

**SCHEDULE 10**  
**LENDERS' REMEDIES AGREEMENT**

for the Abbotsford Law Courts Project

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA, AS REPRESENTED BY THE MINISTER OF CITIZENS' SERVICES**

**AST TRUST COMPANY (CANADA)**

**PLENARY JUSTICE ABBOTSFORD LIMITED PARTNERSHIP**

Dated: May 30, 2018

## SCHEDULE 10

### LENDERS' REMEDIES AGREEMENT

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## SCHEDULE 10

### LENDERS' REMEDIES AGREEMENT

THIS AGREEMENT is dated as of May 30, 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)**

(the "**Agent**"), on its own behalf and as agent for the Senior Lenders

AND:

**PLENARY JUSTICE ABBOTSFORD LIMITED PARTNERSHIP**

(the "**Project Co**")

WHEREAS:

- A. The Province and Project Co have entered into the Project Agreement (defined below);
- B. Pursuant to the Note Indenture (defined below), the Senior Lenders have agreed, subject to the terms and conditions contained therein, to make available to Project Co the loan facility specified therein to finance certain costs to be incurred and expenditures to be made by Project Co in connection with the Project Agreement;
- C. It is a condition precedent to the obligations of the Senior Lenders under the Note Indenture that this Agreement be executed and delivered by the parties; and
- D. The Province and Project Co have agreed under the terms of the Project Agreement to execute and deliver this Agreement.

**NOW THEREFORE** in consideration of the mutual promises and agreements of the parties herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

#### **1. DEFINITION AND INTERPRETATION**

##### **1.1 Definition**

Unless otherwise specified or the context otherwise requires, capitalized but otherwise undefined terms in this Agreement will have the respective meanings given to such terms in the Project Agreement, and:

**“Agent’s Withdrawal Notice”** has the meaning set out in Section 3.4;

**“Agreement”** means this agreement, including any recitals to this agreement, as amended or restated from time to time;

**“Antecedent Liabilities”** means, as at any time:

- (a) all amounts due and payable by Project Co to the Province under the Project Agreement at such time; and
- (b) all obligations which should have, but have not, been performed and outstanding liabilities of Project Co under the Project Agreement, in each case at such time;

**“Appointed Representative”** means the Senior Lenders’ Representative identified in a Step-In Notice;

**“Discharged Obligations”** has the meaning set out in Section 6.4;

**“Discharged Rights”** has the meaning set out in Section 6.4;

**“Event of Default”** has the meaning set out in the Note Indenture;

**“Finance Parties”** has the meaning set out in the Note Indenture;

**“Indicative Notice”** means either an Indicative Step-In Notice or an Indicative Transfer Notice given in accordance with Section 3.3;

**“Indicative Notice Period”** means:

- (a) where an Indicative Step-In Notice has been given, the period commencing on the date of delivery of such Indicative Step-In Notice and ending on the earlier of:
  - (1) the Step-In Date;
  - (2) the date of delivery of an Agent’s Withdrawal Notice; and
  - (3) 60 days following the date of delivery of such Indicative Step-In Notice;
- (b) where an Indicative Transfer Notice has been given, the period commencing on the date of delivery of such Indicative Transfer Notice and ending on the earlier of:
  - (1) the date on which any transfer in accordance with Section 6.1 becomes effective;
  - (2) the date of delivery of an Agent’s Withdrawal Notice; and
  - (3) 60 days following the date of delivery of such Indicative Transfer Notice;

**“Indicative Step-In Notice”** has the meaning given to it in Section 3.3;

**“Indicative Transfer Notice”** has the meaning given to it in Section 3.3;

**“Insolvency Law”** means any of the *Bankruptcy and Insolvency Act (Canada)*, the *Companies’ Creditors Arrangement Act (Canada)* and the *Winding-Up and Restructuring Act (Canada)* and any other applicable insolvency or other similar law of any jurisdiction, including any applicable law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it;

**“Insolvency Officer”** means any trustee, receiver, receiver and manager, liquidator, sequestrator, administrator or other custodian in connection with the insolvency of Project Co or any of its assets;

**“Insolvency Proceedings”** means:

- (a) any:
  - (1) formal step (including petition, proposal, application, convening of a meeting or other proceeding) taken with a view to or for the purpose of considering;
  - (2) appointment of an Insolvency Officer in connection with;
  - (3) order or resolution passed in connection with; or
  - (4) formal agreement reached regarding,
    - a dissolution, bankruptcy, receivership, winding-up, liquidation, administration or other similar proceedings or any other proceeding seeking a stay of proceedings, reorganisation, debt arrangement, compromise of the claims of creditors or any distribution of assets in respect of Project Co (whether voluntary or involuntary) made or commenced by any party under any Insolvency Law; or
- (b) any distress, attachment, sequestration or execution or other similar process affecting any of the assets of Project Co or any other similar process or event occurring in relation to Project Co’s assets in any other jurisdiction;

**“Insurance Account”** has the meaning set out in the Note Indenture;

**“Insurance Trust Account”** has the meaning set out in the Note Indenture;

**“Insurance Trust Agreement”** has the meaning set out in the Note Indenture.

**“Liability Report”** has the meaning given in Section 3.5;

**“Material Antecedent Liabilities”** means Antecedent Liabilities that are:

- (a) financial liabilities; or
- (b) non-financial liabilities, the breach of which will trigger any remedy of the Province under Section 9.1 (Project Co’s Obligation to Indemnify) or Section 12 (Project Co Events of Default) of the Project Agreement;

**“Note Indenture”** means the note indenture dated May 30, 2018 between Project Co, the General Partners and the Agent;

**“Notice Period”** means:

- (a) in respect of a Project Co Event of Default, the Termination Notice Period; and
- (b) in respect of an Event of Default, the Indicative Notice Period;

**“Project Agreement”** means the agreement dated May 30, 2018 between Project Co and the Province relating to the design, construction, financing, maintenance and life cycle rehabilitation of the Facility and the provision of other works and ancillary services in connection therewith;

**“Project Documents”** means, collectively, the Project Agreement and any other agreement (other than this Agreement) entered into from time to time by the Province and Project Co (with or without other parties) in connection with the Project; and **“Project Document”** means any one of the foregoing;

**“Reported Antecedent Liabilities”** means the Antecedent Liabilities identified in the Liability Report;

**“Revocation of Termination Notice”** means a written notice from the Province to the Agent revoking a Termination Notice;

**“Security Documents”** has the meaning as set out in the Note Indenture;

**“Senior Debt Deficiency”** means the amount, if any, by which the Termination Payment is less than the Senior Debt Termination Amount;

**“Senior Debt Discharge Date”** means the date on which all amounts due and owing to the Senior Lenders under the Senior Financing Agreements have been fully and irrevocably paid or discharged (whether or not as a result of enforcement) and the Senior Lenders are under no further obligation to advance under the Note Indenture;

**“Senior Lenders’ Representative”** means:

- (a) the Agent, or any Senior Lender;
- (b) a receiver or receiver and manager of Project Co appointed under or in connection with the Security Documents; or
- (c) any other Person approved by the Province (such approval not to be unreasonably withheld or delayed);

**“Step-In Date”** means 5 Business Days after delivery of a Step-In Notice;

**“Step-In Notice”** means a notice given by the Agent to the Province pursuant to Section 4;

**“Step-In Period”** means, subject to Section 4.3, the period from the Step-In Date up to and including the earliest of:

- (a) the Step-Out Date;
- (b) the date of any transfer under Section 6;
- (c) the date of any termination under Section 4.5; and
- (d) the Expiry Date;

**“Step-Out Date”** means the date that is 20 Business Days after the date of a Step-Out Notice;

**“Step-Out Notice”** means a notice from the Agent or Appointed Representative to the Province pursuant to Section 5;

**“Suitable Substitute Project Co”** means a Person approved by the Province in accordance with Sections 6.2 and 6.3 as:

- (a) having the legal capacity, power and authority to become a party to and perform the obligations of Project Co under the Project Agreement; and

- (b) employing or contracting for the services of Persons having the appropriate qualifications, experience and technical competence and having the resources available to it (including committed financial resources and sub-contracts) which are sufficient to enable it to perform the obligations of Project Co under the Project Agreement,

provided that such Person is not a Restricted Person;

“**Termination Notice**” means a notice given by the Province to the Agent under Section 3; and

“**Termination Notice Period**” means the period beginning on the date of giving of a Termination Notice and ending on the earlier of:

- (a) the Step-In Date;
- (b) the date of service of a Revocation of Termination Notice; and
- (c) the proposed Termination Date (subject to the minimum notice requirements under Section 3.1(a)) set out in the Termination Notice.

## 1.2 Construction and Interpretation

This Agreement will be interpreted according to the following provisions, save to the extent that the context or the express provisions of this Agreement otherwise require:

- (a) the parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same;
- (b) the table of contents, headings and sub-headings, marginal notes and references to them in this Agreement are for convenience of reference only, do not constitute a part of this Agreement, and will not be taken into consideration in the interpretation or construction of, or affect the meaning of, this Agreement;
- (c) each reference in this Agreement to a Section is to a section of this Agreement;
- (d) each reference to an agreement, document, standard, principle or other instrument includes (subject to all relevant approvals and any other provision of this Agreement expressly concerning such agreement, document, standard, principle or other instrument) a reference to that agreement, document, standard, principle or instrument as amended, replaced, novated or assigned, and a reference to an “amendment” and similar terms (including “amend” and “amended”) include a reference to supplement, alteration, substitute, variation, change and any other modification and similar terms;
- (e) each reference to a statute or statutory provision (including any subordinate legislation) includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, orders, codes of practice, instruments or other subordinate legislation made under the relevant statute;
- (f) each reference to time of day is a reference to Pacific Standard time or Pacific Daylight Saving time, as the case may be;
- (g) words importing the singular include the plural and vice versa;



- (h) words importing a particular gender include all genders;
- (i) each reference to a public organization is deemed to include a reference to any successor(s) to such public organization or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such public organization;
- (j) unless the context otherwise requires, each reference to “parties” means the parties to this Agreement and each reference to a “party” means any one of the parties to this Agreement, provided however that a reference to a third party does not mean a party to this Agreement;
- (k) all monetary amounts are expressed in Canadian Dollars;
- (l) the words “include”, “includes” and “including” are to be construed as meaning “include without limitation”, “includes without limitation” and “including without limitation”, respectively;
- (m) any consent contemplated to be given under this Agreement must be in writing;
- (n) general words are not given a restrictive meaning:
  - (1) if they are introduced by the word “other”, by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing; or
  - (2) by reason of the fact that they are followed by particular examples intended to be embraced by those general words;
- (o) the expression “all reasonable efforts” and expressions of like import, when used in connection with an obligation of the Senior Lenders, the Agent, the Appointed Representative or any other Senior Lenders’ Representative, means taking in good faith and with due diligence all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent Person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that Person’s own benefit;
- (p) all accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with Canadian generally accepted accounting principles, consistently applied;
- (q) if the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act will be extended to the next Business Day; and
- (r) each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality will not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is held to be invalid, unenforceable or illegal, the parties will promptly endeavour in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Agreement as nearly as possible to its original intent and effect.

### **1.3 Governing Law**

This Agreement will be deemed to be made pursuant to the laws of the Province of British Columbia and the laws of Canada applicable therein and will be governed by and construed in accordance with such laws.

### **1.4 Attornment**

For the purposes of any legal actions or proceedings brought by any party hereto against the other party, the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of the Province of British Columbia and acknowledge their competence and the convenience and propriety of the venue and agree to be bound by any judgment thereof and not to seek, and hereby waive, review of its merits by the courts of any other jurisdiction.

## **2. CONSENT TO SECURITY**

### **2.1 Consent**

The Province acknowledges notice of, and consents to, the security interest granted by Project Co in favour of the Finance Parties under the Note Indenture and Security Documents over:

- (a) Project Co's rights under the Project Agreement and all other Project Documents;
- (b) Project Co's assets; and
- (c) Project Co's rights to Insurance Proceeds and Insurance Receivables.

### **2.2 No Notice of Other Security**

The Province confirms that as of the date of this Agreement it has not received written notice of any other security interest granted over Project Co's rights described in Sections 2.1 other than pursuant to the Note Indenture and Security Documents.

### **2.3 Province Obligations**

Except as specifically provided for in this Agreement and the Insurance Trust Agreement, the Province has no obligations (whether express, implied, collateral or otherwise) to the Agent or the Senior Lenders in connection with this Agreement, the Project Agreement or the Project. All of the obligations and liabilities given, undertaken or arising on the part of the Province under this Agreement are given solely to the Agent on behalf of the Senior Lenders and do not confer any rights on or in favour of Project Co or any Affiliate of Project Co or any other Person.

### **2.4 Province's Rights not Prejudiced**

The parties acknowledge that nothing in the Senior Financing Agreements, this Agreement or any other agreement between any of them (including any giving by the Agent of a notice hereunder) will, except as between the Senior Lenders, the Agent and the Province as expressly set out in this Agreement, affect the rights of the Province under the Project Agreement (but an exercise by the Province of those rights will not preclude a proper exercise by the Agent of its rights under this Agreement). For greater certainty and without limiting the generality of the foregoing, nothing in this Agreement will limit, and the Province will be entitled at all times in accordance with the provisions thereof to exercise the Province's rights under Section 11.1(a) (Province's Step-in Rights) of the Project Agreement and the related exercise of its rights under Section 11.2 (Province's Rectification Rights) of the Project Agreement.

### 3. NOTICES

#### 3.1 Termination Notice

The Province will not terminate or deliver any notice terminating the Project Agreement without giving to the Agent written notice (a “**Termination Notice**”) stating:

- (a) that a Project Co Event of Default has occurred and the proposed Termination Date, which will be not sooner than 90 days after the Termination Notice; and
- (b) the grounds for termination in reasonable detail.

#### 3.2 Notice of Event of Default

Concurrently with delivery by it to Project Co of any notice of an Event of Default, the Agent will provide a copy of such notice to the Province, together with reasonable details of such Event of Default.

#### 3.3 Indicative Notice

Without prejudice to the Agent’s rights under the Security Documents, at any time upon the occurrence of an Event of Default, and where relevant to such Event of Default the continuance of such Event of Default, the Agent may give notice to the Province of its intention to nominate a Senior Lenders’ Representative to step-in in accordance with Section 4.1 (an “**Indicative Step-In Notice**”) or to effect a transfer in accordance with Section 6.1 (an “**Indicative Transfer Notice**”).

#### 3.4 Agent’s Withdrawal Notice

If at any time after the giving of an Indicative Notice or a receipt of Termination Notice, the Agent has determined that it is not, or is no longer, considering appointing a Senior Lenders’ Representative or effecting a transfer of Project Co’s rights and liabilities under the Project Agreement to a Suitable Substitute Project Co in accordance with this Agreement, the Agent will give notice (an “**Agent’s Withdrawal Notice**”) to the Province and thereafter the provisions of this Agreement will not be applicable with respect to the event that led to such Indicative Notice or Termination Notice and the Province will be at liberty to take any and all action available to it under the Project Agreement and other Project Documents.

#### 3.5 Notice of Antecedent Liabilities

Unless an Agent’s Withdrawal Notice has been given, not later than 30 days after the date of delivery by the Province of a Termination Notice or the date of delivery by the Agent of an Indicative Notice, as the case may be, the Province will give the Agent a notice (the “**Liability Report**”) containing details of:

- (a) any Material Antecedent Liabilities accrued and outstanding as of the date of delivery of the Termination Notice or Indicative Notice, as the case may be; and
- (b) any financial liabilities of which the Province is aware (after reasonable enquiry) that will fall due under the Project Agreement on or after the date of delivery of the Termination Notice or Indicative Notice, as the case may be, and on or prior to:
  - (1) in the case of a Termination Notice, the proposed Termination Date set out in that notice; and

- (2) in the case of an Indicative Notice, 60 days after the date of delivery of the Indicative Notice.

### **3.6 Subsequent Province Notice of Liabilities**

After the delivery of the Liability Report, unless an Agent's Withdrawal Notice has been given, the Province will, promptly upon becoming aware of them, notify the Agent in writing of any additional Material Antecedent Liabilities arising on or after the date of delivery of the Termination Notice or Indicative Notice, as the case may be, and prior to the end of the Termination Notice Period or the Indicative Notice Period, as the case may be.

### **3.7 No Right to Terminate**

The Province will not terminate or deliver any notice terminating the Project Agreement during any Notice Period, provided however that until the expiry of that period the Province will be entitled to require Project Co to remedy any Project Co Event of Default and will be entitled to exercise all rights under the Project Agreement other than termination of the Project Agreement.

## **4. STEP-IN**

### **4.1 Step-In Notice**

Subject to Section 4.3 and without prejudice to the Agent's rights under the Security Documents, the Agent may give the Province a notice (a "**Step-In Notice**") at any time during an Indicative Notice Period or a Termination Notice Period, as the case may be.

### **4.2 Contents of Step-In Notice**

In the Step-In Notice, the Agent will:

- (a) state that it intends to exercise its step-in rights under this Agreement; and
- (b) identify the Appointed Representative.

### **4.3 One Step-In Period**

There will be not more than one Step-In Period following any one Indicative Notice or Termination Notice.

### **4.4 Appointed Representative Rights**

On the Step-In Date, the Appointed Representative will assume jointly and severally with Project Co the rights of Project Co under the Project Agreement, which rights are conditional on and may be exercised subject to performance of Project Co's obligations under the Project Agreement. During the Step-In Period, the Province will deal with the Appointed Representative and not Project Co. No Appointed Representative will be liable to the Province or Project Co for any liabilities or obligations of Project Co. An Appointed Representative who is also an Insolvency Officer will not, and will not be required to, assume or have any personal liability for any liabilities or obligations of Project Co.

### **4.5 Province Right to Terminate**

The Province will not terminate the Project Agreement in whole or in part during the Step-In Period except as set out in this Section 4.5. The Province will be entitled to terminate the Project

Agreement during the Step-In Period by written notice to Project Co, the Agent and the Appointed Representative:

- (a) if the Reported Antecedent Liabilities that are financial liabilities have not been paid to the Province on or before the Step-In Date or, if the due date for payment thereof is after the Step-In Date, have not been paid by the due date;
- (b) if amounts, of which the Province was not aware (having made reasonable enquiry) at the time of the Liability Report and of which the Province becomes aware prior to receipt of a Step-In Notice, become payable and are not discharged by:
  - (1) if notice of the liability is given to the Agent at least 20 Business Days prior to the Step-In Date, the Step-In Date or, if the due date for payment thereof is after the Step-In Date, the due date;
  - (2) if notice of the liability is given to the Agent within 20 Business Days before the Step-In Date and such liability is material (as stated by the Province, acting reasonably, when it gives such notice or by the Agent, acting reasonably, by notice to the Province within five Business Days of receipt of the notice from the Province), 20 Business Days after the Step-In Date or, if later, the due date; or
  - (3) otherwise, 20 Business Days after delivery of notice of the liability or, if later, the due date;
- (c) on grounds arising after the Step-In Date in accordance with the terms of the Project Agreement (other than a Project Co Insolvency Event), provided that for the purposes of termination under the Project Agreement, any Deductions that arose prior to the Step-In Date will not be taken into account during the Step-In Period;
- (d) on grounds arising prior to the Step-In Date (which are continuing at the Step-In Date) in accordance with the terms of the Project Agreement but only if the Appointed Representative is not using all reasonable efforts to remedy (if capable of remedy) the relevant Antecedent Liabilities which are non-financial liabilities; or
- (e) if the Service Commencement Date does not occur on or before the date that is 6 months after the Longstop Date.

## **5. STEP-OUT**

### **5.1 Step-Out Notice**

The Agent or the Appointed Representative may at any time during the Step-In Period deliver to the Province a Step-Out Notice which specifies the Step-Out Date.

### **5.2 Expiry of Step-In Period**

Upon the termination or expiry of the Step-In Period:

- (a) the rights of the Province against the Appointed Representative and the rights of the Appointed Representative against the Province will be cancelled; and
- (b) the Province will no longer deal with the Appointed Representative and will deal with Project Co in connection with the Project Agreement.

### **5.3 Project Co Remains Bound**

Subject to Section 6.4, Project Co will continue to be bound by the terms of the Project Agreement notwithstanding the occurrence of an Indicative Notice, a Step-In Notice, a Step-In Period, a Step-Out Notice, a Step-Out Date, any action by the Agent, Appointed Representative, or the Senior Lenders or any provision of this Agreement, and for greater certainty Project Co will be liable for any obligations and liabilities arising prior to the expiry of the Step-in Period from actions or inactions of the Agent, the Appointed Representative, or Senior Lenders. Project Co will remain liable for any unpaid amounts due and payable to the Province by Project Co under the Project Agreement provided that Project Co will not be required to discharge such liability during the Step-In Period.

## **6. SENIOR LENDER REPLACEMENT OF PROJECT CO**

### **6.1 Project Co Transfer Notice**

Subject to Section 6.2, at any time:

- (a) during a Termination Notice Period;
- (b) during an Indicative Notice Period; or
- (c) during a Step-In Period,

the Agent may, on 30 Business Days' notice to the Province and any Appointed Representative, take any action available to it to cause the transfer of Project Co's rights and liabilities under the Project Agreement to a Suitable Substitute Project Co in accordance with the provisions of Section 6.4.

### **6.2 Province Consent**

The Province will notify the Agent as to whether any Person to whom the Agent proposes to transfer Project Co's rights and liabilities under the Project Agreement is a Suitable Substitute Project Co, not later than 20 Business Days after the date of receipt from the Agent of all information reasonably required by the Province to decide whether the proposed transferee is a Suitable Substitute Project Co and if the Province fails to notify the Agent within such period, the proposed transferee will be deemed to be a Suitable Substitute Project Co.

### **6.3 Withholding of Consent**

The Province will not unreasonably withhold or delay its decision on whether the proposed transferee is a Suitable Substitute Project Co and it will, without limitation, be reasonable for the Province to withhold its consent:

- (a) if there are unremedied breaches under the Project Agreement and there is no remedial program reasonably acceptable to the Province in respect of the breaches; or
- (b) based on any of the factors set out in Section 16.3 (Factors Province May Consider) of the Project Agreement with respect to any transfer, including any assignment, to such Person or Change in Control resulting from the transfer.

### **6.4 Terms of Transfer**

Upon the transfer referred to in Section 6.1 becoming effective:

- (a) Project Co and the Province will be released from their obligations under the Project Agreement to each other, including with respect to indemnification under the Project Agreement whether arising prior to or after such transfer (the “**Discharged Obligations**”);
- (b) the Suitable Substitute Project Co and the Province will assume obligations which are substantially similar to the Discharged Obligations, but owed to or assumed by the Suitable Substitute Project Co instead of Project Co;
- (c) the rights of Project Co against the Province under the Project Agreement and vice versa (the “**Discharged Rights**”) will be cancelled;
- (d) the Suitable Substitute Project Co and the Province will acquire rights against each other which differ from the Discharged Rights only insofar as they are exercisable by or against the Suitable Substitute Project Co instead of Project Co;
- (e) any subsisting ground for termination of the Project Agreement by the Province will be deemed to have no effect and any subsisting Termination Notice will be automatically revoked;
- (f) the Province will enter into a lenders’ remedies agreement with the Suitable Substitute Project Co and a representative of Senior Lenders lending to the Suitable Substitute Project Co on substantially the same terms as this Agreement; and
- (g) any Deductions that arose prior to that time will not be taken into account after the transfer for the purposes of Sections 11.1(b) and 12.1(h) of the Project Agreement and Sections 11.8 and 11.9 of Schedule 4 to the Project Agreement.

## 7. **INSURANCE**

### 7.1 **Release of Insurance Proceeds**

Notwithstanding the other provisions of this Agreement and the terms and conditions of the Senior Financing Agreements, the Agent will only permit amounts to be released from the Insurance Account or the Insurance Trust Account in accordance with Section 6 (Insurance, Damage and Destruction) and Schedule 5 [Insurance Requirements] of the Project Agreement and will not exercise any rights under the Senior Financing Agreements or take any other steps to prevent amounts being released from the Insurance Account or the Insurance Trust Account in accordance with Section 6 (Insurance, Damage and Destruction) and Schedule 5 [Insurance Requirements] of the Project Agreement.

## 8. **COVENANTS**

### 8.1 **Province Covenants**

The Province agrees with the Agent that the Province will:

- (a) as soon as is reasonably practicable, at Project Co’s or the Agent’s expense, take whatever action the Agent, an Appointed Representative or a Suitable Substitute Project Co taking a transfer in accordance with Section 6 may reasonably require for perfecting any transfer or release under this Agreement, including the execution of any transfer or assignment, and the giving of any notice, order or direction and the making of any registration which, in each case, the Agent or Appointed Representative or Suitable Substitute Project Co reasonably requires;

- (b) not, prior to the Senior Debt Discharge Date, unless the Agent has (acting reasonably) consented in writing:
  - (1) appoint an Insolvency Officer;
  - (2) commence any Insolvency Proceedings;
  - (3) sanction, by voting or failing to vote, any Insolvency Proceedings and will, if requested to do so by the Agent, vote against any Insolvency Proceedings;
  - (4) without prejudice to its rights of set-off under the Project Agreement, including rights to take amounts owing by Project Co into account in calculating termination compensation payable, claim or prove as creditor or otherwise in competition with any Finance Party in respect of any monies owing to it by Project Co for or on account of Project Co's liabilities under the Project Documents in the event of any Insolvency Proceedings; or
  - (5) take any action authorising, or which might result in or is in furtherance of, any of the prohibited matters referred to in Sections (1), (2), (3) or (4) above;
- (c) not take or fail to take any action (including amendments, waivers and enforcement action) with respect to any material agreement between the Province and a third party, the effect of which would be reasonably likely to render the Province unable to satisfy its obligations under the Project Agreement; and
- (d) not issue a Step-In Notice or Proposed Transfer Notice under any Material Contract Party Collateral Agreement at any time that the Senior Lenders are validly exercising under any Senior Financing Agreement any step-in rights with respect to the relevant Material Contract.

## 8.2 Agent Covenants

The Agent will promptly:

- (a) [Intentionally deleted];
- (b) notify the Province when it believes the Senior Debt Discharge Date will occur or has occurred, and in any event will so notify no later than 20 Business Days after its occurrence;
- (c) a reasonable time prior to the taking of any such action, notify the Province of any decision by the Senior Lenders to take action under Section 12 of the Note Indenture, together with reasonable details of any such action;
- (d) unless notice is already provided under the above provisions, notify the Province of any decision by the Senior Lenders to:
  - (1) appoint an Insolvency Officer;
  - (2) commence any Insolvency Proceedings;
  - (3) sanction, by voting or failing to vote, any Insolvency Proceedings; or
  - (4) take any action authorizing, or which might result in or is in furtherance of, any of the matters referred to in Sections (1), (2) or (3) above; and



- (e) upon request by the Province, cause all security on any real or personal property comprised in the Facility to be promptly discharged and released on the date requested by the Province (which will be on or after the Termination Date).

### **8.3 Project Co Covenant**

Project Co acknowledges and consents to the arrangements set out in this Agreement and agrees not to do or omit to do anything that may prevent any party from enforcing its rights under this Agreement.

## **9. STEP-IN RIGHTS UNDER MATERIAL CONTRACTS**

### **9.1 Priority of Step-In Rights under Material Contracts**

Subject to Sections 9.2 and 9.4, notwithstanding any provision in any Material Contract Party Collateral Agreement, the Province will not exercise any right it may have pursuant to a Material Contract Party Collateral Agreement to step-in and assume or otherwise enforce (or cause a third party designated by the Province to step-in and assume or otherwise enforce) Project Co's rights and obligations under any of the Material Contracts (including the issuance of a step-in notice by the Province pursuant to any Material Contract Party Collateral Agreement), or to transfer or assign a Material Contract, unless:

- (a) within 60 days of delivery by the relevant Project Contractor to the Province of a Termination Notice as contemplated in Section 2.1 of the relevant Material Contract Party Collateral Agreement, the Province has not received a copy of a step-in notice delivered under the terms of the lenders' direct agreement in respect of such Material Contract (a "**Lenders' Step-In Notice**"); or
- (b) if (i) within 60 days of delivery by the relevant Project Contractor to the Province of a Termination Notice as contemplated in Section 2.1 of the relevant Material Contract Party Collateral Agreement, the Province has received a copy of a Lenders' Step-In Notice but (ii) within 105 days of delivery by the relevant Project Contractor to the Province of a Termination Notice as contemplated in Section 2.1 of the relevant Material Contract Party Collateral Agreement, the Agent has not completed either a step-in and assumption of Project Co's rights and obligations under the relevant Material Contract or a transfer or assignment thereof.

### **9.2 Step-in from Termination Date**

Subject to Section 9.4, from the Termination Date, provided that the Province has (if applicable) complied with Section 3.7 and Section 4.5 in terminating the Project Agreement, the Province will be free to exercise its rights under any Material Contract Party Collateral Agreement to step-in and assume (or cause a third party designated by the Province to step-in and assume) Project Co's rights and obligations under, or to transfer or assign, any Material Contract in accordance with a Material Contract Party Collateral Agreement.

### **9.3 Release of Security**

Subject to Section 9.4, the Agent will release and discharge (or cause to be released and discharged) at no cost to the Province, and as soon as reasonably possible, all security in respect of each of the Material Contracts in respect of which any of Project Co's rights or obligations thereunder are assumed, transferred or assigned by or to the Province (or by or to a third party designated by the Province) pursuant to a Material Contract Party Collateral Agreement.

#### **9.4 Retention of Security for Deficiency**

If, in the reasonable opinion of the Agent, there is likely to be a Senior Debt Deficiency, then until such time as an amount equal to the Senior Debt Deficiency has been recovered by the Finance Parties, the Finance Parties will be entitled to retain the benefit of the security in respect of claims and losses that Project Co has as against the Material Contract Party under the relevant Material Contract (or as against any guarantor of such Material Contract) that arose prior to the date of the assumption, transfer or assignment of the relevant Material Contract (or guarantee in respect of such Material Contract) by or to the Province (or by or to a third party designated by the Province) provided that:

- (a) the Finance Parties will not, and will not be entitled to, exercise any rights or enforce any security in respect of any such claim during the period from the date on which such assumption, transfer or assignment occurs to the Termination Date; and
- (b) the rights in relation to the security retained by the Finance Parties pursuant to this Section 9.4 may only be exercised if and to the extent that there is a Senior Debt Deficiency determined after the Province has paid the Termination Payment pursuant to Section 2 or Section 3 of Schedule 9 [Compensation on Termination] of the Project Agreement.

Any amounts recovered by the Finance Parties pursuant to claims referred to in this Section 9.4, from the Termination Date to the date on which the Termination Payment and the amount of the Senior Debt Deficiency, if any, have been determined, will be held by the Agent in a segregated account on terms satisfactory to the Agent and the Province, each acting reasonably, and, upon determination of the Termination Payment and the amount of the Senior Debt Deficiency, if any, such funds will be distributed to the Agent, to the extent of the Senior Debt Deficiency, if any, and the balance of such funds will be paid to the Province. The Finance Parties will in accordance with Section 9.3 release and discharge all security in respect of the Material Contracts upon such distribution of funds, upon the Finance Parties not making or pursuing claims referred to in this Section 9.4 within a reasonable time, or upon a final determination pursuant to court or binding arbitration of the claims.

#### **9.5 Assignment of Material Contracts by Finance Parties**

The Finance Parties will not transfer or assign any Material Contract except to a Suitable Substitute Project Co in conjunction with a permitted transfer or assignment of the Project Agreement to that Suitable Substitute Project Co in accordance with Section 6.

### **10. ASSIGNMENT**

#### **10.1 Restriction on Assignment**

No party to this Agreement may assign or transfer all or any part of its rights or obligations under this Agreement except as provided in this Section 10.

#### **10.2 Assignment by Agent**

The Agent, in its own capacity and not as agent for the Senior Lenders, may assign or transfer its rights and obligations under this Agreement to a successor Agent in its own capacity and not as agent for the Senior Lenders, in accordance with the Senior Financing Agreements without the consent of the Province provided that the Agent delivers to the Province not less than 10 Business Days prior to such assignment or transfer a notice setting out such contact information regarding the assignee or transferee as the Province may reasonably require and provided the

assignee or transferee is not a Restricted Person. For purposes of this Section 10.2, the definition of Restricted Person will not include sub-paragraph (d) of that definition.

### **10.3 Assignment by Senior Lender**

Any Senior Lender may assign or transfer its rights and obligations under the Senior Financing Agreements in accordance with the terms of the Senior Financing Agreements without the consent of the Province provided the assignee or transferee is not a Restricted Person. For purposes of this Section 10.3, the definition of Restricted Person will not include sub-paragraph (d) of that definition.

### **10.4 Assignment by Province**

The Province will assign or transfer its rights and obligations under this Agreement to any permitted assignee of its interest in the Project Agreement concurrently with the assignment of the Project Agreement to such assignee and the Agent and the Senior Lenders will co-operate with the Province in completing the formalities of any transfer or assignment including by executing any additional documents as may be reasonably required by the Province.

### **10.5 New Agreement**

If Section 10.2 applies in relation to the Agent, the Province and Project Co will, upon request by the new Agent, enter into a new lenders' remedies agreement with the new Agent on substantially the same terms as this Agreement.

## **11. GENERAL**

### **11.1 Term**

This Agreement will remain in effect until the earlier of:

- (a) the Senior Debt Discharge Date; and
- (b) subject to compliance with Section 6.4(f) above, the date of transfer of Project Co's rights and liabilities under the Project Agreement to a Suitable Substitute Project Co pursuant to Section 6.

### **11.2 Conflict or Inconsistency**

If there is any conflict or inconsistency between the provisions of this Agreement and the Project Agreement, as between the Agent and the Province the provisions of this Agreement will prevail.

### **11.3 Entire Agreement**

Unless otherwise stated in this Agreement, this Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement. No party has relied on any representation except as expressly set out in this Agreement.

### **11.4 Waiver**

The failure of any party to exercise any contractual right or remedy will not constitute a waiver thereof and no waiver will be effective, unless it is communicated in writing to the other party. A

waiver of any right or remedy arising from a breach of this Agreement will not constitute a waiver of any right or remedy arising from any other breach of this Agreement.

#### **11.5 Counterparts**

This Agreement may be executed in any number of counterparts, all of which when taken together will constitute one and the same instrument.

#### **11.6 Confidentiality**

The Agent will be bound to comply with the confidentiality obligations on the part of Project Co contained in the Project Agreement in relation to all information matters obtained from any other party under or in connection with the Project.

#### **11.7 Notices**

Any notice or communication required or permitted to be given under this Agreement will be in writing and will be considered to have been sufficiently given if delivered by hand or transmitted by electronic transmission to the address or electronic mail address of each party set out below:

if to the Province:

Ministry of Citizen's Services  
PO Box 9412, 4000 Seymour Place  
Victoria BC  
V8W9V1

Attention: Sunny Dhaliwal  
E-mail: Sunny.Dhaliwal@gov.bc.ca

if to the Agent:

AST Trust Company (Canada)  
1 Toronto Street, Suite 1200  
Toronto, ON M5C 2V6  
Attention: Nazim Nathoo  
Email: nnathoo@astfinancial.com

if to Project Co:

Plenary Justice Abbotsford Limited Partnership  
Suite 2000, 400 Burrard Street  
Commerce Place  
Vancouver, BC  
V6C 3A6

Attention: Chief Financial Officer  
 E-mail: notices@plenarygroup.com

or to such other address or electronic mail address as any party may, from time to time, designate in the manner set out above. Any such notice or communication will be considered to have been received:

- (a) if delivered by hand during business hours (and in any event, at or before 3:00 pm local time in the place of receipt) on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business hours on the next Business Day; and
- (b) if delivered by electronic mail during business hours (and in any event, at or before 3:00 pm local time in the place of receipt) on a Business Day, upon receipt, and if not delivered during business hours, upon the commencement of business hours on the next Business Day provided that:
  - (1) the receiving party has, by electronic mail or by hand delivery, acknowledged to the notifying party that it has received such notice; or
  - (2) within 24 hours after sending the notice, the notifying party has also delivered a copy of such notice to the receiving party by hand delivery.

#### **11.8 No Partnership or Agency**

Nothing in this Agreement will be construed as creating a partnership or as constituting the Senior Lenders, the Agent, the Appointed Representative, any other Senior Lenders' Representative or a Suitable Substitute Project Co as an agent of the Province. No such Person will hold itself out as having any authority or power to bind the Province in any way.

#### **11.9 Remedies Cumulative**

The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

#### **11.10 Disputes**

Any dispute between any of the parties with respect to any of the subject matters of this Agreement will be resolved in accordance with, and the parties will comply with, the Dispute Resolution Procedure, and Schedule 13 [Dispute Resolution Procedure] of the Project Agreement is deemed to be incorporated, *mutantis mutandis*, in this Agreement.

[signature page follows]

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the day and year 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)**

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.