

SCHEDULE 28**INSURANCE REQUIREMENTS**

Without restricting the generality of Section 56 – Indemnities of the Agreement, insurance will be arranged and paid for as specified in this Schedule 28.

This Schedule 28 is comprised of the following separate schedules, all of which are incorporated by reference herein and each of which may be referred to either by a general reference to this Schedule or by a specific reference to the applicable schedule within this Schedule in which it is located, as listed below:

<u>Schedule</u>	<u>Description</u>
28-1	General Insurance Requirements
28-2	Insurance by Health Co
28-3	Insurance by Project Co

[Intentionally left blank]

SCHEDULE 28-1**GENERAL INSURANCE REQUIREMENTS****1. Insurance Procured by Health Co**

- 1.1 Health Co at its own expense will, in accordance with the provisions of Schedule 28-2, procure or cause to be procured and maintain or cause to be maintained in full force and effect the insurance specified in Schedule 28-2.

2. Insurance Procured by Project Co

- 2.1 Project Co and its Subcontractors at their own expense (subject to Section 8.2 of Schedule 28-3) shall procure or cause to be procured and maintain or cause to be maintained in full force and effect:

- (a) all insurance specified in Schedule 28-3 to be procured by Project Co and its Subcontractors; and
- (b) such additional insurance as Project Co and its Subcontractors consider necessary.

3. Minimum Amount No Limit on Recovery

- 3.1 All amounts of insurance specified in Schedule 28 to be procured by Health Co or Project Co and its Subcontractors are the minimum policy limits required to be provided. Project Co shall be solely responsible for determining whether the policy limits are adequate and for placing any excess insurance and any additional insurance that it considers necessary.

- 3.2 Notwithstanding any other provision of the Agreement, it is hereby agreed that the limits of liability specified in Schedule 28 for insurance policies, whether such policies are required to be procured by Health Co or Project Co and its Subcontractors, shall in no way limit Project Co's liability or obligations to Health Co or Health Co's liability or obligations to Project Co.

4. Responsibility for Deductibles

- 4.1 In respect of claims arising from matters prior to Substantial Completion, Project Co shall be responsible and liable for the payment of all deductibles under all policies of insurance under which it is an insured, whether the insurance is procured by Health Co or Project Co, save and except only the following in relation to policies of insurance procured by Health Co:

- (a) deductibles for earthquake and deductibles for flood, except to the proportionate extent that the flood or the flood damage is caused by, attributable to or increased by the actions or inactions of Project Co; and
- (b) for greater certainty, where this Agreement expressly provides that Health Co shall be liable to Project Co in relation to any matter (including any

Compensation Event, Excusing Cause, Relief Event or pursuant to an indemnity) Health Co will pay the proportion of the deductible that represents the proportionate liability of Health Co in relation to that matter.

- 4.2 In respect of claims arising from matters after Substantial Completion, the person responsible hereunder or at law for the matter giving rise to the claim, to the extent responsible therefor, shall be responsible and liable for payment of deductibles under policies of insurance under which it is an insured, save and except that Health Co shall be responsible and liable for payment of deductibles for earthquake and deductibles for flood, except to the proportionate extent that the flood or the flood damage is caused by, attributable to or increased by the actions or inactions of Project Co.

5. Cooperation with Insurer's Consultant

- 5.1 If an insurer or an insurer's appointed consultant, for underwriting purposes or as a term of an insurance policy, wants to review any part of the performance of the Agreement, then Health Co and Project Co shall, and shall require the Health Co Parties and Project Co Parties, respectively, to:
- (a) cooperate with the insurer and the insurer's consultant, including providing them with such information and documentation as they may reasonably require; and
 - (b) allow the insurer and its consultant to attend meetings between Project Co and Health Co (or, as applicable and if reasonably required by the insurer, between Project Co and those engaged by or through Project Co).

6. Uninsurable Risks

- 6.1 Subject to Section 6.2 of this Schedule 28-1, the term "Uninsurable Risk" in this Schedule 28 means a risk against which a Party is required to insure by this Schedule 28 and for which, after the date of this Agreement, despite all due diligence, the insurance required by this Schedule 28 (including on the terms and conditions specified for such insurance herein) is not available for that risk from insurers licensed in the Province of British Columbia, or is only available at such a premium, so that a prudent party in the health sector or in the same or substantially similar business would cease to operate such business in order to mitigate or manage the effect of that risk becoming uninsured. The Party claiming an Uninsurable Risk has the onus of demonstrating to the other Party's satisfaction that the foregoing definition applies.
- 6.2 The inability to obtain professional errors and omissions insurance by a party where such insurance is generally available in the marketplace but not for a particular party or person shall not constitute an Uninsurable Risk.
- 6.3 Each Party shall notify the other in writing of an Uninsurable Risk no later than 7 days after first becoming aware of the same and, in any event, at least 30 days before the cancellation, material change in or expiry of any existing insurance which provides insurance coverage in respect of such risk. Notwithstanding the foregoing, if a Party, when renewing a policy, discovers that the policy may not be renewed or that some risks required to be insured by this Schedule 28 will not be insured on the renewal, that Party shall promptly give written notice to the other Party.

6.4 Where there is an Uninsurable Risk:

- (a) the Agreement shall, subject to Section 6.4(d)(ii)(2) of this Schedule 28-1, continue in force;
- (b) unless the other Party agrees in writing, the Party responsible for procuring the insurance to cover the Uninsurable Risk shall continue to approach the insurance market on a regular basis (and in any event at intervals of not less than 6 months) and use all reasonable efforts to obtain insurance to cover as much or all of the Uninsurable Risk as can be insured in the available insurance market from time to time;
- (c) upon the existing coverage no longer applying, the Party declaring an Uninsurable Risk shall, subject to Section 6.4(b) of this Schedule 28-1, be relieved of its obligation to maintain insurance in respect of the Uninsurable Risk; and
- (d) on the occurrence of an Uninsurable Risk:
 - (i) (where it is a risk for which Project Co is responsible for procuring insurance under Schedule 28-3 and where Project Co has included the insurance premium in the Total Annual Service Payment as described in Section 8.2 of Schedule 28-3) the Periodic Service Payments shall be reduced in each year for which the relevant insurance is not maintained to insure against the Uninsurable Risk, by an amount equal to the premium paid by Project Co in respect of the relevant risk in the year prior to it becoming an Uninsurable Risk (index-linked). Where the risk is an Uninsurable Risk for part of a year only, the reduction in the Periodic Service Payments shall be equivalent to the amount of the returned premium, if any, from that insurer;
 - (ii) Health Co, at Health Co's sole option and discretion, may:
 - (1) agree that in the event of a loss that would have been covered had the relevant insurance been available, Health Co shall pay to Project Co an amount equal to the insurance proceeds that would have been payable had the relevant insurance continued to be available, in which case the Agreement will continue; or
 - (2) terminate this Agreement and the provisions of Section 47.2 of the Agreement shall apply; and
 - (iii) Without limiting but in addition to the requirements of Section 6.4(b) of this Schedule 28-1, where a risk which was previously an Uninsurable Risk ceases to be so, the Party responsible for insuring that risk shall forthwith at its cost take out and maintain insurance in accordance with the requirements of this Schedule 28 in respect of the risk and the provisions of this Section 6 of Schedule 28-1 shall no longer apply to the risk.

- 6.5 From and after Substantial Completion, the Parties shall meet on an annual basis to review the scope of insurance coverage and deductibles provided in this Schedule 28, and may make mutually agreed changes thereto.

SCHEDULE 28-2**INSURANCE BY HEALTH CO****1. Overview**

1.1 Prior to Substantial Completion: At all times from and after the date of this Agreement until the Substantial Completion Date (or such later date as may be specified in this Schedule 28-2), Health Co will procure and maintain on a “wrap-up basis” a comprehensive general liability insurance policy (“Project CGL Policy”) and an all risks course of construction insurance policy (“Builders Risk Policy”), as described in Sections 3 and 4 of this Schedule 28-2. With regard to these policies of insurance as they relate to Project Co:

- (a) aggregate and per occurrence limits, and policy terms, conditions and exclusions, contained in the policies may limit or negate insurance otherwise available to Project Co under the policies;
- (b) certified copies of the policies will be provided to Project Co promptly when received by Health Co from the insurers;
- (c) insurance coverage provided to Project Co and its Subcontractors under the policies will only apply to the work performed and services provided by them under the Agreement; and
- (d) insurance coverage provided to Project Co and its Subcontractors shall be considered to be primary and non-contributory to any other insurance coverage of Project Co and its Subcontractors.

1.2 After Substantial Completion: From and after the Substantial Completion Date, Health Co will procure and maintain the insurance described in Section 5 of this Schedule 28-2.

2. Use and Occupancy by Health Co, the Health Authorities and Project Co

2.1 The Project CGL Policy and the Builders Risk Policy procured by Health Co pursuant to this Schedule 28-2 will permit or allow use and occupancy of the incomplete Facility by Project Co, Project Co’s Subcontractors, Health Co and the Health Authorities prior to the Substantial Completion Date for:

- (a) construction purposes;
- (b) office parking purposes; or
- (c) installing, testing and commissioning or storing of equipment or machinery.

3. Project CGL Policy

3.1 Health Co shall procure, maintain and pay for a Project CGL Policy which will, subject to the terms thereof, provide for a combined single policy limit of [*DELETION] per

- occurrence and, in the aggregate in respect of products and completed operations, for bodily injury, death, and damage to property including loss of use thereof.
- 3.2 The Project CGL Policy shall be maintained continuously until the Substantial Completion Date, provided however that the completed operations coverage under the Project CGL Policy will apply until twenty-four (24) months after the Substantial Completion Date.
- 3.3 The Project CGL Policy shall cover Health Co, Project Co, and their respective contractors and Subcontractors (including architectural and engineering consultants and subconsultants to Health Co, Project Co and its Subcontractors) and anyone employed by any of them who are directly engaged to perform a part or parts of the Works on the Site, but excluding suppliers whose only function is to supply and/or transport products to the Site. The Project CGL Policy will not extend to any activities, works, jobs or undertakings of the insureds other than those directly related to the Works at the Site.
- 3.4 Under the Project CGL Policy:
- (a) Health Co will be the first named insured;
 - (b) Project Co will be an additional named insured;
 - (c) the other parties to be covered by such policy will be additional insureds; and
 - (d) the Senior Funders and ABN AMRO Bank N.V., Canada Branch will be additional insured(s).
- 3.5 The insurance shall preclude subrogation claims by the insurer against anyone insured by the Project CGL Policy.
- 3.6 Subject to the terms, conditions and exclusions contained in the Project CGL Policy, the Project CGL Policy will include:
- (a) Premises and Operations Liability;
 - (b) Products and Completed Operations Liability;
 - (c) Blanket Contractual Liability;
 - (d) Cross Liability, by which the liability of any one insured to another insured will be covered as though separate policies were issued to each;
 - (e) Elevator and Hoist Liability (excluding damage to the elevator or hoist);
 - (f) Contingent Employer's Liability;
 - (g) Personal Injury Liability;
 - (h) Shoring, Blasting, Excavating, Underpinning, Demolition, Piledriving and Caisson Work, Work Below Ground Surface, Tunnelling and Grading, as applicable;

-
- (i) Liability with respect to Non-Owned Licensed Vehicles;
 - (j) Broad Form Property Damage; and
 - (k) Broad Form Completed Operations.
- 3.7 The Project CGL Policy will include a property damage deductible which will not exceed **[*DELETION]** for any one occurrence. There may also be other specific deductibles for extensions of coverage pursuant to the risks covered under Sections 3.6(h) of this Schedule 28-2, such deductibles to be comparable to those on similar sized projects in British Columbia. Deductibles:
- (a) shall not apply to bodily injury or death unless Project Co and Health Co otherwise expressly agree in writing; and
 - (b) may be amended, with the written approval of both Project Co and Health Co, during the term of the Agreement.
- 3.8 [*Reserved]
- 3.9 Exclusions under the Project CGL Policy will include those exclusions common to Comprehensive General Liability policies designed for the construction industry and issued for other projects in British Columbia at the time the Project CGL Policy is procured. The exact wording of the exclusions will be as prescribed by the insurer. Acts of terrorism will be expressly excluded and other exclusions shall be as approved by the Parties acting reasonably.
- 3.10 The Project CGL Policy will provide coverage for sudden and accidental pollution only on such specific terms as may be prescribed by the insurer, which terms will generally be comparable to but may not exactly coincide with those contained in IBC 2313 or its successor to the extent such document is in use at the time the Project CGL Policy is procured.
- 3.11 Each Party shall notify the other as soon as it is aware (or ought reasonably to be aware) of the occurrence of an incident that may give rise to a claim under the Project CGL Policy.
- 3.12 Where an incident occurs that may give rise to a claim, the Parties shall each co-operate in providing notices, proofs of loss and such other documentation as the insurer may require to process the claim under the Project CGL Policy.
- 4. Builders Risk Policy**
- 4.1 Health Co shall procure, maintain and pay for a Builders Risk Policy, in an amount not less than the full replacement value for the Facility, including equipment (which equipment includes medical equipment), inclusive of GST, covering all materials, property, structures and equipment purchased for, entering into, or forming part of the Works whilst located anywhere within Canada or the U.S.A., including while on a regular ferry or railway transfer in connection with land transportation, and while in transit or storage therein (subject to Section 4.5(c) of this Schedule 28-2) and during construction, erection, installation and testing, but such coverage shall not include coverage for

Project Co's or its Subcontractor's equipment of any description. The Parties acknowledge that such coverage shall exclude testing and commissioning of certain medical equipment that will be tested by the manufacturer/supplier of such equipment, by biomedical staff or technicians, or by other similar personnel, and the Parties shall cooperate to work with the relevant insurer to define the limits of such exclusion as narrowly as reasonably possible. The Builders Risk Policy shall have the following sub-limits:

- (a) Property in Transit within Canada and the USA: **[*DELETION*]**;
- (b) Offsite Storage: **[*DELETION*]**;
- (c) Professional Fees to establish quantum of any covered loss: **[*DELETION*]**;
- (d) Fire Fighting Expense **[*DELETION*]**;
- (e) Debris Removal and Clean Up: **[*DELETION*]**;
- (f) Expediting Expense: **[*DELETION*]**; and
- (g) Testing & Commissioning: **[*DELETION*]**.

4.2 The Builders Risk Policy will provide delay in start-up coverage (the "DSU Coverage") in an amount sufficient to compensate Project Co for capital payments, construction letter of credit fees, bond trustee, rating agency and bond manager, Independent Certifier/owner's representative, and Project Co direct costs caused by the delay in the operation of the premises caused by any of the perils insured against under this Section 4 with an indemnity period of 41 months.

4.3 The Builders Risk Policy shall be maintained until the Substantial Completion Date.

4.4 Subject to policy exclusions required by the insurer, the Builders Risk Policy will:

- (a) provide for the payment of claims to the insureds as their respective interests appear;
- (b) cover all risks of direct physical loss or damage to all "property" as defined in the Builders Risk Policy; and
- (c) contain a provision stating that any act or omission on the part of anyone named or described as an insured under the policy shall not prejudice the interests of any other insureds named or described in the policy.

4.5 The Builders Risk Policy will include:

- (a) as insureds, all of Health Co, Project Co, and their respective contractors and Subcontractors (including architectural and engineering consultants and subconsultants to Health Co, Project Co and its Subcontractors) and anyone employed by any of them who are directly engaged to perform a part or parts of the Works on the Site, and their respective officers, directors and employees, as their interest may appear;

-
- (b) a waiver of subrogation against all insureds, including Health Co and Project Co, and against their respective consultants and subcontractors as well as the officers, directors and employees of the foregoing, provided however that such waiver of subrogation shall not apply where a loss is deemed to have been caused by or resulting from any error in design or any other professional error or omission;
 - (c) for property insured under the policy and stored at an off Site location or in transit in Canada or the United States of America, a limit of not less than the total of all values stored at any single location, or the value of the largest single shipment to be transported by land to the Site if such transport by land is not covered by marine cargo insurance; and
 - (d) the full value of all material and equipment forming part of the Facility lifted on Site by cranes during the performance of the Work.
- 4.6 Under the Builders Risk Policy:
- (a) Health Co will be named insured;
 - (b) Project Co will be additional named insured;
 - (c) the other parties to be covered by such policy will be additional insureds to the extent of an insurable interest; and
 - (d) the Senior Funders and ABN AMRO Bank N.V., Canada Branch will be loss payee(s).
- 4.7 Exclusions under the Builders Risk Policy will be those exclusions common to policies similar to the Builders Risk Policy which are designed specifically for the construction industry and issued for major projects in British Columbia at the time the policy is procured by Health Co. The exact wording of the exclusions will be as prescribed by the insurer. Although the exact wording in the Builders Risk Policy may differ, general categories of exclusions include, among others:
- (a) contractors' equipment;
 - (b) wear, tear, latent defects;
 - (c) faulty or defective workmanship, material, construction or design, but this exclusion shall not apply to resultant physical damage not otherwise excluded;
 - (d) acts of terrorism, terrorism risks and war;
 - (e) nuclear radiation and radioactive contamination;
 - (f) dishonesty of employees;
 - (g) material and equipment in the course of ocean marine shipment;

- (h) subject to the DSU Coverage, penalties for non-completion of or delay in completion of the Agreement or non-compliance with Agreement conditions;
 - (i) loss of use or occupancy; and
 - (j) loss revealed by inventory shortage.
- 4.8 Deductibles under the Builders Risk Policy will not exceed the following amounts without the prior agreement of the Parties:
- (a) A maximum of **[*DELETION]** per claim with respect to all losses, except for:
 - (i) losses caused by earthquake;
 - (ii) losses caused by testing and commissioning; and
 - (iii) with respect to the DSU coverage and soft costs;
 - (b) **[*DELETION]** with respect to losses caused by earthquake;
 - (c) **[*DELETION]** with respect to losses caused by testing and commissioning; and
 - (d) a waiting period of **[*DELETION]** days with respect to the DSU coverage and soft costs.
- 4.9 Each Party shall comply with and Project Co shall cause its Subcontractors to comply with, all policy warranties made known to the Parties and, in addition, take any and all special precautions necessary to prevent fires occurring in or about the Works and shall observe, and comply with, all Applicable Laws respecting fires and the prevention of fires.
- 4.10 In the event of a claim under the Builders Risk Policy, the Parties collectively will settle the amount of the loss with the insurer and Project Co will:
- (a) repair the damage and complete the Works in accordance with the terms of the Project Agreement;
 - (b) be entitled to receive the amount received from the insurer under the policy to be applied for the costs of correction, repair or replacement of those parts of the Works that were affected; and
 - (c) be entitled to receive the amount received from the insurer under the policy in respect of DSU Coverage.
- 4.11 Project Co shall provide the Constructor's budget for construction costs to the insurer in confidence under the Builders Risk Policy within 30 days after the date of this Agreement, and shall comply with all reasonable requests in respect thereof. Such budget may be provided directly from the Constructor to the insurer, and there shall be no requirement to provide Health Co with a copy thereof.

5. Insurance by Health Co After Substantial Completion

5.1 At all times from and after Substantial Completion, Health Co shall procure and maintain the following insurance, none of which shall include Project Co or its Subcontractors as insureds:

(a) Comprehensive general liability insurance, in the amount of not less than **[*DELETION]** inclusive per occurrence against third party bodily injury, personal injury and property damage arising out of the performance by Health Co of the Clinical/Non-Clinical Services. Such coverage shall include:

- (i) Products and Completed Operations Liability;
- (ii) Blanket Written Contractual Liability;
- (iii) Protective Liability;
- (iv) Contingent Employer's Liability;
- (v) Personal Injury Liability;
- (vi) Non-Owned Automobile Liability;
- (vii) Cross Liability;
- (viii) Employees and Volunteers as Additional Insureds; and
- (ix) Broad Form Property Damage.

with deductibles in the amount of **[*DELETION]** and with no deductible for bodily or personal injury.

(b) All risks property insurance (the "Operations Property Policy"), including earthquake and flood, covering the building and equipment (which equipment includes medical equipment), improvements, supplies or other property owned by Health Co or any property for which Health Co has agreed to provide coverage, with such policy written on a replacement cost basis, with deductibles in the amount of **[*DELETION]**.

(c) broad form boiler and machinery insurance on all insurable objects located on the Site with coverage for any one occurrence or claim of not less than **[*DELETION]**.

The insurance in Sections 5.1(b) and 5.1(c) above shall have a waiver of rights of subrogation as against Project Co and until Final Completion, except to the extent of any other insurance available to them, as against the Constructor and the Constructor's Subcontractors.

5.2 Under the insurance provided under Section 5.1 of this Schedule 28-2:

(a) Health Co will be the named insured;

- (b) Project Co is an additional insured; and
- (c) in respect of the insurance in Sections 5.1(b) and 5.1(c) the Senior Funders will be loss payee(s).

6. Certified Copies

- 6.1 Certified copies of the policies to be obtained by Health Co will be provided to Project Co promptly after they are received by Health Co.

7. Renewal of Insurance Policies by Health Co

- 7.1 In the event of delay to the Substantial Completion Date, Health Co shall, unless already provided by the terms of the relevant policy, furnish evidence of any renewal or extension of the Project CGL Policy and Builders Risk Policy required to be procured by Health Co pursuant to this Schedule 28-2, by renewal certificate, endorsement, or certified copies to be received by Project Co prior to the expiry date of the policy.

8. Failure to Meet Insurance Requirements

- 8.1 Prior to the Substantial Completion Date, if Health Co fails to procure before commencement of the Works on Site or maintain the Project CGL Policy and Builders Risk Policy, fails to furnish to Project Co a certified copy of each such policy, or if, after furnishing such certified copy, the policy lapses, is cancelled, or is materially altered, then Project Co shall have the right, without obligation to do so, to obtain and maintain such insurance itself in the name of Health Co and Project Co, and the cost thereof shall be payable by Health Co to Project Co on demand.

9. Modification or Cancellation of Policies

- 9.1 The Project CGL Policy and Builders Risk Policy shall provide Project Co and Health Co with 90 days advance written notice, or 15 days advance written notice for non-payment of premium, by registered mail of cancellation or material change.

10. Conformance of Schedule 28-2 to Policies of Insurance Procured by Health Co

- 10.1 Prior to finalizing each of the Project CGL Policy and Builders Risk Policy, Project Co shall be provided with and shall review all of the terms, conditions, policy limits and exclusions contained in that policy. Project Co shall be solely responsible for reviewing each and all of those policies and for satisfying itself that each of those policies are adequate for Project Co's performance of the Agreement, including without limitation satisfying itself as to the limits, deductibles, policy term, coverage, exclusions, terms and conditions of each policy. Within thirty (30) days of receipt of each proposed policy, Project Co shall give written notice to Health Co of any terms, conditions or exclusions which Project Co would like to have amended in that policy (provided that such requested amendments do not extend the scope of coverage from that required by this Schedule 28-2). Health Co shall use reasonable commercial efforts to obtain the insurer's agreement to amend that policy in accordance with the notice received from Project Co. The Parties acknowledge and agree that the policy wording may not fully match the provisions of this Schedule 28-2, provided however that Health Co shall remain liable to obtain insurance with policy wording that fulfills its obligations under this

Schedule 28-2 in all material respects. Health Co shall cause its insurance broker to use reasonable efforts to revise the policy wording of the Builders Risk Policy as follows:

- (a) Declarations – 9(G) Testing Period – amend to increase the number of days from 60 to 90;
- (b) Section 1 Property – 4 Property Excluded – Exclusion (b) – amend to add an exclusion to the exclusion for scaffolding and hoarding, as long as the value of those items are included in the estimated Total Project Value as stated in the Declarations;
- (c) Section 1 Property – 5 Perils Excluded – Exclusion (n) – amend to provide resultant loss or damage from frost or freezing;
- (d) Section 1 Property – 5 Perils Excluded – Exclusion (p) – amend to provide DE4 exclusionary wording as opposed to DE3;
- (e) Section 1 Property – 5 Perils Excluded – Exclusion (r) – amend to clarify this is limited to strike risk;
- (f) Section 1 Property – 6 Extensions of Coverage – Extension (f) – amend to clarify that professional fees should not be sub-limited, nor restricted to one consultant per class; and
- (g) Section 1 Property – 15 Electronic Data Limitation – amend to include resulting damage coverage for any items other than electronic data.

11. Adjusting of Claims

- 11.1 All losses under the Project CGL Policy and Builders Risk Policy, regardless of deductibles, shall be controlled by a firm or firms of insurance adjusters to be acceptable to the Parties and the insurer. Health Co and Project Co shall each cooperate with the insurer in the defence or settlement of any claim(s) under such policies which are made against either Party to the extent they have relevance to such Party.
- 11.2 In the event of damage to, or destruction of, all or substantially all of the Facility for which there is coverage therefor under an insurance policy, Health Co may, at its option, serve a Viability Statement on Project Co within 30 days of the agreement or determination of the extent of the damage. If Health Co exercises its right to serve Project Co with a Viability Statement arising from an event occurring on or before the date that is five years prior to the Expiry Date, this Agreement shall automatically terminate and the provisions of Section 47.2 of the Agreement shall apply. If Health Co exercises its right to serve Project Co with a Viability Statement arising from an event occurring after the date that is five years prior to the Expiry Date, this Agreement shall automatically terminate and the provisions of Section 47.1 of the Agreement shall apply as if the termination were for an event of Force Majeure, and Health Co shall pay compensation to Project Co as if this Agreement were terminated for an event of Force Majeure. Any insurance proceeds received shall be first applied towards such compensation and any balance shall be paid to Health Co.

12. Insurers

- 12.1 The Project CGL Policy, the Builders Risk Policy, the comprehensive general liability insurance referred to in Section 5.1(a) of this Schedule 28-2, the Operations Property Policy and the boiler and machinery insurance referred to in Section 5.1(c) of this Schedule 28-2 shall be placed with insurers acceptable to Project Co (including having regard to requirements of the Senior Funders), such acceptance not to be unreasonably withheld or delayed. Project Co acknowledges that participation by Health Co in the Health Care Protection Program (or a successor program that provides substantially the same protection as the Health Care Protection Program) (“HCPP”) shall satisfy this requirement where HCPP provides coverage on the terms required under this Schedule 28-2.

SCHEDULE 28-3**INSURANCE BY PROJECT CO****1. General**

- (a) Prior to Substantial Completion: From and after execution of the Agreement and until the Substantial Completion Date (or such later date as may be specified in this Schedule 28-3), Project Co will procure and maintain or cause to be procured and maintained marine cargo insurance, contractor's equipment insurance, aircraft and watercraft liability insurance, and professional liability insurance as described in Sections 2, 3, 4 and 5 of this Schedule 28-3.
- (b) Prior to and after Substantial Completion: At all times from and after execution of the Agreement, Project Co will procure and maintain, or cause to be procured and maintained automobile liability insurance and workers compensation insurance described in Sections 6 and 7 of this Schedule 28-3.
- (c) After Substantial Completion: From and after the Substantial Completion Date, Project Co will procure and maintain the insurance described in Section 8 of this Schedule 28-3.

2. Marine Cargo Insurance

- 2.1 This Section 2 shall apply only if ocean marine cargo is used to transport any of the materials, equipment or property supplied under or used in the performance of the Agreement.
- 2.2 Except to the extent that Health Co and Project Co agree that Health Co should procure some or all marine cargo insurance, if ocean marine cargo is used to transport any of the materials, equipment or property supplied under or used in the performance of the Agreement, then Project Co and its Subcontractors shall insure all such materials, equipment and other property supplied under or used in the performance of the Agreement as may be transported as ocean marine cargo, with such insurance in an amount equal to their full replacement value subject to the conditions of the Institute Cargo Clauses (All Risks), including war and strikes extensions, and including transit and storage where applicable. In addition, if an entire vessel is chartered for shipping materials, equipment or property then Charterer's Liability insurance shall also be provided, in amounts sufficient to protect and indemnify Project Co and its Subcontractors from and against all liability arising out of the chartering of such vessel.
- 2.3 Deductibles under ocean marine cargo insurance shall not exceed **[*DELETION]** per occurrence without Health Co's prior written consent.

3. Contractor's Equipment Insurance

- 3.1 Each of Project Co and its Subcontractors (including the Constructor and each of its subcontractors) shall at its and their expense procure and maintain "all risks" insurance, covering all construction equipment owned or rented by them or for which they may be

responsible. Subject to Health Co's consent not to be unreasonably withheld for higher deductibles, deductibles under this policy shall not exceed \$250,000 per occurrence.

4. Aircraft and Watercraft Liability Insurance

- 4.1 This Section 4 shall apply only if aircraft or watercraft is used directly or indirectly in the performance of the Agreement.
- 4.2 Except to the extent that it may be covered under the Project CGL Policy, Project Co shall procure, maintain and pay for liability insurance with respect to owned or non-owned aircraft and watercraft if used in the performance of the Agreement, subject to limits of not less than [*DELETION] inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and including Aircraft Passenger Hazard where applicable.
- 4.3 Unless Health Co otherwise agrees, Project Co shall require Health Co, the Health Authorities and their respective directors, officers, employees, servants, consultants and agents are added as additional insureds with respect to third party liability arising from the performance of the Works. Such aircraft liability insurance shall contain a cross liability clause by which the liability of any one insured to another insured will be covered as though separate policies were issued to each.
- 4.4 Subject to Health Co's consent not to be unreasonably withheld for higher deductibles, deductibles under aircraft and watercraft policies of insurance shall not exceed [*DELETION] per occurrence.

5. Professional Liability Insurance

- 5.1 Project Co shall require the Constructor at its expense to procure and maintain until two years after Substantial Completion professional errors and omissions insurance in the amount of [*DELETION] per claim and in the aggregate covering professional errors and omissions for which the Constructor or its design consultants may be liable, with a retroactive date prior to the commencement of design for the Facility.

6. Automobile Liability Insurance

- 6.1 From and after the execution of the Agreement and until the Expiry Date of the Agreement, Project Co shall procure, maintain and pay for, automobile liability insurance in respect of all owned or leased vehicles, subject to limits of not less than [*DELETION] inclusive per occurrence. Project Co shall also require that vehicles used by its Subcontractors in the provision of any work or services under the Agreement shall have automobile liability insurance no less than the foregoing.
- 6.2 Without restricting the generality of Section 6.1 of this Schedule 28-3, Project Co and all Subcontractors shall provide Standard Owner's Form Automobile Policy providing Third Party Liability and Accident Benefits Insurance as provided by the Insurance Corporation of British Columbia (ICBC) or its successor or alternate acceptable insurer in accordance with British Columbia's *Automobile Insurance Act*, with minimum inclusive limits for bodily injury and property damage (third party) of not less than [*DELETION]. If Project Co or its Subcontractors have equivalent insurance from an insurer other than ICBC,

such insurance shall provide no less coverage than that provided by ICBC in accordance with the foregoing.

7. Workers Compensation

- 7.1 Project Co and all Subcontractors, and everyone engaged by or through any of them, shall obtain and maintain workers compensation insurance coverage for all employees engaged in the performance of the Agreement, in accordance with Applicable Laws and the requirements of all Governmental Authorities. If workers compensation coverage is not required by Applicable Laws or Governmental Authorities for any one or more of the foregoing, they shall provide Employer's Liability Insurance with limits not less than **[*DELETION]** per employee for each accidental injury to or death of any employee engaged by them in the performance of the Agreement. Prior to Project Co or any Subcontractor commencing the performance of any part of the Project Operations at Site, Project Co shall provide Health Co with evidence acceptable to Health Co of the workers compensation coverage, or Employer's Liability Insurance in lieu thereof, and evidence acceptable to Health Co of compliance by Project Co and its Subcontractors with the requirements of the Workers' Compensation Board of the Province of British Columbia.

8. Insurance by Project Co after Substantial Completion

- 8.1 From and after Substantial Completion and until the expiry or termination of the Agreement, and without limiting any of Project Co's obligations or liabilities under the Agreement (including elsewhere in this Schedule 28), Project Co shall at its own expense (subject to Section 8.2 of this Schedule 28-3), procure and maintain or cause to be procured and maintained the following insurance coverage:
- (a) Comprehensive general liability insurance, in the amount of not less than **[*DELETION]** inclusive per occurrence against third party bodily injury, personal injury and property damage arising out of the performance by Project Co and JCLP of the Project Operations. Such coverage shall include:
 - (i) Products and Completed Operations Liability, including coverage for Project Co in relation to the construction of the Facility;
 - (ii) Blanket Written Contractual Liability;
 - (iii) Protective Liability;
 - (iv) Contingent Employer's Liability;
 - (v) Personal Injury Liability;
 - (vi) Non-Owned Automobile Liability;
 - (vii) Cross Liability;
 - (viii) Employees and Volunteers as Additional Insureds; and
 - (ix) Broad Form Property Damage.

with deductibles in the amount of [*DELETION], and with no deductible for bodily or personal injury. Such comprehensive general liability insurance shall have an endorsement to provide for Environmental Impairment Liability coverage for sudden and accidental pollution and gradual pollution with a minimum sub-limit of [*DELETION] limit and a maximum [*DELETION] deductible. Alternatively, such Environmental Impairment Liability coverage may be provided in a separate policy.

- (b) All risks property coverage, including earthquake and flood, at replacement cost covering equipment, supplies or other property owned or leased by Project Co or its Subcontractors, and any other property for which Project Co has agreed to provide coverage, with deductibles in the amount of [*DELETION].
- (c) Business interruption insurance in such amounts from time to time as necessary to fully compensate Project Co for direct loss of income and earnings resulting from or attributable to any of the perils required to be insured against under the policy referred to in Section 8.1(b) of this Schedule 28-3 including losses resulting from interference with or prevention of access to the Site or the Facility, in each case in whole or in part, as a result of such perils with an indemnity period of not less than [*DELETION] months, and a waiting period of [*DELETION] days.
- (d) Directors and officers legal liability and corporate indemnification insurance having coverage for any one occurrence or claim of not less than [*DELETION], with no deductible for individual directors and officers and [*DELETION] for corporate;
- (e) Employee dishonesty (crime) insurance against the fraudulent/dishonest acts of employees of Project Co and the Service Providers, including additional coverage for broad form money and securities, money orders and counterfeit paper currency, depositor's forgery, computer fraud and funds transfer fraud, audit expenses and credit card forgery, and including third party extension, with coverage for any one occurrence or claim of not less than [*DELETION], with deductibles in the amount of [*DELETION];
- (f) Any additional coverage which Project Co is required to provide by Applicable Laws or the requirements of Governmental Authorities, or which Project Co considers necessary to cover risks not otherwise covered by coverage specified in this Schedule 28.

8.2 Health Co acknowledges that Project Co has included in the Total Annual Service Payment an amount of \$55,000 per year, calculated as of the Base Date, for the costs of the premium for Directors and officers legal liability and corporate indemnification insurance and the employee dishonesty (crime) insurance referred to in Sections 8.1(d) and 8.1(e) of this Schedule 28-3, and no amount for any other insurance referred to in Section 8.1. If the cost paid by Project Co for the insurance referred to in Section 8.1 is greater than such amount, then at the time the relevant premium is paid, Health Co shall reimburse Project Co for the amount by which the cost increases. If the cost paid by Project Co for the insurance referred to in Section 8.1 decreases, then at the time the relevant premium is paid Project Co shall reimburse Health Co for the amount by which such cost decreases. Payments from Health Co to Project Co for an adjustment in a

year shall, until such time as the final premium cost is known, be based on the amount of the adjustment in the previous year, indexed (provided however that indexation shall only be from the relevant date in the previous year, and not from the Base Date).

9. Subcontractors

- 9.1 Project Co shall require that all Subcontractors employed by Project Co, and all Subcontractors are covered by, or procure, the insurance described in Sections 8.1(a), 8.1(b) and 8.1(f) of this Schedule 28-3 to provide coverage for the relevant Subcontractors, provided however that Project Co shall determine the applicable limits to be obtained for such insurance. Project Co shall be solely responsible and liable for any damages which Health Co, the Health Authorities or the Ministry of Health Services may suffer as a direct result of Project Co's failure to comply with the foregoing.
- 9.2 If Project Co receives notice that any Subcontractor employed by or through Project Co at any time, is not covered by any insurance required by Schedule 28-3 to be procured by Project Co or its Subcontractors under which such Subcontractor is to be an insured, Project Co shall immediately either ensure that such coverage is put in place or remove that Subcontractor from the Site and shall ensure that such Subcontractor does not perform any further part of the Project Operations until after Project Co has ensured that the Subcontractor is covered by such policy. If the Subcontractor cannot be covered by a policy as required by Schedule 28, Project Co shall replace the Subcontractor with a new Subcontractor who can obtain coverage under a policy.

10. Renewal

- 10.1 Project Co and all Subcontractors shall furnish evidence, in the form of the Certificate of Insurance attached to this Schedule 28, of the renewal of policies required to be procured by them pursuant to this Schedule 28-3, to be received by Health Co at least seven (7) days prior to the expiry date of the policy.

11. Named and Additional Insureds and Waiver of Subrogation

- 11.1 All insurance provided by Project Co and its Subcontractors, other than workers' compensation, automobile insurance and professional errors and omissions insurance, shall:
- (a) for the comprehensive general liability insurance referred to in Section 8.1(a) of this Schedule 28-3, have Project Co and JCLP as named insureds, and the Senior Funder as additional insured(s) to the extent of an insurable interest;
 - (b) for the other insurance referred to in Section 8.1 of this Schedule 28-3, have Project Co as named insured and the Senior Funders as loss payee(s);
 - (c) have additional insureds for the Aircraft and Watercraft Liability Insurance, if such insurance is applicable, as specified in Section 4.3 of this Schedule 28-3;
 - (d) contain a waiver of subrogation as against Health Co, the Health Authorities and their respective directors, officers, employees, servants, consultants and agents;

- (e) contain a breach of warranty provision whereby a breach of a condition by Project Co or any Subcontractor will not eliminate or reduce coverage for any other insured; and
- (f) except for any excess comprehensive general liability insurance that is in excess of the Project CGL Policy, be primary insurance with respect to any similar coverage provided by any insurance procured by or available to Health Co.

12. Certificates of Insurance and Certified Copies of Policies

- 12.1 Subject to Section 10.1 of this Schedule 28-3, Certificates of Insurance in the form attached to this Schedule 28 shall be provided by Project Co and its Subcontractors prior to their commencement of any part of the Works, confirming that the insurance required to be procured by them has been obtained and is in effect. Certified copies of the entire contents of all insurance policies obtained by Project Co will be provided to Health Co no later than ninety (90) days after execution of the Agreement.
- 12.2 For insurance specified in Section 8 of this Schedule 28-3, Certificates of Insurance in the form attached to this Schedule 28 shall be provided by Project Co and its Subcontractors prior to their commencement of any part of the Project Operations after the Substantial Completion Date, confirming that the insurance required to be procured by them has been obtained and is in effect. Certified copies of the entire contents of all insurance policies obtained by Project Co will be provided to Health Co no later than ninety (90) days after execution of the Agreement.

13. Failure to Meet Insurance Requirements

- 13.1 If Project Co or any Subcontractor fails to procure or maintain the insurance required by this Schedule 28-3, fails to furnish to Health Co a certified copy of each policy required to be obtained by this Schedule 28-3 or if, after furnishing such certified copy, the policy lapses, is cancelled, or is materially altered, then Health Co shall have the right, without obligation to do so, to obtain and maintain such insurance itself in the name of Project Co or the Subcontractor, as the case may be, and the cost thereof (where Project Co has included the cost thereof in the Total Annual Service Payment as described in Section 8.2 of Schedule 28-3) shall be payable by Project Co to Health Co on demand, provided however that instead Health Co may, at its option, deduct the costs thereof from the Periodic Service Payments.
- 13.2 If coverage under any insurance policy required to be obtained by Project Co or any Subcontractor should lapse, be terminated or cancelled, then if directed by Health Co, all work by Project Co or the Subcontractor, as applicable, shall immediately cease until satisfactory evidence of renewal is produced.

14. Modification or Cancellation of Policies

- 14.1 All insurance provided by Project Co and its Subcontractors, other than professional liability (if any), workers' compensation and automobile insurance, shall contain endorsements confirming that the policy will not be cancelled, reduced, materially altered or materially amended without the insurer(s) giving at least thirty (30) days prior written notice by registered mail to Health Co, to the address specified by Health Co.

15. Insurers

- 15.1 All insurance required to be procured by Project Co by Schedule 28-3 shall be procured through insurance agents and brokers experienced in construction insurance for that insurance placed prior to Substantial Completion, and procured through agents and brokers experienced in the health care industry for that insurance placed after Substantial Completion. Project Co shall obtain the comprehensive general liability insurance, the all risks property coverage and the business interruption insurance referred to in Sections 8.1(a), 8.1(b) and 8.1(c) of this Schedule pursuant to HCPP, for as long as and to the extent that HCPP's policy provides such coverage, or if HCPP's policy does not provide such coverage then pursuant to an insurer acceptable to Health Co, acting reasonably, and licensed to conduct the business of an insurer in the Province of British Columbia. If Project Co obtains business interruption insurance referred to in Section 8.1(c) of this Schedule from to an insurer other than through HCPP, and if such insurer requires the Operations Property Policy to be provided through such insurer in order to provide such business interruption insurance, then Project Co shall have the right, at Health Co's expense, to obtain the Operations Property Policy from such insurer.

16. Policy Terms and Conditions

- 16.1 All policies of insurance specified in this Schedule 28-3 shall be in such forms and on such terms and conditions as may be acceptable to Health Co and its insurance advisors, acting reasonably.

17. Failure to Comply

- 17.1 Neither failure to comply nor full compliance by Project Co with the insurance provisions of Schedule 28 shall relieve Project Co of its liabilities and obligations under the Agreement.



**Health Care
Protection Program**

CERTIFICATE OF INSURANCE

*Freedom of Information and Protection of Privacy Act
The personal information requested on this form is
collected under the authority of and used for the purposes
of contract review.*

To be completed by Agent or Broker

CERTIFICATE IS ISSUED TO:					
CONTRACTOR NAME					
CONTRACTOR ADDRESS					
<i>And certifies that policies of insurance as herein described have been issued to the insured(s) named below and are in full force and effect as of the effective date of the agreement.</i>					
INSURED	NAME				
	ADDRESS				
OPERATIONS INSURED	PROVIDE DETAILS				
TYPE OF INSURANCE	COMPANY NAME AND POLICY NO.	EXPIRY DATE Y M D			LIMIT OF LIABILITY/AMOUNT
COMPRHENSIVE/ COMMERCIAL GENERAL LIABILITY					INCLUSIVE LIMITS \$ _____
AUTOMOBILE LIABILITY (OWNED OR LEASED VEHICLES)					PRIMARY \$ _____ EXCESS \$ _____
UMBRELLA LIABILITY					LIMITS \$ _____ EXCESS OF \$ _____
PROFESSIONAL LIABILITY					LIMITS \$ _____
PROPERTY					DETAILS \$ _____ \$ _____
OTHER					DETAILS \$ _____ \$ _____
These policies comply with the insurance requirements of the governing contract, permit or licence with the Health Authority or other stand alone entity. It is understood and agreed that where required by the governing contract/permit or license, the Health Authority or other stand alone entity has been added as an additional insured and that thirty (30) days' notice of any material change or cancellation of any of the policies listed herein, either in part or in whole will be given by the insurers to the holder of this certificate.					
SIGNED BY THE CONTRACTOR/PERMITTEE/LICENSEE				DATE SIGNED	
				Y	M
SIGNED ON BEHALF OF THE CONTRACTOR'S/PERMITTEE'S/LICENSEE'S INSURERS				DATE SIGNED	
				Y	M

[This page is intentionally blank for pagination]