

APPENDIX 15

CALCULATION AND PAYMENT OF REFINANCING GAINS

SECTION 1. Data and Projections Required for the Calculation of the Refinancing Gain

Developer must notify the Owner as soon as practicable of its interest in proceeding with a Refinancing and the proposed schedule for documenting and closing the proposed Refinancing.

Developer shall provide the following information at least 60 days (or 30 days, with respect to any Rescue Refinancing) in advance of the estimated Refinancing date:

- (a) The Financial Models described in Sections 2(a) and 2(b) of this Appendix 15;
- (b) Details of the actual timing and amounts of Committed Equity Investment from the Financial Close Date to the estimated Refinancing date;
- (c) Details of the actual timing and amounts of Distributions to Equity Members or any of their Affiliates from the Financial Close Date to the estimated Refinancing date;
- (d) Information on the actual cash flow of Developer from the Financial Close Date to the estimated Refinancing date, set out under the same headings as the Financial Model;
- (e) Macroeconomic, revenue and cost projections in the then current Financial Model from the estimated Refinancing date to the end of the Term, assuming the planned Refinancing does not occur;
- (f) Macroeconomic, revenue and cost projections from the estimated Refinancing date to the end of the Term, assuming the planned Refinancing occurs; and
- (g) Term sheet, draft Financing Agreements and other relevant information on the terms of the Refinancing.

Developer shall demonstrate to the Owner's satisfaction (not to be unreasonably withheld) that all project information is, with respect to items (a) through (d) is true and correct, and with respect to (e) and (f), reasonable and the basis upon which new Lenders will agree to participate in the planned Refinancing. When the Parties are unable to agree on actual amounts and timing related to information provided under items (a) through (f) above, relevant projections from the current Financial Model shall be used.

SECTION 2. Calculation of the Refinancing Gain

Developer shall provide the following information at least 60 days in advance of the estimated Refinancing date:

- (a) A pre-Refinancing Financial Model, which does not take into account the effects of the Refinancing (“**Pre-Refinancing Financial Model**”), as updated by Developer for the data provided under Section 1 of this Appendix 15, and which projects the cash flow of Developer from the estimated Refinancing date to the end of the Term, including projected Distributions.

- (b) A post-Refinancing Financial Model which fully takes into account the effects of the Refinancing including all costs incurred in connection with the Refinancing, but excluding the payment to the Owner of its portion of the Refinancing Gain (“**Post-Refinancing Financial Model**”) as updated by Developer for the data provided under Section 1 of this Appendix 15, and which projects the cash flow of Developer from the estimated Refinancing date to the end of the Term, including projected Distributions.

“**Refinancing Gain**” means, with respect to any Refinancing other than an Exempt Refinancing (in respect of which the Refinancing Gain shall be deemed to be zero), the greater of zero and $[(A-B)-C]$ where:

A = net present value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Post-Refinancing Financial Model, discounted using the Equity IRR to the estimated date of the Refinancing, provided that for purposes of this calculation, payment to the Owner of its portion of the Refinancing Gain for which the calculation is being made shall not be deducted from Distributions;

B = net present value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Pre-Refinancing Financial Model, discounted using the Equity IRR to the estimated date of the Refinancing; and

C = any adjustment required to raise the Pre-Refinancing Equity IRR to the Initial Equity IRR as described in Section 3 below.

“**Pre-Refinancing Equity IRR**” means the Equity IRR calculated in the Pre-Refinancing Financial Model, and calculated for the entire Term taking into account:

- (a) Timing and amounts of the investment by Equity Members;

- (b) Actual Distributions received by Equity Members up to the estimated Refinancing date; and

- (c) Projected Distributions as shown in the Pre-Refinancing Financial Model.

SECTION 3. Adjustment to Raise the Pre-Refinancing Equity IRR to the Initial Equity IRR

If the Pre-Refinancing Equity IRR is lower than the Initial Equity IRR, a calculation will be done to determine the Distribution amount which, if received by Equity Members at the estimated Refinancing date, would increase the Pre-Refinancing Financial Model's Pre-Refinancing Equity IRR to the Initial Equity IRR. This Distribution amount will be deducted as factor C in Section 2 of this Appendix 15.

SECTION 4. Payment of Owner's Portion of Refinancing Gain

The Owner may elect, in its sole discretion, to receive payment of its portion of the Refinancing Gain as a lump sum payment or as a reduction in the MASP over all or a portion of the Term (such that the Net Present Value of MASP reductions discounted at the Equity IRR shall equal the Refinancing Gain calculated in accordance with Section 2 of this Appendix 15), on a schedule chosen by the Owner (deductions can have a different profile from the MASP escalation profile), subject to the following provisions:

- (a) The Owner will not receive its portion of the Refinancing Gain faster than the Equity Members or Developer;
- (b) The minimum prevailing debt covenants established in the Funding Agreements would not be violated; and
- (b) If the Refinancing involves raising new debt or otherwise increasing the amount of outstanding Project Debt anticipated in any Fiscal Year of the Financial Model, the Owner may elect to receive its portion as a lump sum payment concurrently with the close of the Refinancing.

SECTION 5. Final Calculation and Payment

Developer shall perform a final calculation of the Refinancing Gain and deliver the results to the Owner at the close of the Refinancing. Developer shall update the Post-Refinancing Financial Model in accordance with Section 16.2 of the Agreement to reflect payment to the Owner of its portion of the Refinancing Gain.