

**SCHEDULE 14
LENDERS' REMEDIES AGREEMENT**

LENDERS' REMEDIES AGREEMENT

AMONG

**HER MAJESTY THE QUEEN IN RIGHT OF
THE PROVINCE OF BRITISH COLUMBIA**

- and -

BC TRANSPORTATION FINANCING AUTHORITY

- and -

**SOCIÉTÉ GÉNÉRALE (CANADA BRANCH)
(as Agent)**

- and -

FTG FRASER TRANSPORTATION GROUP PARTNERSHIP

July _____, 2010

SOUTH FRASER PERIMETER ROAD PROJECT
SCHEDULE 14: LENDERS' REMEDIES AGREEMENT

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LENDERS' REMEDIES AGREEMENT

THIS AGREEMENT is dated as of July _____, 2010

AMONG:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE
OF BRITISH COLUMBIA**, as represented by the **MINISTER OF
TRANSPORTATION AND INFRASTRUCTURE**

(the "**Province**")

AND:

BC TRANSPORTATION FINANCING AUTHORITY, a corporation
continued under the *Transportation Act* (British Columbia)

("BCTFA")

AND:

SOCIÉTÉ GÉNÉRALE (CANADA BRANCH)

as administrative agent and collateral agent for the Senior Lenders (the "**Agent**")

AND:

FTG FRASER TRANSPORTATION GROUP PARTNERSHIP

(the "**Concessionaire**")

WHEREAS:

- A. The Province, BCTFA and the Concessionaire have entered into the Concession Agreement;
- B. Pursuant to the Credit Agreement, the Lenders have agreed, subject to the terms and conditions contained therein, to make available to the Concessionaire the loan facility or facilities specified therein to finance certain costs to be incurred and expenditures to be made by the Concessionaire in connection with the Concession Agreement; and
- C. It is a requirement under the Concession Agreement and a condition precedent to the first drawdown of Senior Debt by the Concessionaire under the Credit Agreement that this Agreement be executed and delivered by the parties.

NOW THEREFORE in consideration of the covenants and agreements of the parties contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

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**PART 1
DEFINITIONS AND INTERPRETATION**

1.1 Definitions

Unless otherwise specified or the context otherwise requires:

- (a) “**Agent’s No Step-In Notice**” has the meaning set out in Section 3.3 [Agent’s No Step-In Notice] of this Agreement;
- (b) “**Agreed Antecedent Liabilities**” means the Antecedent Liabilities identified in the Liability Report most recently delivered to the Agent pursuant to Section 3.4 [Notice of Antecedent Liabilities] of this Agreement and any additional Material Antecedent Liabilities notified to the Agent pursuant to Section 3.5 [Subsequent Province Notice of Liabilities] of this Agreement;
- (c) “**Antecedent Liabilities**” means, as at any time:
 - (i) all amounts due and payable by the Concessionaire to the Province under the Concession Agreement at such time; and
 - (ii) to the extent not falling within the scope of paragraph (i), all obligations of the Concessionaire under the Concession Agreement that should have been, but have not been, performed, and all outstanding liabilities of the Concessionaire under the Concession Agreement that should have been, but have not been satisfied, in each case at such time;
- (d) “**Appointed Representative**” means the Representative identified in a Step-In Notice;
- (e) “**Collateral Agent**” has the meaning set out in the Credit Agreement;
- (f) “**Collateral Documents**” has the meaning set out in the Credit Agreement;
- (g) “**Concession Agreement**” means the agreement titled “Concession Agreement” of even date herewith and made between the Province, BCTFA and the Concessionaire, as amended, supplemented or replaced from time to time;
- (h) “**Credit Agreement**” means the credit agreement of even date herewith among the Concessionaire, the Partners, the Lenders and the Agent, as such agreement may be amended, supplemented or replaced from time to time as may be permitted by the Concession Agreement;
- (i) “**Deficiency**” has the meaning set out in Section 10.4(b) of this Agreement;
- (j) “**Designated Account**” has the meaning set out in Section 12.4 [Agent’s Designation of Designated Account] of this Agreement;
- (k) “**Enforcement Action**” means:

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- (i) any acceleration of amounts due and owing under any of the Senior Lending Agreements;
 - (ii) any enforcement of Security by the Collateral Agent; and/or
 - (iii) the exercise by the Agent of any right under Part 4 [Step-In] or Part 6 [Senior Lender Replacement of Concessionaire] of this Agreement;
- (l) “**Event of Default**” has the meaning set out in the Credit Agreement;
- (m) “**Indicative Notice**” means either an Indicative Step-In Notice or an Indicative Transfer Notice;
- (n) “**Indicative Notice Period**” means:
- (i) 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:
 - (A) the Step-In Date;
 - (B) the date of delivery of an Agent’s No Step-In Notice; and
 - (C) if the date of delivery of the Indicative Step-In Notice is prior to or on the Western Segment Substantial Completion Date, the date that is 120 days after the date of delivery of such Indicative Step-In Notice or, if the date of delivery of the Indicative Step-In Notice is after (and excluding) the Western Segment Substantial Completion Date, the date that is 90 days after the date of delivery of such Indicative Step-In Notice; and
 - (ii) 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:
 - (A) the Transfer Date; and
 - (B) if the date of the delivery of the Indicative Transfer Notice is prior to or on the Western Segment Substantial Completion Date, the date that is 120 days after the date of delivery of such Indicative Transfer Notice or, if the date of the delivery of the Indicative Transfer Notice is after (and excluding) the Western Segment Substantial Completion Date, the date that is 90 days after the date of delivery of such Indicative Transfer Notice;
- (o) “**Indicative Step-In Notice**” has the meaning set out in Section 3.2 [Notice of Event of Default and Indicative Notice] of this Agreement;
- (p) “**Indicative Transfer Notice**” has the meaning set out in Section 3.2 [Notice of Event of Default and Indicative Notice] of this Agreement;

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- (q) “**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 bankruptcy, insolvency, moratorium, reorganization or other similar law of any jurisdiction, including any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it;
- (r) “**Insolvency Officer**” means any trustee, receiver, receiver and manager, liquidator, sequestrator, administrator or other custodian in connection with the insolvency of the Concessionaire or either Partner or any of their respective assets;
- (s) “**Insolvency Proceedings**” means any:
- (i) formal step (including petition, proposal, application, convening of a meeting or other proceeding) taken with a view to or for the purpose of considering,
 - (ii) appointment of an Insolvency Officer in connection with,
 - (iii) order or resolution passed to commence or effect, as applicable, or
 - (iv) 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 the Concessionaire or either Partner (whether voluntary or involuntary) made or commenced by any party under any Insolvency Law; or
- (v) distress, attachment, sequestration or execution or other similar process affecting any of the assets of the Concessionaire or either Partner or any other similar process or event occurring in relation to the Concessionaire’s or either Partner’s assets in any other jurisdiction;
- (t) “**Lenders**” has the meaning set out in the Credit Agreement;
- (u) “**Liability Report**” has the meaning set out in Section 3.4 [Notice of Antecedent Liabilities] of this Agreement;
- (v) “**Material Antecedent Liabilities**” means Antecedent Liabilities that:
- (i) fall within the scope of paragraph (i) of the definition of “Antecedent Liabilities”;
 - (ii) fall within the scope of paragraph (ii) of the definition of “Antecedent Liabilities” to the extent that failure to perform the relevant obligation or satisfy the relevant liability will result in any amount becoming due and payable by the Concessionaire to the Province under the Concession Agreement; or
 - (iii) fall within the scope of paragraph (ii) of the definition of “Antecedent Liabilities” but not within the scope of paragraph (ii) of this definition, to the extent that failure to perform the relevant obligation or satisfy the relevant liability will

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result in any right or remedy becoming exercisable by the Province under Section 12.3 [Remedies of the Province for Concessionaire Default] of the Concession Agreement;

- (w) “**No Liquid Market Notice**” has the meaning set out in Section 3.10 [No Liquid Market] of this Agreement;
- (x) “**Representative**” means:
 - (i) the Agent (in either or both of its capacities, including as Collateral Agent), any Senior Lender or any of their Affiliates (provided that such person is not a Restricted Person);
 - (ii) a person that is collectively Controlled by the Senior Lenders (provided that such person is not a Restricted Person);
 - (iii) an administrative receiver, receiver or receiver and manager of the Concessionaire appointed under or in connection with the Collateral Documents; or
 - (iv) any other person approved by the Province (such approval not to be unreasonably withheld or delayed);
- (y) “**Revocation of Termination Notice**” has the meaning set out in Section 3.7 [Revocation of Termination Notice] of this Agreement;
- (z) “**Secured Parties**” has the meaning set out in the Credit Agreement;
- (aa) “**Security**” means the security interests granted in favour of the Collateral Agent, for and on behalf of, and for the benefit of the Secured Parties pursuant to the Collateral Documents;
- (bb) “**Senior Debt Discharge Date**” means the date on which the Agent notifies the Province that all amounts due and owing to the Secured Parties under the Senior Lending 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 any monies under the relevant Senior Lending Agreements;
- (cc) “**Step-In Date**” means 1 Business Day after the later to occur of:
 - (i) the earlier of:
 - (A) the day the Province notifies the Agent, in accordance with Section 4.5(a) of this Agreement, that the Province accepts the proposed Appointed Representative; and
 - (B) expiry of the period of 10 Business Days after the Agent delivers a Step-In Notice, if the Province has failed to notify the Agent in accordance with Section 4.5 [Province Approval of Proposed Appointed Representative] of this Agreement; and

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- (ii) the date on which the Appointed Representative has provided a Step-In Undertaking to the Province that is in full force and effect;
- (dd) “**Step-In Notice**” means a notice given by the Agent to the Province pursuant to Section 4.1 [Step-In Notice] of this Agreement;
- (ee) “**Step-In Period**” means the period from the Step-In Date up to and including the earliest of:
 - (i) the Step-Out Date;
 - (ii) the date of any transfer in accordance with Section 6.1 [Concessionaire Transfer Notice] of this Agreement;
 - (iii) the date of any termination of the Concession Agreement under Section 4.9 [Termination of Concession Agreement during Step-In Period] of this Agreement; and
 - (iv) the Expiry Date;
- (ff) “**Step-In Undertaking**” has the meaning set out in Section 4.3 [Step-In Undertaking] of this Agreement;
- (gg) “**Step-Out Date**” means the date that is 20 Business Days after delivery of a Step-Out Notice;
- (hh) “**Step-Out Notice**” means a notice from the Agent or the Appointed Representative to the Province pursuant to Section 5.1 [Step-Out Notice] of this Agreement;
- (ii) “**Suitable Substitute Concessionaire**” means a person:
 - (i) having the legal capacity, power and authority to become a party to and perform the obligations of the Concessionaire under the Concession Agreement and any other Project Document; and
 - (ii) having the technical competence, experience and financial standing, and the technical and financial resources (including employees with appropriate qualifications, experience and technical competence, committed financial resources and contracts) sufficient to enable it to perform the obligations of the Concessionaire under the Concession Agreement and any other Project Document,provided that such person is not:
 - (iii) a Restricted Person; or
 - (iv) a person any of whose Affiliates is a Restricted Person for any reason other than by reason of subsection (d) of the definition of Restricted Person in Section 1.1 [Definitions] of Schedule 1 of the Concession Agreement;

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- (jj) “**Termination Notice**” means a notice given by the Province to the Agent under Section 3.1 [Termination Notice] of this Agreement;
- (kk) “**Termination Notice Period**” means the period beginning on the date of service of a Termination Notice and (subject to Section 3.10(d) of this Agreement) ending on the earlier of:
 - (i) the Step-In Date;
 - (ii) the date of delivery of a Revocation of Termination Notice; and
 - (iii) the proposed Termination Date (subject to the minimum notice requirements under Section 3.1(a) of this Agreement) set out in the Termination Notice;
- (ll) “**Termination Payment**” has the meaning set out in Section 10.4(b) of this Agreement;
- (mm) “**Transfer Date**” has the meaning set out in Section 6.4 [Terms of Transfer] of this Agreement; and
- (nn) other words and expressions with initial capital letters used in this Agreement which are defined in the Concession Agreement have the same meanings when used in this Agreement as are given to them in the Concession Agreement; provided that, if such meanings have been amended since the date hereof, the meanings as at the date hereof shall apply when used herein unless and to the extent that the Agent has already approved the amendment of such meanings in the Concession Agreement pursuant to the terms of the Senior Lending Agreements (in which case such amended meanings shall also apply to this Agreement) or has otherwise agreed to such amended meanings so applying to this Agreement.

1.2 Interpretation

Save to the extent that the context or the express provisions of this Agreement otherwise require, this Agreement shall be interpreted according to the provisions set out in Part 2 [Interpretation] of Schedule 1 to the Concession Agreement, *mutatis mutandis*; provided that, if such provisions have been amended since the date hereof, the provisions as at the date hereof shall apply when used herein unless and to the extent that the Agent has already approved the amendment of such provisions in the Concession Agreement pursuant to the terms of the Senior Lending Agreements (in which case such amended provisions shall also apply to this Agreement) or has otherwise agreed to such amended provisions so applying to this Agreement.

In addition, unless the context otherwise requires, references herein to the “**Agent**” shall be construed as references to the Agent (or any successor Agent) acting in its capacities as administrative agent and collateral agent on behalf, for the benefit and upon the instructions of the Senior Lenders.

1.3 Governing Law

This Agreement is governed exclusively by, and is to be enforced, construed and interpreted exclusively in accordance with, the laws of British Columbia and the laws of Canada applicable in British Columbia, and the laws of British Columbia and the laws of Canada applicable in British Columbia are the proper law of this Agreement.

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1.4 Submission to Jurisdiction

Subject to Section 13.4 [Dispute Resolution Procedure under Concession Agreement] of this Agreement, the parties hereby irrevocably submit to the exclusive jurisdiction of the Court in any action or proceeding arising out of or relating to this Agreement, or any Collateral Document, and hereby agree that the Court has exclusive jurisdiction to entertain and determine all claims in respect of any such action or proceeding.

1.5 Agent for Service

The Agent hereby appoints Donald J. Weaver of Gowling Lafleur Henderson LLP, Suite 2300, 500 Burrard Street, Vancouver, BC V6C 2B5 as its authorized agent for the purpose of accepting service of process for all purposes in connection with this Agreement.

1.6 No Fettering of Province's Rights and Powers

- (a) Nothing in this Agreement fetters or otherwise interferes with or limits, or shall be construed to fetter or otherwise interfere with or limit, the rights, powers and authority of the Province or any minister, ministry, agency, board, commission, corporation or other entity of the Province (including, for greater certainty, the Minister, the Ministry, BCTFA and the Province) to:
 - (i) enact, amend, repeal or replace any enactment or regulation made under any enactment;
 - (ii) exercise or refrain from exercising any discretion conferred under Laws; or
 - (iii) administer, apply and enforce Laws;
- (b) Except as expressly provided for in this Agreement, neither the Agent nor the Senior Lenders shall be entitled to claim or receive any compensation or other relief whatsoever as a result of anything described in any of Sections 1.6(a)(i) to (iii) inclusive.

1.7 Language

The language of this Agreement is English. All communications, documents and information provided pursuant to this Agreement must be entirely in English.

**PART 2
CONSENT TO SECURITY; ACKNOWLEDGEMENTS**

2.1 Consent

The Province acknowledges notice of, and (without prejudice and subject to Section 2.4 [Province's Rights not Prejudiced] of this Agreement) consents to, the security interests granted in favour of the Secured Parties under the Collateral Documents over the Concessionaire's and the Partners' rights under the Concession Agreement, the policies of insurance relating to the Required Insurance and all other Project Documents and over each Partner's Units.

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2.2 No Notice of Other Security

The Province confirms that it has not received notice of any other security interest, other than the Security, granted over the Concessionaire's and the Partners' rights under the Concession Agreement and any other Project Documents, over proceeds payable under the insurance to be taken out by the Concessionaire pursuant to the Concession Agreement, or over either Partner's Units.

2.3 Province Obligations

Except as specifically provided in this Agreement or arising under applicable Laws, the Province has no obligations (whether express, implied, collateral or otherwise) to any of the Secured Parties in connection with this Agreement, the Concession Agreement or any other Project Document 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 (except as expressly provided herein) do not confer any rights on or in favour of the Concessionaire or any Affiliate of the Concessionaire or any other person.

2.4 Province's Rights not Prejudiced

The parties acknowledge that nothing in the Senior Lending Agreements, this Agreement or any other agreement between any of them (including any service by the Agent of a notice hereunder) shall, except as expressly set out in this Agreement, affect the rights of the Province under the Concession Agreement (but an exercise by the Province of those rights shall not preclude a proper exercise by the Agent of its rights under this Agreement or, subject to the terms of this Agreement, the Senior Lending Agreements).

2.5 Agreements and Collateral Documents

- (a) The Concessionaire, the Agent and the Senior Lenders shall not amend or modify the Senior Lending Agreements, or any of them, or enter into any new Senior Lending Agreements except where the Concessionaire is permitted to do so pursuant to and in accordance with the terms of the Concession Agreement.
- (b) The Agent acknowledges having received a copy of the Concession Agreement and a copy of the Collateral Agreements.
- (c) The Province acknowledges having received as at the date of this Agreement copies of the Initial Senior Lending Agreements.
- (d) The Agent confirms to the Province that the copies of the Senior Lending Agreements provided to the Province for acknowledgement under Section 2.5(c) constitute all of the Initial Senior Lending Agreements.

2.6 Assignment of Collateral Documents and Project Documents

Except for a transfer to a successor Agent to whom the rights and obligations of the Agent under this Agreement have been assigned or transferred in accordance with Section 11.2 [Assignment by Agent], the Agent shall not exercise any right it may have pursuant to the Collateral Documents to assign, transfer or otherwise dispose of any right, title or interest it may have in, or obligations it may have pursuant to, the Collateral Documents in respect of the Concession Agreement or any of the other Project

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Documents, without the prior written consent of the Province's Representative pursuant to the Concession Agreement, provided that this Section 2.6 shall not apply to any exercise by the Agent (in either or both of its capacities, including as Collateral Agent) of its rights or remedies under the Credit Agreement and the Collateral Documents upon an Event of Default.

2.7 Notification regarding Additional Permitted Borrowing

- (a) Each of the Concessionaire and the Agent shall promptly notify the Province's Representative of the details and amount of any proposed Additional Permitted Borrowing including:
 - (i) the circumstances giving rise to the proposed Additional Permitted Borrowing and the reasons for the proposed Additional Permitted Borrowing; and
 - (ii) the terms on which the proposed Additional Permitted Borrowing shall be borrowed.

- (b) On the first Business Day of each calendar month during which any Additional Permitted Borrowing is subsisting, the Concessionaire shall notify the Province's Representative of the amount of Senior Debt outstanding under the Senior Lending Agreements and the amount by which the principal amount of Senior Debt outstanding under the Senior Lending Agreements exceeds the principal amount of Senior Debt scheduled under the Initial Senior Lending Agreements (as at the Effective Date) to be outstanding on such Business Day, and:
 - (i) the amount of any Distribution made by the Concessionaire since the date such Additional Permitted Borrowing was first made; and
 - (ii) the amount of any credit balance on all accounts of the Concessionaire maintained by the Concessionaire pursuant to the Senior Lending Agreements as at the last day of the immediately preceding calendar month.

2.8 Acknowledgement of Province Ownership of Project Infrastructure

The Agent acknowledges, as contemplated in, and subject to the exceptions set out in, Section 2.10 [Title to Improvements] and Section 2.12 [Transfer of Title to Tangible Personal Property] of the Concession Agreement, that title to and ownership of the Project Infrastructure and all other improvements on or to the Project Site from time to time are vested in the Province or BCTFA, as applicable, and the Agent (on behalf of itself, including as Collateral Agent, and the Senior Lenders) hereby disclaims and releases any security or other property interest in or title to any such Project Infrastructure or any other improvements on or to the Project Site from time to time.

**PART 3
NOTICES**

3.1 Termination Notice

Except in the circumstances in which the Province is entitled, pursuant to Section 12.3(a) of the Concession Agreement as a result of any Concessionaire Default referred to in Section 12.1(f) of the Concession Agreement or pursuant to Section 12.3(e) or Section 14.1(a) of the Concession Agreement, to

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terminate the Concession Agreement by notice having immediate effect (in which case, Section 12.2(a) of this Agreement shall apply), the Province shall not terminate or deliver any notice terminating the Concession Agreement in respect of or as a result of the occurrence of a Concessionaire Default without giving to the Agent written notice (a "**Termination Notice**") stating:

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

3.2 Notice of Event of Default and Indicative Notice

The Agent agrees that:

- (a) concurrently with delivery by it to the Concessionaire of any notice of an Event of Default, it shall provide a copy of such notice to the Province's Representative, together with reasonable details of such Event of Default; and
- (b) without prejudice to the Collateral Agent's rights under the Collateral Documents, at any time during:
 - (i) the continuance of an Event of Default; or
 - (ii) the Termination Notice Period;

if it intends either to nominate a Representative to step-in in accordance with Section 4.1 [Step-In Notice] of this Agreement or effect a transfer in accordance with Section 6.1 [Concessionaire Transfer Notice] of this Agreement, it shall give to the Province's Representative a notice to such effect (respectively, an "**Indicative Step-In Notice**" or an "**Indicative Transfer Notice**").

3.3 Agent's No Step-In Notice

If, at any time after the service of an Indicative Notice, the Agent has determined that it is not, or is no longer, considering appointing a Representative to step-in in accordance with Section 4.1 [Step-In Notice] of this Agreement or effecting a transfer in accordance with Section 6.1 [Concessionaire Transfer Notice] of this Agreement, as the case may be, the Agent shall give notice to such effect (an "**Agent's No Step-In Notice**") to the Province's Representative and thereupon the provisions of Part 4 [Step-In], Part 5 [Step-Out] and Part 6 [Senior Lender Replacement of Concessionaire] of this Agreement shall not be applicable with respect to the event that led to delivery of such Indicative Notice and the Province shall be at liberty to take any and all action available to it under the Concession Agreement and any other Province Project Documents.

3.4 Notice of Antecedent Liabilities

Provided that the Agent has not delivered an Agent's No Step-In Notice, then not later than 30 days after the earlier of:

- (a) the date of delivery by the Province of a Termination Notice; or

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- (b) the date of delivery by the Agent of an Indicative Notice;

the Province shall give the Agent a notice (the "**Liability Report**") containing details of:

- (c) 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
- (d) any Antecedent Liabilities of which the Province is aware (after reasonable enquiry) that have or shall become Material Antecedent Liabilities on or after the date of delivery of the Termination Notice or Indicative Notice, as the case may be, and on or prior to:
- (i) in the case of a Termination Notice, the date referred to in paragraph (iii) of the definition of "Termination Notice Period"; and
- (ii) in the case of an Indicative Notice, the date referred to in paragraph (i)(C) or paragraph (ii)(B), as applicable, of the definition of "Indicative Notice Period".

If the Agent disputes any amount, statement or other information set out in a Liability Report given by the Province, the Agent may refer such dispute for resolution in accordance with the Dispute Resolution Procedure. Despite any such referral to the Dispute Resolution Procedure, there shall be no extension of the Termination Notice Period or Indicative Notice Period, as the case may be, on account of such referral.

3.5 Subsequent Province Notice of Liabilities

After the delivery of the Liability Report, and provided that the Agent has not subsequently delivered an Agent's No Step-In Notice, the Province's Representative shall, promptly upon the Province 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.

3.6 No Right to Terminate

The Province shall not terminate or deliver any notice terminating the Concession Agreement during any Termination Notice Period (excluding the proposed Termination Date) or any Indicative Notice Period.

3.7 Revocation of Termination Notice

A Termination Notice can be revoked by notice to the Agent (a "**Revocation of Termination Notice**") by the Province's Representative given prior to the earlier of: (a) the Step-In Date; and (b) the proposed Termination Date set out in the Termination Notice. Upon any such revocation, the rights and obligations of the parties shall be construed as if the relevant Termination Notice had not been given.

3.8 Notice of Exercise of Other Remedies

The Province shall notify the Agent, concurrently with its notifying the Concessionaire, of any notice given by or on behalf of the Province to the Concessionaire under Section 14.7(a), Section 11.5(a)(iv), Part 12 [Concessionaire Default and Province Remedies] or Sections 3.2 or 3.3 of Schedule 13 [Compensation on Termination] of the Concession Agreement. The Province shall provide to the

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Agent a copy of any notice given by the Concessionaire under Section 12.2 [Notice of Default by Concessionaire] of the Concession Agreement, promptly upon receipt thereof.

3.9 Notice of Enforcement or Intention to Enforce by Agent

The Agent shall give notice to the Province's Representative promptly after a determination is made by the Senior Lenders to take any Enforcement Action, specifying in reasonable detail particulars of the Enforcement Action in respect of which the determination is made. Such notice shall be given a reasonable time (having regard to all the relevant circumstances and the nature of the action proposed to be taken) before the Enforcement Action is taken in respect of the Concession Agreement or any of the Project Documents.

3.10 No Liquid Market

- (a) At any time during a Termination Notice Period, but not more than once during any one Termination Notice Period, the Agent may issue a written notice (the "**No Liquid Market Notice**") to the Province's Representative setting out the reasons why the Agent does not believe that a Liquid Market exists.
- (b) On or before the date that is 14 days after the date on which a No Liquid Market Notice is received by the Province, the Province shall notify the Agent of its opinion as to whether or not a Liquid Market exists. Where the Province believes that a Liquid Market does exist, such notice shall set out the reasons for the Province's belief. If, within 14 days after delivery by the Province of a notice stating the Province's belief that a Liquid Market does exist, the Province and the Agent do not agree whether or not a Liquid Market exists, then either the Province or the Agent may refer the dispute to be determined in accordance with the Dispute Resolution Procedure.
- (c) If the Province and the Agent agree or it is determined in accordance with the Dispute Resolution Procedure that no Liquid Market exists, the Concession Agreement shall automatically terminate and the provisions of Part 5 [Estimated Fair Value] of Schedule 13 [Compensation on Termination] of the Concession Agreement shall apply.
- (d) If any dispute relating to this Section 3.10 is to be determined under the Dispute Resolution Procedure, the Termination Notice Period shall be extended by the period of time spent determining such dispute under the Dispute Resolution Procedure.
- (e) If the Province notifies the Agent of a termination of the Concession Agreement in accordance with Section 4.9 [Termination of Concession Agreement during Step-In Period] of this Agreement, and if the Agent has not previously issued a No Liquid Market Notice, the Agent may within 15 Business Days after its receipt of such notice of termination issue a No Liquid Market Notice, and the provisions of Section 3.10(b), (c) and (d) shall apply *mutatis mutandis*.

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**PART 4
STEP-IN**

4.1 Step-In Notice

Subject to Section 4.7 [One Step-In Period] of this Agreement and without prejudice to the rights of the Secured Parties under the Senior Lending Agreements, the Agent may give the Province's Representative a notice (a "**Step-In Notice**") at any time during an Indicative Notice Period.

4.2 Contents of Step-In Notice

In the Step-In Notice, the Agent shall:

- (a) state that it intends to exercise its step-in rights under this Agreement;
- (b) identify the proposed Appointed Representative; and
- (c) enclose the Appointed Representative's proposed remedial program.

4.3 Step-In Undertaking

In connection with any Step-In Notice, the Agent shall cause the Appointed Representative to provide a written undertaking (the "**Step-In Undertaking**") to the Province that, for the duration of the Step-In Period, the Appointed Representative shall:

- (a) subject to Section 4.4 [Limitation on Antecedent Liabilities] of this Agreement and as required by Section 4.8 [Appointed Representative Rights and Liabilities] of this Agreement, assume jointly and severally with the Concessionaire the rights and obligations of the Concessionaire under the Concession Agreement and all other Province Project Documents (other than this Agreement); and
- (b) pay the Province, on the date(s) required by the terms of the Concession Agreement, any unpaid amount due and payable by the Concessionaire to the Province under the Concession Agreement which is payable wholly in respect of, or arising exclusively from, any act or omission occurring during the Step-In Period.

4.4 Limitation on Antecedent Liabilities

No Appointed Representative shall be liable to the Province or the Concessionaire for any Antecedent Liabilities (whether or not known at the time of preparation of the Liability Report most recently delivered to the Agent pursuant to Section 3.4 [Notice of Antecedent Liabilities] of this Agreement or of any notice of additional Material Antecedent Liabilities given by the Province under Section 3.5 [Subsequent Province Notice of Liabilities] of this Agreement) other than the Agreed Antecedent Liabilities notified by the Province to the Agent prior to the Step-In Date.

4.5 Province Approval of Proposed Appointed Representative

By no later than 10 Business Days after the Agent delivers a Step-In Notice, the Province shall either:

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- (a) notify the Agent that the Province accepts the proposed Appointed Representative; or
- (b) notify the Agent, in accordance with Section 4.6 [Province Objection to Proposed Appointed Representative] of this Agreement, that the Province objects to the proposed Appointed Representative.

If the Province fails to so notify the Agent before expiry of such 10 Business Day period, then subject to Section 12.1 [Agent's Right to Require Termination if No Lieutenant Governor in Council Approval] of this Agreement, the Province shall thereupon immediately be deemed to have accepted the proposed Appointed Representative.

4.6 Province Objection to Proposed Appointed Representative

The Step-In Period shall not commence if the Province, acting reasonably, considers that (and so notifies the Agent no later than 10 Business Days after the Agent delivers a Step-In Notice):

- (a) the proposed Appointed Representative does not have the legal capacity, power and authority to become a party to and perform its obligations under the Step-In Undertaking; or
- (b) the technical competence or the technical resources either directly or indirectly available to the proposed Appointed Representative are insufficient to enable it to perform its obligations under the Step-In Undertaking; or
- (c) the financial resources available either directly or indirectly to the proposed Appointed Representative are insufficient to meet its immediate working capital requirements, the financing it requires on a month by month basis and to enable it to perform its obligations under the Step-In Undertaking.

If the Province gives notice to the Agent as provided in this Section 4.6 then, provided the Indicative Notice Period has not expired in accordance with paragraph (i)(C) or paragraph (ii)(B), as applicable, of the definition of "Indicative Notice Period", the Agent may issue a new Step-In Notice including details of a new proposed Appointed Representative.

4.7 One Step-In Period

The Agent may give only one Step-In Notice following delivery of any one Indicative Notice, unless the Agent is permitted pursuant to Section 4.6 [Province Objection to Proposed Appointed Representative] of this Agreement to issue a new Step-In Notice.

The right of the Agent to give a Step-In Notice in accordance with Section 4.1 [Step-In Notice] will be exercisable on more than one occasion, provided that any Event of Default or Concessionaire Default existing at the commencement of the prior Step-In Period or occurring during the prior Step-In Period was cured by the time of delivery of the subsequent Step-In Notice and further provided that no more than one Step-In Notice may be outstanding at any particular time.

4.8 Appointed Representative Rights and Liabilities

Subject to Section 4.6 [Province Objection to Proposed Appointed Representative] of this Agreement, on the Step-In Date, the Appointed Representative shall, subject to Section 4.4 [Limitation on

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Antecedent Liabilities] of this Agreement, assume jointly and severally with the Concessionaire the rights and obligations of the Concessionaire under the Concession Agreement and any other Province Project Document (other than this Agreement). During the Step-In Period, the Province shall deal with the Appointed Representative and not the Concessionaire.

4.9 Termination of Concession Agreement during Step-In Period

The Province shall not terminate the Concession Agreement in whole or in part during the Step-In Period except as permitted in accordance with this Section 4.9. The Province shall be entitled to terminate the Concession Agreement during the Step-In Period by written notice to the Concessionaire, the Agent and the Appointed Representative:

- (a) if any of the Agreed Antecedent Liabilities have resulted in any amount becoming due and payable to the Province under the Concession Agreement on or before the Step-In Date and such amount has not been paid to the Province within 5 Business Days after the Step-In Date;
- (b) if any of the Agreed Antecedent Liabilities have resulted in any amount becoming due and payable to the Province under the Concession Agreement after the Step-In Date, and such amount has not been paid to the Province within 5 Business Days after the date on which the Province has so notified the Agent;
- (c) if amounts, of which the Province was not aware (having made reasonable enquiry) at the time of the Liability Report most recently delivered to the Agent pursuant to Section 3.4 [Notice of Antecedent Liabilities] of this Agreement or in respect of which the Province has not subsequently notified the Agent pursuant to Section 3.5 [Subsequent Province Notice of Liabilities] of this Agreement, subsequently become due and payable by the Concessionaire and are not discharged by:
 - (i) if notice of such liability is given to the Agent at least 30 days prior to the Step-In Date, within 5 Business Days after the Step-In Date; and
 - (ii) otherwise, 30 days after delivery of the notice of such liability to the Agent;
- (d) on grounds arising after the Step-In Date in accordance with the terms of the Concession Agreement and this Agreement (other than a Concessionaire Insolvency Event), provided that, for the purposes of termination under the Concession Agreement, any Default Points that arose prior to the Step-In Date shall not be taken into account during the Step-In Period (but shall be taken into account after the Step-Out Date);
- (e) on grounds arising prior to the Step-In Date in accordance with the terms of the Concession Agreement and this Agreement but only if the Appointed Representative is not using all reasonable efforts to remedy any Antecedent Liabilities falling within the scope of paragraph (ii) of the definition thereof that are continuing and remain unremedied after the Step-In Date;
- (f) if the Eastern Segment Substantial Completion Date does not occur on or before the date that is 12 months after the Eastern Segment Substantial Completion Longstop Date; or

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- (g) if the Western Segment Substantial Completion Date does not occur on or before the date that is 12 months after the Western Segment Substantial Completion Longstop Date.

**PART 5
STEP-OUT**

5.1 Step-Out Notice

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

5.2 Expiry of Step-In Period

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

- (a) the obligations and liabilities of the Appointed Representative in favour of the Province under the Concession Agreement and any other Province Project Document (other than this Agreement) arising prior to such termination or expiry shall be assumed by the Concessionaire to the exclusion of the Appointed Representative and the Appointed Representative shall be released from the obligations and liabilities assumed by it hereunder and under the Step-In Undertaking; and
- (b) the Province shall no longer deal with the Appointed Representative and shall deal with the Concessionaire in connection with the Concession Agreement and any other Province Project Document (other than this Agreement).

5.3 Concessionaire Remains Bound

Subject to Section 6.4 [Terms of Transfer] of this Agreement, the Concessionaire shall continue to be bound by the terms of the Concession Agreement and any other Province Project Document (other than this Agreement) notwithstanding the delivery of an Indicative Notice, a Step-In Notice, a Step-Out Notice, the commencement of a Step-In Period, the occurrence of a Step-Out Date or any action by the Agent (in either or both of its capacities, including as Collateral Agent), Appointed Representative or the Senior Lenders or any provision of this Agreement. The Concessionaire shall remain liable for any unpaid amounts due and payable to the Province by the Concessionaire under the Concession Agreement. Any notice, demand, request, consent, approval objection, agreement or other communication given, made or issued by the Province to the Appointed Representative in accordance with this Agreement during the Step-In Period shall be deemed simultaneously to have been given to the Concessionaire.

**PART 6
SENIOR LENDER REPLACEMENT OF CONCESSIONAIRE**

6.1 Concessionaire Transfer Notice

Subject to Section 6.2 [Province Consent] of this Agreement, at any time:

- (a) during the continuance of an Indicative Notice Period; or
- (b) during the Step-In Period,

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the Agent may, on 30 days' prior written notice to the Province's Representative and (if a Step-In Period has commenced) any Appointed Representative, take any action available to it to cause the transfer of the Concessionaire's rights and liabilities under the Concession Agreement and any other Province Project Document to a Suitable Substitute Concessionaire in accordance with the provisions of Section 6.4 [Terms of Transfer] of this Agreement.

6.2 Province Consent

The Province shall (acting reasonably) notify the Agent as to whether any person to whom the Agent proposes to transfer the Concessionaire's rights and liabilities under the Concession Agreement and any other Project Document is a Suitable Substitute Concessionaire as soon as reasonably practicable (and in any event 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 Concessionaire. This section shall not apply if the proposed transferee is the Agent itself.

6.3 Withholding of Consent

The Province shall not unreasonably withhold or delay its decision on whether the proposed transferee is a Suitable Substitute Concessionaire.

6.4 Terms of Transfer

Upon the transfer referred to in Section 6.1 [Concessionaire Transfer Notice] of this Agreement becoming effective (the date of such effectiveness, the "**Transfer Date**"):

- (a) the Concessionaire and the Province shall be released from their obligations to each other under the Concession Agreement and any other Province Project Document (the "**Discharged Obligations**");
- (b) the Suitable Substitute Concessionaire and the Province shall assume obligations which are substantially similar to the Discharged Obligations, but owed to or assumed by the Suitable Substitute Concessionaire instead of the Concessionaire;
- (c) the rights of the Concessionaire against the Province under the Concession Agreement, and any other Province Project Document and vice versa shall be cancelled (the "**Discharged Rights**");
- (d) the Suitable Substitute Concessionaire and the Province shall acquire rights against each other which differ from the Discharged Rights only insofar as they are exercisable by or against the Suitable Substitute Concessionaire instead of the Concessionaire;
- (e) any subsisting ground for termination of the Concession Agreement by the Province shall be deemed to have no effect and any subsisting Termination Notice shall be automatically revoked;
- (f) the Province shall enter into a lenders' remedies agreement on substantially the same terms as this Agreement with the Suitable Substitute Concessionaire and a representative of senior lenders lending to the Suitable Substitute Concessionaire; and
- (g) any Default Points that arose prior to that time shall be deemed to have no effect.

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**PART 7
INSURANCE**

7.1 Release of Insurance Proceeds/Funds under Section 8.7(b) of the Concession Agreement

Notwithstanding the other provisions of this Agreement and the terms and conditions of the Senior Lending Agreements and the Concession Agreement, the Agent and the Province shall permit, and shall not exercise any rights under the Senior Lending Agreements or the Concession Agreement, as applicable, or take any other steps to prevent, the release of any and all Insurance Proceeds for application in accordance with Section 6.18 [Application of Proceeds of Insurance] of the Concession Agreement or funds under Section 8.7(b) of the Concession Agreement for application in accordance therewith, as the case may be.

**PART 8
COVENANTS, REPRESENTATIONS AND WARRANTIES**

8.1 Province Covenants

The Province undertakes to the Agent that it shall:

- (a) as soon as is reasonably practicable, at the Concessionaire's expense or that of the Agent, take whatever action the Agent, an Appointed Representative or a Suitable Substitute Concessionaire taking a transfer in accordance with Part 6 [Senior Lender Replacement of Concessionaire] of this Agreement 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 Concessionaire reasonably requires;
- (b) not, prior to the Senior Debt Discharge Date, unless the Agent has (acting reasonably) consented in writing, appoint an Insolvency Officer or commence any Insolvency Proceedings in relation to the Concessionaire or either Partner;
- (c) not approve any proposed amendment to the Financial Model in accordance with Section 2.18 [Financial Model] of the Concession Agreement without first obtaining written confirmation from the Agent that such amendments are acceptable to the Senior Lenders; and
- (d) if the Agent has designated a Designated Account in accordance with Section 12.4 [Agent's Designation of Designated Account] of this Agreement, pay into such Designated Account any and all amounts that are payable by the Province to the Concessionaire pursuant to the Concession Agreement (including, without limitation, amounts payable by the Province to the Concessionaire pursuant to Schedule 13 [Compensation on Termination] of the Concession Agreement).

8.2 Agent Covenants

The Agent shall promptly notify the Province's Representative when it believes the Senior Debt Discharge Date will occur.

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8.3 Representations and Warranties of the Province and BCTFA

- (a) The Province represents and warrants to the Agent, and acknowledges that the Agent is relying upon such representations and warranties in entering into this Agreement, that at the date of this Agreement, based on the facts subsisting at the date of this Agreement:
 - (i) the Province has the necessary power and capacity to execute and deliver this Agreement;
 - (ii) the necessary authority has been conferred on the Minister of Transportation and Infrastructure to, on behalf of the Province, execute and deliver this Agreement; and
 - (iii) this Agreement has been duly authorized, executed and delivered on behalf of the Province.

- (b) BCTFA represents and warrants to the Agent, and acknowledges that the Agent is relying upon such representations and warranties in entering into this Agreement, that at the date of this Agreement, based on the facts subsisting at the date of this Agreement:
 - (i) BCTFA has the necessary power and capacity to execute and deliver this Agreement;
 - (ii) the necessary authority has been conferred on BCTFA to execute and deliver this Agreement;
 - (iii) the necessary corporate action has been taken by BCTFA to authorize the execution and delivery by BCTFA of this Agreement; and
 - (iv) this Agreement has been duly authorized, executed and delivered on behalf of BCTFA.

**PART 9
TERM**

9.1 Term

This Agreement shall remain in effect until the earlier of:

- (a) the Senior Debt Discharge Date; and
- (b) the Transfer Date.

9.2 Agent to Notify Province

The Agent shall promptly notify the Province's Representative as soon as reasonably practicable, but in any event no later than 20 Business Days thereafter, upon all amounts due and owing to the Secured Parties under the Senior Lending Agreements having been fully and irrevocably paid or discharged (whether or not as a result of enforcement) and the Senior Lenders being under no further obligation to advance any monies under the relevant Senior Lending Agreements.

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**PART 10
STEP-IN RIGHTS UNDER COLLATERAL AGREEMENTS**

10.1 Priority of Step-In Rights under Principal Contracts

Subject always to Section 10.2 [Step-in from Termination Date] and Section 10.4 [Retention of Security for Deficiency] of this Agreement, notwithstanding any provision in any Collateral Agreement, the Province shall not exercise any right it may have pursuant to a Collateral Agreement to step-in and assume (or cause a third party designated by the Province to step-in and assume) the Concessionaire's rights and obligations under any of the Principal Contracts (including the issuance of a step-in notice by the Province pursuant to any Collateral Agreement), or to transfer or assign a Principal Contract, unless:

- (a) within 60 days of delivery by the relevant Principal Contractor to the Province of a Default Notice as contemplated in Section 3.1 [Notice of Default by Principal Contractor] of the relevant Collateral Agreement, the Province has not received an Indicative Notice; or
- (b) if (i) within 60 days of delivery by the relevant Principal Contractor to the Province of a Default Notice as contemplated in Section 3.1 [Notice of Default by Principal Contractor] of the relevant Collateral Agreement, the Province has received an Indicative Notice but (ii) within 105 days of delivery by the relevant Principal Contractor to the Province of a Default Notice as contemplated in Section 3.1 [Notice of Default by Principal Contractor] of the relevant Collateral Agreement, the Agent has not completed either a step-in and assumption of the Concessionaire's rights and obligations under the relevant Principal Contract or a transfer or assignment thereof.

10.2 Step-in from Termination Date

Subject to Section 10.4 [Retention of Security for Deficiency] of this Agreement, from the Termination Date, provided always that the Province has (if applicable) complied with Section 4.9 [Province Right to Terminate] of this Agreement in terminating the Concession Agreement, the Province shall be free to exercise its rights under any Collateral Agreement to step-in and assume (or cause a third party designated by the Province to step-in and assume) the Concessionaire's rights and obligations under, or to transfer or assign, any Principal Contract in accordance with a Collateral Agreement.

10.3 Release of Security

Subject to Sections 10.4 [Retention of Security for Deficiency] and 10.5 [No Enforcement Action] of this Agreement, the Agent shall 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 Principal Contracts in respect of which any of the Concessionaire'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 Collateral Agreement.

10.4 Retention of Security for Deficiency

Until such time as any Deficiency has been determined and an amount equal to the Deficiency has been recovered by the Secured Parties, the Secured Parties shall be entitled to retain the benefit of the Security in respect of Claims and Losses that the Concessionaire has as against a Principal Contractor under the relevant Principal Contract (or any guarantor of such Principal Contract) that arose prior to the

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date of the assumption, transfer or assignment of the relevant Principal Contract (or guarantee in respect of such Principal Contract) by or to the Province (or by or to a third party designated by the Province) provided that:

- (a) the Secured Parties shall not, and shall not be entitled to, exercise any rights or take any Enforcement Action falling within the scope of paragraph (ii) of the definition thereof, in respect of any such Claim or Loss 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 Secured Parties pursuant to this Section 10.4 may only be exercised if and to the extent that the amount actually paid by the Province pursuant to Part 3 [Compensation on Termination for Concessionaire Default] of Schedule 13 [Compensation on Termination] of the Concession Agreement (the "**Termination Payment**") is less than the Revised Senior Debt Termination Amount (the amount by which the Termination Payment is (or, in the reasonable opinion of the Agent, is likely to be) less than the Revised Senior Debt Termination Amount being herein referred to as the "**Deficiency**").

Any amounts recovered by the Secured Parties pursuant to claims referred to in this Section 10.4, from the Termination Date to the date on which the Termination Payment and the amount of the Deficiency, if any, have been determined, shall 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 Deficiency, if any, such funds shall be distributed to the Agent, to the extent of the Deficiency, if any, and the balance of such funds shall be paid to the Province.

10.5 No Enforcement Action

Notwithstanding the provisions of Sections 10.3 [Release of Security] and 10.4 [Retention of Security for Deficiency] of this Agreement or any other provision of this Agreement, during the period commencing on the date on which a Principal Contractor delivers to the Province a Default Notice as contemplated in Section 3.1 [Notice of Default by Principal Contractor] of the relevant Collateral Agreement and:

- (a) in the case of all Principal Contracts other than the Design-Build Contract, ending on the date on which the Province receives an Indicative Notice referred to in Section 10.1 of this Agreement; or
- (b) in the case of the Design-Build Contract, ending on the earlier of:
 - (i) the Total Completion Date; and
 - (ii) the date on which the Province receives an Indicative Notice referred to in Section 10.1 of this Agreement;

the Secured Parties shall not exercise any rights or take any Enforcement Action falling within the scope of paragraph (ii) of the definition thereof in respect of any of the Principal Contracts, other than in respect of the Claims and Losses referred to in Section 10.4 [Retention of Security for Deficiency] of this Agreement (and then only in accordance with the provisions of that Section), if such action would materially prejudice the ability of the Province to exercise any of its rights under or in respect of any of

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the Principal Contracts or would materially impair the on-going performance under any of the Principal Contracts.

10.6 Assignment of Principal Contracts by Secured Parties

The Secured Parties shall not transfer or assign any Principal Contract except to a Suitable Substitute Concessionaire in conjunction with a permitted transfer or assignment of the Concession Agreement to that Suitable Substitute Concessionaire in accordance with Part 6 [Senior Lender Replacement of Concessionaire] of this Agreement.

**PART 11
ASSIGNMENT**

11.1 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 Part.

11.2 Assignment by Agent

The Agent may assign or transfer all of its rights and obligations under this Agreement to a successor Agent in accordance with the Senior Lending 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. Upon any such assignment or transfer,

- (a) the Agent shall be released from all obligations and liabilities under this Agreement that have been so assigned or transferred;
- (b) the successor Agent and all other parties hereto shall have the same rights and obligations among themselves as they would have had if the successor Agent had been an original party to this Agreement; and
- (c) this Agreement shall be construed as if all references to the former Agent were replaced by references to the successor Agent.

The Province and the Concessionaire shall, upon request by the successor Agent, enter into a new lenders' remedies agreement with the successor Agent on substantially the same terms as this Agreement.

11.3 Assignment by Province

The Province shall, with notice to the Agent, assign or transfer its rights and obligations under this Agreement to any permitted assignee of its interest in the Concession Agreement concurrently with the assignment of the Concession Agreement to such assignee in accordance with Section 16.4 [Assignment by the Province] of the Concession Agreement and, in circumstances where the Province is released from all of its obligations and liabilities under the Concession Agreement pursuant to Section 16.5 [Release of the Province on Assignment] thereof, the Province shall at the same time be released from all of its obligations and liabilities under this Agreement.

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11.4 Assignment by Concessionaire

The Concessionaire may only assign, transfer or otherwise dispose of any interest in this Agreement in accordance with Part 16 [Assignment, Change in Control and Subcontracting] of the Concession Agreement.

**PART 12
MISCELLANEOUS**

12.1 Agent's Right to Require Termination if No Lieutenant Governor in Council Approval

If:

- (a) the Agent has given to the Province's Representative a Step-In Notice pursuant to Section 4.1 [Step-In Notice] of this Agreement, or the Agent has given a notice pursuant to Section 6.1 [Concessionaire Transfer Notice] of this Agreement of a proposed transfer of the Concessionaire's rights and obligations under the Concession Agreement to a Suitable Substitute Concessionaire and the Province has notified the Agent that the proposed transferee is a Suitable Substitute Concessionaire, or the Agent has given a notice pursuant to Section 6.1 [Concessionaire Transfer Notice] of this Agreement of a proposed transfer of the Concessionaire's rights and obligations under the Concession Agreement to the Agent itself; and
- (b) the approval of the Lieutenant Governor in Council is required to be obtained, pursuant to the TIA, in relation to the appointment of an Appointed Representative under Part 4 [Step-In] of this Agreement or the appointment of a Suitable Substitute Concessionaire pursuant to Section 6.2 [Province Consent] of this Agreement; and
- (c) the approval of the Lieutenant Governor in Council has not been obtained on or before that date which is 60 days after:
 - (i) the date on which the Province notifies the Agent that the Province accepts, or on which the Province is deemed to have accepted, the proposed Appointed Representative, or
 - (ii) the date on which the Agent has given a notice pursuant to Section 6.1 [Concessionaire Transfer Notice] of this Agreement (in the case of a proposed transfer to which the Province has consented pursuant to Section 6.2 [Province Consent] of this Agreement or in the case of a proposed transfer to the Agent itself);

the Agent, on behalf of the Senior Lenders, will be entitled to give a notice to the Province's Representative (the "**Agent Election**") requiring the termination of the Concession Agreement. Within 10 days of receipt by the Province's Representative of the Agent's Election, the Province will terminate the Concession Agreement pursuant to Section 14.1 [Termination for Failure to Obtain Lieutenant Governor in Council Approval] of the Concession Agreement.

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12.2 Province Rights of Termination

If:

- (a) there occurs a Concessionaire Default referred to in Section 12.1(f) or Section 12.3(e) of the Concession Agreement;
- (b) the Indicative Notice Period expires and the Agent has not given a Step-In Notice or an Indicative Transfer Notice (or any Indicative Transfer Notice given has been withdrawn) prior to such expiry;
- (c) the Appointed Representative or Agent has given a Step-Out Notice;
- (d) the Step-In Period ends and no Transfer Date has occurred; or
- (e) the Agent gives to the Province's Representative an Agent Election pursuant to Section 12.1 [Agent's Right to Require Termination if No Lieutenant Governor in Council Approval] of this Agreement;

then the Province will be entitled to act upon any grounds for termination available to it under the Concession Agreement whenever occurring (including any grounds in respect of which the Province previously gave a Termination Notice to the Agent under Section 3.1 [Termination Notice] of this Agreement, and with respect to those grounds, for greater certainty, the Province need not give any further notice or discharge any further obligation or be subject to any further limitation under this Agreement) and subject always to the provisions of the Concession Agreement to terminate the Concession Agreement by notice to the Concessionaire having immediate effect.

12.3 Rights of Agent Preserved

The right of the Agent to cause the transfer to a Suitable Substitute Concessionaire of the Concessionaire's rights and liabilities under the Concession Agreement, or otherwise to exercise the Agent's rights under this Agreement, shall be unaffected by any Concessionaire Default including prior termination of the Concession Agreement resulting from or in connection with a Concessionaire Insolvency Event, and the Province will, in such circumstances if so requested by the Agent, enter into a replacement Concession Agreement with the Agent, or the Suitable Substitute Concessionaire, as the case may be, on the same terms and conditions as the original Concession Agreement, and with all the same obligations and liabilities as existed at the date of termination, as if the original Concession Agreement had never been so terminated.

12.4 Agent's Designation of Designated Account

At any time the Agent may, by giving notice to the Province's Representative, designate an account (the "**Designated Account**") to which the Province shall make payments pursuant to Section 8.1(d) of this Agreement. Such notice shall set out sufficient particulars of the Designated Account to enable the Province to make such payments thereto. The Concessionaire acknowledges and agrees that payment by the Province to the Designated Account of any amount that is payable by the Province to the Concessionaire pursuant to the Concession Agreement (including, without limitation, amounts payable by the Province to the Concessionaire pursuant to Schedule 13 [Compensation on Termination] of the Concession Agreement) shall constitute full and complete satisfaction of the Province's obligation under the Concession Agreement to pay such amount to the Concessionaire.

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**PART 13
GENERAL PROVISIONS**

13.1 Financial Administration Act

The Agent and the Concessionaire acknowledge that they are aware of the provisions of the *Financial Administration Act* (British Columbia).

13.2 Concessionaire Covenant

The Concessionaire 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. The Concessionaire has no right to enforce any provision of this Agreement.

13.3 Conflict or Inconsistency

If there is any conflict or inconsistency between the provisions of this Agreement and the Concession Agreement, the provisions of this Agreement shall prevail.

13.4 Dispute Resolution Procedure under Concession Agreement

- (a) The provisions of Section 1.4 [Submission to Jurisdiction] of this Agreement shall not apply to any dispute that is properly the subject matter of the applicable dispute resolution process under the Concession Agreement. In particular, without limiting the generality of the foregoing, following a step-in pursuant to Part 4 [Step-in] of this Agreement, any disputes with respect to any of the subject matters of the Concession Agreement shall be resolved in accordance with the applicable dispute resolution procedure thereunder.
- (b) Any and all issues or disputes between or among the Province, BCTFA, the Agent and Concessionaire hereunder shall be Confidential Information for the purposes of the Concession Agreement.

13.5 Amendments

No amendment to this Agreement shall be binding unless it is in writing and signed by each of the parties hereto.

13.6 Notices

Any notice, demand, request, consent, approval, objection, agreement or other communication required or permitted to be given, made or issued under this Agreement shall, unless otherwise specifically provided in this Agreement, be considered to have been sufficiently given if in writing signed by the providing party and delivered by hand, sent by a recognized courier service (with delivery receipt requested), or transmitted by facsimile transmission to the address or facsimile transmission number of each party set out below:

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- (a) if to the Province:

Ministry of Transportation and Infrastructure
5B – 940 Blanshard Street
Victoria, British Columbia
V8W 3E6
Attention: The Deputy Minister
Facsimile: 250-387-6431

- (b) if to BCTFA:

BC Transportation Financing Authority
c/o Ministry of Transportation and Infrastructure
5B – 940 Blanshard Street
Victoria, British Columbia
V8W 3E6
Attention: The Chief Executive Officer
Facsimile: 250-387-6431

- (c) if to the Province's Representative:

Suite 2400, 4710 Kingsway
Burnaby, British Columbia
V5H 4M2
Attention: Geoff Freer
Facsimile: 604-775-0348

- (d) if to the Agent or the Agent's Representative:

Société Générale (Canada Branch)
% Gowling Lafleur Henderson LLP
Suite 2300, 500 Burrard Street
Vancouver, BC V6C 2B5

Attention: Donald J. Weaver
Facsimile: 604 683-3558

with copies to:

Société Générale (Canada Branch)
% Société Générale, New York Branch
480 Washington Blvd, 20th Floor
Jersey City, NJ
07310

Attention: Colleen Messina, Deal Administrator
Facsimile: 201-839-8125

- and -

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Société Générale, New York Branch
1221 Avenue of the Americas
New York, NY
10020

Attention: Robert Preminger
Facsimile: 212-278-6136

- and -

Société Générale (Canada Branch)
Suite 1800, 1501 McGill College Avenue
Montreal, PQ
H3A 3M8

Attention: David Baldoni
Facsimile: 514-841-6259

- (e) if to the Concessionaire or the Concessionaire's Representative:

FTG Fraser Transportation Group Partnership
% McCarthy Tétrault LLP
1300 – 777 Dunsmuir Street
Vancouver, BC V7Y 1KA

Attention: Byran Gibson
Facsimile: 604-643-7900

or to such other address or facsimile transmission number as any party or its representative may, from time to time, designate to the other parties in the manner set out above. Any such notice or communication shall be considered to have been received:

- (f) if delivered by hand or by a courier service during business hours on a Business Day, when delivered, and if not delivered during business hours, upon the commencement of business hours on the next Business Day; and
- (g) if sent by facsimile transmission during business hours on a Business Day, upon the sender receiving confirmation of the transmission, and if not transmitted during business hours, upon the commencement of business hours on the next Business Day following confirmation of the transmission.

13.7 Waiver

Except as expressly provided otherwise in this Agreement, any waiver of any provision of this Agreement shall only be effective if in writing signed by the waiving party, and no other failure by any party at any time to exercise a right under or enforce any provision of this Agreement or to require performance by any other party of any of the provisions of this Agreement shall be construed as a waiver of any such provision and shall not affect the validity of this Agreement or any part thereof or the right of any party to enforce any provision in accordance with its terms. Any waiver shall only apply to the specific matter waived and only in the specific instance and for the specific purpose for which it is given.

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13.8 Further Assurances

The parties shall do, execute and deliver, or shall cause to be done, executed and delivered, all such further acts, documents (including certificates, declarations, affidavits, reports and opinions) and things as the other may reasonably request for the purpose of giving effect to this Agreement or for the purpose of establishing compliance with the parties' respective obligations under this Agreement.

13.9 Relationship of the Parties

Nothing contained in this Agreement nor any action taken pursuant hereto or thereto shall be deemed to constitute the parties a partnership, joint venture or any other similar such entity. Neither the Agent nor any of its representatives are or shall be deemed to be an employee or agent of the Province or BCTFA for any purpose.

13.10 Binding Effect

Subject to the provisions of Part 11 [Assignment] of this Agreement, this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

13.11 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement so that it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

13.12 Remedies Cumulative

- (a) Except as otherwise expressly provided in this Agreement:
 - (i) all rights and remedies of the Agent under this Agreement and the Senior Lending Agreements are cumulative and are in addition to and not in substitution for or to the exclusion of any other rights and remedies available to the Agent under this Agreement or the Senior Lending Agreements or at law or in equity; and
 - (ii) subject to the terms of this Agreement and the Senior Lending Agreements, the Agent may have recourse to any one or more or all of such rights and remedies, concurrently or successively, as it shall see fit, without prejudice to any of its other available rights and remedies.

- (b) Except as otherwise expressly provided in this Agreement:
 - (i) all rights and remedies of the Province under this Agreement and the Concession Agreement are cumulative and are in addition to and not in substitution for or to the exclusion of any other rights and remedies available to the Province under this Agreement or the Concession Agreement or at law or in equity; and

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- (ii) subject to the terms of this Agreement and the Concession Agreement, the Province may have recourse to any one or more or all of such rights and remedies, concurrently or successively, as it shall see fit, without prejudice to any of its other available rights and remedies.

13.13 Joint and Several

If the Concessionaire is a general partnership, the obligations and liabilities of the Concessionaire under this Agreement shall be the obligations and liabilities of the Concessionaire and each of the Partners, jointly and severally with each other.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

SIGNED on behalf of **HER MAJESTY**)
THE QUEEN IN RIGHT OF THE)
PROVINCE OF BRITISH COLUMBIA)
 by a duly authorized representative of)
 the **MINISTER OF TRANSPORTATION**)
AND INFRASTRUCTURE in the)
 presence of:)
)
)

(Witness)

 Peter Milburn
 Peter Milburn, Ministry of Transportation and
 Infrastructure

BC TRANSPORTATION FINANCING AUTHORITY
by its authorized signatory:

Per:

 Peter Milburn
 Chief Executive Officer

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SOCIÉTÉ GÉNÉRALE (CANADA BRANCH)
as Agent by its authorized signatories:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

**FTG FRASER TRANSPORTATION
GROUP PARTNERSHIP**
by its partners:

FTG HOLDINGS LIMITED PARTNERSHIP,
by its general partner, **FTG FRASER
TRANSPORTATION INC.**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

- and -

**SOUTH FRASER CONSTRUCTION LIMITED
PARTNERSHIP,** by its general partner,
SOUTH FRASER CONSTRUCTION INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title: