

**APPENDIX 5B**

**INSURANCE TRUST AGREEMENT**

**THIS AGREEMENT** is made as of the 30<sup>th</sup> day of May 2018

**BETWEEN:**

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
as represented by the Minister of Citizens' Services**

(the "**Province**")

**AND:**

**AST Trust Company (Canada)**, acting as indenture trustee for and on behalf of the  
Finance Parties

(the "**Indenture Trustee**")

**AND:**

**PLENARY JUSTICE ABBOTSFORD LIMITED PARTNERSHIP**

(the "**Project Co**")

**AND:**

**AST Trust Company (Canada)**, a trust company incorporated under the laws of Canada

(the "**Insurance Trustee**")

**WHEREAS:**

- A. The Province and Project Co have entered into the Project Agreement.
- B. The Province, the Indenture Trustee and Project Co have entered into the Lenders' Remedies Agreement.
- C. The Province, the Indenture Trustee 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) **"Assignment of Insurance"** means the assignment of insurance between Project Co and the Indenture Trustee dated as of the date hereof.
- (b) **"Province Event of Default"** has the meaning given in the Project Agreement.
- (c) **"Bank"** means The ..
- (d) **"Business Day"** has the meaning given in the Project Agreement.
- (e) **"Change of Authorization Event"** has the meaning given in Section 7(a) of this Insurance Trust Agreement.
- (f) **"Change of Authorization Notice"** has the meaning given in Section 7(b)(ii) of this Insurance Trust Agreement.
- (g) **"Default Notice"** means a written notice given by the Indenture Trustee to the Insurance Trustee that an event of default under the Senior Financing Agreements has occurred and is continuing or by the Province to the Insurance Trustee than an event of default under the Project Agreement has occurred and is continuing.
- (h) **"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 the Indenture Trustee or the Province, as the case may be, that the event of default which was the subject matter of the applicable Default Notice has been cured.
- (i) **"Dispute Resolution Procedure"** has the meaning given in the Project Agreement.
- (j) **"Equipment and Furniture"** has the meaning given in the Project Agreement.
- (k) **"Facility"** has the meaning given in the Project Agreement.
- (l) **"Finance Parties"** has the meaning given in the Note Indenture.
- (m) **"Governmental Authority"** has the meaning given in the Project Agreement.
- (n) **"Insurance Policies"** has the meaning given in Section 4(a) of this Insurance Trust Agreement.
- (o) **"Insurance Proceeds"** means:
  - (i) all proceeds of any Insurance Policy that are paid over to the Insurance Trustee by any insurer, Project Co, the Indenture Trustee or Province; and
  - (ii) any amounts paid by the Province 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.
- (p) **"Insurance Receivables"** has the meaning given in the Project Agreement.
- (q) **"Insurance Trust Account"** means Account No. .
- (r) **"Insurance Trust Agreement"** means this insurance trust agreement.

- (s) **"Lenders' Remedies Agreement"** has the meaning given in the Project Agreement.
- (t) **"Note Indenture"** has the meaning given in the Project Agreement.
- (u) **"Order"** has the meaning given in Section 6(k) of this Insurance Trust Agreement.
- (v) **"Party"** means any of the Province, Project Co, the Indenture Trustee or the Insurance Trustee, and **"Parties"** means all of the Province, Project Co, the Indenture Trustee and the Insurance Trustee.
- (w) **"Project"** has the meaning given in the Project Agreement.
- (x) **"Project Agreement"** means the project agreement made on or about May 30, 2018 between the Province and Project Co.
- (y) **"Project Co Event of Default"** has the meaning given in the Project Agreement.
- (z) **"Senior Financing Agreements"** has the meaning given in the Project Agreement.
- (aa) **"Senior Lenders"** has the meaning given in the Project Agreement.
- (bb) **"Service Commencement"** has the meaning given in the Project Agreement.
- (cc) **"Termination Payment"** has the meaning given in the Project Agreement.
- (dd) **"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 *eiusdem 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, 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 the Indenture Trustee and the Senior Lenders, provided that, 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 the Province.

- (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, the Indenture Trustee, the Province, 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 the Province if the relevant Insurance Proceeds arise from Insurance Receivables that are payable to the Province or are assigned to the Province under the Project Agreement.

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 in accordance with the terms of the Senior Financing Agreements so as to enable Project Co to carry out the Project.

#### 4. INSURANCE

- (a) Project Co and the Province 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**"), provided that where any Insurance Policy is a corporate policy, Project Co may deliver an original insurance certificate in lieu of the original policy, 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) insurance policy that is required to be maintained under the Project Agreement:
    - (A) if the Insurance Trustee has not received a Default Notice and:
      - (1) if the amount of such Insurance Proceeds, together with the aggregate of all Insurance Proceeds paid in respect of the same loss or claim, is less than \_\_\_\_\_ to Project Co to repair, restore or replace the assets in respect of which such Insurance Proceeds have been paid; or
      - (2) if the amount of such Insurance Proceeds, together with the aggregate of all Insurance Proceeds paid in respect of the same loss or claim, is equal to or greater than \_\_\_\_\_, to the Indenture Trustee to reimburse

Project Co for the costs of repairing, restoring or replacing 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 the Indenture Trustee 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 the Province 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 the Indenture Trustee, or, following receipt by the Insurance Trustee of a Change of Authorization Notice, as directed by the Province, to be distributed to the parties entitled thereto.
- (c) Notwithstanding anything in this Insurance Trust Agreement, all losses under all risks course of construction (builder's risk) including boiler and machinery insurance carried prior to Service Commencement which relate to the Equipment and Furniture purchased, owned or leased by the Province, shall be payable solely to the Province 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)(ii) 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 the Province; and
  - (ii) if the Insurance Trustee has received a Default Notice, to such persons as the Indenture Trustee and the Province jointly, or, following receipt by the Insurance Trustee of a Change of Authorization Notice, the Province, 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 Procedure of the Project Agreement, a copy of which will be provided to the Insurance Trustee upon request.

## **5. ACCOUNT AGREEMENT**

- (a) The Insurance Trustee hereby agrees to promptly provide to the Indenture Trustee 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 the Indenture Trustee may from time to time request in writing.
- (b) The Insurance Trustee hereby agrees to promptly provide to the Province 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 the Province 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 the Indenture Trustee, the Province 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 the Indenture Trustee, the Province 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 the Indenture Trustee, the Senior Lenders, 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, or in acting at the request or direction of the Indenture Trustee on

behalf of the Senior Lenders, 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, agents 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 the Indenture Trustee, the Senior Lenders or the Province 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 the Indenture Trustee, the Province 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 determines that any direction, instruction, notice or other communication given under this Insurance Trust Agreement by the Indenture Trustee, or, where the Insurance Trustee has received a Change of Authorization Notice, the Province, 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 the Indenture Trustee or, if the Insurance Trustee has received a Change of Authorization Notice, the Province, which resolve such ambiguity or uncertainty, provided that the Insurance Trustee shall, forthwith upon determining that such direction, instruction, notice or other communication is ambiguous or uncertain, seek clarification from the Indenture Trustee, or where the Insurance Trustee has received a Change of Authorization Notice, the Province, 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 the Indenture Trustee and the Province jointly 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 the Province 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 the Province.
- (o) Each of the Indenture Trustee and the Province 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 the Indenture Trustee or the Province, as applicable. The Insurance Trustee shall refuse to act upon any instruction given by the Indenture Trustee or the Province which is signed by any person other than an individual named in the incumbency certificate provided to the Insurance Trustee by the Indenture Trustee or the Province, as applicable, 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 the Indenture Trustee or the Province, as applicable, pursuant to Section 6(o).

## 7. INDENTURE TRUSTEE AND PROVINCE RIGHTS TO DIRECT

- (a) Until the occurrence of:

- (i) termination of the Project Agreement in accordance with the Lenders' Remedies Agreement;
- (ii) an obligation of Project Co for payment of, or an assignment of, the Insurance Proceeds to the Province in accordance with the Project Agreement; and
- (iii) receipt by Project Co of any amounts to which it is entitled pursuant to Schedule 9 [Compensation on Termination] to the Project Agreement (a "**Change of Authorization Event**"),

the Indenture Trustee and the Province jointly 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 9 [Compensation on Termination].

- (b) Upon the occurrence of a Change of Authorization Event:

- (i) the Indenture Trustee shall cease to be entitled, and the Province shall thenceforth be entitled, to direct the Insurance Trustee with respect to the Insurance Trust Account, the Insurance Policies and the Insurance Proceeds; and
- (ii) the Indenture Trustee and the Province shall jointly provide notice to the Insurance Trustee (a "**Change of Authorization Notice**") that the Province 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 Province Event of Default has occurred. Where an Province Event of Default has occurred, upon receipt by the Indenture Trustee and Senior Lenders of all amounts owing by the Province to the Indenture Trustee and Senior Lenders under the Lenders' Remedies Agreement, 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.

- (d) The Indenture Trustee hereby agrees with and confirms to the other parties hereto that if a conflict or inconsistency exists in or between a provision of this Insurance Trust Agreement and a provision of the Assignment of Insurance, the provisions of this Insurance Trust Agreement shall prevail.

## 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) [Intentionally deleted.]
  - (ii) the occurrence of the following
    - (A) the obligations of Project Co to the Indenture Trustee and the Senior Lenders under the Senior Financing Agreements have been paid and performed in full and the Senior Lenders have no further obligation to make any further advances or other credit accommodations under the Senior Financing Agreements;
    - (B) the obligations of Project Co to the Province have been paid and performed in full; and
    - (C) 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 sixty (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 the Indenture Trustee, the Province, 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 the Indenture Trustee, the Senior Lenders and the Province.

## 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 the Indenture Trustee, the Province and Project Co.

## 10. NOTICES

- (a) All notices, requests, demands, instructions, certificates, consents and other communications required or permitted under this Insurance Trust 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 the Province:	Ministry of Citizen's Services PO Box 9412, 4000 Seymour Place
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Victoria BC, V8W9V1

Attention: Sunny Dhaliwal

If to the Indenture Trustee: AST Trust Company (Canada)  
2001, boul. Robert-Bourassa, Bureau 1600  
Montreal, QC H3A 2A6

Attention: Marta Recinos, Corporate Trust Officer  
Facsimile: 514-285-8846

If to Project Co: Plenary Justice Abbotsford Limited Partnership  
Suite 2000, 400 Burrard Street, Commerce Place  
Vancouver, BC, V6C 3A6

Attention: Chief Financial Officer  
Fax: (604) 638-3906

If to the Insurance Trustee: AST Trust Company (Canada)  
600, 333-7th Ave SW  
Calgary, AB T2P 2Z1

Attention: Nazim Nathoo, Director, Relationship  
Management  
Facsimile: 403-776-3916

- (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, 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, of principal and agent.

#### **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 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 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.

**Her Majesty the Queen in Right of the Province  
of British Columbia, as represented by the  
Minister of Citizens' Services**

Per:

\_\_\_\_\_  
Name:

Title:



**AST TRUST COMPANY (CANADA)**, acting as  
Indenture Trustee for and on behalf of the Finance  
Parties (as defined in the Note Indenture)

Per:

\_\_\_\_\_  
Name:

Title:

Per:

\_\_\_\_\_  
Name:

Title:

I/We have authority to bind the corporation.

**PLENARY JUSTICE ABBOTSFORD LIMITED  
PARTNERSHIP, by its general partner  
PLENARY JUSTICE ABBOTSFORD GP INC.**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the corporation.

**PLENARY JUSTICE ABBOTSFORD LIMITED  
PARTNERSHIP, by its general partner PCL  
JUSTICE ABBOTSFORD GP INC.**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the corporation.

**AST TRUST COMPANY (CANADA)**, acting as  
Insurance Trustee hereunder.

Per:

\_\_\_\_\_  
Name:

Title:

Per:

\_\_\_\_\_  
Name:

Title:

I/We have authority to bind the corporation.