

WORKER ACCOMMODATION PROJECT AGREEMENT

SCHEDULE 13

INSURANCE

TABLE OF CONTENTS

1 INTERPRETATION..... 2

1.1 Definitions 2

2 CONSTRUCTION RELATED INSURANCE REQUIREMENTS 2

2.1 Wrap Up Liability Insurance 2

2.2 Course of Construction 4

2.3 Other Construction Period Coverage..... 6

3 SERVICE RELATED INSURANCE REQUIREMENTS..... 8

3.1 Project Co’s Commercial General Liability Policy..... 8

3.2 Project Co’s All Risks Operating Property Insurance 9

3.3 BC Hydro’s All Risks Operating Property Insurance 9

3.4 Self Insurance 9

3.5 Other Operating Period Coverage 10

4 GENERAL INSURANCE PROVISIONS..... 11

4.1 Insurance Representative 11

4.2 Insurers and Terms of Policies 11

4.3 Liability Not Limited by Insurance 11

4.4 Additional, Elective and Supplemental Insurance 11

4.5 Project Specific Insurance 12

4.6 Particular Requirements of Policies..... 12

4.7 Evidence of Insurance 13

4.8 Claims 13

4.9 Project Co Deductibles and Self Insured Retentions..... 14

4.10 No Indemnification for Insured Claims..... 14

4.11 Compliance 14

4.12 Failure to Insure 14

4.13 Project Contractors and Subcontractors..... 15

5 INSURANCE PAYMENT 15

5.1 Insurance Premiums 15

5.2 Changes in Project Co Premiums..... 15

APPENDIX 13A NOT USED

APPENDIX 13B INSURANCE TRUST AGREEMENT

APPENDIX 13C REPLACEMENT VALUES FOR PHASE 1, PHASE 2, AND THE COMPLETED FACILITY

WORKER ACCOMMODATION PROJECT AGREEMENT

SCHEDULE 13

INSURANCE

1 INTERPRETATION

1.1 Definitions

In this Schedule 13 [Insurance], in addition to the definitions set out in Schedule 1 [Definitions and Interpretation]:

“**Additional Insurance**” has the meaning set out in Section 4.4 of this Schedule 13 [Insurance];

“**BC Hydro’s Operating Policy**” has the meaning set out in Section 3.3 of this Schedule 13 [Insurance];

“**Construction CGL Policy**” has the meaning set out in Section 2.1 of this Schedule 13 [Insurance];

“**Construction Property Policy**” has the meaning set out in Section 2.2 of this Schedule 13 [Insurance];

“**Elective Insurance**” has the meaning set out in Section 4.4 of this Schedule 13 [Insurance];

“**Insurance Premium Adjustment**” has the meaning set out in Section 5.2 of this Schedule 13 [Insurance];

“**Insurance Premium Credit**” has the meaning set out in Section 5.2 of this Schedule 13 [Insurance];

“**Insurance Premium Increase**” has the meaning set out in Section 5.2 of this Schedule 13 [Insurance];

“**Insurance Premium Index**” has the meaning set out in Section 5.2 of this Schedule 13 [Insurance];

“**Insuring Party**” has the meaning set out in Section 4.12 of this Schedule 13 [Insurance];

“**Non-Insuring Party**” has the meaning set out in Section 4.12 of this Schedule 13 [Insurance];

“**Project Co Operating CGL Policy**” has the meaning set out in Section 3.1 of this Schedule 13 [Insurance];

“**Project Co Operating Property Policy**” has the meaning set out in Section 3.2 of this Schedule 13 [Insurance]; and

“**Supplemental Insurance**” has the meaning set out in Section 4.4 of this Schedule 13 [Insurance].

2 CONSTRUCTION RELATED INSURANCE REQUIREMENTS

2.1 Wrap Up Liability Insurance

Prior to the commencement of any Construction and thereafter until a Certificate of Substantial Completion is issued with respect to the completed Facility, Project Co will take out, maintain in force, and extend, or will cause to be taken out, maintained and extended, “Wrap up” liability insurance (the “**Construction CGL Policy**”) which will include the following terms:

- (a) coverage in an amount of not less than [REDACTED] inclusive per occurrence for bodily injury, death, and damage to property, including loss of use thereof;

- (b) a deductible not exceeding [REDACTED] per occurrence;
- (c) include as named insureds BC Hydro, Project Co, and as additional insureds, the Project Contractors and all Subcontractors, but excluding suppliers whose only function is to supply or transport products to the Site and suppliers that perform only warranty or remedial work on the Site in respect of products supplied or transported to the Site, and not extending to any activities, works, jobs or undertakings of any of the insureds other than those directly related to the Design and Construction;
- (d) contain a waiver of subrogation against all insureds under the policy; and
- (e) include coverage for:
 - (i) premises and operations liability;
 - (ii) damage to existing structures;
 - (iii) products or completed operations liability;
 - (iv) blanket contractual liability;
 - (v) cross liability and severability of interest;
 - (vi) contingent employer's liability;
 - (vii) personal injury liability;
 - (viii) shoring, blasting, excavating, underpinning, demolition, pile driving and caisson work, work below ground surface, tunnelling and grading, as applicable;
 - (ix) non owned automobile liability with a sublimit of [REDACTED];
 - (x) broad form property damage;
 - (xi) broad form completed operations liability for a period of not less than 24 months after the later of the Service Commencement Date or the time that a Certificate of Substantial Completion is issued for the completed Facility, with an aggregate limit of not less than [REDACTED];
 - (xii) sudden and accidental pollution allowing up to 240 hours of detection and 240 hours reporting;
 - (xiii) blanket tenant's legal liability with a sublimit of [REDACTED];
 - (xiv) use of attached machinery;
 - (xv) loading and unloading of automobiles;
 - (xvi) loss of use without damage to property;
 - (xvii) hoist and collision liability;
 - (xviii) intentional injury committed to protect persons or property;
 - (xix) watercraft;

- (xx) voluntary medical payments with sublimits of [REDACTED] per person and [REDACTED] in the aggregate;
- (xxi) physical damage to non-owned automobile with a sublimit of [REDACTED];
- (xxii) legal defence costs;
- (xxiii) forest fire fighting expenses with a sublimit of [REDACTED]; and
- (xxiv) coverage for remedial work performed by the insured for up to 365 days.

2.2 Course of Construction

From the commencement of any Construction and thereafter until a Certificate of Substantial Completion is issued with respect to the completed Facility, Project Co will take out, maintain in force and extend, or will cause to be taken out, maintained and extended, course of construction insurance against "All Risks" of physical loss or damage (the "**Construction Property Policy**") covering all materials, property, structures and equipment purchased for, entering into or forming part of the Facility, including all Design and Construction and all existing structures at the Site which is in the care, custody, and control of Project Co, while located anywhere within Canada or the United States of America during construction, erection, installation, testing and commissioning of the Facility which will include the following terms:

- (a) coverage in an amount of not less than the full replacement value of each Phase as set out in Appendix 13C [Replacement Values for Phase 1, Phase 2 and the Completed Facility], with the following sublimits:
 - (i) for property insured under the policy and stored at an off Site location or in transit in Canada or the United States of America, a limit of not less than the total of all values stored at any single location at any given time, or the value of the largest single shipment to be transported by land to the Site if such transport by land is not covered by marine cargo insurance subject to standard insurance restrictions applying for disclosing named locations;
 - (ii) professional fees to establish quantum of any covered loss, [REDACTED], any one accident or occurrence;
 - (iii) fire fighting expense, [REDACTED];
 - (iv) debris removal and clean up, [REDACTED], whichever is higher;
 - (v) expediting expense, [REDACTED], whichever is higher;
 - (vi) immediate repairs to minimize loss, [REDACTED];
 - (vii) costs of demolition and the increased cost to repair or replace resulting from the application of by laws or ordinances, [REDACTED];
 - (viii) testing and commissioning, 90 days, any of Phase 1, Phase 2 or the completed Facility;
 - (ix) extra expense, [REDACTED]; and
 - (x) land and water pollution clean up, [REDACTED] as term aggregate.

- (b) include coverage for:
 - (i) off premises service interruption, minimum of 4 weeks;
 - (ii) soft costs, having a waiting period of 30 days in respect of the Facility;
 - (iii) margin of profit;
 - (iv) interruption by civil authority, minimum of 4 weeks;
 - (v) escalation [REDACTED] of sum insured;
 - (vi) underground services, temporary buildings and structures, temporary boilers and pressure vessels, scaffolding, false work, forms, hoardings, excavation, site preparation, landscaping and similar work;
 - (vii) electronic data processing equipment and media, including the cost to restore or recreate data;
 - (viii) prevention of ingress or egress;
 - (ix) resultant damage from faulty materials, faulty workmanship, and design errors and omissions (LEG2/96); and
 - (x) perils of floods and earthquakes.
- (c) deductibles, per occurrence, not more than the following maximums and if more than one deductible applies, the highest one will apply:
 - (i) for floods, maximum of [REDACTED];
 - (ii) for testing and commissioning, maximum of [REDACTED];
 - (iii) for earthquakes, the greater of [REDACTED] or [REDACTED] of the total insured value at the time of the loss; and
 - (iv) for all other insured perils, maximum of [REDACTED];
- (d) include Project Co, the Project Contractors and all Subcontractors as named insureds and BC Hydro as additional insured, as their interests may appear, and not extending to any activities, works, jobs or undertakings of any of the insureds, other than those directly related to the Design and Construction;
- (e) include, as the exclusive loss payee, Project Co, with respect to the delay in start-up coverage referred to in Section 2.2(f);
- (f) delay in start up coverage:
 - (i) in an amount sufficient to compensate Project Co for additional capital payments, additional interest for the extension of financing necessary for the completion of the WA Project, legal and accounting expenses, property taxes, insurance premiums, building permits and other miscellaneous costs, various incurred fees, fixed operational and maintenance expenses, additional commissions, advertising, margin of profit of Project Co, caused by the delay in Service Commencement resulting from any of the perils insured against under the Course of Construction Policy;

- (ii) having an indemnity period of no less than 24 months in respect of the Facility; and
- (iii) having a waiting period of 30 days in respect of the Facility;
- (g) exclusion for contractor's equipment of any description, except scaffolding and hoarding;
- (h) permit use and occupancy of the completed phases of work by Project Co, the Project Contractors, the Subcontractors and BC Hydro prior to the Service Commencement Date for:
 - (i) construction purposes;
 - (ii) office purposes;
 - (iii) installing, testing and commissioning or storing of equipment or machinery;
 - (iv) staff orientation and training; and
 - (v) partial operation of a part of the Facility for the purpose it was intended for; and
- (i) contain a waiver of subrogation against all protected entities, including those set out in Section 2.2(h) [Course of Construction Coverage] of this Schedule.

2.3 Other Construction Period Coverage

From the commencement of any Construction and thereafter until a Certificate of Substantial Completion with respect to the completed Facility, Project Co will take out, maintain in force and extend, or will cause to be taken out, maintained and extended, with respect to Design and Construction of the Facility:

- (a) automobile liability insurance for bodily injury, death and damage to property which will include the following terms:
 - (i) coverage in an amount of not less than [REDACTED] inclusive per occurrence;
 - (ii) coverage for Project Co, the Project Contractors and all Subcontractors; and
 - (iii) include coverage for third party property damage and bodily injury, including accident benefits, arising out of the ownership use or operation of any licensed motor vehicle, whether owned or non-owned, which are owned or leased by, for or on behalf of Project Co;
- (b) if aircraft or watercraft, whether chartered or owned, are used in connection with the WA Project, and except to the extent covered under the Construction CGL Policy, aircraft and watercraft liability insurance for bodily injury, death and damage to property, including loss of use thereof, and including aircraft passenger hazard if applicable which will include the following terms:
 - (i) coverage in an amount of not less than [REDACTED] inclusive per occurrence;
 - (ii) coverage for Project Co, the Project Contractors and all Subcontractors;
 - (iii) include BC Hydro as an additional insured;
 - (iv) cross liability and severability of interest;
 - (v) contain a waiver of subrogation against BC Hydro; and

- (vi) a deductible not more than [REDACTED];
- (c) if ocean marine cargo is used to transport any of the materials, equipment or property supplied under or used during the WA Project, which are critical to achieve Service Commencement, marine cargo insurance covering all such materials, equipment and other property, which will include the following terms:
 - (i) coverage in an amount not less than the full replacement value of the shipment;
 - (ii) coverage for Project Co, the Project Contractors and all Subcontractors;
 - (iii) include BC Hydro as an additional named insured;
 - (iv) subject to the conditions of the Institute Cargo Clauses (All Risks), including war and strikes extensions, and including transit and storage where applicable;
 - (v) if an entire vessel is chartered for shipping materials, equipment or property then charterer's liability insurance will also be provided in amounts sufficient to protect and indemnify BC Hydro, Project Co, the Project Contractors and all Subcontractors from and against all liability arising out of the chartering of such vessel;
 - (vi) include delay in start-up coverage:
 - (vii) in an amount sufficient to compensate Project Co for additional capital payments, additional interest for the extension of financing necessary for the completion of the WA Project, legal and accounting expenses, property taxes, insurance premiums, building permits and other miscellaneous costs, various incurred fees, fixed operational and maintenance expenses, additional commissions, advertising, margin of profit of Project Co, caused by the delay in Service Commencement resulting from any of the perils insured against under the Marine Cargo Policy:
 - (A) having an indemnity period of no less than 24 months in respect of the Facility;
 - (B) having a waiting period of 30 days in respect of the Facility; and
 - (C) including only Project Co as the named insured and the exclusive loss payee; and
 - (viii) a deductible not more than [REDACTED];
- (d) "All Risks" insurance covering all construction equipment owned, leased or rented by Project Co, the Project Contractors or any Subcontractor, for use or for which any of them may be responsible from the commencement of any Construction and thereafter until a Certificate of Substantial Completion is issued with respect to the completed Facility, which will include the following terms:
 - (i) coverage in an amount of not less than the replacement cost of such equipment;
 - (ii) coverage for loss of use of such equipment;
 - (iii) coverage for Project Co, the Project Contractors and all Subcontractors;
 - (iv) contain a waiver of subrogation against BC Hydro; and
 - (v) a deductible not more than [REDACTED];

- (e) workers' compensation insurance coverage for the statutory limits of all claims in accordance with Laws and the requirements of any Governmental Authority, for all employees of Project Co, Project Contractors, and any Subcontractor engaged in the performance of any Construction, within or outside of Canada; and
- (f) insurance required by Section 3.4 [Additional, Elective and Supplemental Insurance] of this Schedule.

3 SERVICE RELATED INSURANCE REQUIREMENTS

3.1 Project Co's Commercial General Liability Policy

During the Operating Period, Project Co will take out, maintain in force and extend, or will cause to be taken out, maintained and extended, commercial general liability insurance (the **Project Co Operating CGL Policy**"), which will include the following terms:

- (a) coverage in an amount of not less than [REDACTED] inclusive per occurrence for bodily injury, death, and damage to property, including loss of use thereof;
- (b) a deductible not more than [REDACTED] per occurrence;
- (c) include BC Hydro as a named insured;
- (d) include as additional insured the Service Provider, but excluding suppliers whose only function is to supply or transport products to the Site and suppliers that perform only warranty or remedial work on the Site in respect of products supplied or transported to the Site, and not extending to any activities, works, jobs or undertakings of any of the insureds other than those directly related to the Services;
- (e) contain a waiver of subrogation against BC Hydro;
- (f) include coverage for:
 - (i) products and completed operations liability;
 - (ii) blanket written contractual liability;
 - (iii) protective liability;
 - (iv) contingent employer's liability;
 - (v) personal injury liability;
 - (vi) non owned automobile liability;
 - (vii) cross liability and severability of interest;
 - (viii) employees and volunteers as additional insureds;
 - (ix) broad form property damage, endorsed to remove any exclusion limiting coverage when third party property is in the care, custody, control and/or possession of an insured;
 - (x) legal defence costs;
 - (xi) sudden and accidental pollution; and

- (xii) forest fire fighting liability.

3.2 Project Co's All Risks Operating Property Insurance

During the Operating Period, Project Co will take out, maintain in force and extend, or will cause to be taken out, maintained and extended, "All Risks" property insurance (**Project Co Operating Property Policy**) in respect of the Facility, which will include the following terms:

- (a) coverage in an amount of [REDACTED] per occurrence;
- (b) replacement cost valuation basis;
- (c) a deductible of not more than [REDACTED], except in the case of earthquakes where the deductible can be up to [REDACTED] of the insured value at the time of the loss;
- (d) include BC Hydro as additional insured;
- (e) contain a waiver of subrogation against all named insureds and additional named insureds, except to the extent a loss is caused by, or results from, an error in Design or any other professional error or omission; and
- (f) include coverage for earthquake and flood.

3.3 BC Hydro's All Risks Operating Property Insurance

During the Operating Period, BC Hydro will take out, maintain in force and extend, or will cause to be taken out, maintained and extended, all risks property insurance (**BC Hydro's Operating Property Policy**) in respect of the Facility, which will include the following terms:

- (a) providing coverage for property damage to a portfolio of BC Hydro assets, including but not limited to the Facility;
- (b) coverage in an amount of not less than [REDACTED];
- (c) an annual aggregate self-insured retention of not more [REDACTED];
- (d) include as additional insureds Project Co and Project Contractors, as their interests may appear, as to the WA Project only;
- (e) contain a waiver of subrogation against all named insureds and additional named insureds, except to the extent a loss is caused by, or results from, an error in Design or any other professional error or omission; and
- (f) include coverage for earthquake and flood.

3.4 Self Insurance

BC Hydro may, in its sole discretion, choose not to purchase, in whole or in part, the insurance described in Section 2.3 [BC Hydro's All Risks Operating Property Insurance] of this Schedule. Where BC Hydro chooses not to purchase such insurance, it will act as the insurer in respect of such coverage and will have all of the rights and obligations of an insurer as if such policies were in fact taken out. In such circumstances, BC Hydro will provide Project Co with policy wording for each such policy that is generally consistent with wording of a comparable policy maintained by a prudent owner of a project similar to the WA Project.

3.5 Other Operating Period Coverage

During the Operating Period, Project Co will take out, maintain in force and extend, or will cause to be taken out, maintained and extended:

- (a) automobile liability insurance for bodily injury, death and damage to property which will include the following terms:
 - (i) coverage in an amount of not less than [REDACTED] inclusive per occurrence;
 - (ii) coverage for Project Co, the Project Contractors and all Subcontractors; and
 - (iii) include coverage for third party property damage and bodily injury, including accident benefits, arising out of the ownership use or operation of any licensed motor vehicle, whether owned or non-owned, which are owned or leased by, for or on behalf of Project Co;
- (b) if aircraft or watercraft, whether chartered or owned, are used in connection with the WA Project, and except to the extent covered under the Operating CGL Policy, aircraft and watercraft liability insurance for bodily injury, death and damage to property, including loss of use thereof, and including aircraft passenger hazard if applicable which will include the following terms:
 - (i) coverage in an amount of not less than [REDACTED] inclusive per occurrence;
 - (ii) coverage for Project Co, the Project Contractors and all Subcontractors;
 - (iii) include BC Hydro as an additional insured;
 - (iv) cross liability and severability of interest;
 - (v) contain a waiver of subrogation against BC Hydro; and
 - (vi) a deductible not more than [REDACTED];
- (c) workers' compensation insurance coverage for the statutory limits of all claims in accordance with Laws and the requirements of any Governmental Authority, for all employees of Project Co, Project Contractors, and any Subcontractor engaged in the performance of the Services, within or outside of Canada;
- (d) when construction, rehabilitation, major repair or restoration work is being carried out by or on behalf of Project Co as part of the Services under this Agreement and the risks associated with such work are not insured by the insurance described in the policies described in Section 1 [Construction Related Insurance Requirements] or Section 2 [Service Related Insurance Requirements] of this Schedule, Project Co will take out, maintain in force and extend, or will cause to be taken out, maintained and extended, such of the insurance described in Section 1 [Construction Related Insurance Requirements] or Section 2 [Service Related Insurance Requirements] of this Schedule in such amounts, as a prudent owner would reasonably require, as determined by BC Hydro, acting reasonably, at least 10 Business Days before the commencement of the applicable period during which the insurance is required. To the extent such work is undertaken pursuant to a Change Certificate and such work is not covered in the policies described in Section 1 [Construction Related Insurance Requirements] or Section 2 [Service Related Insurance Requirements] of this Schedule, the Change Certificate for such work will include such insurance coverage as BC Hydro, acting reasonably, considers necessary in the circumstances; and

- (e) insurance required by Section 3.4 [Additional, Elective and Supplemental Insurance] of this Schedule.

4 GENERAL INSURANCE PROVISIONS

4.1 Insurance Representative

Before commencing any Construction, Project Co will appoint an insurance representative who will communicate with BC Hydro and keep BC Hydro advised of all material matters of insurance, including claims, possible claims and policy changes or amendments. Project Co will at all times maintain such a representative throughout the Term. Such representative will be an individual located in Canada and Project Co will advise BC Hydro promptly of any change in such representative during the Term.

4.2 Insurers and Terms of Policies

Project Co and BC Hydro will ensure that all policies for the insurance that they are required to obtain pursuant to this Schedule are obtained and maintained with financially sound Qualified Insurers licensed in Canada (minimum S&P BBB rating and/or AM Best "A" rating) acceptable to the other party and, where required by Law, licensed to insure such risk in British Columbia and, subject to this Schedule, are in such forms and contain such terms and conditions which are equal to or better than those that would be obtained and maintained by prudent owners and operators of projects of similar scope and magnitude to the WA Project and, in addition to the required inclusions or permitted exclusions for each policy specifically described in this Schedule, include such other inclusions and exclusions as such prudent owner or operator would require or permit.

4.3 Liability Not Limited by Insurance

Except to the extent otherwise expressly provided in this Agreement, none of the insurance coverage amounts or sublimits specified in this Schedule, nor the failure or refusal of an insurer to pay any claim under an insurance policy obtained or maintained or caused to be obtained or maintained by Project Co pursuant to this Schedule, limit the liability of Project Co with respect to any obligations of Project Co to BC Hydro arising under this Agreement.

4.4 Additional, Elective and Supplemental Insurance

Before commencing any Construction, Project Co: (i) will obtain and maintain, or cause to be obtained and maintained, at its cost, all such other policies of insurance required by Law by Project Co in connection with the performance of its obligations under this Agreement (**"Additional Insurance"**); and (ii) may obtain and maintain all such other policies of insurance which Project Co deems necessary having regard to the policies of insurance which prudent owners and operators of projects of similar scope and magnitude to the WA Project would maintain and obtain, or cause to be obtained and maintained (**"Elective Insurance"**), including:

- (a) coverage for equipment, materials or other property to be used in Construction located at manufacturing plants prior to shipping of such equipment or materials to the Site;
- (b) directors and officers liability and corporate indemnification insurance; and
- (c) professional errors and omissions insurance covering professional error and omissions for which the Design Builder or any Design Professionals may be liable in connection with the WA Project.

During the term of this Agreement, BC Hydro may, by written notice to Project Co, require Project Co to use reasonable commercial efforts to obtain additional insurance or alter or amend at BC Hydro's cost insurance policies required to be obtained and maintained, or caused to be obtained and maintained by Project Co under this Agreement.

Nothing in this Agreement shall prevent Project Co or BC Hydro from obtaining and maintaining or causing to be obtained or maintained at their own respective cost insurance coverage additional to that required under this Agreement (the **“Supplemental Insurance”**).

For greater clarity “Mandatory Insurance” includes the insurance policies that are required to be obtained and maintained by Project Co pursuant to Sections 1, 2 and 3 of this Schedule 13 [Insurance] (the minimum required terms or sublimits thereof are specified herein) and any Additional Insurance, but excluding Elective Insurance or Supplemental Insurance.

4.5 Project Specific Insurance

All insurance coverage required to be provided by Project Co, other than any automobile liability, aircraft liability or watercraft liability insurance, shall be purchased specifically and exclusively for the WA Project and extend to all aspects of the Design, Construction and Services, with coverage limits devoted solely to the WA Project. Insurance coverage with dedicated Project specific limits and identified premiums are acceptable, provided that they otherwise meet all requirements described in this Schedule.

4.6 Particular Requirements of Policies

Without limiting the generality of this Schedule 13 [Insurance] and the provisions of Section 7 of this Agreement:

- (a) each policy of insurance required under this Agreement will:
 - (i) contain an endorsement to the effect that the insurer will not effect any adverse reduction or adverse material alteration or amendment to the policy or any cancellation of the policy without first giving at least 30 days prior written notice by registered mail to BC Hydro and each of the other named insureds and loss payees;
 - (ii) contain an endorsement to the effect that the policy is non-cancellable except for non-payment of premium, abandonment or termination of the WA Project prior to the expiry date of the policy, or indefinite suspension of the WA Project;
 - (iii) contain an endorsement to the effect that, in the event of cancellation due to non-payment of premium, the insurer will give at least 15 days prior written notice by registered mail to BC Hydro;
 - (iv) contain an endorsement to the effect that the policy will not be invalidated and coverage thereunder will not be denied to any insureds by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policy other than as a result of a negligent act, misrepresentation or omission of such insured; and
 - (v) be primary and not require the sharing of any loss by any insurer of BC Hydro or any other named insured;
- (b) each policy of liability insurance required under this Agreement will contain a cross liability endorsement to the effect that Project Co and BC Hydro and the other insureds will each be entitled to indemnification under such policy as if each were alone insured under such policy and notwithstanding that the claim in respect of which indemnification is sought is made by any other insured; and

- (c) each policy of property insurance required under this Agreement must be on a stated amount co insurance basis, other than:
 - (i) the equipment insurance described in Section 2.3 [Other Construction Period Coverage] of this Schedule; and
 - (ii) the Construction Property Policy.

4.7 Evidence of Insurance

Within 10 days of the Effective Date, and in any event prior to the commencement of Construction, as well as at any other later time upon issuance or renewal or upon the request of BC Hydro, Project Co will deliver to BC Hydro a certificate of insurance of each policy required to be in place as of the execution of this Agreement or other satisfactory evidence of adequate insurance.

No review or approval of any insurance certificate or insurance policy by either party will derogate from or diminish such party's rights under this Agreement.

4.8 Claims

Project Co will:

- (a) maintain a written register of all claims and incidents that might reasonably result in a claim under any of the policies of insurance required by this Agreement and will allow BC Hydro to inspect such register at any time; and
- (b) notify BC Hydro within five Business Days after making any claim under any of the policies for the insurance required by this Agreement where the value of the claim exceeds [REDACTED] or, regardless of the value of the claim, the claim involves personal injury or death, accompanied by full particulars of the incident giving rise to the claim.

Within 30 days from the filing of a claim with an insurer, Project Co and BC Hydro jointly will open a bank account (an Insurance Account) for the deposit of the proceeds of any insurance claims Project Co makes under the policies of insurance in an amount greater than [REDACTED] and each agrees to hold the proceeds of such claims in trust until such time as Project Co and BC Hydro mutually agree to whom such proceeds should be distributed or Project Co and BC Hydro appoint an Insurance Trustee and enter into an Insurance Trust Agreement and in which case the proceeds of insurance shall be forwarded to the Insurance Trustee.

Within 14 Business Days from:

- (c) the date that Project Co or BC Hydro makes any claim under any of the policies of insurance where the value of the claim exceeds [REDACTED]; and
- (d) the date that a party requests an Insurance Trustee be appointed in circumstances where the Agreement contemplates that the party has a right to make a payment of an amount to the Insurance Trustee,

the parties will appoint an Insurance Trustee and will enter into the Insurance Trust Agreement in the form attached as Appendix 13B [Insurance Trust Agreement].

4.9 Project Co Deductibles and Self Insured Retentions

Project Co will be responsible for the deductible or self insured retention portion of, or waiting period for, any claim made on any policy of insurance to be maintained by Project Co pursuant to this Schedule 13 [Insurance].

4.10 No Indemnification for Insured Claims

Project Co will not be entitled to claim compensation, indemnification or reimbursement from BC Hydro under this Agreement to the extent that Project Co:

- (a) is entitled to recover any such amounts under any insurance in force at the time of loss; or
- (b) would have been entitled to recover any such amounts under any insurance if it had complied with its obligation to take out and maintain, or cause to be taken out and maintained, insurance in accordance with this Agreement.

4.11 Compliance

- (a) Project Co will comply with the terms, conditions and requirements of all policies for the insurance required by this Schedule and will not do, or omit to do, or permit to be done or omitted by any Project Co Person, anything on or with respect to the Facility or the Lands that could reasonably be expected to result in the cancellation of any insurance required by this Schedule, or that would reasonably be expected to entitle any insurer to refuse to pay any claim under the policy for any such insurance.
- (b) BC Hydro will not do, or permit to be done by any BC Hydro Person, anything on or with respect to the Facility or the Lands that could reasonably be expected to result in the cancellation of any insurance required by this Schedule, or that would entitle any insurer to refuse to pay any claim under the policy for any such insurance.
- (c) BC Hydro and Project Co will, and Project Co will cause the Project Contractors and the Subcontractors to:
 - (i) comply with all insurance policy warranties, terms and conditions made known to them; and
 - (ii) take any and all special precautions necessary to prevent fires occurring in or about the Facility as required by the terms of the Construction Property Policy.

4.12 Failure to Insure

Subject to Section 6.14 [Consequences of Risks Becoming Uninsurable] of this Agreement, if either party (the “**Non-Insuring Party**”) fails or refuses to obtain or maintain in force any insurance required to be effected by it under this Schedule, or to provide evidence of such insurance and renewals in relation thereto as and when required and in accordance with this Schedule, the other party (the “**Insuring Party**”), without prejudice to any of its other rights under this Agreement or otherwise, may give written notice to the Non-Insuring Party to do so within 10 days and, the Non-Insuring Party fails or refuses to do so within 10 days, may take all necessary steps to procure such insurance at the Non-Insuring Party’s cost, in which event any amounts paid by the Insuring Party for that purpose together with all reasonable costs incurred by the Insuring Party in procuring such insurance will become due and payable by the Non-Insuring Party to the Insuring Party within 30 days.

4.13 Project Contractors and Subcontractors

Project Co will determine the applicable insurance coverage to be obtained by Project Contractors and Subcontractors, provided that such insurance coverages will be consistent with insurance that prudent subcontractors would be required to maintain for projects of similar scope and magnitude to the WA Project.

5 INSURANCE PAYMENT

5.1 Insurance Premiums

Each party will pay all premiums payable under the policies of insurance required to be maintained by such party pursuant to this Schedule.

5.2 Changes in Project Co Premiums

If and to the extent in the first year of the Operating Period the actual cost of the Operating Period Mandatory Insurance differs from Project Co's estimated cost at Financial Submission Date as set out in its Proposal, BC Hydro will be responsible for and pay Project Co a one time adjustment (the **Insurance Premium Adjustment**) in the amount of the cumulative change in the premium index over the same period (the **Insurance Premium Index**) as determined by a reputable insurance brokerage firm in Canada, selected by Project Co and BC Hydro prior to the Operating Period that is acceptable to both parties, each acting reasonably.

Every year thereafter during the Operating Period, if and to the extent: 5.2.1 the renewal premium differs by more than ██████████ from the preceding year's premium when Project Co renews one or more of the Mandatory Insurance policies; and 5.2.2 in that same year the change in the Insurance Premium Index increases by more than ██████████ in the year during which a policy renewal by Project Co is made, BC Hydro will be responsible for and pay Project Co the incremental cost amount (the **Insurance Premium Increase**) represented by lesser of: (i) the actual cost increase to Project Co in excess of ██████████; or (ii) the increase in the Insurance Premium Index in excess of ██████████, in that year.

Conversely, if and to the extent there is a decrease in the cost of the foregoing insurance by more than ██████████ in the period during which a policy renewal is made, Project Co will be responsible for and pay BC Hydro the full amount of realized reduction in premium cost (the **Insurance Premium Credit**) represented by the greater of: (a) the actual decrease to Project Co in excess of ██████████; or (b) the decrease in the Insurance Premium Index in excess of ██████████, in that year. Payments by BC Hydro or Project Co, as the case may be, shall be made in accordance with Schedule 13 [Insurance].

WORKER ACCOMMODATION PROJECT AGREEMENT

APPENDIX 13A

NOT USED

APPENDIX 13B

INSURANCE TRUST AGREEMENT

THIS AGREEMENT is made as of the ▼ day of ▼, 20▼

AMONG:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

("BC Hydro")

AND:

ATCO TWO RIVERS LODGING GROUP LIMITED PARTNERSHIP by its general partner **ATCO TWO RIVERS LODGING GROUP GP LTD.**

("Project Co")

AND:

▼

(the "Insurance Trustee")

WHEREAS:

- A. BC Hydro and Project Co have entered into the Project Agreement.
- B. BC Hydro and Project Co have agreed that all amounts from time to time contained in the Insurance Trust Account are to be held in trust by the Insurance Trustee in accordance with the terms of this Insurance Trust Agreement, and that no releases, distributions or transfers of any funds from the Insurance Trust Account shall be made other than in accordance with the terms of this Insurance Trust Agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements of the Parties hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. DEFINITIONS

In this Insurance Trust Agreement, unless the context otherwise requires:

- (a) "**Bank**" means ▼.
- (b) "**Business Day**" has the meaning given in the Project Agreement.
- (c) "**Change of Authorization Event**" has the meaning given in Section 7(a) of this Insurance Trust Agreement.
- (d) "**Change of Authorization Notice**" has the meaning given in Section 7(b) of this Insurance Trust Agreement.
- (e) "**BC Hydro Event of Default**" has the meaning given in the Project Agreement.

Worker Accommodation Project Agreement – Appendix 13B
[Insurance Trust Agreement]

- (f) **“Default Notice”** means a written notice given by BC Hydro to the Insurance Trustee than an event of default under the Project Agreement has occurred and is continuing.
- (g) **“Default Period”** means the period commencing on the date upon which the Insurance Trustee receives a Default Notice and ending on the date upon which the Insurance Trustee receives written notice from BC Hydro as the case may be that the event of default which was the subject matter of the applicable Default Notice has been cured.
- (h) **“Facility”** has the meaning given in the Project Agreement.
- (i) **“Governmental Authority”** has the meaning given in the Project Agreement.
- (j) **“Insurance Policies”** has the meaning given in Section 4(a) of this Insurance Trust Agreement.
- (k) **“Insurance Proceeds”** means:
 - (i) all proceeds of any Insurance Policy that are paid over to the Insurance Trustee by any insurer, Project Co or BC Hydro; and
 - (ii) any amounts paid by BC Hydro or Project Co to the Insurance Trustee on the occurrence of an Uninsurable Risk (as defined in the Project Agreement), which would otherwise have been covered by an Insurance Policy.
- (l) **“Insurance Receivables”** has the meaning given in the Project Agreement.
- (m) **“Insurance Trust Account”** means Account No. ▼ at ▼.
- (n) **“Insurance Trust Agreement”** means this insurance trust agreement.
- (o) **“Order”** has the meaning given in Section 6(k) of this Insurance Trust Agreement.
- (p) **“Party”** means any of BC Hydro, Project Co or the Insurance Trustee, and **“Parties”** means all of BC Hydro, Project Co and the Insurance Trustee.
- (q) **“Project”** has the meaning given in the Project Agreement.
- (r) **“Project Agreement”** means the agreement dated ▼ between Project Co and BC Hydro relating to the design, construction, financing, operation, maintenance and life cycle of the Facility, as may be amended, supplemented or restated from time to time.
- (s) **“Project Co Event of Default”** has the meaning given in the Project Agreement.
- (t) **“Service Commencement”** has the meaning given in the Project Agreement.
- (u) **“Termination Payment”** has the meaning given in the Project Agreement.
- (v) **“Trust Property”** means all of the property held in trust by the Insurance Trustee pursuant to this Insurance Trust Agreement, including, without limitation, the Insurance Trust Account, and all amounts from time to time contained therein, the Insurance Policies and the Insurance Proceeds.

2. INTERPRETATION

This Insurance Trust Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:

- (a) The headings in this Insurance Trust Agreement are for convenience of reference only, shall not constitute a part of this Insurance Trust Agreement, and shall not be taken into consideration in the interpretation of, or affect the meaning of, this Insurance Trust Agreement.
- (b) Unless the context otherwise requires, references to specific Sections, Clauses, Paragraphs, Subparagraphs, and other divisions are references to such Sections, Clauses, Paragraphs, Subparagraphs, or divisions of this Insurance Trust Agreement and the terms “Section” and “Clause” are used interchangeably and are synonymous.
- (c) Words importing persons or parties are to be broadly interpreted and include an individual, corporation, firm, partnership, joint venture, trust, unincorporated organization, Governmental Authority, unincorporated body of persons or association and any other entity having legal capacity, and the heirs, beneficiaries, executors, administrators or other legal representatives of a person in such capacity.
- (d) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine, feminine and neuter genders include all other genders.
- (e) References to any standard, principle, agreement or document include (subject to all relevant approvals and any other provisions of this Insurance Trust Agreement concerning amendments) a reference to that standard, principle, agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.
- (f) The words in this Insurance Trust Agreement shall bear their natural meaning.
- (g) References containing terms such as:
 - (i) “hereof”, “herein”, “hereto”, “hereinafter”, and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to this Insurance Trust Agreement taken as a whole; and
 - (ii) “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- (h) In construing this Insurance Trust Agreement, the rule known as the ejusdem generis rule shall not apply nor shall any similar rule or approach apply to the construction of this Insurance Trust Agreement and, accordingly, general words introduced or followed by the word “other” or “including” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- (i) Where this Insurance Trust Agreement states that an obligation shall be performed “no later than” or “within” or “by” a stipulated date or event which is a prescribed number of days after a stipulated date or event, the latest time for performance shall be 5:00 p.m. on the last day for performance of the obligation concerned, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.

- (j) Where this Insurance Trust Agreement states that an obligation shall be performed “on” a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- (k) Any reference to time of day or date means the local time or date in Vancouver, British Columbia.
- (l) Unless otherwise indicated, time periods will be strictly construed.
- (m) Whenever the terms “will” or “shall” are used in this Insurance Trust Agreement they shall be construed and interpreted as synonymous and to read “shall”.

3. INSURANCE TRUST ACCOUNT

- (a) Prior to the commencement of a Default Period, the Insurance Trust Account, and all amounts from time to time contained therein, including interest thereon, shall be held in trust by the Insurance Trustee for the benefit of Project Co. During a Default Period, and upon receipt by the Insurance Trustee of a Change of Authorization Notice, the Insurance Trust Account, and all amounts from time to time contained therein, shall be held in trust by the Insurance Trustee for the benefit of BC Hydro.
- (b) The Insurance Trustee shall not release, distribute or transfer any funds from the Insurance Trust Account other than in accordance with the terms of this Insurance Trust Agreement.
- (c) Notwithstanding any other provision of this Insurance Trust Agreement but without limiting Project Co’s obligations under the Project Agreement, BC Hydro and Project Co agree that, if any of them either receives any Insurance Proceeds from the Insurance Trust Account or has the right to direct the Insurance Trustee to advance funds in respect of any Insurance Proceeds from the Insurance Trust Account to third parties, such funds shall be directed, used or advanced only for one of the following purposes:
 - (i) the repair, reinstatement, restoration or replacement of the Facility or any other assets, materials or goods necessary or desirable for the carrying out of the Project in respect of which such Insurance Proceeds have been paid;
 - (ii) towards a Termination Payment in accordance with the Project Agreement; or
 - (iii) to BC Hydro if the relevant Insurance Proceeds arise from Insurance Receivables that are payable to BC Hydro or are assigned to BC Hydro under the Project Agreement.
 - (iv) For greater certainty, use of any Insurance Proceeds received in respect of a claim by Project Co for delay in start-up, soft costs insurance or business interruption insurance shall be applied so as to enable Project Co to carry out the Project.

4. INSURANCE

- (a) Project Co and BC Hydro shall each deliver, or cause to be delivered, to the Insurance Trustee originals of all property and asset related insurance policies that each of them is required to maintain under the Project Agreement (collectively, the “**Insurance Policies**”), and the Insurance Trustee shall hold the Insurance Policies in trust for the benefit of each of the beneficiaries and loss payees, as the case may be, thereunder.

- (b) The Insurance Trustee shall distribute any Insurance Proceeds as follows:
- (i) subject to the last paragraph of Section 3(c) and Section 4(c), in the case of the all risks course of construction (builders' risk), boiler and machinery insurance or property insurance policies that is required to be maintained under the Project Agreement:
 - (A) if the Insurance Trustee has not received a Default Notice, the Insurance Proceeds, together with the aggregate of all Insurance Proceeds paid in respect of the same loss or claim, shall be paid to Project Co to repair, restore or replace the assets in respect of which such Insurance Proceeds have been paid; or
 - (B) if the Insurance Trustee has received a Default Notice, to the Insurance Trust Account to be distributed by the Insurance Trustee in such amounts and to such persons as BC Hydro may at any time or from time to time direct in writing, provided that, if the Insurance Trustee has received a Change of Authorization Notice, the Insurance Trustee shall release such Insurance Proceeds from the Insurance Trust Account in such amounts and to such parties as BC Hydro may at any time or from time to time direct in writing, in each case, to repair, restore or replace the assets in respect of which such Insurance Proceeds have been paid; and
 - (ii) in the case of any other Insurance Policies, as directed by BC Hydro, to be distributed to the parties entitled thereto.
- (c) Notwithstanding anything in this Insurance Trust Agreement, all losses under (i) all risks course of construction (builder's risk) including boiler and machinery insurance carried prior to Service Commencement; (ii) property insurance carried after Service Commencement; and (iii) the boiler and machinery insurance carried after Service Commencement, which in each case relate to the equipment purchased, owned or leased by BC Hydro, shall be payable solely to BC Hydro and shall not be payable to the Insurance Trustee or distributed pursuant to this Insurance Trust Agreement.
- (d) The Insurance Trustee shall distribute any excess Insurance Proceeds remaining after the distributions contemplated in Section 4(b)(i) have been made, including, without limitation, any Insurance Proceeds held in the Insurance Trust Account:
- (i) if the Insurance Trustee has not received a Default Notice, as directed jointly by Project Co and BC Hydro; and
 - (ii) if the Insurance Trustee has received a Default Notice or following receipt by the Insurance Trustee of a Change of Authorization Notice, to such persons as BC Hydro may at any time or from time to time direct in writing.
- (e) In the case of any dispute over such direction, the Parties agree to resolve such dispute in accordance with the Dispute Resolution Provisions of the Project Agreement, a copy of which will be provided to the Insurance Trustee upon request.

5. ACCOUNT AGREEMENT

The Insurance Trustee hereby agrees to promptly provide to BC Hydro all monthly statements and other information with respect to the Insurance Trust Account provided to the Insurance Trustee by the Bank pursuant to the relevant account agreement. The Insurance Trustee further agrees that it shall make such requests to the Bank for additional information with respect to the Insurance Trust Account as BC Hydro may from time to time request in writing.

6. THE INSURANCE TRUSTEE

- (a) The Insurance Trustee shall not have any duty or obligation to manage, control, use, make any payment in respect of, register, record, insure, inspect, sell, dispose of or otherwise deal with any part of the Trust Property except as expressly provided by the terms of this Insurance Trust Agreement. The Insurance Trustee shall carry out all written directions given by BC Hydro or Project Co, as applicable, in accordance with this Insurance Trust Agreement and shall not be required to exercise any discretion in exercising any of its duties under this Insurance Trust Agreement in pursuance of such written directions. The Insurance Trustee shall not be bound to do or take any act, action or proceeding by virtue of the powers conferred on it hereby unless and until it shall have been required to do so under the terms hereof and has received instruction, advice or direction in writing from BC Hydro or Project Co, as applicable, as to the action to be taken (except with respect to actions specifically set out herein to be performed by the Insurance Trustee).
- (b) The Insurance Trustee will exercise its powers and carry out its obligations hereunder as insurance trustee honestly, in good faith and in the best interests of the beneficiaries hereunder and in connection therewith will exercise that degree of care, diligence, and skill that a reasonably prudent professional trustee would exercise in comparable circumstances. Unless otherwise required by law, the Insurance Trustee will not be required to give bond surety or security in any jurisdiction for the performance of any duties or obligations hereunder. No provision of this Insurance Trust Agreement shall be construed to relieve the Insurance Trustee from liability for its own dishonesty, fraud, negligence (including, without limitation, negligence in the handling of funds), wilful misconduct, bad faith or reckless disregard of any duty hereunder.
- (c) The Insurance Trustee will not be subject to any liability whatsoever, in tort, contract or otherwise in connection with the Trust Property or the carrying out of its duties under this Insurance Trust Agreement to Project Co or any other person for any action taken or permitted by it to be taken, or for its failure to take any action, or for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Insurance Trustee (including, but not limited to, any act or provision of any present or future law or of any Governmental Authority, any act of God or war, or the unavailability of any wire or communication facility), provided that the foregoing limitation will not apply in respect of any action or failure to act arising from or in connection with wilful misconduct, negligence, bad faith, dishonesty, fraud or reckless disregard of duty by the Insurance Trustee. The Insurance Trustee in doing anything or permitting anything to be done in respect of the Trust Property or the carrying out of its duties under this Insurance Trust Agreement is, and will be conclusively deemed to be, acting as trustee for the beneficiaries hereunder and not in any other capacity. Except to the extent provided in this Section 6(c), the Insurance Trustee will not be subject to any liability for debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Trust Property, arising out of anything done or permitted by it to be done or its failure to take any action in respect of the execution of its duties hereunder and resort will be had solely to the Trust Property for the payment or performance thereof, and no other property or assets of the Insurance Trustee, whether owned in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedure with regard to any obligation under this Insurance Trust Agreement.
- (d) The Insurance Trustee shall not:
- (i) be required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers hereunder, unless it shall have received adequate indemnity or security against such risk or liability satisfactory to it;

- (ii) be under any duty to enquire as to the correctness of any amounts received by it on account of the proceeds of any insurance, nor shall it be under any obligation to take any steps to enforce the payment thereof to it; or
 - (iii) be responsible for the obtaining, placing or renewal of any policies of insurance or for the enforcement or observance of any such policy and shall only be responsible under the terms of this Insurance Trust Agreement with respect to money actually received from time to time by it representing the proceeds of any such insurance.
- (e) Notwithstanding the foregoing, the Insurance Trustee shall be liable for any action or failure to act arising from or in connection with the dishonesty, fraud, negligence (including, without limitation, negligence in the handling of funds), wilful misconduct, bad faith or reckless disregard of any duty hereunder by the Insurance Trustee or any of its directors, officers or employees, or the failure to comply with the standard of care referred to in Section 6(b).
- (f) Except as otherwise provided in Sections 6(c), 6(d) and 6(e):
 - (i) the Insurance Trustee may rely and shall be protected in acting or refraining from acting upon any signature, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document reasonably believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties; and
 - (ii) the Insurance Trustee may exercise its powers and perform its duties by or through such attorneys, representatives and employees as it shall appoint; and may consult with counsel, accountants and other skilled persons selected and employed or retained by it, and the Insurance Trustee shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the written advice of such counsel, accountants or other skilled persons (provided that such advice pertains to such matters as the Insurance Trustee may reasonably presume to be within the scope of such person's area of competency) and not contrary to any express provision in this Insurance Trust Agreement.
- (g) Project Co hereby agrees to pay, indemnify and hold harmless the Insurance Trustee from and against any and all loss, liability, cost, claim and expense incurred by the Insurance Trustee with respect to the performance of this Insurance Trust Agreement by the Insurance Trustee or any of the Insurance Trustee's directors, officers or employees, unless arising from its or their own dishonesty, fraud, negligence (including, without limitation, negligence in the handling of funds), wilful misconduct, bad faith or reckless disregard of any duty hereunder.
- (h) Subject to the terms and conditions set forth in the Insurance Trustee fee letter, the Insurance Trustee shall receive from the Trust Property reasonable compensation for its services hereunder and shall be reimbursed by Project Co for its reasonable fees and expenses (including the disbursements and reasonable fees of counsel).
- (i) The Insurance Trustee agrees to look solely to Project Co, and not, except as expressly set forth herein, to BC Hydro for any claim for indemnification which may arise under this Insurance Trust Agreement.
- (j) The Insurance Trustee shall be responsible for keeping all appropriate books and records relating to the receipt and disbursement of all money which it receives hereunder.
- (k) If at any time the Insurance Trustee is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Trust Property held by it hereunder (including but not limited to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of Trust Property) (each, an

“Order”), the Insurance Trustee is authorized to comply therewith in any manner as it or legal counsel of its own choosing deems appropriate. The Insurance Trustee shall in no way be bound to call for further evidence (whether as to due execution validity or effectiveness, or the jurisdiction of any court, or as to the truth of any fact), and shall not be responsible for any loss that may be occasioned by its failing to do so. If the Insurance Trustee complies with any Order, the Insurance Trustee shall not be liable to any of the Parties hereto or to any other person or entity even though such Order may be subsequently modified or vacated or otherwise determined to have been without legal force or effect. If the Insurance Trustee is served with any Order, it shall forthwith and, in any event, within three Business Days, deliver a copy of such Order to each of BC Hydro and Project Co.

- (l) Unless otherwise specifically set forth herein, the Insurance Trustee shall proceed as soon as practicable to collect any cheques or other collection items at any time deposited hereunder. All such collections shall be subject to the Insurance Trustee’s usual collection practices or terms regarding items received by the Insurance Trustee for deposit or collection. Except and to the extent provided herein, the Insurance Trustee shall not be required, or have any duty, to notify any person of any payment or maturity under the terms of any instrument deposited hereunder, nor to take any legal action to enforce payment of any cheque, note or security deposited hereunder, or to exercise any right or privilege which may be afforded to the holder of any such security.
- (m) In the event that the Insurance Trustee has received a Change of Authorization Notice from BC Hydro that it determines is ambiguous or uncertain, the Insurance Trustee may, in its sole discretion, refrain from taking any action other than retaining possession of the Trust Property, unless the Insurance Trustee has received written instructions, signed by BC Hydro, which resolve such ambiguity or uncertainty, provided that the Insurance Trustee shall, forthwith upon determining that such Change of Authorization Notice is ambiguous or uncertain, seek clarification from BC Hydro, to resolve such ambiguity or uncertainty.
- (n) Prior to receipt of a Change of Authorization Notice by the Insurance Trustee, any instruction, notice or other communication delivered to the Insurance Trustee by BC Hydro shall be paramount to and supersede any direction, instruction, notice or other communication from any other Party to this Insurance Trust Agreement, and the Insurance Trustee shall comply with such direction, instruction, notice or other communication. After the Insurance Trustee has received a Change of Authorization Notice, any instruction, notice or other communication delivered to the Insurance Trustee by BC Hydro shall be paramount to and supersede any direction, instruction, notice or other communication from any other Party to this Insurance Trust Agreement, and the Insurance Trustee shall comply with such direction, instruction, notice or other communication from BC Hydro.
- (o) BC Hydro shall provide to the Insurance Trustee an incumbency certificate setting out the names and sample signatures of individuals authorized to give instructions to the Insurance Trustee hereunder. The Insurance Trustee shall be entitled to rely on each such incumbency certificate until a revised or replacement incumbency certificate is provided to the Insurance Trustee by BC Hydro. The Insurance Trustee shall refuse to act upon any instruction given by City which is signed by any person other than an individual named in the incumbency certificate provided to the Insurance Trustee by BC Hydro, pursuant to this Section 6(o), as any such incumbency certificate may be amended, supplemented or replaced from time to time.
- (p) The Insurance Trustee shall be entitled to rely on, and act upon, any direction, instruction, notice or other communication provided to it hereunder which is sent to it by facsimile transmission, provided that any such direction, instruction, notice or other communication is signed by an individual named in the incumbency certificate delivered to the Insurance Trustee by BC Hydro, pursuant to Section 6(o).

7. BC HYDRO'S RIGHTS TO DIRECT

- (a) Until the occurrence of (i) an obligation of Project Co for payment of, or an assignment of, the Insurance Proceeds to BC Hydro in accordance with the Project Agreement (a **Change of Authorization Event**"), and (ii) receipt by Project Co of any amounts to which it is entitled pursuant to Schedule 22 [Compensation on Termination] to the Project Agreement, BC Hydro shall, subject to Sections 3 and 4 of this Insurance Trust Agreement, have the exclusive right to direct the Insurance Trustee with respect to the Insurance Trust Account, the Insurance Policies and the Insurance Proceeds. Nothing in this Section 7(a) shall modify the Project Agreement, including Schedule 22 [Compensation on Termination].
- (b) Upon the occurrence of a Change of Authorization Event, BC Hydro shall provide notice to the Insurance Trustee (a **"Change of Authorization Notice"**) that BC Hydro shall, as of the date of such Change of Authorization Event, have the exclusive right to direct the Insurance Trustee with respect to the Insurance Trust Account, the Insurance Policies and the Insurance Proceeds.
- (c) Notwithstanding the foregoing, no Change of Authorization Event shall occur and no Change of Authorization Notice shall be delivered to the Insurance Trustee where a BC Hydro Event of Default has occurred. Where a BC Hydro Event of Default has occurred, the Insurance Trustee shall release all amounts in the Insurance Trust Account, the Insurance Policies and the Insurance Proceeds to Project Co or as Project Co may otherwise direct from time to time.

8. TERMINATION

- (a) Subject to the provisions of Section 8(b), this Insurance Trust Agreement shall remain in full force and effect and be binding in accordance with and to the extent of its terms until:
 - (i) the obligations of Project Co to BC Hydro have been paid and performed in full; and
 - (ii) the Insurance Trustee has fully discharged its obligations hereunder with respect to any Insurance Proceeds paid to it.
- (b) The Insurance Trustee may terminate this Insurance Trust Agreement at any time upon 60 days prior written notice to the other Parties hereto, provided that no termination of this Insurance Trust Agreement by the Insurance Trustee shall be effective until such time as BC Hydro, and Project Co have entered into a replacement insurance trust agreement on the same terms and conditions as this Insurance Trust Agreement with a replacement insurance trustee satisfactory to BC Hydro.

9. ASSIGNMENT

The Insurance Trustee shall not assign, transfer or otherwise dispose of any of its rights or obligations under this Insurance Trust Agreement without the prior written consent of BC Hydro and Project Co.

10. NOTICES

- (a) All notices, requests, demands, instructions, certificates, consents and other communications required or permitted under this Project Agreement shall be in writing (whether or not “written notice” or “notice in writing” is specifically required by the applicable provision of this Insurance Trust Agreement) and served by sending the same by registered mail, facsimile or by hand, as follows:

If to BC Hydro:



Attention: ▼
E-mail: ▼

If to Project Co:



Attention: ▼
E-mail: ▼

If to the Insurance Trustee:



Attention: ▼
E-mail: ▼

- (b) Where any notice is provided or submitted to a Party via facsimile, an original of the notice sent via facsimile shall promptly be sent by regular mail or registered mail. For greater certainty, a notice given via facsimile shall not be invalid by reason only of a Party’s failure to comply with this Section 10(b).
- (c) Any Party to this Insurance Trust Agreement may, from time to time, change any of its contact information set forth in Section 10(a) by prior notice to the other Parties, and such change shall be effective on the Business Day that next follows the recipient Party’s receipt of such notice unless a later effective date is given in such notice.
- (d) Subject to Sections 10(e), 10(f) and 10(g):
- (i) a notice given by registered mail shall be deemed to have been received on the third Business Day after mailing;
 - (ii) a notice given by hand delivery shall be deemed to have been received on the day it is delivered; and
 - (iii) a notice given by facsimile shall be deemed to have been received on the day it is transmitted by facsimile.
- (e) If the Party giving the notice knows or ought reasonably to know of difficulties with the postal system which might affect negatively the delivery of mail, any such notice shall not be mailed but shall be made or given by personal delivery or by facsimile transmission in accordance with this Section 10.

- (f) If any notice delivered by hand or transmitted by facsimile is so delivered or transmitted, as the case may be, either on a day that is not a Business Day or on a Business Day after 4:00 p.m. (recipient's local time), then such Notice shall be deemed to have been received by such recipient on the next Business Day.
- (g) A notice given by facsimile shall be deemed to have been received by the recipient on the day it is transmitted only if a facsimile transmission report (maintained by the sender) indicates that the transmission of such notice was successful.

11. AMENDMENTS

This Insurance Trust Agreement may not be varied, amended or supplemented except by an agreement in writing signed by duly authorized representatives of the Parties and stating on its face that it is intended to be an amendment, restatement or other modification, as the case may be, to this Insurance Trust Agreement.

12. WAIVER

- (a) No waiver made or given by a Party under or in connection with this Insurance Trust Agreement shall be binding or effective unless the waiver is in writing, signed by an authorized representative of the Party giving such waiver, and delivered by such Party to the other Parties. No waiver made with respect to any right, power or remedy in one instance will be deemed to be a waiver with respect to any other instance involving the exercise of such right, power, or remedy or with respect to any other right, power, or remedy.
- (b) Failure by any Party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.

13. FORCE MAJEURE

No Party shall be liable to any other Party, or held in breach of this Insurance Trust Agreement, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of acts of God, riots, terrorism, acts of war, epidemics, earthquakes, or any other similar causes beyond the affected Party's reasonable control and where such failure in performance is not caused directly or indirectly by the affected Party (including but not limited to, mechanical, electronic or communication interruptions, disruptions or failures, unless caused by the negligent or willful misconduct of the affected party). Performance times under this Insurance Trust Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 13, provided that the affected party shall take commercially reasonable steps to mitigate or remedy the event giving rise to the delay.

14. ANTI-MONEY LAUNDERING

The Insurance Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Insurance Trustee, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Insurance Trustee, in its sole judgment, determine at any time that its acting under this Insurance Trust Agreement has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' written notice to the other parties to this Insurance Trust Agreement, provided (i) that the Insurance Trustee's written notice shall describe the circumstances of such non-compliance; (ii) that if such circumstances are rectified to the Insurance Trustee's satisfaction within such 10 day period, then such resignation shall not be effective.

15. RELATIONSHIP BETWEEN THE PARTIES

The Parties are independent contractors. This Insurance Trust Agreement is not intended to and does not create or establish between the Parties any relationship as partners, joint venturers, employer and employee, master and servant, or, except as provided in this Insurance Trust Agreement.

16. ENTIRE AGREEMENT

Except where provided otherwise in this Insurance Trust Agreement, this Insurance Trust Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings, whether oral, written, express or implied, concerning the subject matter of this Insurance Trust Agreement.

17. SEVERABILITY

Each provision of this Insurance Trust Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Insurance Trust Agreement is declared invalid, unenforceable or illegal by the courts of a competent jurisdiction, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Insurance Trust Agreement. If any such provision of this Insurance Trust Agreement is invalid, unenforceable or illegal, the Parties shall, acting in good faith, promptly negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Insurance Trust Agreement as near as possible to its original intent and effect.

18. ENUREMENT

This Insurance Trust Agreement shall enure to the benefit of, and be binding on, each of the Parties and their respective successors and permitted transferees and assigns.

19. GOVERNING LAW AND JURISDICTION

- (a) This Insurance Trust Agreement shall be governed by and construed in accordance with the laws of Province of British Columbia and the laws of Canada applicable therein and shall be treated in all respects as a British Columbia contract, without regard to conflict of laws principles.
- (b) The Parties agree that the courts of the Province of British Columbia and all courts competent to hear appeals therefrom shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Insurance Trust Agreement and hereby irrevocably attorn to the exclusive jurisdiction of such courts.

20. FURTHER ASSURANCE

Each Party shall do all things, from time to time, and execute all further documents necessary to give full effect to this Insurance Trust Agreement.

21. LANGUAGE OF AGREEMENT

Each Party acknowledges having requested and being satisfied that this Insurance Trust Agreement and related documents be drawn in English. Chacune des parties reconnaît avoir demandé que ce document et ses annexes soient rédigés en anglais et s'en déclare satisfaite.

22. COUNTERPARTS

This Insurance Trust Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all the Parties shall constitute a full, original and binding

Worker Accommodation Project Agreement – Schedule 13B
[Insurance Trust Agreement]

agreement for all purposes. Counterparts may be executed either in original or faxed form provided that any Party providing its signature in faxed form shall promptly forward to such Party an original signed copy of this Insurance Trust Agreement which was so faxed.

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

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the corporation.

Per: _____
Name:
Title:

I/We have authority to bind the corporation.

Per: _____
Name:
Title:

I/We have authority to bind the corporation.

Per: _____
Name:
Title:

I/We have authority to bind the corporation.

Per: _____
Name:
Title:

▼, acting as Insurance Trustee hereunder.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the corporation.

Per: _____
Name:
Title:

APPENDIX 13C

REPLACEMENT VALUES FOR PHASE 1, PHASE 2 AND THE COMPLETED FACILITY

