered to have been reached until it is reduced to writing and signed by the Parties.

3.3 **Failure of Negotiations**

If the Parties have not resolved the Dispute to the satisfaction of both Parties within 15 Business Days after delivery of the Review Notice, or within such extended period as may be agreed in writing by the Parties, negotiations will be deemed to have failed to resolve the Dispute and any Party may then request that the matter be referred to non-binding mediation pursuant to the Mediation Procedure.

Section 4 **Mediation Procedure**

4.1 **Request for Mediation**

- (a) If the Parties are unable to resolve a Dispute through the Negotiation Procedure, a Party (the “**Requesting Party**”), by Notice to the other Party given within five Business Days after expiry of the period set forth in or agreed by the Parties under **Section 3.3**, may request that the Dispute be mediated through non-binding mediation under this **Section 4** by delivering to the other Party a Notice (a “**Mediation Notice**”) containing a written summary of relevant Information relative to the matters that remain in Dispute and the names of three individuals who are acceptable to the Requesting Party to act as a sole Mediator.
- (b) Any Mediator must be impartial and independent of each of the Parties, be an experienced commercial mediator, and preferably have experience and knowledge concerning the subject matter of the Dispute.
- (c) Any mediation commenced under this Mediation Procedure will continue only until the first of the following occurs:
 - (i) the Party in receipt of a Mediation Notice declines to submit to mediation and gives Notice thereof to the Requesting Party;
 - (ii) the Party in receipt of a Mediation Notice fails to send a Mediation Response in accordance with **Section 4.1(d)**;
 - (iii) the Parties are unable to appoint a Mediator within the period allowed by **Section 4.2**;
 - (iv) a Party gives Notice to the other Party that it terminates the mediation;
 - (v) the Mediator provides the Parties with a written determination that the mediation is terminated because the Dispute cannot be resolved through mediation;
 - (vi) **Section 4.3(d)** applies; or
 - (vii) the Dispute is settled as provided in **Section 4.4**.

- (d) If the mediation proceeds, within five Business Days after receiving the Mediation Notice the receiving Party shall send a written response to the Mediation Notice (the “**Mediation Response**”) to the Requesting Party including a summary of Information relating to the matters that remain in Dispute and accepting one of the individuals proposed as Mediator in the Mediation Notice, or proposing another individual or individuals, up to a maximum of three, as Mediator.

4.2 Appointment of Mediator

Within 10 Business Days after receipt of the Mediation Response by the Requesting Party, the Parties shall attempt to appoint a Mediator to assist the parties in resolving the Dispute. The appointment shall be in writing and signed by the Parties and the Mediator.

4.3 Mediation Process

- (a) The Parties shall participate in good faith and in a timely and responsive manner in the Mediation Procedure. A copy of the Mediation Notice and the Mediation Response shall be delivered to the Mediator within two Business Days after his or her appointment. The Mediator shall, after consultation with the Parties, set the date, time and place for the mediation as soon as possible after being appointed.
- (b) The location of the mediation will be St. John’s, Newfoundland and Labrador, unless otherwise agreed to by the Parties, and the language of the mediation will be English.
- (c) The Parties shall provide such assistance and produce such Information as may be reasonably necessary, and shall meet together with the Mediator, or as otherwise determined by the Mediator, in order to resolve the Dispute.
- (d) If the mediation is not completed within 10 Business Days after appointment of the Mediator pursuant to **Section 4.2**, the mediation will be considered to have failed to resolve the Dispute and the Mediation Procedure will be deemed to be terminated, unless the Parties agree in writing to extend the time to resolve the Dispute by mediation.
- (e) Each Party shall each bear its own costs and expenses associated with the mediation, but the Parties shall share the common costs of the mediation equally (or in such other proportions as they may agree), including the costs of or attributable to the Mediator and the facilities used for the mediation.

4.4 Reservation of Rights

Any mediation undertaken hereunder will be non-binding, and except to the extent a settlement is reached, will be considered without prejudice and inadmissible against a Party’s interest in any subsequent proceedings and no Party will be considered to have waived any

privilege it may have. No settlement will be considered to have been reached until it is reduced to writing and signed by the Parties.

Section 5 **Arbitration Procedure**

5.1 Submission to Binding Arbitration

- (a) If the Parties are unable to resolve a General Dispute through the Negotiation Procedure or the Mediation Procedure, then following termination of the mediation, or, if no Mediation Notice is given, following failure of negotiations as provided in **Section 3.3**:
 - (i) a Party (the “**Notifying Party**”) may submit the General Dispute to binding arbitration under this **Section 5** and give Notice to the other Party (the “**Notified Parties**”) of such submission (an “**Arbitration Notice**”); or
 - (ii) if **Section 5.1(e)** does not apply, either Party may elect, by giving notice thereof to the other Party, to proceed with resolution of the General Dispute pursuant to **Section 2.1(b)(ii)(B)**.
- (b) A Notified Party may consent to arbitration of the Dispute referred to in the Arbitration Notice by giving a Consent to Arbitration within 10 Business Days after the day the Arbitration Notice was given.
- (c) If the Notified Party does not give a Consent to Arbitration within 10 Business Days after the day the Arbitration Notice was given, the Notified Party will be deemed to have given a Consent to Arbitration on the last day of such 10 Business Day period.
- (d) If the Notified Party delivers a Non-Consent to Arbitration with 10 Business Days after the day the Arbitration Notice was given, **Section 2.1(b)(ii)(B)** will apply.
- (e) Notwithstanding **Sections 5.1(b), 5.1(c)** and **5.1(d)**, where under the Agreement the Parties are deemed to have agreed pursuant to this **Section 5.1** to resolve the Dispute by arbitration, the Notified Party will be deemed to have given a Consent to Arbitration on the day the Arbitration Notice is given.
- (f) When a Notifying Party has given an Arbitration Notice and the Notified Party has given or been deemed pursuant to **Sections 5.1(c)** or **5.1(e)** to have given a Consent to Arbitration, the Dispute referred to in the Arbitration Notice shall be resolved by arbitration pursuant to this **Section 5**. The arbitration will be subject to the Arbitration Act and conducted in accordance with the Code, as supplemented and modified by this **Section 5**.

5.2 Provisions Relating to the Arbitration Act and the Code

- (a) The Tribunal will not have the power provided for in subsection 10(b) of the Arbitration Act.

- (b) Notwithstanding Article 3 of the Code, Notices for the purposes of an arbitration under this **Section 5** shall be given and deemed received in accordance with the provisions of the Agreement relating to Notices.
- (c) For the purposes of Article 7 of the Code, this **Section 5** constitutes the “arbitration agreement”.
- (d) A reference in the Code to “a court or other authority specified in article 6” will be considered to be a reference to the Trial Division of the Supreme Court of Newfoundland and Labrador.
- (e) The rules of law applicable to a General Dispute arbitrated under this **Section 5** will be the laws of Newfoundland and Labrador.
- (f) Nothing in Article 5 or Article 34 of the Code will be interpreted to restrict any right of a Party pursuant to the Arbitration Act.
- (g) For the purposes of Section 3 of the Arbitration Act, once a Consent to Arbitration has been given or deemed to have been given, the submission to arbitration will be deemed to be irrevocable.
- (h) For greater certainty, Articles 8 and 9 of the Code shall only apply when the Parties have agreed or been deemed to have agreed to binding arbitration under the Agreement or this **Section 5**.
- (i) Where there is a conflict between this **Section 5** and the Code, this **Section 5** will prevail.

5.3 Appointment of Tribunal

- (a) Subject to **Section 5.4**, the arbitration will be heard and determined by three Arbitrators. Each Party shall appoint an Arbitrator of its choice within 20 Business Days after delivery or deemed delivery of the Consent to Arbitration. The Party-appointed Arbitrators shall in turn appoint a third Arbitrator, who shall act as Chair of the Tribunal, within 20 Business Days after the appointment of both Party-appointed Arbitrators. If the Party-appointed Arbitrators cannot reach agreement on a third Arbitrator, or if a Party fails or refuses to appoint its Party-appointed Arbitrator within 20 Business Days after delivery or deemed delivery of the Consent to Arbitration, the appointment of the Chair of the Tribunal and the third Arbitrator will be made in accordance with Article 11 of the Code.
- (b) Except for the appointment of an Arbitrator pursuant to the Code, the appointment of an Arbitrator must be in writing and accepted in writing by the Arbitrator.

5.4 Arbitration by Single Arbitrator

The arbitration will be heard and determined by one Arbitrator where the Parties agree to arbitration by a single Arbitrator and jointly appoint the Arbitrator within 15 Business Days after the Consent to Arbitration is given or deemed to have been given. If the Parties do not agree to arbitration by a single Arbitrator and appoint the Arbitrator within such time, the arbitration will be heard by three Arbitrators appointed pursuant to **Section 5.3**.

5.5 Procedure

- (a) Unless otherwise agreed by the Parties, the place of the arbitration will be St. John's, Newfoundland and Labrador.
- (b) The arbitration shall be conducted in the English language and the Arbitrators must be fluent in the English language.
- (c) If the Parties initiate multiple arbitration proceedings under the Agreement and any other agreement to which they are both parties, the subject matters of which are related by common questions of law or fact and which could result in conflicting awards or obligations, then all such proceedings may, with the written consent of all Parties in all such proceedings, be consolidated into a single arbitration proceeding.
- (d) The Parties may agree as to the manner in which the Tribunal shall promptly hear witnesses and arguments, review documents and otherwise conduct the arbitration. Failing such agreement within 20 Business Days from the date of selection or appointment of the Tribunal, the Tribunal shall promptly and expeditiously conduct the arbitration proceedings in accordance with the Code. The Parties intend that the arbitration hearing should commence as soon as reasonably practicable following the appointment of the Tribunal.
- (e) Nothing in this **Section 5** will prevent either Party from applying to a court of competent jurisdiction pending final disposition of the arbitration proceeding for such relief as may be necessary to assist the arbitration process, to ensure that the arbitration is carried out in accordance with the Arbitration Procedure, or to prevent manifestly unfair or unequal treatment of either Party.
- (f) In no event will the Tribunal have the jurisdiction to amend or vary the terms of this Schedule or of the Code.

5.6 Awards

- (a) The arbitration award shall be given in writing, will be final and binding on the Parties, and will not be subject to any appeal.
- (b) Each Party shall bear its own costs in relation to the arbitration, but the Parties shall equally bear the common costs of the Arbitration, including the costs of or attributable to the Tribunal and the facilities used for the arbitration.

- (c) No arbitration award issued hereunder will expand or increase the liabilities, obligations or remedies of the Parties beyond those permitted by the Agreement.
- (d) Judgment upon the arbitration award may be entered in any court having jurisdiction, or application may be made to such court for a judicial recognition of the arbitration award or an order of enforcement thereof, as the case may be.
- (e) The amount of the arbitration award including costs will bear interest at the Prime Rate plus 3% per annum, or such other rate, and from such date, as determined by the Tribunal, until the amount of the arbitration award, costs and interest thereon is Paid in Full.
- (f) Subject to **Section 5.5(e)**, the Parties agree that arbitration conducted pursuant to this Arbitration Procedure will be the final and exclusive forum for the resolution of General Disputes.

5.7 Settlement

If the Parties settle the Dispute before the Tribunal delivers its written award, the arbitration will be terminated and the Tribunal shall record the terms of settlement in the form of an award made on consent of the Parties.

Section 6 Expert Determination Procedure

6.1 Referral for Expert Determination

A Party (the “**Referring Party**”) may by Notice to the other Party (the “**Responding Party**”) require referral of a Specified Dispute to an Independent Expert for determination pursuant to this **Section 6** (the “**Referral Notice**”).

6.2 Qualifications of Independent Expert

Any Independent Expert appointed under this **Section 6** shall be:

- (a) independent of each of the Parties;
- (b) of national or international standing;
- (c) well qualified by education, technical training and experience, and hold the appropriate professional qualifications, to determine the matters in issue in the Specified Dispute; and
- (d) impartial and have no interest or obligation in conflict with the task to be performed as an Independent Expert for the Parties. Without limiting the generality of the foregoing, a conflict will be deemed to exist, unless otherwise agreed in writing by the Parties, if the Independent Expert at any time previously performed work in connection with matters covered by the Agreement, or during the preceding three

years performed any other work, for either of the Parties or any of their Affiliates. Any direct or beneficial equity interest the Independent Expert has in one or more of the Parties or their Affiliates, or *vice versa*, shall be declared by each Party and the Independent Expert prior to the Independent Expert being retained.

6.3 **Selection of the Independent Expert**

- (a) Within 10 Business Days after delivery of the Referral Notice, each Party shall deliver to the other Party, in a simultaneous exchange, a list of the names of five Persons (ranked 1 - 5 in order of preference, 5 being that Party's first preference) who are acceptable to the Party to act as the Independent Expert. If one Person only is named in both lists, that Person shall be the Independent Expert to determine the Specified Dispute. If more than one Person is named in both lists, the Person with the highest total numerical ranking, determined by adding the rankings from both lists, shall be the Independent Expert to determine the Specified Dispute. In the event of a tie in the rankings, the Person to be the Independent Expert shall be selected by lot from among those of highest equal rank.
- (b) If the Parties fail to select an Independent Expert from the initial lists provided pursuant to **Section 6.3(a)**, the process under **Section 6.3(a)** shall be repeated with a second list of five names from each Party, except that the Parties shall exchange lists within five Business Days after the end of the 10 Business Day period under **Section 6.3(a)**.
- (c) If the Parties fail to select an Independent Expert pursuant to **Sections 6.3(a)** or **(b)** or otherwise within 15 Business Days after the Referral Notice is given, within a further period of five Business Days after the end of such 15 day period the Parties shall jointly request the President of ADR Chambers in Toronto, Ontario or his or her designate (the "**Delegate**") to appoint the Independent Expert from a list submitted by the Parties with the request. Each Party may nominate up to three proposed Independent Experts for inclusion on the list. The Parties shall not advise the Delegate which Party nominated a particular nominee. Each Party shall be responsible for one-half of the costs of the Delegate.

6.4 **Terms of Reference**

Once an Independent Expert is selected pursuant to **Section 6.3**, the Parties shall use commercially reasonable efforts to enter into an appropriate engagement agreement with the Independent Expert (the "**Terms of Reference**") as soon as practicable, and in any event within 20 Business Days, after selection of the Independent Expert pursuant to **Section 6.3**. Failure of the Parties and the Independent Expert to agree upon the Terms of Reference will be deemed to be a General Dispute and the Terms of Reference will be resolved by a single Arbitrator pursuant to the Arbitration Procedure. The date of execution of the Terms of Reference by all of the Parties and the Independent Expert is herein called the "**Appointment Date**".

6.5 Information Provided to Independent Expert

For the purpose of the Expert Determination Procedure, the Parties shall provide to the Independent Expert the following within five Business Days after the Appointment Date:

- (a) a copy of the Agreement, including the Schedules;
- (b) copies of or full access to all documents relevant to the Specified Dispute to be determined by the Independent Expert; and
- (c) other data and reports as may be mutually agreed by the Parties.

6.6 Dispute Context

The Independent Expert shall review and analyze, as necessary, the materials provided to it by the Parties pursuant to **Section 6.5**. The Independent Expert shall make its determination pursuant to the Terms of Reference based upon the materials provided by the Parties and in accordance with the Article, Section or Schedule of the Agreement under which the Specified Dispute to be determined arose (the “**Dispute Context**”).

6.7 No ex parte Communication

No communication between the Independent Expert and either of the Parties shall be permitted from the Appointment Date until after delivery of the Independent Expert’s final decision except:

- (a) with the approval of both Parties;
- (b) as provided by this **Section 6**; or
- (c) to address strictly administrative matters.

All communications permitted by this **Section 6.7** between either Party and the Independent Expert shall be conducted in writing, with copies sent simultaneously to the other Party in the same manner.

6.8 Initial Meeting and Joint Presentations by the Parties

Within 10 Business Days after the Appointment Date, the Independent Expert and the Parties shall attend an initial informational meeting (the “**Initial Meeting**”) in St. John’s, Newfoundland and Labrador, or at such other location as may be mutually agreed by the Parties, at a time, date and location as determined by the Independent Expert, at which the Parties shall provide an overview of the Specified Dispute to be determined, review the Expert Determination Procedure, and establish a timetable and deadlines for the Independent Expert’s review, all of which are to be consistent with the Agreement.

6.9 **Written Submissions and Responses**

- (a) Within the time specified at the Initial Meeting, but in any event not later than 20 Business Days after the Initial Meeting, each Party shall provide to the Independent Expert a written submission (a “**Submission**”) respecting its interpretation and evaluation of the Specified Dispute.
- (b) Within the time specified at the Initial Meeting, but in any event not later than 20 Business Days after receipt of the other Party’s Submission, each Party shall have the opportunity to provide comments on the other Party’s Submission by written submissions (a “**Response**”) provided to the Independent Expert and the other Party.
- (c) The Parties shall provide any Information deemed necessary by the Independent Expert to complete the evaluation required pursuant to this **Section 6**.
- (d) A Party that fails to submit a Submission or a Response to the Independent Expert within the time allowed by this **Section 6.9** will be deemed to have waived its right to make a Submission or Response, as the case may be.

6.10 **Independent Expert Clarifications**

- (a) Following receipt of the Submissions and Responses, the Independent Expert may, at its discretion, seek any number of clarifications with respect to any aspect of either Party’s Submission or Response. Such requests for clarifications shall be made by the Independent Expert in writing and the clarifications by the Parties shall be made in writing as requested by the Independent Expert, provided that the other Party shall be provided with a copy of such requests and clarifications.
- (b) The purpose of such clarifications will be to allow the Independent Expert to fully understand the technical and/or financial basis and methodologies used in the preparation of the Submission and Response of each Party, it being understood that each Party’s Submission and Response will be the primary basis upon which the Independent Expert shall make its determination.
- (c) All requests for clarifications and all questions in relation thereto will be initiated or posed exclusively by the Independent Expert to the Party from whom clarification is sought as seen fit by the Independent Expert, in its sole discretion, and free of any interruption or interjection by the other Party. Neither Party will have any right to cross-examine the other Party in respect of such Party’s Submission or Response or its responses to the Independent Expert pursuant to this **Section 6.10**.

6.11 **Method of Evaluation**

- (a) The Independent Expert’s assessment shall include the method of evaluation elements set forth in the Dispute Context.

- (b) The Independent Expert's assessment, including its economic model, cash flows and analysis, if any, will be made available to the Parties.

6.12 Decision and Presentation of Report

The Independent Expert shall complete its assessment and deliver a written decision of its determination of the Specified Dispute within 40 Business Days after the Independent Expert's receipt of the Responses.

6.13 Costs of Expert Determination

Each Party shall be responsible for one-half of the costs of the Independent Expert. Each Party shall bear its own costs related to the expert determination.

6.14 Effect of Determination

- (a) The Independent Expert's determination pursuant to this **Section 6** will be final and binding upon the Parties and not reviewable by a court for any reason whatsoever.
- (b) The Independent Expert is not an arbitrator of the Specified Dispute and is deemed not to be acting in an arbitral capacity. The Independent Expert's determination pursuant to this **Section 6** is not an arbitration under the Arbitration Act or any other federal or provincial legislation.

6.15 Settlement

If the Parties settle the Specified Dispute before the Independent Expert delivers its written decision, the Expert Determination Procedure will be terminated and the Independent Expert shall record the settlement in the form of a consent decision of the Parties.

POWER PURCHASE AGREEMENT

APPENDIX A

TO

DISPUTE RESOLUTION PROCEDURE

COMMERCIAL ARBITRATION CODE

Power Purchase Agreement
Schedule 5 - Dispute Resolution Procedure
Appendix A - Commercial Arbitration Code
MC_15894110_9.DOC

Appendix A

COMMERCIAL ARBITRATION CODE

(Based on the Model Law on International Commercial Arbitration as adopted by the United Nations Commission on International Trade Law on June 21, 1985)

Note: The word "international", which appears in paragraph (1) of article 1 of the Model Law, has been deleted from paragraph (1) of article 1 below. Paragraphs (3) and (4) of article 1, which contain a description of when arbitration is international, are deleted. Paragraph (5) appears as paragraph (3).

Any additions or substitutions to the Model Law are indicated by the use of italics.

Except as otherwise indicated, the material that follows reproduces exactly the Model Law.

CHAPTER I. GENERAL PROVISIONS

ARTICLE 1

SCOPE OF APPLICATION

- (1) This Code applies to commercial arbitration, subject to any agreement in force between Canada and any other State or States.
- (2) The provisions of this Code, except articles 8, 9, 35 and 36, apply only if the place of arbitration is in Canada.
- (3) This Code shall not affect any other law of *Parliament* by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Code.

ARTICLE 2

DEFINITIONS AND RULES OF INTERPRETATION

For the purposes of this Code:

- (a) "arbitration" means any arbitration whether or not administered by a permanent arbitral institution;
- (b) "arbitral tribunal" means a sole arbitrator or a panel of arbitrators;
- (c) "court" means a body or organ of the judicial system of a State;
- (d) where a provision of this Code, except article 28, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination;
- (e) where a provision of this Code refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- (f) where a provision of this Code, other than in articles 25(a) and 32(2)(a), refers to a claim, it also applies to a counterclaim, and where it refers to a defence, it also applies to a defence to such counter-claim.

ARTICLE 3
RECEIPT OF WRITTEN COMMUNICATIONS

- (1) Unless otherwise agreed by the parties:
- (a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it;
 - (b) the communication is deemed to have been received on the day it is so delivered.
- (2) The provisions of this article do not apply to communications in court proceedings.

ARTICLE 4
WAIVER OF RIGHT TO OBJECT

A party who knows that any provision of this Code from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

ARTICLE 5
EXTENT OF COURT INTERVENTION

In matters governed by this Code, no court shall intervene except where so provided in this Code.

ARTICLE 6
COURT OR OTHER AUTHORITY FOR CERTAIN FUNCTIONS OF ARBITRATION ASSISTANCE AND SUPERVISION

The functions referred to in articles 11(3), 11(4), 13(3), 14, 16(3) and 34(2) shall be performed by *the Federal Court or any superior, county or district court.*

CHAPTER II. ARBITRATION AGREEMENT

ARTICLE 7
DEFINITION AND FORM OF ARBITRATION AGREEMENT

- (1) "Arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.
- (2) The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

ARTICLE 8
ARBITRATION AGREEMENT AND SUBSTANTIVE CLAIM BEFORE COURT

(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(2) Where an action referred to in paragraph (1) of this article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

ARTICLE 9
ARBITRATION AGREEMENT AND INTERIM MEASURES BY COURT

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

CHAPTER III. COMPOSITION OF ARBITRAL TRIBUNAL

ARTICLE 10
NUMBER OF ARBITRATORS

- (1) The parties are free to determine the number of arbitrators.
- (2) Failing such determination, the number of arbitrators shall be three.

ARTICLE 11
APPOINTMENT OF ARBITRATORS

(1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.

(3) Failing such agreement,

(a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6;

(b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.

(4) Where, under an appointment procedure agreed upon by the parties,

(c) a party fails to act as required under such procedure, or

(d) the parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure, or

(e) a third party, including an institution, fails to perform any function entrusted to it under such procedure.

any party may request the court or other authority specified in article 6 to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

(5) A decision on a matter entrusted by paragraph (3) or (4) of this article to the court or other authority specified in article 6 shall be subject to no appeal. The court or other authority, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

ARTICLE 12 GROUNDS FOR CHALLENGE

(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

(2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

ARTICLE 13 CHALLENGE PROCEDURE

(1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of paragraph (3) of this article.

(2) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstances referred to in article 12(2), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court or other authority specified in article 6 to decide on the challenge, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

ARTICLE 14 FAILURE OR IMPOSSIBILITY TO ACT

(1) If an arbitrator becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this article or article 13(2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this article or article 12 (2).

**ARTICLE 15
APPOINTMENT OF SUBSTITUTE ARBITRATOR**

Where the mandate of an arbitrator terminates under article 13 or 14 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

CHAPTER IV. JURISDICTION OF ARBITRAL TRIBUNAL

**ARTICLE 16
COMPETENCE OF ARBITRAL TRIBUNAL TO RULE ON ITS JURISDICTION**

(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(3) The arbitral tribunal may rule on a plea referred to in paragraph (2) of this article either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the court specified in article 6 to decide the matter, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

**ARTICLE 17
POWER OF ARBITRAL TRIBUNAL TO ORDER INTERIM MEASURES**

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with such measure.

CHAPTER V. CONDUCT OF ARBITRAL PROCEEDINGS

**ARTICLE 18
EQUAL TREATMENT OF PARTIES**

The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

ARTICLE 19
DETERMINATION OF RULES OF PROCEDURE

(1) Subject to the provisions of this Code, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this Code, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

ARTICLE 20
PLACE OF ARBITRATION

(1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

ARTICLE 21
COMMENCEMENT OF ARBITRAL PROCEEDINGS

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

ARTICLE 22
LANGUAGE

(1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

ARTICLE 23
STATEMENTS OF CLAIM AND DEFENCE

(1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(2) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

ARTICLE 24
HEARINGS AND WRITTEN PROCEEDINGS

(1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property or documents.

(3) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

ARTICLE 25
DEFAULT OF A PARTY

Unless otherwise agreed by the parties, if, without showing sufficient cause,

(a) the claimant fails to communicate his statement of claim in accordance with article 23(1), the arbitral tribunal shall terminate the proceedings;

(b) the respondent fails to communicate his statement of defence in accordance with article 23(1), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;

(c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

ARTICLE 26
EXPERT APPOINTED BY ARBITRAL TRIBUNAL

(1) Unless otherwise agreed by the parties, the arbitral tribunal

(a) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;

(b) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

ARTICLE 27
COURT ASSISTANCE IN TAKING EVIDENCE

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of *Canada* assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.

CHAPTER VI. MAKING OF AWARD AND TERMINATION OF PROCEEDINGS

ARTICLE 28 RULES APPLICABLE TO SUBSTANCE OF DISPUTE

- (1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.
- (2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.
- (3) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized it to do so.
- (4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

ARTICLE 29 DECISION-MAKING BY PANEL OF ARBITRATORS

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

ARTICLE 30 SETTLEMENT

- (1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.
- (2) An award on agreed terms shall be made in accordance with the provisions of article 31 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

ARTICLE 31 FORM AND CONTENTS OF AWARD

- (1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signature of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.
- (2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under article 30.
- (3) The award shall state its date and the place of arbitration as determined in accordance with article 20(1). The award shall be deemed to have been made at that place.
- (4) After the award is made, a copy signed by the arbitrators in accordance with paragraph (1) of this article shall be delivered to each party.

ARTICLE 32
TERMINATION OF PROCEEDINGS

- (1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with paragraph (2) of this article.
- (2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:
 - (a) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;
 - (b) the parties agree on the termination of the proceedings;
 - (c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of articles 33 and 34(4).

ARTICLE 33
CORRECTION AND INTERPRETATION OF AWARD; ADDITIONAL AWARD

- (1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:
 - (a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature;
 - (b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.
- (2) The arbitral tribunal may correct any error of the type referred to in paragraph (1)(a) of this article on its own initiative within thirty days of the date of the award.
- (3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.
- (4) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award under paragraph (1) or (3) of this article.
- (5) The provisions of article 31 shall apply to a correction or interpretation of the award or to an additional award.

CHAPTER VII. RECOURSE AGAINST AWARD

ARTICLE 34

APPLICATION FOR SETTING ASIDE AS EXCLUSIVE RECOURSE AGAINST ARBITRAL AWARD

- (1) Recourse to a court against an arbitral award may be made only by an application for setting aside in accordance with paragraphs (2) and (3) of this article.
- (2) An arbitral award may be set aside by the court specified in article 6 only if:
- (a) the party making the application furnishes proof that:
- (i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of Canada; or
 - (ii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
 - (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or
 - (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Code from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Code; or
- (b) the court finds that:
- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of Canada; or
 - (ii) the award is in conflict with the public policy of Canada.
- (3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under article 33, from the date on which that request had been disposed of by the arbitral tribunal.
- (4) The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

CHAPTER VIII. RECOGNITION AND ENFORCEMENT OF AWARDS

ARTICLE 35

RECOGNITION AND ENFORCEMENT

- (1) An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the competent court, shall be enforced subject to the provisions of this article and of article 36.

(2) The party relying on an award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy thereof, and the original arbitration agreement referred to in article 7 or a duly certified copy thereof. If the award or agreement is not made in an official language of *Canada*, the party shall supply a duly certified translation thereof into such language.

ARTICLE 36
GROUNDS FOR REFUSING RECOGNITION OR ENFORCEMENT

(1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:

(a) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:

(i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or

(iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(v) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or

(b) if the court finds that:

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of *Canada*; or

(ii) the recognition or enforcement of the award would be contrary to the public policy of *Canada*.

(2) If an application for setting aside or suspension of an award has been made to a court referred to in paragraph (1)(a) (v) of this article, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

POWER PURCHASE AGREEMENT

SCHEDULE 6

GENERAL SECURITY AGREEMENT

**SCHEDULE 6
GENERAL SECURITY AGREEMENT**

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GENERAL SECURITY AGREEMENT

THIS GENERAL SECURITY AGREEMENT is made effective the ● day of ●, 2013 (the “Effective Date”).

BETWEEN:

MUSKRAT FALLS CORPORATION, a corporation incorporated pursuant to the laws of Newfoundland and Labrador, and a wholly-owned subsidiary of Nalcor (“**Musktrat**”)

- and -

NEWFOUNDLAND AND LABRADOR HYDRO, a corporation continued pursuant to the *Hydro Corporation Act, 2007* (Newfoundland and Labrador) being Chapter H-7 of the Statutes of Newfoundland and Labrador, 2007, and a wholly-owned subsidiary of Nalcor (“**NLH**”)

WHEREAS:

- B. Musktrat and NLH are parties to the PPA; and
- C. Pursuant to the PPA, Musktrat has agreed to grant to NLH a general security interest in the MF Plant within the meaning of the *Personal Property Security Act* (Newfoundland and Labrador), which shall include a general security interest in the PPA;
- D. the security interest granted by Musktrat shall in all respects be subject and subordinate to the security interests granted by the Financing Documents.

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants hereinafter contained the Parties, intending to be legally bound, agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, including the recitals, capitalized terms which are defined in the PPA and are not otherwise defined herein have the meanings ascribed thereto in the PPA when used in this Agreement, and the following terms shall have the meanings set forth below:

“**Agreement**” means this agreement, as it may be modified, amended, supplemented or restated by written agreement among the Parties;

“**Collateral**” means all of Musktrat’s present and after acquired personal property, including the rights and interests of Musktrat in the PPA and the MF Plant, including all equipment, inventory, accounts, intangibles, documents of title, chattel paper, instruments, money,

securities, documents, undertaking and proceeds of any of the foregoing; but excluding the Gull Island Rights;

“**Dispute**” means any dispute, controversy or claim of any kind whatsoever arising out of or relating to this Agreement, including the interpretation of the terms hereof or any Applicable Law that affects this Agreement, or the transactions contemplated hereunder, or the breach, termination or validity thereof;

“**Dispute Resolution Procedure**” has the meaning set forth in **Section 6.1**;

“**Effective Date**” has the meaning set forth in the commencement of this Agreement;

“**GIA**” means the agreement between Labrador Transco, Muskrat and NLH, in its capacity as the NLSO, by which the LTA is constructed and operated by Labrador Transco as a system upgrade, so as to permit the interconnection of the MF Plant and the NL Transmission System in exchange for payment by Muskrat of the LTA Payments, which are recovered by ;

“**Gull Island Rights**” means the water rights associated with the section of the Lower Churchill River above the Muskrat Falls development attributable to the Gull Island development, which is defined as:

- (a) that part of the Churchill River below the intersection of the Churchill River with the meridian of 63° 40' west of Greenwich, downstream to the intersection of the Churchill River with the meridian of 61° 25' west of Greenwich, and all waters that naturally flow into, or by diversion flow into, the Churchill River between these two points, and
- (b) that part of the Churchill River upstream of the point of intersection of the Churchill River with the meridian of 63° 40' west of Greenwich that lies below the 425 foot contour line or below elevation 425 feet, as referenced in Appendix A of the Churchill Falls (Labrador) Corporation Limited (Lease) Act, 1961,

but excludes the area described in Appendix A to the Churchill Falls (Labrador) Corporation (Lease) Act, 1961 and all waters while they are in that area. The rights included in the reassignment option that Nalcor may exercise at any time thereby requiring Muskrat to reassign all Gull Island Rights shall include the grant to:

- (c) the exclusive right to harness and make use of the Lower Churchill River above the Muskrat Falls development,
- (d) all water rights above elevation 39.0 metres referenced from the Canadian Geodetic Vertical Datum 1928 (CVGVD28) in, to, and in respect of the Lower Churchill River, and
- (e) the exclusive right to construct and utilize all dams, tunnels, canals, diversions, power houses and any and all works on the Lower Churchill River above the Muskrat Falls development necessary for the development of hydro electric power, and

- (f) the exclusive right to store and regulate so much of the Lower Churchill River as may be economic and/or beneficial for the purposes of the development of the Lower Churchill River above Muskrat Falls,

but shall not include any right to divert the Lower Churchill River outside the Churchill River basin;

“**PPA**” means the agreement between Muskrat and NLH, by which the MF Plant is constructed and operated by Muskrat, and NLH purchases Energy, Capacity, Ancillary Services and GHG Credits in exchange for payment by NLH to Muskrat of the Base Block Payments, and to which this Agreement is attached as a Schedule;

“**PPSA**” means the *Personal Property Security Act* (Newfoundland and Labrador);

“**PPSA**” means the *Personal Property Security Act* (Newfoundland and Labrador);

“**Muskrat Rights**” has the meaning set forth in **Section 5.2(a)**;

“**Parties**” means Muskrat and NLH, and “**Party**” means one of them;

“**Secured Obligations**” means the obligations of Muskrat as set forth in the PPA;

“**Term**” has the meaning set forth in **Section 3.1**.

1.2 **Construction of Agreement**

- (a) Interpretation Not Affected by Headings, etc - The division of this Agreement into articles, sections and other subdivisions, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless otherwise indicated, all references to an “Article” or “Section” followed by a number and/or a letter refer to the specified article or section of this Agreement. The terms “this Agreement”, “hereof”, “herein”, “hereby”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article or Section hereof. All references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made.
- (b) Singular/Plural; Derivatives - Whenever the singular or masculine or neuter is used in this Agreement, it shall be interpreted as meaning the plural or feminine or body politic or corporate, and vice versa, as the context requires. Where a term is defined herein, a capitalized derivative of such term has a corresponding meaning unless the context otherwise requires.
- (c) “Including” - The word “including”, when used in this Agreement, means “including without limitation”.

- (d) Currency - Unless otherwise indicated, all dollar amounts referred to in this Agreement (including the Appendices) are in lawful money of Canada.
- (e) Trade Meanings - Terms and expressions that are not specifically defined in this Agreement, but which have generally accepted meanings in the custom, usage and literature of the electricity industry in Canada as of the date of this Agreement, shall have such generally accepted meanings when used in this Agreement, unless otherwise specified elsewhere in this Agreement.
- (f) Statutory References - Any reference in this Agreement to a statute shall include, and shall be deemed to be, a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto (including changes to section numbers referenced herein) and in force from time to time, and to any statute or regulation that may be passed that has the effect of supplementing or replacing the statute so referred to or the regulations made pursuant thereto, and any reference to an order, ruling or decision shall be deemed to be a reference to such order, ruling or decision as the same may be varied, amended, modified, supplemented or replaced from time to time.
- (g) Calculation of Time - Where, in this Agreement, a period of time is specified or calculated from or after a date or event, such period is to be calculated excluding such date or the date on which such event occurs, as the case may be, and including the date on which the period ends.
- (h) Time Falling on Non-Business Day - Whenever the time for doing something under this Agreement falls on a day that is not a Business Day such action is to be taken on the first following Business Day.
- (i) No Drafting Presumption - The Parties acknowledge that their respective legal advisors have reviewed and participated in settling the terms of this Agreement and agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting Party shall not apply to the interpretation of this Agreement.

1.3 Conflicts between Parts of Agreement

If there is any conflict or inconsistency between a provision of the body of this Agreement and that of any document delivered pursuant to this Agreement, the provision of the body of this Agreement shall prevail.

1.4 Applicable Law and Submission to Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of NL and the Federal laws of Canada applicable therein, but excluding all choice-of-law provisions. Subject to **Article 6**, the Parties irrevocably consent and submit to the exclusive jurisdiction of the courts of the Province of Newfoundland and Labrador with respect to all matters relating to this Agreement, subject to any right of appeal to the Supreme Court of Canada. Each Party waives any

objection that it may now or hereafter have to the determination of venue of any proceeding in such courts relating to this Agreement or that it may now or hereafter have that such courts are an inconvenient forum.

ARTICLE 2 SECURITY AGREEMENT AND COVENANTS OF MUSKRAT

2.1 Security Agreement

- (a) Grant of Security Rights - As general and continuing collateral security for Losses which may be incurred as a result of a Muskrat Default in the obligation to perform the Secured Obligations, Muskrat hereby transfers, assigns, mortgages and charges the Collateral to and in favour of NLH, and grants to each such Party, a continuing security interest in the Collateral.
- (b) Attachment; No Obligation to Advance - Muskrat confirms that value has been given by NLH, that NLH has rights in the Collateral (other than after-acquired property) existing at the date of this Agreement, as the case may be, and that Muskrat and NLH have not agreed to postpone the time for attachment of the security interest created by this Agreement to any of the Collateral. The security interest in respect of the Collateral created by this Agreement will have effect and be deemed to be effective whether or not the Secured Obligations or any part thereof are owing or in existence before or after or upon the date of this Agreement.
- (c) Subordination - The Parties acknowledge and agree that the transfer, assignment, mortgage and charge of the Collateral, and the continuing general security interest granted in the Collateral, is subject to and subordinate in all respects to the transfers, assignments, mortgages, charges and security interests created pursuant to the Financing Documents, and NLH agrees to execute and deliver an Acknowledgement of Subordination in the form attached as **Appendix A**.

2.2 Covenants of Labrador Transco

Muskrat covenants and agrees with NLH as follows:

- (a) Further Documentation - Muskrat will from time to time, at its expense, promptly and duly authorize, execute and deliver such further instruments and documents, and take such further action, as NLH may request for the purpose of obtaining or preserving the full benefits of, and the rights and powers granted by, this Agreement (including the filing of any notices, financing statements or financing change statements under any applicable legislation with respect to the transfer, assignment, mortgage, charge and security interest created by this Agreement). Muskrat acknowledges that this Agreement has been prepared based on the existing laws in NL and that a change in such laws, or the laws of other jurisdictions, may require the execution and delivery of different forms of security documentation to preserve and comply with the intent of this Agreement. Accordingly, Muskrat agrees that NLH will

have the right to require that this Agreement be amended, supplemented or replaced, and that Muskrat will immediately on request by NLH authorize, execute and deliver any such amendment, supplement or replacement (i) to reflect any changes in such laws, whether arising as a result of statutory amendments, court decisions or otherwise, (ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions as a result of any changes in such laws, or (iii) if Muskrat merges, amalgamates or consolidates with any other Person or enters into any corporate reorganization, in each case in order to confer on NLH transfers, assignments, mortgages, charges and security interests similar to, and having the same effect as, the transfer, assignment, mortgage, charge and security interest granted by Muskrat under this Agreement.

- (b) Payment of Expenses; Indemnification - Upon the occurrence of a Muskrat Default, Muskrat will pay on demand, and will indemnify and save NLH harmless from, any and all liabilities, costs and expenses (including legal fees and expenses on a solicitor and his or her own client basis and any Taxes payable to any Authorized Authority with respect to any such liabilities, costs and expenses) (i) incurred by NLH in the administration or enforcement of this Agreement, or (ii) incurred by NLH in performing or observing any of the other covenants of Muskrat under this Agreement.

ARTICLE 3 TERM AND TERMINATION

3.1 Term

The term of this Agreement (the “**Term**”) shall commence on the Effective Date and terminate in accordance with **Section 3.2**.

3.2 Termination

This Agreement shall terminate upon termination of the PPA.

3.3 Effect of Termination

- (a) Obligations on Termination - When this Agreement terminates:
- (i) each Party shall promptly return to the other Party all Confidential Information of the other Party in the possession of such Party, and destroy any internal documents to the extent that they contain any Confidential Information of the other Party (except such internal documents as are reasonably required for the maintenance of proper corporate records and to comply with Applicable Law and for the purposes of the resolution of any Dispute, which shall continue to be held in accordance with the provisions of **Section 6.1**; and

- (ii) no Party shall have any obligation to the other Parties in relation to this Agreement or the termination thereof, except as set out in this **Section 3.3**.
- (b) Survival - Notwithstanding the termination of this Agreement, the Parties shall be bound by the terms of this Agreement in respect of:
 - (i) the final settlement of all accounts between them;
 - (ii) the readjustment of any accounts as a result of the settlement of insurance claims or third party claims after the date of termination;
 - (iii) any rights, liabilities and obligations arising or accruing under the terms of this Agreement prior to the date of termination or which are expressly stated to survive the termination of this Agreement; and
 - (iv) any other obligations that survive pursuant to **Section 8.3**.

ARTICLE 4 DEFAULT AND REMEDIES

4.1 Muskrat Event of Default

A default by Muskrat under this Agreement shall occur whenever there is a Muskrat Default under the PPA.

4.2 Remedies upon Muskrat Default

Upon the occurrence of a Muskrat Default and at any time thereafter, NLH shall be entitled to exercise all or any of their rights, remedies or recourse available to it under (a) the PPA, and (b) as a secured party under and as defined by the PPSA.

4.3 NLH's Appointment as Attorney-in-Fact

Muskrat constitutes and appoints NLH and any officer or agent of the NLH, with full power of substitution, as Muskrat's true and lawful attorney-in-fact with full power and authority in the place of Muskrat and in the name of Muskrat or in its own name, from time to time in NLH's discretion after a Muskrat Default, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney acting reasonably, may be necessary or desirable to accomplish the purposes of this Agreement. These powers are coupled with an interest and are irrevocable until this Agreement is terminated and the transfer, assignment, mortgage, charge and security interest created by this Agreement is released. Nothing in this **Section 4.3** affects the right of NLH as secured party, or any other Person on NLH's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as NLH or such other Person considers appropriate.

**ARTICLE 5
ASSIGNMENT AND CHANGE OF CONTROL**

5.1 NLH Assignment Rights

- (a) General - NLH shall not assign this Agreement, its interests or rights hereunder, any Claim or any agreement relating to the foregoing.
- (b) Non-Permitted Assignment - Any assignment in contravention of this **Section 5.1** will be null and void.

5.2 Muskrat Assignment Rights

- (a) Muskrat shall be entitled to assign all of its rights and interests in this Agreement or any Claim (collectively, the “**Muskrat Rights**”) to any Person which has become the assignee of Muskrat’s rights and interests in the PPA pursuant to the assignment provisions of the PPA.
- (b) Agreement to be Bound - No assignment may be made of the Muskrat Rights by Muskrat unless such assignment includes all the Muskrat Rights and Muskrat obtains the written agreement of all Persons party to the assignment confirming that such Persons shall, from and after the date of the assignment, be bound by the provisions of the assigned Muskrat Rights.
- (c) Non-Permitted Assignment - Any assignment in contravention of this **Section 5.2** will be null and void.

**ARTICLE 6
DISPUTE RESOLUTION**

6.1 General

- (a) Dispute Resolution Procedure - The Parties agree to resolve all Disputes pursuant to the dispute resolution procedure set out in Schedule 5 to the PPA (the “**Dispute Resolution Procedure**”).
- (b) Performance to Continue - Each Party shall continue to perform all of its obligations under this Agreement during any negotiations or dispute resolution proceedings pursuant to this **Article 6**, without prejudice to any Party’s rights pursuant to this Agreement.

**ARTICLE 7
REPRESENTATIONS AND WARRANTIES**

7.1 Muskrat Representations and Warranties

Muskrat represents and warrants to NLH, as of the Effective Date:

- (a) it is duly organized and validly existing under the Applicable Law of the jurisdiction of its formation and is qualified to conduct its business to the extent necessary in each jurisdiction in which it will perform its obligations under this Agreement;
- (b) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary corporate action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;
- (c) this Agreement has been duly executed and delivered on its behalf by its appropriate officers and constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity whether considered in a proceeding in equity or at law;
- (d) no Insolvency Event has occurred, is pending or being contemplated by it or, to its knowledge, threatened against it;
- (e) there are no legal proceedings pending or, to its knowledge, threatened against it that may materially adversely affect its ability to perform its obligations under this Agreement;
- (f) no consent or other approval, order, authorization or action by, or filing with, any Person is required to be made or obtained by such Party for such Party's lawful execution, delivery and performance of this Agreement, except for (i) such consents, approvals, authorizations, actions and filings that have been made or obtained prior to the date hereof, (ii) such consents, approvals, authorizations, actions and filings the failure of which would not have, or could not reasonably be expected to have, a material adverse effect on such Party's ability to perform its obligations under this Agreement and (iii) the Regulatory Approvals;
- (g) it does not have any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement;
- (h) Except for such as are associated with the Financing Documents, Muskrat holds the Collateral free and clear of any mortgage, charge, hypothecation, lien or other adverse claim or encumbrance of any nature.

**ARTICLE 8
MISCELLANEOUS PROVISIONS**

8.1 Notices

Notices, where required herein, shall be in writing and shall be sufficiently given if delivered personally or by courier or sent by electronic mail or facsimile transmission, directed as follows:

(a) to Muskrat:

Muskrat Falls Corporation
500 Columbus Drive
P.O. Box 15050, Station A
St. John's, NL A1B 0M4
Attention: Corporate Secretary
Fax: (709) 737-1782

(b) with a copy to:

Lower Churchill Management Corporation
500 Columbus Drive
P.O. Box 15150, Station A
St. John's, NL A1B 0M7
Attention: Corporate Secretary
Fax: (709) 737-1782

(c) to NLH:

Newfoundland and Labrador Hydro
500 Columbus Drive
P.O. Box 12400, Station A
St. John's, NL A1B 4K7
Attention: Corporate Secretary
Fax: (709) 737-1782

Such Notice shall (i) if delivered personally or by courier, be deemed to have been given or made on the day of delivery, and (ii) if sent by electronic mail or facsimile transmission and confirmed by a copy immediately sent by courier, be deemed to have been given or made on the day it was successfully transmitted by electronic mail or facsimile transmission as evidenced by automatic confirmation of receipt, provided however that if in any case such day is not a Business Day or if the Notice is received after Regular Business Hours (time and place of receipt), the Notice shall be deemed to have been given or made on the next Business Day. A Party may change its address or fax number hereunder from time to time by giving Notice of such change to the other Party.

8.2 **Prior Agreements**

This Agreement supersedes all prior communications, understandings, negotiations and agreements between the Parties, whether oral or written, express or implied with respect to the subject matter hereof. There are no representations, warranties, collateral agreements or conditions affecting this Agreement other than as expressed herein.

8.3 **Counterparts**

This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Signatures delivered by facsimile or electronic mail shall be deemed for all purposes to be original counterparts of this Agreement.

8.4 **Expenses of Parties**

Except as otherwise provided herein, each Party shall bear its own costs and expenses in connection with all matters relating to this Agreement, including the costs and expenses of its legal, tax, technical and other advisors.

8.5 **Announcements**

No announcement with respect to this Agreement shall be made by either Party without the prior approval of the other Party. The foregoing shall not apply to any announcement by a Party required in order to comply with Applicable Law; provided that such Party consults with the other Party before making any such announcement and gives due consideration to the views of the other Party with respect thereto. Each Party shall use reasonable efforts to agree on the text of any proposed announcement.

8.6 **Relationship of the Parties**

Each Party hereby disclaims any intention to create by this Agreement any partnership, joint venture, association, trust or fiduciary relationship among or between them. Except as expressly provided herein, neither this Agreement nor any other agreement or arrangement among or between the Parties shall be construed or considered as creating any such partnership, joint venture, association, trust or fiduciary relationship, or as constituting either Party as the agent or legal representative of any other Party for any purpose nor to permit a Party to enter into agreements or incur any obligations for or on behalf of the other Party.

8.7 **Further Assurances**

Each Party shall, from time to time, do all such acts and things and execute and deliver, from time to time, all such further documents and assurances as may be reasonably necessary to carry out and give effect to the terms of this Agreement.

8.8 **Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be wholly or partially illegal, invalid, void, voidable or unenforceable in any jurisdiction for any reason, such illegality, invalidity or unenforceability shall not affect the legality, validity and enforceability of the balance of this Agreement or its legality, validity or enforceability in any other jurisdiction. If any provision is so determined to be wholly or partially illegal, invalid or unenforceable for any reason, each Party shall negotiate in good faith a new legal, valid and enforceable provision to replace such illegal, invalid or unenforceable provision, which, as nearly as practically possible, has the same effect as the illegal, invalid or unenforceable provision.

8.9 **Time of the Essence**

Time shall be of the essence.

8.10 **Amendments**

No amendment or modification to this Agreement shall be effective unless it is in writing and signed by each Party.

8.11 **No Waiver**

Any failure or delay of a Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the Term shall not affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision. Any consent or approval given by a Party pursuant to this Agreement shall be limited to its express terms and shall not otherwise increase the obligations of such Party giving such consent or approval or otherwise reduce the obligations of the Party receiving such consent or approval.

8.12 **No Third Party Beneficiaries**

Except as otherwise provided herein or permitted hereby, this Agreement is not made for the benefit of any Person not a party to this Agreement, and no Person other than the Parties or their respective successors and permitted assigns shall acquire or have any right, remedy or claim under or by virtue of this Agreement.

8.13 **Survival**

Notwithstanding the termination of this Agreement, the Parties shall be bound by the terms of this Agreement in respect of the final settlement of all accounts between the Parties, arising out of this Agreement. All provisions of this Agreement that expressly or by their nature are intended to survive the termination (however caused) of this Agreement, including covenants, representations, warranties and releases, continue as valid and enforceable rights and obligations (as the case may be) of the Parties, notwithstanding any such termination, until they are satisfied in full or by their nature expire.

8.14 Waiver of Sovereign Immunity

A Party that now or hereafter has a right to claim sovereign immunity for itself or any of its assets hereby waives any such immunity to the fullest extent permitted by Applicable Law. This waiver includes immunity from (a) any proceedings under the Dispute Resolution Procedure; (b) any judicial, administrative or other proceedings to aid the Dispute Resolution Procedure; and (c) any confirmation, enforcement or execution of any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from the Dispute Resolution Procedure or any judicial, administrative or other proceedings commenced pursuant to this Agreement. Each Party acknowledges that its rights and obligations under this Agreement are of a commercial and not a governmental nature.

8.15 Successors and Assigns

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

MUSKRAT FALLS CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind the corporation.

NEWFOUNDLAND AND LABRADOR HYDRO

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind the corporation.

POWER PURCHASE AGREEMENT

APPENDIX A

TO THE

GENERAL SECURITY AGREEMENT

ACKNOWLEDGEMENT OF SUBORDINATION

Power Purchase Agreement
Schedule 6 - General Security Agreement
Appendix A - Acknowledgement of Subordination
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ACKNOWLEDGEMENT OF SUBORDINATION

The undersigned hereby acknowledges, declares and agrees that the securities interest granted to it in the General Security Agreement dated _____ (the “**Security Interest**”) between Muskrat Falls Corporation and Newfoundland and Labrador Hydro, and all of the rights, remedies and/or recourses of the undersigned in connection therewith are hereby and shall hereafter be completely subordinated to and rank after any and all Liens now or hereafter held by the Collateral Agent, the Security Trustee or any other GAA Finance Party (as each of those terms is defined in the Financing Documents, collectively, the “**Senior Liens**”), for its own benefit and the benefit of the GAA Finance Parties, notwithstanding any ranking that might otherwise be established by Applicable Law resulting from the nature of the Liens created under the Security Interest or the Senior Liens or the date or time of execution, issue, delivery, registration, filing, notification, publication or perfection of any deed, document, application for registration, notice or financing statement, or otherwise howsoever. The undersigned covenants and agrees not to exercise any of its rights, remedies and/or recourses under the Security Interest without the prior written consent of the Collateral Agent. The undersigned agrees to take such actions and execute and deliver such documents and information as may be reasonably requested by the Collateral Agent from time to time in order to give effect to the subordination contemplated herein, including, without limitation, registration of an amendment to any Personal Property Security Act (Newfoundland and Labrador) registration made in connection with the Security Interest to note the subordination in favour of the Senior Lenders.

NEWFOUNDLAND AND LABRADOR HYDRO

By: _____
Name:
Title:

By: _____
Name:
Title:

We have authority to bind the corporation.

POWER PURCHASE AGREEMENT

SCHEDULE 7

CONFIDENTIAL INFORMATION

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SCHEDULE 7
CONFIDENTIAL INFORMATION SCHEDULE

Section 1 Interpretation

1.1 Definitions

In this Schedule, unless otherwise defined herein, capitalized terms shall have the meaning set forth in the Agreement:

“**Agreement**” means the agreement to which this Schedule is attached;

“**ATIPPA**” means the *Access to Information and Protection of Privacy Act* (Newfoundland and Labrador);

“**Authorized Purpose**” means a purpose associated with the rights and obligations set forth in the Agreement;

“**ECA**” means the *Energy Corporation Act* (Newfoundland and Labrador);

“**Lender Recipient**” has the meaning set forth in **Section 2.3**;

“**Representatives**” means Affiliates, partners, directors, officers and employees of a Party or any of its Affiliates, as well as representatives, consultants, agents and financial, tax, legal and other advisors, engaged or retained by or assisting such Party or any of its Affiliates in any way in connection with the Authorized Purpose;

“**Schedule**” means this **Schedule 7 - Confidential Information**;

“**Trade Secret**” means information that (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other Persons who can obtain economic value from its disclosure or use, and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 2 Confidentiality and Restricted Use

2.1 Subject to the terms and conditions of this Schedule, the Receiving Party shall not use the Confidential Information furnished to it by the Disclosing Party or its Representatives for any purpose other than for the Authorized Purpose and shall take reasonable steps to maintain the Confidential Information in confidence, and shall implement adequate and appropriate safeguards to protect the Confidential Information from disclosure or misuse, which shall in no event be less rigorous than the Receiving Party uses for protecting its own information of like character.

2.2 The Receiving Party shall not disclose the Confidential Information directly or indirectly to any third party without the prior written consent of the Disclosing Party, except as provided in **Section 2.3** and **Section 4** of this **Schedule**.

2.3 The Receiving Party may disclose Confidential Information to its Representatives, and to its lenders or prospective lenders and their advisors (each a “**Lender Recipient**”), who need to know it for the Authorized Purpose, to be used only for the Authorized Purpose, provided that prior to such disclosure to a Representative or Lender Recipient, each such Representative or Lender Recipient shall:

- (a) be informed by the Receiving Party of the confidential nature of such Confidential Information; and
- (b) unless such Representative or Lender Recipient is already bound by a duty of confidentiality to the Receiving Party that is substantially similar to the obligations under the Agreement, be directed by the Receiving Party, and such Representative or Lender Recipient shall agree in writing, before receipt of such Confidential Information, to be bound by the obligations of, and to treat such Confidential Information in accordance with the terms and conditions of, the Agreement as if it were a Party hereto.

2.4 The Receiving Party shall return and deliver, or cause to be returned and delivered, to the Disclosing Party, or, if so requested in writing by the Disclosing Party, destroy and certify such destruction (such certificate to be signed by an officer of the Receiving Party), all Confidential Information, including copies and abstracts thereof, and all documentation prepared by or in the possession of the Receiving Party or its Representatives relating to the Confidential Information of the Disclosing Party, within thirty days of a written request by the Disclosing Party. Notwithstanding the foregoing, the Receiving Party may retain one copy of such Confidential Information only for administering compliance with the Agreement or if required to retain such information for regulatory purposes, but such copies must be securely maintained and segregated from other records of the Receiving Party.

2.5 The obligations of confidentiality with respect to Confidential Information shall endure and remain in force until the fifth anniversary of the expiry of the Term, provided that such obligations with respect to any information that constitutes a Trade Secret shall survive following the fifth anniversary of the expiry of the Term for such additional period as such information remains a Trade Secret. The provisions hereof which expressly or by their nature survive termination or expiration shall survive termination or expiration of the Agreement.

2.6 Notwithstanding the foregoing, the obligations set forth herein shall not extend to any information which:

- (a) the Receiving Party can establish was known by the Receiving Party or its Representatives prior to the disclosure thereof by the Disclosing Party without a breach of this Schedule or other obligation of confidentiality;
- (b) is independently acquired or developed by the Receiving Party or its Representatives without reference to the Confidential Information and without a breach of this Schedule or other obligation of confidentiality;

- (c) is legally in the possession of the Receiving Party or its Representative prior to receipt thereof from the Disclosing Party;
- (d) at the time of disclosure was in or thereafter enters the public domain through no fault of the Receiving Party or its Representatives;
- (e) is disclosed to the Receiving Party or its Representatives, without restriction and without breach of this Schedule or any other obligation of confidentiality, by a third party who has the legal right to make such disclosure; or
- (f) is approved in writing in advance for release by the Disclosing Party.

2.7 Each Party agrees that it shall ensure compliance with and be liable for any violation of this Schedule by that Party's Representatives and that it will indemnify and hold harmless the other Party and its Representatives against any losses, costs, damages and claims suffered or incurred by or asserted against such Party or its Representatives flowing from such violation. This indemnity shall survive termination of the Agreement.

2.8 Each Receiving Party agrees that each Disclosing Party may be irreparably damaged by any unauthorized disclosure, communication or use of the Disclosing Party's Confidential Information by the Receiving Party or its Representatives and that monetary damages may not be sufficient to remedy any breach by the Receiving Party or its Representatives of any term or provision of the Agreement and each Receiving Party further agrees that the Disclosing Party shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach hereof, in addition to any other remedy available at law or in equity.

Section 3 Acknowledgements

The Receiving Party agrees with the Disclosing Party that:

- (a) except as may be explicitly set forth in a separate agreement involving the Parties, the Disclosing Party and its Representatives do not make any representation or warranty, express or implied, as to the accuracy or completeness of the Disclosing Party's Confidential Information and the Receiving Party shall rely upon its own investigations, due diligence and analyses in evaluating and satisfying itself as to all matters relating to the Confidential Information and the Disclosing Party and its business, affairs and assets or otherwise in any way related to the Authorized Purpose;
- (b) except as may be explicitly set forth in a separate agreement involving the Parties, the Disclosing Party and its Representatives shall not have any liability to the Receiving Party or its Representatives resulting from any use of or reliance upon the Confidential Information by the Receiving Party or its Representatives;
- (c) ownership of and title to Confidential Information of the Disclosing Party shall at all times remain exclusively vested in the Disclosing Party; and

- (d) no licence to the Receiving Party under any copyright, trademark, patent or other intellectual property right is either granted or implied by the conveying of Confidential Information to the Receiving Party.

Section 4 Disclosures Required by Law

4.1 The Parties and each of their Affiliates are at all times subject to the provisions of Newfoundland and Labrador legislation as such legislation may be amended or varied, including ATIPPA. Each of the Parties acknowledge that such Party and each of its Affiliates may incur disclosure obligations pursuant to the provisions of ATIPPA or other provincial legislation, and disclosure pursuant to such an obligation shall not be a breach of the Agreement.

4.2 The Parties hereby acknowledge and agree that the Confidential Information disclosed by the other Party is “commercially sensitive information” as defined in the ECA and that the disclosure of the Confidential Information may harm the competitive position of, interfere with the negotiating position of or result in financial loss or harm to other Party, as applicable. It is further acknowledged and agreed that each Party has represented to the other Party that the Confidential Information disclosed is treated consistently in a confidential manner by them and is customarily not provided to their competitors. Therefore, the Parties shall each refuse to disclose such Confidential Information. Where there is a challenge to such refusal, a review by the Access to Information and Privacy Commissioner for NL, and ultimately the Supreme Court of NL Trial Division, may occur. To the extent permitted by ATIPPA at each step in this process, the Parties, as applicable, will argue against disclosure, support any submission against disclosure and be entitled to be represented and make arguments in support of non-disclosure.

4.3 If the Receiving Party or any of its Representatives is required by Applicable Law or requested by any Person pursuant to ATIPPA, or by any Authorized Authority under any circumstances, to disclose any Confidential Information, then, subject to Applicable Law, the Receiving Party may only disclose Confidential Information if, to the extent permitted by Applicable Law, it has:

- (a) promptly given Notice to the Disclosing Party of the nature and extent of the request or requirements giving rise to such required or requested disclosure in order to enable the Disclosing Party to seek an appropriate protective order or other remedy;
- (b) obtained a written legal opinion that disclosure is required;
- (c) cooperated with the Disclosing Party in taking any reasonable practicable steps to mitigate the effects of disclosure, and not opposed any action by the Disclosing Party to seek an appropriate protective order or other remedy;
- (d) advised the recipient of the confidentiality of the information being disclosed and used commercially reasonable efforts, in the same manner as it would to protect its own information of like character, to ensure that the information will be afforded confidential treatment;

- (e) in the case of a stock exchange announcement, agreed on the wording with the Disclosing Party; and
- (f) disclosed only that portion of the Confidential Information that is legally required to be disclosed.

4.4 Any disclosure of Confidential Information pursuant to a legal obligation to make such disclosure shall not be a breach of the Agreement, provided that all relevant obligations under the Agreement, including **Section 4.3**, have been met. For the avoidance of doubt, each Party and its respective Affiliates shall have no liability to the other Party or its Affiliates for any disclosure of Confidential Information that is lawfully required to be made pursuant to ATIPPA.

4.5 In the event that any of the following occur or are reasonably foreseeable and involve or are anticipated to involve the disclosure of Confidential Information of a Party or any of its Affiliates, each of the Parties shall do all things reasonably necessary to secure the confidentiality of such Confidential Information, including applying for court orders of confidentiality in connection with the following:

- (a) any proceeding between the Party or any of their Affiliates; or
- (b) any proceeding between a Receiving Party and another Person.

In connection with the foregoing, every Receiving Party shall consent to such an order of confidentiality upon request of the relevant Disclosing Party. Any Confidential Information that is required to be disclosed but is subject to an order of confidentiality or similar order shall continue to be Confidential Information subject to protection under this Schedule.

POWER PURCHASE AGREEMENT

SCHEDULE 8

STEP-IN AGREEMENT

**SCHEDULE 8
STEP-IN AGREEMENT**

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STEP-IN AGREEMENT

THIS STEP-IN AGREEMENT is made effective the 29th day of November, 2013 (the “**Effective Date**”).

AMONG:

MUSKRAT FALLS CORPORATION, a corporation incorporated pursuant to the laws of the Province of Newfoundland and Labrador and a wholly-owned subsidiary of Nalcor (“**MF**”)

- and -

COMPUTERSHARE TRUST COMPANY OF CANADA, in its capacity as collateral trustee under the deed of trust and mortgage dated November 29, 2013, executed in its favour by MF (the said deed of trust and mortgage, as changed and in effect from time to time, the “**Collateral Trust Deed**”), for and on behalf of the Senior Secured Bondholders (as defined therein) (the “**Security Trustee**”)

- and -

TORONTO DOMINION BANK, in its capacity as collateral agent under the collateral agency agreement dated November 29, 2013, executed in its favour by, *inter alia*, MF (as changed and in effect from time to time, the “**Collateral Agency Agreement**”), for and on behalf of the GAA Finance Parties (as defined therein) (the “**Collateral Agent**”)

- and -

NEWFOUNDLAND AND LABRADOR HYDRO, a corporation continued pursuant to the *Hydro Corporation Act, 2007* (Newfoundland and Labrador) and a wholly-owned subsidiary of Nalcor (“**NLH**”)

WHEREAS:

- A. MF has entered into the Power Purchase Agreement made as of November 29, 2013 with NLH (such agreement, as changed and in effect from time to time, any provision thereof and/or any rights of MF therein (as the context requires and/or so admits) collectively, the “**PPA**”) with NLH;
- B. Pursuant to the Collateral Trust Deed and various other security documents, the Security Trustee has been or will be granted Liens in all of the assets and rights of MF, including the PPA (collectively, the “**Security Interests**”).

NOW THEREFORE in consideration of the premises and the agreements herein contained, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the parties hereto), the parties hereto agree as follows:

1. Definitions

The words and expressions (capitalized or not), wherever used in this Agreement, or in any agreement supplemental or ancillary hereto, unless there be something in the subject or the context inconsistent therewith, shall have the following meanings ascribed thereto.

(a) General Definitions - Unless the context otherwise requires, in this Agreement:

“**Account Holder**” has the meaning set forth in the Collateral Trust Deed;

“**Acquiror**” has the meaning set forth in **Section 5(a)(v)**;

“**Agent Party**” has the meaning set forth in **Section 5(a)(iv)**;

“**Base Block Payments**” has the meaning set forth in the PPA;

“**Business Day**” means any day excluding Saturday, Sunday or any other day which in the City of St. John’s, Newfoundland and Labrador, is a legal holiday or a day on which banks are authorized by Law or by local proclamation to close;

“**Canada**” means Her Majesty the Queen in Right of Canada;

“**Collateral Agency Agreement**” has the meaning set forth at the commencement hereof;

“**Collateral Agent**” has the meaning set forth at the commencement hereof;

“**Collateral Trust Deed**” has the meaning set forth at the commencement hereof;

“**Consent**” has the meaning set forth in **Section 5(b)**;

“**Default Notice**” has the meaning set forth in **Section 5(a)(iv)**;

“**Financing Documents**” has the meaning set forth in the PPA;

“**GAA Finance Parties**” has the meaning set forth in the Financing Documents;

“**Law**” means all applicable provisions of laws, ordinances, codes, rules, regulations, orders, orders in council, directives, decrees, administrative orders, guidelines, policies of any governmental entity, as well as the applicable provisions of any treaty and any order and decree of any tribunal and arbitrator after the expiration of any appeal period;

“**Lien**” means (i) any right of set-off or combination of accounts intended to secure the payment or performance of an obligation, (ii) any interest in property securing an obligation owed to, or a claim by, a Person other than the owner (which for the purposes hereof shall include a possessor under a title retention agreement and a lessee under a capital lease or in a sale and leaseback transaction), including by way of mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, hire purchase agreement,

conditional sale agreement, deposit arrangement, deemed trust, title retention, capital lease, discount, factoring or securitization arrangement deemed trust, on recourse terms, (iii) any preference, priority, adverse claim, levy, execution, seizure, attachment, garnishment or other encumbrance which binds property, and (iv) any agreement to grant any of the foregoing rights or interests;

“**MF**” has the meaning set forth at the commencement hereof;

“**MF Plant**” has the meaning set forth in the PPA hereof;

“**Muskrat Project Funding Account**” means the account of MF maintained with the Account Holder and bearing number 58003-5230696;

“**NLH**” has the meaning set forth at the commencement hereof;

“**Operational Control**” means performance of, or the authority to perform, direct or authorize performance of, security monitoring, adjustment of generation and transmission resources, coordinating and approval of changes in transmission status for maintenance, determination of transmission status for Reliability, planning assessments, coordination with Control Area operators, voltage reductions, load shedding and control of physical access to the generation and transmission resources;

“**PPA**” has the meaning set forth in **Recital A**;

“**Paid in Full**” means, in relation to any indebtedness that is or may become owing to any person, the permanent, indefeasible and irrevocable payment in cash to such person in full of such indebtedness in accordance with the express provisions of the agreements creating or evidencing such indebtedness, without regard to any compromise, reduction or disallowance of all or any item or part thereof by virtue of the application of any laws relating to insolvency events or fraudulent conveyance or any similar laws affecting creditors’ rights generally or general principles of equity and, if applicable, the cancellation or expiry of any commitment or obligation of such person to lend or otherwise extend credit or pay any indebtedness; and “**Pay in Full**” shall have a correlative meaning;

“**Qualified Assignee**” has the meaning set forth in the PPA;

“**Remedies Consultation Period**” has the meaning set forth in the Financing Documents;

“**Secured Obligations**” has the meaning set forth in the Collateral Trust Deed;

“**Security Interests**” has the meaning set forth in **Recital B**;

“**Security Trustee**” has the meaning set forth at the commencement hereof;

“**Senior Secured Bondholders**” has the meaning set forth in the Collateral Trust Deed; and

“**Subordinated GSA**” means the General Security Agreement entered into between Muskrat and NLH pursuant to Section 14.6(d) of the PPA and substantially in the form attached as Schedule 6 to the PPA, which has been subordinated to the Security Interests by a Subordination Acknowledge in the form of Appendix A thereto.

(b) Extended Meanings - To the extent the context so admits, in this Agreement the following words and expressions shall be given the extended meanings set forth opposite them:

an “**agreement**” - any agreement, oral or written, simple contract or specialty, bond, bill of exchange, indenture, instrument or undertaking;

“**asset**” - any undertaking, business, property (real, personal or mixed, tangible or intangible) or other asset;

a “**breach**” - any breach, default, event of default, or any equivalent or similar event however described under any agreement;

“**cancel**” - cancel, surrender, repudiate, disclaim, terminate or suspend;

“**change**” - change, modify, alter, amend, supplement, restate, extend, renew, compromise, novate, replace, terminate, release, discharge, cancel, suspend or waive;

“**claim**” - claim, claim over, cross-claim, counter-claim, defence, demand, liability, proceeding, judgment or order or award of any court, other governmental authority, arbitrator or other alternative dispute resolution authority;

a “**document**” - a written agreement, consent, waiver, certificate, notice or other written document or instrument;

a “**government**” - (i) the Crown in right of Canada or in the right of any Province of Canada, (ii) the government of a Territory in Canada, (iii) a municipality in Canada or (iv) the government of a foreign country or any political subdivision of it;

“**governmental authority**” - any court, administrative tribunal, regulatory authority, government, union of nations or any agency or other authority of a government or union of nations;

“**include**” - include without limitation, and such term shall not be construed to limit any word or statement which it follows to the specific items or matters immediately following it or similar terms or matters;

“**losses and expenses**” - losses, costs, expenses, damages, penalties and judgments and awards of any court or other governmental authority, arbitrator, mediator or other alternative dispute resolution authority, including any applicable awarded costs, and legal fees and disbursements on a solicitor and client basis;

“obligations” - indebtedness, obligations, promises, covenants, responsibilities, acts, duties and liabilities (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise;

a **“person”** - an individual, including an individual in his or her capacity as trustee, executor, administrator or other representative, a sole proprietorship, a partnership, an unincorporated association, an unincorporated syndicate, an unincorporated organization, a trust, including a business trust, a corporation organized under the laws of any jurisdiction, a government or agency of a government or any other legal or commercial entity;

“proceeding” - any legal action, lawsuit, arbitration, mediation, alternative dispute resolution proceeding or other proceeding;

“receiver” - a privately appointed or court appointed receiver or receiver and manager, and, except in the definition of “Agent Party”, an interim receiver, liquidator, trustee in bankruptcy, administrator, administrative receiver and any other like or similar official;

a **“registration”** - any notice to or filing, publication, recording or registration with any governmental authority having jurisdiction with respect to any specified person, transaction or event, or any of such person's assets;

“rights” - rights, titles, benefits, interests, powers, authorities, discretions, privileges, immunities, recourses and remedies (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise;

a **“successor”** of a person (the “relevant party”) - (i) any amalgamated or other body corporate of which the relevant party or any of its successors is one of the amalgamating or merging body corporates and (ii) any person to whom all or substantially all of the assets of the relevant party are transferred;

“written” and **“in writing”** - an original writing, a pdf or facsimile copy of a writing or an email.

2. Representations, Warranties and Obligations of NLH

NLH hereby represents, warrants, acknowledges and confirms to the Security Trustee, with the knowledge that the Security Trustee and the Senior Secured Bondholders are relying on such representations, warranties, acknowledgments and confirmations for the purpose of entering into the Collateral Trust Deed and the Financing Documents, that:

- (a) NLH is a corporation duly and validly incorporated and existing under the laws of Newfoundland and Labrador and each has the legal capacity and right to own its assets and to carry on its business in each jurisdiction in which its assets are located or it carries on business;

- (b) NLH has the legal capacity and right to enter into this Agreement and PPA and do all acts and things and execute and deliver all documents as are required hereunder and thereunder to be done, observed or performed by it in accordance with the terms and conditions hereof and thereof;
- (c) NLH has taken all necessary action to authorize the execution and delivery of this Agreement and the PPA, the creation and performance of its obligations hereunder and thereunder as well as the consummation of the transactions contemplated hereunder and thereunder;
- (d) NLH has duly executed and delivered this Agreement and the PPA;
- (e) none of the authorization, execution, delivery or performance of this Agreement or the PPA by NLH nor the consummation of any of the transactions contemplated hereby or thereby:
 - (i) requires any authorization to be obtained or registration to be made (except such as have already been obtained or made and are now in full force and effect and those not yet required);
 - (ii) conflicts with, contravenes or gives rise to any breach under (A) any of the articles (being the Hydro Corporation Act, 2007 (Newfoundland and Labrador), the Energy Corporations Act (Newfoundland and Labrador) and by-laws, (B) the provisions of any document or obligation to which NLH is a party or by which NLH or any of its assets are or may become bound or (iii) any Law;
 - (iii) has resulted or will result in the creation or imposition of any Lien upon any of the assets of NLH, other than Liens subordinated to the Security Interests;
- (f) each of this Agreement and the PPA constitutes a valid and legally binding obligation of NLH enforceable against it in accordance with its terms, subject only to Laws relating to bankruptcy, insolvency, winding-up, dissolution, administration, reorganization, arrangement or other statutes or judicial decisions affecting the enforcement of creditors' rights in general and to general principles of equity under which specific performance and injunctive relief may be refused by a court in its discretion;
- (g) the PPA is in full force and effect and has not been changed and there is no dispute (to the best of its knowledge) thereunder now existing, and after giving effect to the granting of the Security Interests by MF to the Security Trustee in the PPA, and after giving effect to this Agreement by NLH, there exists no event or condition which would constitute a breach, or which, with the giving of notice or lapse of time or both, would have constituted a breach under the PPA;

- (h) NLH and to the best of the knowledge, information and belief of NLH, and after due inquiry, MF is in full compliance in all material respects with and has performed its obligations under the PPA which are required to be complied with and/or performed to date;
- (i) NLH has no outstanding claims of a material nature against MF in respect of the PPA;
- (j) there are no existing circumstances which could give rise to a material breach by NLH or, to the best of the knowledge, information and belief of NLH, and after due inquiry, MF, under the PPA; and
- (k) NLH has not delivered to or received from MF, any notice purporting to cancel the PPA.

3. Benefits hereunder independent to those of MF

NLH hereby acknowledges and agrees that the rights of each Agent Party under this Agreement shall be independent to those of MF under the PPA and may be enforced by such Agent Party independently from MF.

4. Agent Party not bound to exercise rights

NLH hereby acknowledges and agrees that, save as otherwise expressly agreed to in writing, nothing herein contained shall be construed or interpreted as obliging any Agent Party, nor shall any Agent Party be liable for the failure, to exercise any of the rights afforded to it hereunder or under the Collateral Trust Deed. NLH hereby further acknowledges and agrees that no Agent Party shall be liable for any loss and expense incurred or suffered by NLH as a result of any delay by, or any failure of, such Agent Party to exercise any of, the rights afforded to such Agent Party hereunder or under the Collateral Trust Deed.

5. Consent to Liens and Subordination

- (a) In furtherance of the terms and conditions of the PPA, NLH hereby expressly:
 - (i) acknowledges and irrevocably consents to the Security Interests granted by MF in favour of the Security Trustee in the PPA and any future grant of any Security Interests by MF in favour of the Security Trustee in the PPA, and, in connection with any such creation of Security Interests, the filing or registration of any financing statements, registration forms, or any similar documents;
 - (ii) agrees that, save as is otherwise expressly agreed to in writing, no Agent Party shall incur any obligation of MF or otherwise whatsoever to NLH under the terms of the PPA;
 - (iii) agrees that, save as is otherwise expressly agreed to in writing, any Agent Party shall have the right, but not the obligation, to perform any obligation

required of MF under the PPA at any time. Nothing herein shall require any Agent Party to cure any breach by MF of the PPA or to perform such obligation of MF thereunder;

- (iv) agrees that upon the Security Interests becoming enforceable, the Security Trustee, or any nominee or designee thereof, or any receiver of MF or any receiver of the assets of MF appointed by or on the application of the Security Trustee (the Security Trustee, any such nominee, designate or receiver shall be referred to herein as an “**Agent Party**”) shall, upon written notice (a “**Default Notice**”) to NLH, and in accordance with its respective interest, be entitled to enforce the Security Interests against the PPA (including its intention to take Operational Control of the MF Plant), including the right to enforce and enjoy all of the rights that MF has or may have under the PPA, subject to **Section 6**, to the same extent and in the same manner as if it were an original party thereto in the place of MF. NLH hereby acknowledges that it shall not have the right to require any such Agent Party to pay any amounts that may be accrued or past due by MF under the PPA;
- (v) agrees that whether or not an Agent Party gives a Default Notice, an Agent Party may assign the PPA to a third party that is a Qualified Assignee subject to the provisions of Article 19 of the PPA (an “**Acquiror**”). Such an assignment to the Acquiror is conditional upon such Acquiror agreeing to observe and perform all of MF's obligations under the PPA arising after the date of such assignment. NLH hereby acknowledges that it shall not have the right to require any such Acquiror to pay any amounts that may be accrued or past due by MF under either PPA;
- (vi) upon any Agent Party completing such an assignment to an Acquiror, each Agent Party shall be released from any and all obligations that such Agent Party may have hereunder to perform the obligations of MF to NLH under the PPA. Nothing in this Agreement, and neither the giving of a Default Notice nor any assignment pursuant to **Section 5(v)**, releases MF from its obligations to NLH under and in relation to the PPA;
- (vii) agrees that it shall not have any right to cancel or terminate the PPA, including in the event of any breach by MF of either the PPA that is particular to MF and that is not curable by the Security Trustee or any other Agent Party at such time, such as the insolvency, bankruptcy, general assignment for the benefit of creditors or the appointment of a receiver of MF and that the PPA shall remain in full force and effect until all Secured Obligations are paid in full;
- (viii) agrees to provide to the Security Trustee or any other Agent Party at such time, at the same time that any notice is provided to MF of any breach of the PPA or of any proceedings under the PPA, the same notice that it provides to

MF. All notices to any Agent Party shall be in writing and shall be delivered to such Agent Party at the addresses set forth in **Section 18** or any other address confirmed to NLH from time to time; and

- (ix) subordinates and postpones the payment of all amounts owing to it and security taken with respect to such amounts from time to time by MF pursuant to the PPA to the prior and indefeasible payment in full of all Secured Obligations.

- (b) In the event that NLH takes steps to exercise its rights as subordinated secured creditor pursuant to the Subordinated GSA, after having received the written consent of the Collateral Agent (the “**Consent**”), which may only be provided in accordance with the Requisite Instructions (as such term is defined in the Collateral Agency Agreement), NLH acknowledges, confirms and agrees that, as a condition to the Consent, whether it is explicitly expressed in the Consent or not, and as a condition to the exercise of such rights under the Subordinated GSA, that NLH shall have taken such steps and actions as shall be legally required to ensure the continuation, on an enforceable, valid, binding, and unconditional as to continuance, basis, of the obligations and requirements of each of the parties to the PPA, including explicitly those relating to the construction, operation and maintenance of the MF Plant and the payment of all payment amounts required to be made under the PPA such that payments will continue to be made, on the terms and on the basis, as required by the PPA without interruption, reduction, adjustment, termination or otherwise, and strictly in accordance with the terms of the PPA. NLH acknowledges and confirms that it is the intention of this provision, and that it is a condition to the Consent, that there be no change to the obligations under the PPA in the event of any exercise of the security under the Subordinated GSA, including no delay to the payments required pursuant to the PPA, regardless of the legal effect of the exercise of the security, and that all payments shall continue and shall be paid such that they will be received by the Collateral Agent for and on behalf of the GAA Finance Parties and for application in accordance with the terms of the PPA and the Financing Documents. Each of the parties hereto acknowledges that the Financing Documents, and the guarantees and assurances in relation thereto provided by, inter alia, Canada have been provided based upon the continued requirement for the construction, operation and maintenance of the MF Plant and the continuation of the payments and obligations pursuant to the terms of the PPA throughout the term expressed in the PPA and the Financing Documents. As a covenant and agreement directly in favour of the Collateral Agent for the benefit of the GAA Finance Parties, and specifically for and on behalf of Canada, NLH as the secured party under the Subordinated GSA will take such steps and actions, provide such further assurances, and enter into such agreements with the Collateral Agent, or such other party as may be designated or named by the Collateral Agent, in order to preserve and continue the contractual obligations of the PPA, as applicable, and to achieve the intention of this provision.

6. Specified Default Provisions

The Security Trustee and NLH hereby covenant and agree that prior to enforcement of the Security Interests by the Agent Party:

- (a) the Agent Party shall provide the Default Notice to NLH concurrently with any default notice issued by the Agent Party to MF under the Security Documents, which notice shall include the then outstanding balance of the Secured Obligations;
- (b) the Agent Party shall provide NLH 30 days notice following delivery of the Default Notice of its intention to take Operational Control of the MF Plant pursuant to the Security Interests. During such notice period, provided no NLH default has occurred and is then continuing, NLH may elect pursuant to Section 14.6(b) of the PPA to assume Operational Control of the MF Plant pursuant to the terms and conditions set out in Section 14.6(b) of the PPA, provided that NLH also elects pursuant to Section 14.6(b)(i) of the PPA to assume responsibility for O&M Activities (as defined in the PPA) while NLH has Operational Control. Provided NLH assumes and maintains Operational Control of the MF Plant and responsibility for the O&M Activities (as defined in the PPA) and continues to pay the Base Block Payments as provided in the PPA, during the period of such Operational Control, the Agent Party shall take no further steps to enforce the Security Interests against the MF Plant or the PPA;
- (c) if NLH does not elect to assume Operational Control of the MF Plant pursuant to **Section 6(b)**, the Agent Party may, by notice given to NLH, demand that NLH assume Operational Control of the MF Plant. If NLH fails to assume Operational Control and responsibility for the O&M Activities (as defined in the PPA) following receipt of such notice, the Agent Party may continue to enforce all its rights pursuant to the Security Interests. NLH shall have no liability in damages or otherwise for failure to assume Operational Control;
- (d) within the Remedies Consultation Period related to a Default Notice from the Agent Party, NLH has the right but not the obligation to Pay in Full the Secured Obligations directly to the Agent Party through the Muskrat Project Funding Account and upon receipt of such payment, the Agent Party shall cease enforcement proceedings and release its Security Interests following which MF shall recalculate the future Base Block Capital Costs Recovery pursuant to **Schedule 1** of the PPA to reflect payment of the Secured Obligations and the Base Block Capital Costs Recovery portion of the future Base Block Payments under the PPA shall be adjusted accordingly;
- (e) NLH shall not be subrogated to any right of the Agent Party until all the Secured Obligations are Paid in Full as provided in **Section 6(d)**. Thereafter,
 - (i) NLH shall be subrogated to the rights of MF and the Agent Party under, pursuant to and otherwise in respect of the Financing Documents, and

- (ii) NLH may require MF and the Agent Party to assign to it any of their rights then remaining under the Financing Documents with respect to the Secured Obligations, but any such assignment shall be without representation or warranty by, or recourse against, MF and the Agent Party; and
- (f) an assignment of the PPA shall only occur to an Acquiror and such assignment shall be conditional upon such Acquiror agreeing to observe and perform all of MF's obligations under the PPA arising after the date of such assignment.

7. Arrangements Regarding Payments

All payments to be made by NLH to MF under the PPA shall be made, in lawful money of Canada, directly for deposit into the Muskrat Project Funding Account, and shall be accompanied by a notice from NLH stating that such payments are made under the PPA. MF hereby authorizes and irrevocably directs NLH to make such payments as aforesaid and agrees such payment shall satisfy NLH's obligation to pay such amounts to MF under the PPA.

8. Communications from NLH

Until such time as an Agent Party notifies NLH in writing of its exercise of rights under the Collateral Trust Deed, NLH shall continue to communicate directly with MF with regard to its continuing obligations under the PPA. Upon receipt by NLH of written instructions from an Agent Party pursuant to its exercise of rights under the Collateral Trust Deed, NLH agrees to and shall comply with and treat any and all written instructions received from such Agent Party as if they came directly from MF.

9. Obligations of NLH under the PPA

NLH acknowledges and agrees with the Security Trustee that neither this Agreement nor any Security Interests created by MF in favour of the Security Trustee shall in any way lessen or relieve NLH from its obligation to observe, satisfy and perform each and every term, condition, other provision and obligation set forth in or required to be observed by NLH in order to fulfill its obligations under the PPA or any obligations of NLH to MF.

10. Assignments to other trustees, administrative agents

MF and NLH agrees that the Security Trustee may assign the rights under this Agreement, in whole or in part, to any other trustee from time to time to the same extent, and on and subject to the same terms and conditions, as the Security Trustee may assign its rights under the Collateral Trust Deed without the consent of NLH or MF, and that each such assignee shall be entitled to rely on the representations, warranties, acknowledgements, confirmations, covenants and agreements of each of MF and of NLH herein contained. All references to the Security Trustee in this Agreement shall be deemed to refer to the Security Trustee and/or to any such assignee, and all its actions permitted to be taken by the Security Trustee under this Agreement may be taken by any such assignee. The Security Trustee shall provide notice of any such assignment to NLH.

11. Further Assurances

Each of the parties hereto agrees to do all such other acts and things and to execute all such other documents as may be reasonably required to give effect to the purpose and intent of this Agreement.

12. Grammatical variations, plural, gender, headings

In this Agreement, unless the context otherwise requires, (i) words and expressions (including words and expressions (capitalized or not) defined or given extended meanings) in the singular include the plural and vice versa (the necessary changes being made to fit the context), (ii) words in one gender include all genders and (iii) grammatical variations of words and expressions (capitalized or not) which are defined or given extended meanings shall be construed in like manner. Headings appearing herein are used solely for convenience and are not intended to affect the interpretation of any provision of this Agreement.

13. Agreements

Each reference in this Agreement to any document (including this Agreement, the PPA and any other defined term that is a document) shall be construed so as to include such document (including any attached schedules, appendices and exhibits) and each change thereto, made at or before the time in question. The terms “**this Agreement**”, “**hereof**”, “**hereunder**” and similar expressions refer to this agreement and not to any particular Recital, Article, Section, subsection, paragraph, subparagraph, clause or other portion of this Agreement.

14. Severability

If any provision of this Agreement is found to be invalid or unenforceable, by a final judgment of a court of competent jurisdiction, that provision shall be deemed to be severed herefrom and the remaining provisions of this Agreement shall not be affected thereby but shall remain valid and enforceable. NLH and MF shall, at the request of the Security Trustee or any Agent Party, negotiate in good faith with the requesting party to replace any invalid or unenforceable provision contained in this Agreement with a valid and enforceable provision that has the commercial effect as close as possible to that of the invalid or unenforceable provisions, to the extent permitted by applicable Law.

15. Governing Law

This Agreement shall be governed by, and interpreted and enforced in accordance with, the Laws in force in the Province of Newfoundland and Labrador, including the federal Laws of Canada applicable therein, but excluding any conflict of law rules. Each Party hereby irrevocably submits to the exclusive jurisdiction of the courts of Newfoundland and Labrador with respect to any matter arising under, by reason of or otherwise in respect of this Agreement. Each Party hereby irrevocably waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

16. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Transmission of a copy of an executed signature page of this Agreement (including any change to this Agreement) by any party hereto to the other parties to this Agreement by facsimile transmission or email in pdf format shall be as effective as delivery of a manually executed counterpart hereof.

17. Conflict

If there is any inconsistency or conflict between this Agreement and the PPA, this Agreement shall govern.

18. Notices

Any demand, notice or other communication to be made or given hereunder (“**Notice**”) shall be in writing and may be made or given by mailing it by prepaid registered mail or by transmitting it by facsimile addressed to the respective parties as follows:

(a) if to MF:

Muskrat Falls Corporation
500 Columbus Drive
P.O. Box 15000, Station A
St. John’s, NL A1B 0M4
Attention: Corporate Secretary
Fax: (709) 737-1782

(b) with a copy to:

Lower Churchill Management Corporation
500 Columbus Drive
P.O. Box 15150, Station A
St. John’s, NL A1B 0M7
Attention: Corporate Secretary
Fax: (709) 737-1782

(c) If to the Security Trustee:

Computershare Trust Company of Canada
100 University Avenue
11th Floor
Toronto, Ontario
M5J 2Y1
Attention: Manager, Corporate Trust Services

Fax: 416-981-9777

(d) If to the Collateral Agent:

The Toronto-Dominion Bank, as Collateral Agent
TD Bank Tower
66 Wellington St. W., 9th Floor
Toronto, Ontario, Canada. M5K 1A2
Telephone: 416 982-2196
Attention: Michael A. Freeman, Vice President Loan Syndications-Agency
Fax: 416 944-6976
Email: michael.freeman@tdsecurities.com

(e) If to NLH:

Newfoundland and Labrador Hydro
500 Columbus Drive
P.O. Box 12400, Station A
St. John's, NL A1B 4K7
Attention: Corporate Secretary
Fax: (709) 737-1782

or to such other address, email or facsimile number as may be designated by notice given by any party to the other. Any Notice mailed by prepaid registered mail will be conclusively deemed to have been given on the fourth day after mailing thereof and, if given by email or facsimile, will be conclusively deemed to have been given on the day of transmittal thereof if given during the normal business hours of the recipient and on the next Business Day during which such normal business hours next occur if not given during such hours on any day; provided that, in each case, confirmation of receipt is received by the party giving the Notice. If the party giving any Notice knows or ought reasonably to know any difficulties with the postal system that might affect the delivery of mail, any such Notice must not be mailed but must be given by facsimile.

19. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon MF, the Security Trustee, each Agent Party and NLH and their respective successors and permitted assigns; provided that, NLH shall not assign or transfer any of their respective rights hereunder without the prior written consent of the Security Trustee and each Agent Party.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties have duly executed this Agreement on the date first written above.

MUSKRAT FALLS CORPORATION

Per:

Name:

Title:

Per:

Name:

Title:

COMPUTERSHARE TRUST COMPANY OF CANADA,

as Security Trustee

Per:

Name:

Title:

Per:

Name:

Title:

TORONTO DOMINION BANK,

as Collateral Agent

Per:

Name:

Title:

Per:

Name:

Title:

NEWFOUNDLAND AND LABRADOR HYDRO

Per:

Name:

Title:

Per:

Name:

Title: