

NAESB ~~Optional (TBD)~~¹ Model Credit Support ~~Agreement~~² Addendum²

This NAESB ~~Optional (TBD)~~¹ Model Credit Support ~~Agreement~~² Addendum ("Model Credit Support ~~Agreement~~² Addendum") is entered into as of this _____ day of _____, 20____ the Base Contract Date³.
 The parties to this Credit Support Addendum are the following:

Party A

Party B

_____ and _____

 Base Contract Date: _____
 Base Contract Number: _____

Credit Related Notices:

Attn: _____
 Phone: _____ Fax: _____

Attn: _____
 Phone: _____ Fax: _____

Credit Related Transfers/Invoices and Payments [the document does not address "credit related invoices & payments"]⁴:

Attn: _____
 Phone: _____ Fax: _____

Attn: _____
 Phone: _____ Fax: _____

Wire Transfer or ACH Numbers (if applicable):

BANK: _____
 ABA: _____
 ACCT: _____
 Other Details: _____

BANK: _____
 ABA: _____
 ACCT: _____
 Other Details: _____

This Credit Support Addendum is published by the North American Energy Standards Board, Inc. The parties hereby agree to the following provisions offered in said Credit Support Addendum ~~Elections~~⁵.

Sec. 7⁶ Credit Support Provider	Party A : _____ Party B : _____	Interest Rate	_____ _____ _____
Eligible Collateral	Party A: ? Cash 100% ? Letters of Credit 100%* ? <u>Guaranty</u> 100% ? Other _____ %	Valuation Percentage	Minimum Transfer Amount ⁸ Party A: _____ Party B: _____

¹ ~~Delete Optional, Cinergy, EnCana~~

² ~~Interested LDCs The renaming of document to the "Model Credit Support Agreement" is noted here. Conforming changes will be made in the remainder of the document after discussion and agreement of the entire group.~~

³ ~~Peoples and Interested LDCs~~

⁴ ~~Interested LDCs~~

⁵ ~~Cinergy~~

⁶ ~~Interested LDCs suggest to add Sec. Notation to Elections?~~

⁷ ~~Peoples~~

⁸ ~~UBSW – add note "The Valuation Percentage shall be 100% of the stated amount then available under the Letter of Credit which can be unconditionally drawn down by the Secured Party unless either (I) a Letter of Credit Default shall apply with respect to such Letter of Credit or (ii) 20 or fewer Business Days remain prior to the expiration of such Letter of Credit, in which case the Valuation Percentage shall be zero (0)."~~

⁹ ~~Consumers – Is Minimum Transfer Amount same as Rounding Amount? If yes, then one term not two should be on elections sheet.~~

	Party B: ? Cash 100% ? Letters of Credit 100%* ? Guaranty 100% ⁷ ? Other _____ % * - See Paragraph 7. ⁸	Notification Time ? 1 p.m. Eastern Prevailing Time ? Other _____ Eastern Prevailing Time
<u>Transfer Method for Other Eligible Collateral</u>	Party A: _____ Party B: _____ ¹⁰	Notification Time ? 1 p.m. Eastern Prevailing Time ? Other _____ Eastern Prevailing Time
Collateral Threshold	? See attached grid ? Flats amounts Party A: _____ Party B: _____	Rounding Amount Party A: _____ Party B: _____
<u>Eligibility Requirements to H¹¹old Cash Collateral</u> ¹²	Party A: <u>TBD</u> <u>Need to offer</u> <u>examples</u> Party B: <u>TBD</u>	Custodian Requirements Party A: <u>need to offer</u> <u>example</u> Party B: _____
? Special Provisions Number of sheets attached:		

IN WITNESS WHEREOF, the parties hereto have executed this Credit Support Addendum in duplicate.

Party A Name
 By _____
 Name:
 Title:

Party B Name
 By _____
 Name:
 Title:

GENERAL TERMS AND CONDITIONS

To The

NAESB OPTIONAL (TBD) Model CREDIT SUPPORT ADDENDUM AGREEMENT¹³

Paragraph 1. Purpose and DISCLAIMER¹⁴

This **Credit Support Addendum** constitutes an Addendum to that certain Base Contract for Sale and Purchase of Natural Gas, as identified above on the front page herein¹⁵, between the parties ("Base Contract"), and supplements, forms part of¹⁶ and amends the Base Contract affecting transactions thereunder. Capitalized terms used in this Credit Support Addendum that are not herein defined will have the meanings ascribed to them in the Base Contract. In the event of a conflict between the terms of this Credit Support Addendum and the Base Contract, the terms of this Credit Support Addendum shall apply for the purposes of this Credit Support Addendum.

This **Model Credit Support Agreement**, designated for non-physical transactions constitutes an optional agreement between the parties and supplements the NAESB Base Contract for Sale and Purchase of Natural Gas (Base Contract) affecting transactions thereunder. Capitalized terms used in this Model Credit Support Agreement that are not herein defined will have the meanings ascribed to them in the Base Contract. In the event of a conflict between the terms of this Model Credit Support Agreement and the Base Contract, the terms of this Model Credit Support Agreement apply for the purposes of this agreement. **[A clear explanation is required here regarding the relationship between the Model Credit Support Agreement and the Base Contract.]**¹⁷

¹⁰ Cinergy

¹¹ Peoples

¹² Cinergy

¹³ See Interested LDCs footnote 2 on page 1.

¹⁴ EnCana

¹⁵ Cinergy

¹⁶ UBSW

¹⁷ Interested LDCs.

The terms set forth below shall have the meanings¹⁸ ascribed to them below. Other terms are also defined elsewhere in the Base Contract and shall have the meanings ascribed to them therein.¹⁹

DISCLAIMER: The purposes of this Credit Support Addendum are to facilitate trade, avoid misunderstandings and make more definite the terms of margining arrangements related to contracts of purchase and sale of natural gas. Further, NAESB does not mandate the use of this Credit Support Addendum by any party. **NAESB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CREDIT SUPPORT ADDENDUM ACKNOWLEDGES AND AGREES TO NAESB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CREDIT SUPPORT ADDENDUM OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT NAESB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CREDIT SUPPORT ADDENDUM ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL NAESB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CREDIT SUPPORT ADDENDUM.**

Paragraph 2. Definitions.

As used in this Credit Support Addendum:

"Cash" shall mean United States Dollars.

"Collateral Requirement" shall have the meaning ~~set forth attributed to it~~ in Paragraph 3 herein²⁰.

"Collateral Threshold" shall mean, with respect to a party, the collateral threshold amount, if any, set forth ~~in the elections on Page 1 herein for such party~~ ~~for such party in this Credit Support Addendum~~²¹; provided, however, that the Collateral Threshold for a party ~~that is a Defaulting Party~~ shall be zero (0) upon the occurrence and during the continuance of an Event of Default ~~[or Potential Event of Default]~~²² ~~with respect to the Defaulting Party~~²³. ~~[There should be the option someplace for this to apply to only some confirmed transactions under the Base Contract and not necessarily each and every one.]~~²⁴

"Credit Rating" shall mean, with respect to a party or entity, on any date of determination, the ~~higher of (a) the unsecured long-term debt rating (not supported by third party credit enhancements) or (b) general corporate credit rating or long-term issuer rating for such party; in all cases established by S&P, Moody's~~²⁵ ~~or any other specified rating agency, respective rating then assigned to such entity's unsecured, senior long-term debt (not supported by third party credit enhancement) by S&P, Moody's, or any other specified rating agency or agencies. If no rating is assigned to such entity's unsecured, senior long-term debt by such agency, then "Credit Rating" shall mean the general corporate credit rating or long-term issuer rating, as applicable, assigned by such rating agency to such entity. [Interested LDCs – where can these additional agencies be specified in this agreement. Consider deleting definition entirely.]~~²⁶

"Credit Support Default" shall have the meaning set forth in Paragraph 10 herein.

¹⁸ Peoples

¹⁹ EnCana – may be duplicative of paragraph above.

²⁰ Peoples and Interested LDCs.

²¹ UBSW

²² UBSW – add "Potential Event of Default". To be discussed. Not added at subsequent locations unless group would like to reinstate "Potential Event of Default" deleted at last meeting.

²³ Consumers

²⁴ Interested LDCs.

²⁵ Peoples and Interested LDCs.– insert full description of S&P and Moody's and deleted separate definition.

²⁶ Consumers and Interested LDCs.

"Credit Support Provider", if applicable, shall mean the entity specified herein that agrees to ~~tr~~transfer a "Credit Support Obligation(s)" pursuant to Section 2.11 of the Base Contract.

"Custodian" shall mean an entity that meets the Custodian Requirements set forth in the elections on Page 1 herein.

"Defaulting Party" shall have the meaning set forth in Paragraph 10 herein.

"Eligible Collateral" shall have the meaning set forth in the elections on Page 1 herein.

"Event of Default" shall mean any Event of Default defined in Section 10.2 of the Base Contract.²⁷

"Exposure" shall mean the ~~net~~ amount as calculated by the Secured Party in good faith and in a commercially reasonable manner ~~that the Pledging Party would owe to the Secured Parties~~ if an Early Termination Date has ~~be~~ been designated as the date of such calculation²⁸ as provided for in Section 10.3 ~~through and including Section 10.3.3~~ of the Base Contract; provided that such calculations shall be at the mid point between the bid price and the offer price²⁹. [NOTE: there may be instances where Special Provisions are added to Section 10 other than in Sections 10.3-10.3.3 and still have an effect on Sections 10.3-10.3.3.]³⁰

"Guarantor" shall mean an entity, who shall be a Credit Support Provider, eligible to provide a Guaranty.³¹

"Guaranty" shall mean a guaranty of payment, and not performance, issued by an entity and for an amount reasonably acceptable to the Secured Party.³²

"Interest Amount" shall mean the aggregate sum of the amounts of interest calculated for each day in that "Interest Period" ~~(as defined herein)~~ on the principal amount of Cash held by the Secured Party on that day, determined for each such day as follows: (x) the amount of Cash on that day; multiplied by (y) the "Interest Rate" ~~(as defined herein)~~³³ for that day; divided by (z) 360.

"Interest Period" shall mean the period from (and including) the last Business Day on which an Interest Amount was Transferred (or if no Interest Amount has yet been Transferred, the Business Day on which Cash was Transferred to the Secured Party) to (but excluding) the Business Day on which the current Interest Amount is to be Transferred.

"Interest Rate" shall have the meaning set forth in the elections on Page 1 herein.

"Letter of Credit" shall have the meaning set forth in Paragraph 7 herein.

"Letter of Credit" shall be an irrevocable, standby letter of credit, issued by an entity meeting the requirements of a Specified Letter of Credit Issuer set forth in the elections on Page 1 herein.³⁴

~~"Letter of Credit Default"~~ shall have the meaning set forth in Paragraph 7(b) herein.

"Minimum Transfer Amount" shall mean the amount, if any, set forth in the elections on Page 1 herein for each party and the Pledging Party shall be required to Transfer Eligible Collateral to the Secured Party only if the Collateral Requirements equals or exceeds the Minimum Transfer Amount.³⁵

"Moody's" shall mean Moody's Investors Services, Inc. or its successor.³⁶

²⁷ Cinergy, Interested LDCs and Peoples

²⁸ USBW

²⁹ USBW

³⁰ Cinergy

³¹ Peoples and Interested LDCs.

³² Peoples and Interested LDCs.

³³ Peoples

³⁴ Interested LDCs.

³⁵ Peoples

³⁶ See Peoples and Interested LDCs ' footnote 20

~~“Event of Default” shall mean any Event of Default defined in Section 10.2 of the Base Contract.~~

“Notification Time” shall have the meanings ~~as~~ set forth in the elections on Page 1 herein.

“Pledging Party” shall have the meaning ~~set forth attributed to it~~ in Paragraph 3 ~~herein~~³⁷.

“Posted Collateral” shall mean (1) all Eligible Collateral and all proceeds thereof that have been Transferred to or received by the Secured Party hereunder and not Transferred to the Pledging Party pursuant to Paragraph 4 or released by the Secured Party (2) any Interest Amount or portion thereof ~~held by the Secured Party and~~³⁸ not Transferred pursuant to Paragraph 8(c) and (3) any Cash received and held by the Secured Party after drawing on any Letter of Credit.

“Reference Market Maker” shall mean a leading dealer in the relevant market that is not an affiliate of either party selected by a party determining any disputed calculations pursuant to Paragraph 6 herein in a commercially reasonable manner from among dealers which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit.

“Rounding Amount” shall ~~have the~~ mean ~~the amount, if any, in~~ set forth in the elections on Page 1 herein ~~for each party, and integral multiples of such amounts shall determine the amount of Eligible Collateral to be Transferred.~~³⁹

“S&P” shall mean the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.⁴⁰

“Secured Party” shall have the meaning ~~set forth attributed to it~~ in Paragraph 3(b) herein. ~~[Para 3 never does define Pledging or Secured Party.]~~⁴¹

~~“Specified Letter of Credit Issuers” shall have the meaning set forth in the elections on Page 1 herein.~~⁴²

“Transfer” or “Transferred” shall mean, with respect to any Eligible Collateral, Posted Collateral, or Interest Amount, and in accordance with the instructions of the appropriate party:

(i) in the case of Cash, payment or delivery by wire transfer in immediately available federal funds into one or more bank accounts specified by the recipient;

(ii) in the case of Letters of Credit, delivery of the Letter of Credit ~~by the Pledging Party to the Secured Party at the address specified in this Credit Support Addendum or delivery of an executed amendment to such Letter of Credit (extending the term or increasing the amount available to the Secured Party thereunder) by the Pledging Party to the Secured Party at the address specified in this Credit Support Addendum; and for purposes of Paragraph 5, return the Letter of Credit by the Secured Party to the Pledging Party, at the address specified in the Credit Support Addendum, or delivery of an executed amendment to the Letter of Credit in form and substance satisfactory to the Secured Party, reducing the amount available to the Secured Party thereunder by the Pledging Party to the Secured Party at the address specified in this Credit Support Addendum or an amendment thereto to the recipient~~⁴³; and

(iii) ~~(iii) — in the case of any other Eligible Collateral, the Transfer methodology specified by the parties event the parties indicate the use of other Eligible Collateral~~⁴⁴ in the elections on Page 1 herein, ~~Transfer in a manner that allows the recipient to exercise rights with respect to such Eligible Collateral.~~⁴⁵

³⁷ Peoples

³⁸ USBW

³⁹ Peoples and Interested LDCs.

⁴⁰ See Peoples and Interested LDCs’ footnote 20

⁴¹ Interested LDCs.

⁴² Interested LDCs.

⁴³ USBW

⁴⁴ Cinergy – USBW suggests adding “such method of Transfer set forth in the election on Page 1 herein.”

⁴⁵ Peoples and Interested LDCs revise to include guarantor and guaranties.

(iii) in the case of Guaranties, Transfer of the Guaranty or an amendment thereto to the recipient; and

"Valuation Percentage" shall mean the percentage set forth in the elections on Page 1 herein for each form of Eligible Collateral; provided the Valuation Percentage shall be 100% of the stated amount then available under the Letter of Credit which can be unconditionally drawn down by the Secured Party unless either (I) a Letter of Credit Default shall apply with respect to such Letter of Credit or (ii) 20 or fewer Business Days remain prior to the expiration of such Letter of Credit, in which case the Valuation Percentage shall be zero (0)⁴⁶.

"Value" shall mean ~~(a) with respect to Cash, the face amount thereof; and (b) with respect to all other Posted Collateral, the Valuation Percentage multiplied by the amount of Posted Collateral stated amount thereof~~⁴⁷.

Paragraph 3. Calculation of Collateral Requirement.

On any Business Day, the "Collateral Requirement" for a party (the "Pledging Party") means the Secured Party's⁴⁸ Exposure minus the sum of:

- (a) the Pledging Party's Collateral Threshold; plus
- (b) the Value of all Posted Collateral then held by the party other than the Pledging Party (the "Secured Party"), and any accrued Interest Amount that has not yet been Transferred to the Pledging Party;

provided, however, that such amount shall be rounded up to the nearest integral multiple of the Rounding Amount. Notwithstanding the foregoing⁴⁹, the Collateral Requirement of the Pledging Party will be deemed to be zero (0) whenever the calculation of such Pledging Party's Collateral Requirement yields a number less than zero (0).

Paragraph 4. Transfer of Eligible Collateral.

On any Business Day on which (i) no Credit Support Default with respect to the Secured Party has occurred and is continuing, (ii) no NAESB⁵⁰ Event of Default with respect to the Secured Party has occurred and is continuing, (iii) no Early Termination Date has occurred or been designated by the Pledging Party for which there exist any unsatisfied payment obligations under the Base Contract⁵¹, and (iv) the Pledging Party's Collateral Requirement equals or exceeds its Minimum Transfer Amount, the Secured Party may demand, by Notice to the Pledging Party, that the Pledging Party Transfer to the Secured Party, and the Pledging Party shall Transfer or cause to be Transferred to the Secured Party, Eligible Collateral for the benefit of the Secured Party having a Value on the date of Transfer at least equal to the Pledging Party's Collateral Requirement. ~~The amount of Eligible Collateral required to be Transferred hereunder shall be rounded up to the nearest integral multiple of the Rounding Amount.~~⁵² Unless otherwise agreed to in writing by the parties, (A) Eligible Collateral demanded of a Pledging Party on or before the Notification Time on a Business Day shall be provided to the Secured Party and/or its Custodian by 5:00 p.m. Eastern Prevailing Time [does this work for west coast entities?]⁵³ on the TBD~~next third~~⁵⁴ Business Day and (B) Eligible Collateral demanded of a Pledging Party after the Notification Time on a Business Day shall be provided to the Secured Party and/or its Custodian by 5:00 p.m. Eastern Prevailing Time on the TBD~~second fourth~~⁵⁵ Business Day thereafter. Any Letter of Credit or other type of Eligible Collateral (other than Cash) shall be Transferred to such address as the Secured Party shall specify in its demand pursuant to this Paragraph 4 Section III, and any such demand made by the Secured Party pursuant to this Paragraph 4 shall specify wire transfer information for the account(s) to which Eligible Collateral in the form of Cash shall be Transferred. Notwithstanding anything to the contrary in this Credit Support Addendum, in the event of a Credit Support Default, or an NAESB⁵⁶ Event of Default, with respect to the Pledging Party which gives rise to an obligation to Transfer Eligible Collateral~~Credit Support~~, the Pledging Party shall have no obligation to

⁴⁶ EnCana suggested location of UBSW note from page 1.

⁴⁷ Peoples and Interested LDCs.

⁴⁸ UBSW

⁴⁹ UBSW – Change made so that you round first and then look to minimum transfer amount.

⁵⁰ Cinergy and Peoples

⁵¹ UBSW

⁵² UBSW – Deleted here and moved to paragraph 3. See footnote 49

⁵³ UBSW – this question for west coast entities appears several times and is not repeated subsequent to this note.

⁵⁴ EnCana – Third, Peoples – Third, Interested LDCs revised to leave blank.

⁵⁵ EnCana – Fourth, Peoples – Fourth, Interested LDCs revised to leave blank.

⁵⁶ Cinergy and Peoples and UBSW

~~Transfer such Eligible Collateral Credit Support~~ if such event is cured or otherwise no longer exists prior to the time that such ~~Eligible Collateral Credit Support~~ is required to be provided hereunder. In any case in which Eligible Collateral is in the form of a Letter of Credit ~~or Guaranty~~⁵⁷, the deadlines set forth above may be met by providing a facsimile copy of the Letter of Credit ~~or Guaranty~~⁵⁸ with an original transmitted by overnight courier for delivery on the next Business Day.⁵⁹

Paragraph 5. Reduction and Substitution of Credit Support [~~“Credit Support” is not defined in CSA. In the Base Contract, define Credit Support Obligation.~~]⁶⁰.

(a) On any Business Day ~~(but no more frequently than weekly with respect to Letters of Credit and Guaranties⁶¹ and daily with respect to Cash)⁶²~~, a Pledging Party may demand, by Notice to the Secured Party, a reduction in the amount of ~~Posted Collateral Credit Support~~⁶³ previously provided by the Pledging Party for the benefit of the Secured Party, and the Secured Party shall comply with said demand, provided that after giving effect to the demanded reduction in ~~Posted Collateral Credit Support~~, (i) the Pledging Party shall have a Collateral Requirement of zero (0) as of the date ~~the Secured Party would be required to return the requested Posted Collateral of such compliance~~⁶⁴; (ii) no Credit Support Default with respect to the Pledging Party has occurred and is continuing; (iii) no ~~NAESB~~⁶⁵ Event of Default with respect to the Pledging Party has occurred and is continuing; and (iv) no Early Termination Date has occurred or been designated by the Secured Party ~~for which there exist any unsatisfied payment obligations under the Base Contract~~⁶⁶. The amount of the Credit Support reduction hereunder shall be rounded down to the nearest integral multiple of the Rounding Amount. ~~If a permitted reduction in Credit Support is to be effected by the Transfer of Cash to the Pledging Party, then u~~⁶⁷ ~~less otherwise agreed in writing by the parties, (x) if the Pledging Party’s reduction demand is made on or before the Notification Time on a Business Day, then the Secured Party shall effect a permitted reduction in Credit Support by 5:00 p.m. Eastern Prevailing Time on the~~ ~~TBD~~⁶⁸ ~~next third~~ Business Day thereafter and (y) if the Pledging Party’s reduction demand is made after the Notification Time on a Business Day, then the Secured Party shall effect a permitted reduction in Credit Support by 5:00 p.m. Eastern Prevailing Time on the ~~TBD~~⁶⁹ ~~second fourth~~ Business Day thereafter. If a permitted reduction in Credit Support is to be effected by a reduction in the amount that may be drawn under an outstanding Letter of Credit previously issued for the benefit of the Secured Party, the Secured Party shall promptly take such action as is reasonably necessary to cooperate with the Pledging Party to effectuate such reduction. In any case in which Credit Support is in the form of a Letter of Credit ~~or Guaranty~~⁷⁰, the deadlines set forth above may be met by providing a facsimile copy of the Letter of Credit ~~or Guaranty~~⁷¹ ~~and with~~ an original ~~shall be~~⁷² transmitted by overnight courier for delivery on the next Business Day.⁷³

(b) Except when (i) a Credit Support Default with respect to the Pledging Party has occurred and is continuing, or (ii) ~~an~~ Event of Default with respect to the Pledging Party has occurred and is continuing ~~or (iii) no Early Termination Date has occurred or been designated by the Secured Party for which there exist any unsatisfied payment obligation under the Base Contract~~⁷⁴, the Pledging Party may substitute new ~~Eligible Collateral Credit Support~~ for existing ~~Posted Collateral Credit Support~~ of equal Value on the Business Day following the Secured Party’s receipt of written Notice thereof (provided that, if such Notice is made after the Notification Time, the Pledging Party may not substitute ~~Eligible Collateral Credit Support~~ until the ~~TBD~~⁷⁵ ~~second~~ Business Day thereafter; and

⁵⁷ Peoples and Interested LDCs

⁵⁸ Peoples and Interested LDCs

⁵⁹ UBSW – suggest move last sentence to Letter of Credit (no Guaranty included).

⁶⁰ Interested LDCs.

⁶¹ Peoples

⁶² UBSW delete limiting phrase?

⁶³ UBSW

⁶⁴ UBSW

⁶⁵ Cinergy and Peoples

⁶⁶ UBSW

⁶⁷ UBSW

⁶⁸ EnCana – Third, Peoples – Third, Interested LDCs revised to leave blank.

⁶⁹ EnCana – Fourth, Peoples – Fourth, Interested LDCs revised to leave blank.

⁷⁰ Peoples and Interested LDCs

⁷¹ Peoples and Interested LDCs

⁷² Cinergy

⁷³ UBSW recommends deleting last sentence in this paragraph.

⁷⁴ UBSW

⁷⁵ Peoples - second, Interested LDCs revised to leave blank.

provided further, ~~however,~~⁷⁶ that if such substitute Eligible Collateral Credit Support is of a type not designated as Eligible Collateral in the elections on Page 1 herein, then the substitution may not occur unless the Secured Party consents to such substitution). Upon the Transfer to the Secured Party and/or its Custodian of the substitute Eligible Collateral, the Secured Party and/or its Custodian shall Transfer the relevant replaced Posted Eligible Collateral (as specified by the Pledging Party)⁷⁷ to the Pledging Party by 5:00 p.m. Eastern Prevailing Time on the ~~second~~⁷⁸ TBD Business Day after such Transfer has been effected. Notwithstanding anything herein to the contrary, no such substitution shall be permitted unless (x) the substitute Eligible Collateral is Transferred to the Secured Party and/or its Custodian simultaneously with, or has been Transferred to the Secured Party and/or its Custodian prior to, the release of the Eligible Collateral to be returned to the Pledging Party and, if applicable⁷⁹, the security interest in, and lien upon, such substituted Eligible Collateral granted pursuant hereto in favor of the Secured Party shall have been perfected as required by applicable law and shall constitute a first priority perfected security interest therein and general first lien thereon, and (y) after giving effect to such substitution, the Value of such substitute Eligible Collateral, together with all other Posted Collateral held by the Secured Party, shall equal the Pledging Party's Collateral Requirement ~~Collateral Value of the Eligible Collateral which is being substituted~~⁸⁰. Each substitution of Eligible Collateral shall constitute a representation, warranty and agreement by the Pledging Party that the substituted Eligible Collateral shall be subject to and governed by the terms and conditions of this Credit Support Addendum, including without limitation and if applicable⁸¹, the security interest in, general first lien on and right of offset against, such substituted Eligible Collateral granted pursuant to Paragraph 12(a) in favor of the Secured Party. In any case in which Eligible Collateral is in the form of a Letter of Credit or Guaranty⁸², the deadlines set forth above may be met by providing a facsimile copy of the Letter of Credit or Guaranty⁸³ with an original transmitted by overnight courier for delivery on the next⁸⁴ Business Day.⁸⁵

(c) The Transfer of any Eligible Collateral by the Secured Party and/or its Custodian to the Pledging Party in accordance with this Paragraph 5 shall be deemed a release by the Secured Party of its security interest, general first lien and right of offset granted pursuant to Paragraph 12(a) hereof only with respect to such returned Eligible Collateral. In connection with each Transfer of any Eligible Collateral to the Pledging Party pursuant to this ~~Paragraph 5~~ Section IV, the Pledging Party will, upon request of the Secured Party, execute/provide? provide an executed a⁸⁶ receipt [provide a receipt in form and substance reasonably satisfactory to the Secured Party]⁸⁷ showing the Eligible Collateral Transferred to it.

Paragraph 6. Disputed Calculations.

(a) If the Pledging Party disputes the amount of Eligible Collateral requested by the Secured Party and such dispute relates to the amount of the Exposure as determined by the Secured Party, then the Pledging Party shall (i) notify the Secured Party of the existence and nature of the dispute not later than the Notification Time on the ~~TBD~~ first/second⁸⁸ Business Day following the date that the demand for Eligible Collateral is made by the Secured Party pursuant to Paragraph 4 ~~Section III~~, and (ii) Transfer Eligible Collateral to or for the benefit of the Secured Party in an amount equal to the Pledging Party's own determinations, made in good faith and [consistent with Base Contract Section 10.]⁸⁹ in a commercially reasonable manner, of the Pledging Party's Collateral Requirement in accordance with Paragraph 3 ~~Section II~~. In all such cases, the parties thereafter shall promptly consult with each other in order to reconcile the two conflicting determinations. If the parties have not been able to resolve their dispute on or before the second Business Day following the date that the Pledging Party notifies the Secured Party that it disputes demand is was⁹⁰ made by the Secured Party's calculation⁹¹, then the amount of the Secured Party's⁹²

⁷⁶ Peoples

⁷⁷ UBSW

⁷⁸ Peoples – second, Interested LDCs – revise to leave blank

⁷⁹ Peoples and Interested LDCs

⁸⁰ UBSW

⁸¹ Peoples and Interested LDCs

⁸² Peoples and Interested LDCs

⁸³ Peoples and Interested LDCs

⁸⁴ Interested LDCs.

⁸⁵ UBSW recommends deletion of last sentence in this paragraph.

⁸⁶ Cinergy

⁸⁷ Peoples and Interested LDCs

⁸⁸ Peoples – second, Interested LDCs – revise to leave blank

⁸⁹ Interested LDCs

⁹⁰ Cinergy

⁹¹ Peoples and Interested LDCs

Exposure shall be recalculated with each party requesting quotations from one (1) Reference Market-Maker within **TBDtwo** (2)⁹³ Business Days after the demand by the Secured Party⁹⁴ (taking the arithmetic average of those quotations obtained to obtain the average Exposure, provided, that, if only one (1) quotation can be obtained, then that quotation shall be used and if no quotations can be obtained, then the Secured Party's calculation shall control⁹⁵) for the purpose of recalculating the Exposure of each transaction in respect of which the parties disagree as to the Exposure thereof. The Secured Party shall inform the Pledging Party of the results of such recalculation in reasonable detail not later than Business Days of the initial demand by the Secured Party⁹⁶. Eligible Collateral shall thereupon be provided, returned, or reduced, if necessary, on the ~~next~~second⁹⁷ Business Day after the Secured Party provides its notice unless the Notice is provided after the Notification Time in which case the Eligible Collateral shall be provided on the second Business Day after the Secured Party provides Notice of its recalculations⁹⁸ thereafter in accordance with the results of such recalculation.

(b) If the Secured Party disputes the amount of Eligible Collateral to be reduced by the Secured Party and such dispute relates to the amount of the Exposure claimed by the ~~Secured~~Pledging??⁹⁹ Party, then the Secured Party shall (i) notify the Pledging Party of the existence and nature of the dispute not later than the Notification Time on the ~~TBDfirst~~second¹⁰⁰ Business Day following the date that the demand to reduce Eligible Collateral is made by the Pledging Party pursuant to Paragraph ~~5~~Section IV, and (ii) effect the reduction of Eligible Collateral to or for the benefit of the Pledging Party in an amount equal to the Secured Party's own estimate, made in a commercially reasonable manner, of the Pledging Party's Collateral Requirement in accordance with Paragraph 3. In all such cases, the parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts. If the parties have not been able to resolve their dispute on or before the ~~TBD~~second¹⁰¹ Business Day following the date that the Secured Party notifies the Pledging Party that it disputes demand was is¹⁰² made by the Pledging Party's calculation¹⁰³, then the Secured Party's Exposure shall be recalculated by each party requesting quotations from one (1) Reference Market-Maker within ~~TBDtwo~~¹⁰⁴ (2) Business Days after the demand by the Pledging Party¹⁰⁵ (taking the arithmetic average of those quotations obtained to obtain the average Exposure; provided, that, if only one (1) quotation can be obtained, then that quotation shall be used and if no quotations can be obtained, then the Secured Party's calculations shall control¹⁰⁶) for the purpose of recalculating the Exposure of each transaction in respect of which the parties disagree as to the Exposure thereof. The Secured Party shall inform the Pledging Party of the results of such recalculation in reasonable detail not later than Business Days after the initial demand by the Secured Party¹⁰⁷. Eligible Collateral shall thereupon be provided, returned, or reduced, if necessary, on the ~~TBD~~next¹⁰⁸ Business Day after the Secured Party provides its notice unless the Notice is provided after the Notification Timer in which case the Eligible Collateral shall be provided on the second Business Day after the Secured Party provides Notice of its recalculations¹⁰⁹ thereafter in accordance with the results of such recalculation.

Paragraph 7. Letters of Credit. [THIS PARAGRAPH 7. REPLACES THE FORMER DEFINITIONS.]

Eligible Posted¹¹⁰ Collateral provided in the form of a Letter of Credit shall be subject to the following provisions.¹¹¹

⁹² UBSW

⁹³ Peoples – 2, Interested LDCs – revise to leave blank.

⁹⁴ UBSW

⁹⁵ UBSW

⁹⁶ UBSW

⁹⁷ Peoples – second, Interested LDCs revised to leave blank, UBSW states NEXT

⁹⁸ UBSW

⁹⁹ UBSW

¹⁰⁰ Peoples – second, Interested LDCs revised to leave blank

¹⁰¹ Peoples – second, Interested LDCs revised to leave blank

¹⁰² Cinergy

¹⁰³ Peoples and Interested LDCs

¹⁰⁴ Peoples – 2, Interested LDCs revised to leave blank

¹⁰⁵ UBSW

¹⁰⁶ UBSW

¹⁰⁷ UBSW

¹⁰⁸ Peoples

¹⁰⁹ UBSW

¹¹⁰ UBSW

¹¹¹ Consumers – Definition? For “Specified Letter of Credit Issuer” should contain language that makes it clear that the issuer so specified is also acceptable to the parties concerned.

- (a) ~~Each~~ Letter of Credit shall be an irrevocable, transferable,¹¹² standby letter of credit, issued by an entity that meets the requirements of a Specified Letter of Credit Issuer set forth in the elections on Page 1. herein¹¹³ ~~and for an amount reasonably acceptable to the Secured Party.~~
- (b) "Letter of Credit Default" shall mean with respect to an outstanding Letter of Credit that is held by the Secured Party as Posted Collateral, which is required to be in effect hereunder,¹¹⁴ the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to maintain meet the Specified Letter of Credit standards set forth a Credit Rating as defined in Custodian Requirements¹¹⁵ in the elections on Page 1 herein or goes bankrupt¹¹⁶; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (iv) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect (other than in accordance with its terms) prior to the satisfaction of all obligations of the Pledging Party under each transaction to which such Letter of Credit shall relate without the written consent of the other party ~~or (v) the Pledging Party or issuer of the Letter of Credit shall fail to Transfer the renewal or replacement Letter of Credit to the Secured Party at least twenty (20) Business Days prior to the expiration of such Letter of Credit~~¹¹⁷; provided, however, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to the Pledging Party in accordance with the terms of this Credit Support Addendum. INSERT 7(g) here¹¹⁸
- (c) Unless otherwise agreed in writing by the parties, each Letter of Credit shall be provided in accordance with this Paragraph 7 and each Letter of Credit shall be maintained for the benefit of the Secured Party. The Pledging Party shall (i) renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit, (ii) Transfer either a substitute Letter of Credit or other Eligible Collateral, in each case at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit, if the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, ~~transfer either a substitute Letter of Credit or other Eligible Collateral, in each case at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit~~, and (iii) Transfer for the benefit to the Secured Party either a substitute Letter of Credit that is issued by a bank acceptable to the Secured Party or other Eligible Collateral, in each case within three (3)¹¹⁹ Business Days after such refusal, if a bank issuing a Letter of Credit shall fail to honor the Secured Party's properly documented request to draw on an outstanding Letter of Credit, ~~transfer for the benefit of the Secured Party either a substitute Letter of Credit that is issued by a bank acceptable to the Secured Party or other Eligible Collateral, in each case within TBDTthree (3) Business Days after such refusal~~,¹²⁰ provided that, as a result of the Pledging Party's failure to perform in accordance with (i), (ii), or (iii) above, the Pledging Party's Collateral Requirement would be greater than zero (0).
- (d) As one method of providing Posted Collateral, the Pledging Party may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.
- (e) Upon or at any time after the occurrence of an Event of Default with respect to the Pledging Party and/or the designation of an Early Termination Date by the Secured Party¹²¹, the Secured Party may draw the entire undrawn portion of¹²² any¹²³ outstanding Letter(s) of Credit issued with respect to the Transactions(s)

¹¹² UBSW – consider defining acceptable issuer and adding form of LC.

¹¹³ Interested LDCs

¹¹⁴ UBSW

¹¹⁵ Interested LDCs

¹¹⁶ UBSW – Custodian Requirements are for eligibility to hold case, not the credit quality of the issuer.

¹¹⁷ UBSW – This is covered in (c) below and should not be a LC issuer default since this is within the control of the Pledging Party.

¹¹⁸ UBSW – Should not the Pledging Party ge give an opportunity to cure items (i), (ii), (iii) and (iv) before there is an Event of Default? See paragraph 10 (c) . How does this work with Paragraph 10 (c) ? There should not be an opportunity to cure for the 20 day expiry.

¹¹⁹ Peoples

¹²⁰ Cinergy rewrite of (c) , Interested LDCs revise date (3 Business Days) to leave blank, UBSW delete “that is issued by a bank acceptable to the Secured Party” – Why is this different that item (b) (ii) above?

¹²¹ UBSW

¹²² UBSW

¹²³ Peoples

to which an Event of Default has occurred¹²⁴ upon submission to the bank issuing such Letter of Credit in accordance with the specific requirements of the Letter of Credit. Cash proceeds received from drawing upon the Letter of Credit shall be deemed Posted Collateral as security for the Pledging Party's obligations to the Secured Party and the Secured Party shall have the rights and remedies set forth in Paragraphs 8 and 12¹²⁵ with respect to such Cash proceeds. Notwithstanding the Secured Party's receipt of Cash under the Letter of Credit, the Pledging Party shall remain liable (i) for any failure to Transfer sufficient Posted Collateral or (ii) for any amounts owing to the Secured Party and remaining unpaid after the application of the amounts so drawn by the Secured Party.

(f) A Pledging Party may substitute a Letter of Credit for one or more other outstanding Letter(s) of Credit issued for the benefit of the Secured Party, provided that the Value of such substitute Letter of Credit shall be at least equal to the Value of the Letter(s) of Credit being replaced, and provided further that no Letter of Credit shall be canceled unless and until the Letter of Credit to be substituted therefor shall have been validly executed, issued and ~~T~~ transferred for the benefit of the Secured Party in accordance with applicable law.

(g) Upon the occurrence of a Letter of Credit Default, the Pledging Party agrees to ~~T~~ transfer to the Secured Party either a substitute Letter of Credit or other Eligible Collateral, in each case on or before the ~~second~~~~TBD~~third¹²⁶ Business Day after the occurrence thereof (or the ~~fifth (5)~~~~TBD~~fifth¹²⁷ Business Day after the occurrence thereof if only clause (i) under the definition of Letter of Credit Default applies).¹²⁸

~~(h)~~ The deadlines set forth in this Credit Support Addendum may be met by providing a facsimile copy of the Letter of Credit by the required time and date with an original transmitted by overnight courier for delivery on the next Business Day.¹²⁹

~~(h)(i)~~ In all cases, the costs and expenses of establishing, renewing, substituting, canceling, and increasing the amount of (as the case may be) a Letter of Credit shall be borne by the Pledging Party. [internal costs? Assessed by a trader/marketer on an LDC?]¹³⁰

Paragraph 8. Care and Use of Cash.

Posted Collateral provided in the form of Cash shall be subject to the following provisions.

(a) Eligibility to Hold Cash.

(i) The Secured Party will be entitled to hold Cash provided that the following conditions are satisfied: (1) it is not a Defaulting Party, (2) its or its Credit Support Provider, if applicable, meets the Eligibility Requirements to Hold CollateralCash¹³¹ requirements¹³² set forth in the elections on Page 1 herein; and (3) Cash shall be held only in any jurisdiction within the United States. A party shall appoint a Custodian within Business Days of the date on which it to in the event such party is not eligible or becomes¹³³ ineligible to hold Cash in accordance with this Paragraph 8(a)(i).

(ii) Upon Notice by the Secured Party to the Pledging Party of the appointment of a Custodian, the Pledging Party's obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by the Secured Party for which the Custodian is acting. The Secured Party will be liable for the acts or omissions of its Custodian to the same extent that the Secured Party would be liable hereunder for its own acts or omissions.

¹²⁴ Peoples and Interested LDCs

¹²⁵ UBSW suggests this read "this Credit Support Addendum" and not "Paragraphs 8 and 12"

¹²⁶ Peoples – third, Interested LDCs revised to leave blank

¹²⁷ Peoples – fifth, Interested LDCs revised to leave blank

¹²⁸ UBSW move this to 7 (b).

¹²⁹ UBSW – discuss whether this provision adequate protection to the Secured Party.

¹³⁰ Interested LDCs

¹³¹ Peoples and Interested LDCs

¹³² Cinergy and UBSW

¹³³ UBSW

(b) Use of Cash. [Notwithstanding the provisions of applicable law?] If the Secured Party eligible to hold cash,¹³⁴ is not a Defaulting Party and no Early Termination Date has occurred or been designated by the Pledging Party¹³⁵ as a result of an Event of Default with respect to the Secured Party, then the Secured Party shall have the right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise dispose of, or otherwise use in its business any Cash it holds, free from **any claim or right of any nature whatsoever of the Pledging Party, including any equity or right of redemption** by the Pledging Party. [make sure this provision does not remove right of redemption and other rights of pledging party in the Amount of cash posted as collateral, as opposed to the specific cash, which is fungible, used by the secured party while it was held.]¹³⁶

(c) Interest Payments on Cash. So long as no Event of Default ~~or Potential Event of Default, if applicable~~, with respect to the Pledging Party has occurred and is continuing, and no Early Termination Date (for which any unsatisfied payment obligations of the Pledging Party exist) has occurred or been designated as the result of an Event of Default with respect to the Pledging Party and to the extent that an obligation to ~~Transfer~~ Transfer ~~Posted Collateral~~ would not be created or increased by the Transfer, the Secured Party will ~~upon written request~~¹³⁷ Transfer to the Pledging Party, in lieu of any interest or other amounts paid or deemed to have been paid with respect to the Cash (all of which may be retained by the Secured Party), the Interest Amount on the ~~TBD~~ third¹³⁸ Business Day of each calendar month. On or after the occurrence of an Event of Default with respect to the Pledging Party or an Early Termination Date as a result of an Event of Default with respect to the Pledging Party, the Secured Party shall retain any such Interest Amount as additional Eligible Collateral hereunder until the obligations of the Pledging Party under the Base Contract have been satisfied.

(d) Care of Cash. Without limiting the Secured Party's rights under Paragraph 8(b), the Secured Party will exercise reasonable care to assure the safe custody of all Cash held by it as Posted Collateral to the extent required by applicable law, and in any event the Secured Party will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, the Secured Party will have no duty with respect to Cash, including, without limitation, any duty to enforce or preserve any rights pertaining thereto.

UBSW – What happens to cash held in a custodial account – investment of funds and interest payments? What happens if Custodian ceases to be qualified?

Paragraph 9. Notices **[THIS IS A NEW PARAGRAPH.]**

(a) "Notice" shall mean a Nn¹³⁹ notice or other communication in respect of this Credit Support Addendum. Notice may be given in any manner set forth below to the address or number or in accordance with the electronic messaging system details provided on Page 1 of this Credit Support Addendum and will be deemed effective as indicated:

(i) if in writing and delivered in person or by courier, on the Business Day¹⁴⁰ it is delivered;

(ii) if sent by facsimile transmission, on the date that transmission is received by ~~a responsible employee of~~¹⁴¹ the recipient in legible form (which may be evidenced by a transmission report generated by the sender's facsimile machine); unless the date of that [delivery or (attempted delivery) or that]¹⁴² receipt, [as applicable,] is not a Business Day or that communication is [delivered (or attempted) or] received, [as applicable,] after the close of business on a Business Day, in which case that communication shall be deemed given and effective on the first following Business Day.¹⁴³

(iii) if sent by certified or registered mail or the equivalent (return receipt requested), on the Business Day¹⁴⁴ that mail is delivered or its delivery is attempted; or

¹³⁴ UBSW

¹³⁵ UBSW

¹³⁶ Interested LDCs

¹³⁷ UBSW Delete phrase, Note – phrase added during last meeting.

¹³⁸ Peoples – third, Interested LDCs revise to leave blank.

¹³⁹ UBSW, EnCana revised comments as noted.

¹⁴⁰ Peoples and Interested LDCs

¹⁴¹ UBSW

¹⁴² Interested LDCs add the delivery or attempted delivery terms

¹⁴³ Peoples

¹⁴⁴ Peoples

(iv) if sent by **electronic messaging system**¹⁴⁵, on the date that electronic message is received; unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Business Day, in which case that communication shall be deemed given and effective on the first following ~~day that is a~~¹⁴⁶ Business Day. If e-mail or other electronic messages are to be used, must be specifically agreed to by the parties in writing.¹⁴⁷

(b) Any other Notice, including but not limited to, Notice of an Event of Default, must be given pursuant to Section 9 of the Base Contract.

Paragraph 10. Credit Support Default

(a) "Credit Support Default" shall exist with respect to a party (the "Defaulting Party") if:

(i) a party fails (or fails to cause its Custodian, as applicable) to make, when due, any ~~Transfer of~~ Eligible Collateral, Posted Collateral or the Interest Amount, as applicable, required to be made by it, and such failure continues for one (1) Business Day after Notice of that failure is provided to that party;

(ii) a party fails to comply with or perform any material agreement or obligation ~~for this phrase???~~¹⁴⁸ provided for in this Credit Support Addendum, and such failure continues for TBD¹⁴⁹ Business Day after Notice of that failure is provided to that party;

(iii) a Letter of Credit Default shall apply with respect to such Defaulting Party;¹⁵⁰

(iv) if any representation or warranty made by a Credit Support Provider¹⁵¹ Guarantor in connection with a Guaranty issued as Credit Support pursuant to this Credit Support Addendum or Base Contract¹⁵² Agreement is false or misleading in any material respect when made or when deemed made or repeated¹⁵³;

(v) the failure of a Guarantor's Guaranty to be in full force and effect for purposes of this Credit Support Addendum Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each ~~Transaction~~ to which such Guaranty shall relate without the written consent of the other Party; or

~~(vi)~~ (vi) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty issued as Credit Support pursuant to this Credit Support Addendum¹⁵⁴. [NOTE: these subsections (v) & (vi) need to be deleted and moved to the User's Guide because these subsections won't apply unless one or both of the parties has a Guarantor and should be included in the CSA on ly on an "as needed" basis.]¹⁵⁵

~~(vii)~~ the failure of the Guarantor to make any payments required or to perform any other material covenant or obligation in any guaranty made in connection with the Base Contract.¹⁵⁶

¹⁴⁵ Interested LDCs

¹⁴⁶ Peoples and Interested LDCs

¹⁴⁷ Interested LDCs

¹⁴⁸ Peoples – deletion with no definition noted.

¹⁴⁹ Cinergy – one (1), Peoples five (5), Interested LDCs revise to leave blank

¹⁵⁰ UBSW – does not feel this provisions is necessary, since, as revised, a Letter of Credit Default triggers an obligation of the Pledging Party to post additional Eligible Collateral, which if not complied with by the Pledging Party results in an default under (i) above.

¹⁵¹ Cinergy

¹⁵² UBSW

¹⁵³ EnCana – what is the meaning of "repeated."

¹⁵⁴ Peoples and Interested LDCs recommend to keep Guarantor/Guaranty Language and revised as noted.

¹⁵⁵ Cinergy

¹⁵⁶ UBSW

(b) Credit Support Default shall constitute and have the effect of an Event of Default set forth in Section 10.2 (vi) of the Base Contract.

Paragraph 11. Representations and Warranties.

Each party continuously represents and warrants to the other party (which representations and warranties shall be deemed repeated as of each date on which it, as Pledging Party, Transfers Eligible Collateral)¹⁵⁷ that: (a) it has the power and authority under the law of the jurisdiction of its organization or incorporation and under its organizational and constituent documents to grant to the Secured Party a valid, enforceable, first-priority security interest in, and lien on, all Posted Collateral (other than Letters of Credit or Guaranties)¹⁵⁸ that it ~~transfers~~ as the Pledging Party, and has taken all necessary actions to authorize the granting and perfection of that security interest and lien; (b) as of each date on which it, as the Pledging Party, ~~transfers~~ Eligible Posted Collateral to the Secured Party or to any agent of the Secured Party for the benefit of the Secured Party (or, in the case of after-acquired Posted Collateral, at the time the Secured Party or its agent acquires rights therein), it ~~will have~~ has¹⁵⁹ title to, and will be the sole owner of such Eligible Posted Collateral, free and clear of any security interest, lien, pledge, charge, encumbrance, or other interests or restrictions other than the security interest granted to the Secured Party hereby; (c) the Secured Party will have a valid and perfected first-priority security interest in¹⁶⁰, and lien on, all Posted Collateral (other than Letters of Credit or Guaranties) upon receipt thereof; ~~and~~ (d) the performance by it of its obligations under this Credit Support Addendum will not result in the creation of any security interest, lien or other encumbrance on any Posted Collateral other than the security interest and lien granted pursuant to this Credit Support Addendum; and (e) in connection with the delivery, issuance, renewal, substitution, or increase (as the case may be) which constitutes a Transfer of a Letter of Credit, such Letter of Credit is the legal, valid and binding obligation of the Issuer thereof, enforceable in accordance with its terms¹⁶¹.

Paragraph 12. Certain Rights and Remedies.

(a) Secured Party's Rights and Remedies. If at any time (i) an Event of Default with respect to the Pledging Party has occurred and is continuing or (ii) an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to the Pledging Party, then the Secured Party may do any one or more of the following: (x) exercise any of the rights and remedies of a secured party with respect to the Posted Collateral, including any such rights and remedies under law then in effect; (y) exercise its rights of setoff against any and all property of the Pledging Party in the possession of the Secured Party or its agent; and (z) draw on any outstanding Letter of Credit issued for its benefit under its terms and this Credit Support Addendum. The Secured Party shall either (y) apply the proceeds of the Posted Collateral realized upon the exercise of any such rights or remedies to reduce the Pledging Party's obligations under the Contract or this Credit Support Addendum (the Pledging Party remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full and/or (z) hold such proceeds as collateral security for the Pledging Party's obligations under the Base Contract or this Credit Support Addendum, subject to the Secured Party's obligation to return the proceeds after such obligations are satisfied in full.

(b) Pledging Party's Rights and Remedies. If at any time an Early Termination Date has occurred or been designated as the result of an Event of Default with respect to the Secured Party, then: (i) the Secured Party will be obligated immediately to Transfer all Posted Collateral and the Interest Amount, if any, to the Pledging Party; and (ii) the Pledging Party may do any one or more of the following: (x) exercise any of the rights and remedies of a pledgor with respect to the Posted Collateral, including any such rights and remedies under law then in effect; (y) to the extent that the Posted Collateral or the Interest Amount is not Transferred to the Pledging Party as required in (i) above, setoff amounts payable by the Pledging Party¹⁶² to the Secured Party against the Posted Collateral held by the Secured Party or to the extent its rights to setoff are not exercised, withhold payment of any remaining amounts payable by the Pledging Party, up to the value of any remaining Posted Collateral held by the Secured Party, until the

¹⁵⁷ UBSW

¹⁵⁸ Peoples and Interested LDCs

¹⁵⁹ UBSW

¹⁶⁰ Consumers – does this mean that it is the non-secured party rather than the Secured Party that must do the perfecting. Has any legal research been done on the compatibility of this provisions with Paragraph 8 “Care and Use of Cash.” It raises legal questions that are not readily answerable?

¹⁶¹ UBSW

¹⁶² UBSW

Posted Collateral is Transferred to the Pledging Party; and (z) exercise rights and remedies available to the Pledging Party under the terms of any Letter of Credit.

Paragraph 13. General.

(a) **Security Interest.** To secure its obligations under the **Base Contract** and all outstanding transactions, each party, **as the Pledging Party**, hereby grants to the other party, **as the Secured Party**, a present and continuing first-priority security interest in, and lien on (and right of setoff against), all Posted Collateral (other than Letters of Credit and Guaranties¹⁶³) **Transferred to the Secured Party hereunder, whether now or hereafter held by, on behalf of, or for the benefit of, such other party, and of E**¹⁶⁴ each party agrees to take such action as the other party reasonably requires in order to perfect or maintain the other party's first-priority continuing security interest in, and lien on (and right of setoff against), such Posted Collateral. **[Pledging Party should not be required to perfect all security interests on behalf of the Secured Party.]**¹⁶⁵

(b) **Expenses.**

(i) **Except as otherwise set forth in Paragraph 13.(b) (ii) and (iii) below, E**¹⁶⁶ each party will pay its own costs and expenses (**excluding legal fees**)¹⁶⁷ in connection with performing its obligations under this Credit Support Addendum and neither party will be liable for any costs or expenses incurred by the other party in connection herewith.

(ii) All reasonable costs and expenses incurred by or on behalf of the Secured Party or the Pledging Party in connection with the liquidation and/or application of any Posted Collateral under **Paragraph 12** will be payable, on demand and pursuant to the Base Contract, by the Defaulting Party. **[UBSW suggests to delete remainder of sentence]** or, if there is no Defaulting Party, **equally** by the **Pledging Party**¹⁶⁸.

(iii) The Pledging Party shall pay on request and indemnify the Secured Party against any taxes, assessments, or charges that may become payable by reason of the security interest, general first lien, and right of offset granted under this Credit Support Addendum or the execution, delivery, performance, or enforcement of the Credit Support Addendum, as well as any penalties with respect thereto (including, without limitation, costs and reasonable attorney fees and disbursements for enforcement). [Moved from below – what does this mean? What is it intended to cover? UBSW]

(d) This Credit Support Addendum has been and is made solely for the benefit of the parties and their permitted successors and assigns, and no other entity shall acquire or have any right under or by virtue of this Credit Support Addendum.

~~(e) The Pledging Party shall pay on request and indemnify the Secured Party against any taxes, assessments, or charges that may become payable by reason of the security interest, general first lien, and right of offset granted under this Credit Support Addendum or the execution, delivery, performance, or enforcement of the Credit Support Addendum, as well as any penalties with respect thereto (including, without limitation, costs and reasonable attorney fees and disbursements for enforcement). UBSW moved to (iii) above under expenses.~~

(f) No failure or delay by either party hereto in exercising any right, power, privilege, or remedy hereunder shall operate as a waiver thereof.

(g) The headings in this Credit Support Addendum are for convenience of reference only, and shall not affect the meaning or construction of any provision thereof.

:UBSW – 1. Add statement that this Credit Support Addendum is the sole and exclusive method of posting collateral if it used by parties.

¹⁶³ Peoples and Interested LDCs

¹⁶⁴ UBSW

¹⁶⁵ Interested LDCs

¹⁶⁶ UBSW

¹⁶⁷ Cinergy

¹⁶⁸ Cinergy

2. Concept of Potential Event of Default is used once or twice but is absent in a number of key areas such as Collateral Threshold going to zero upon a PED and/or obligations to give/return collateral if a PED is impacting a party.
3. There is no standard for an LC issuer nor a form of LC. Consider including either in Credit Support Addendum and/or User's Guide (preagreeing to an acceptable qualification of an issuer and the form of LC will prevent disputes when it is time to post.

COMPANY

COUNTERPARTY

BY: _____

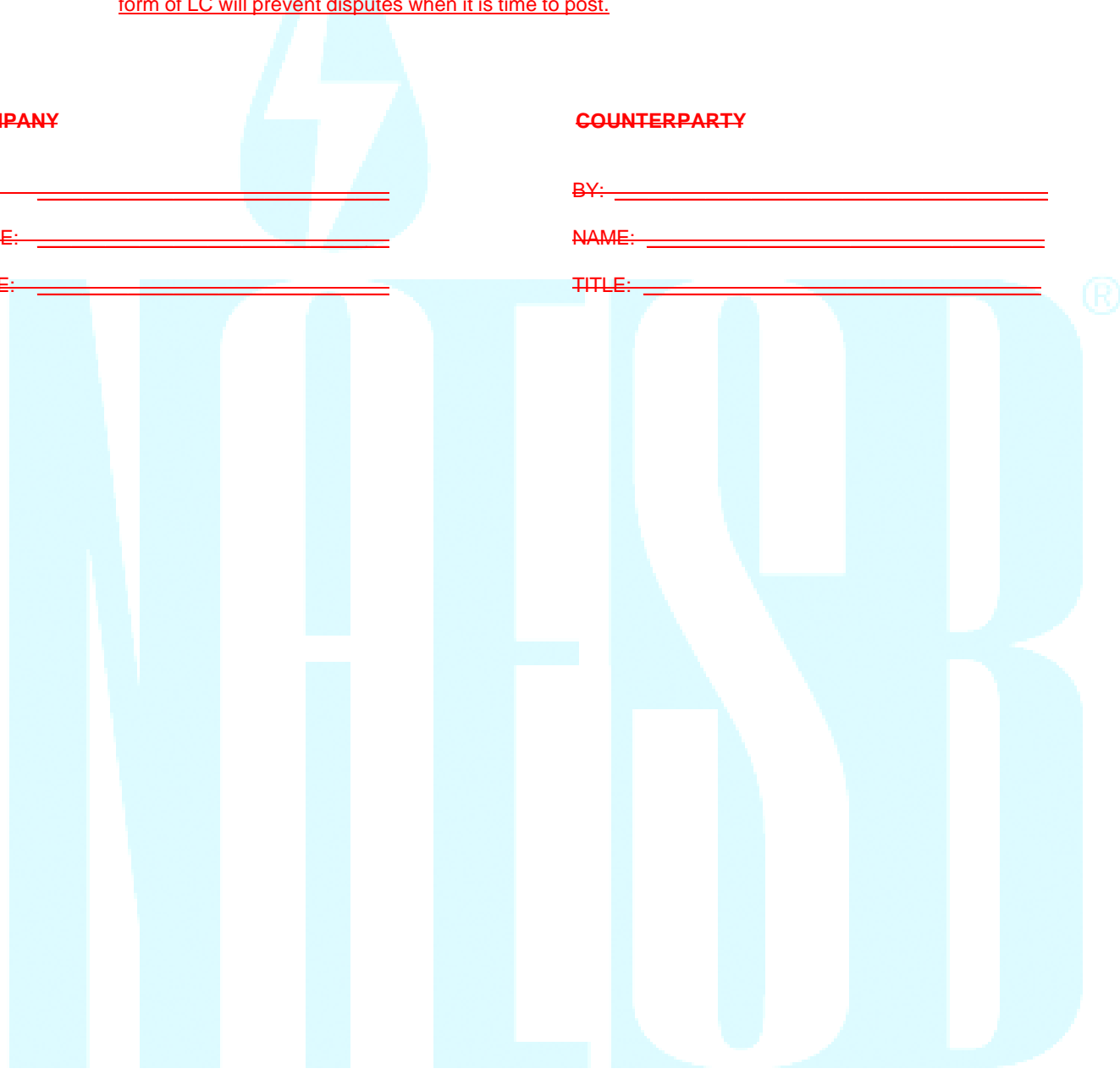
BY: _____

NAME: _____

NAME: _____

TITLE: _____
169

TITLE: _____



¹⁶⁹ EnCana states to delete signatures here as unnecessary since signatures are on elections page.