

MAIN CIVIL WORKS CONTRACT

SCHEDULE 13

INSURANCE

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APPENDIX 13-1
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WRAP-UP LIABILITY INSURANCE SPECIFICATIONS
COURSE OF CONSTRUCTION INSURANCE SPECIFICATIONS

MAIN CIVIL WORKS CONTRACT

SCHEDULE 13

INSURANCE

1 INTERPRETATION

1.1 Definitions

In this Schedule 13 [Insurance], definitions are as set out in Schedule 1 [Definitions and Interpretation].

2 CONTRACTOR PROVIDED INSURANCE COVERAGE

Without limiting any of the Contractor's obligations or liabilities under the Contract and prior to commencing performance of the Work under the Contract, the Contractor will, at its sole cost and expense, obtain and maintain, or cause to be obtained and maintained, during the performance of the Work policies in respect of the following insurances:

- (a) Workers' Compensation coverage for all employees engaged in the performance of the Work in accordance with the *Workers Compensation Act* (British Columbia);
- (b) Personal Optional Protection coverage available through the Workers' Compensation Board of British Columbia for all employees engaged in the performance of the Work who are not covered by the *Workers Compensation Act* (British Columbia);
- (c) Commercial General Liability Insurance in an amount of \$5,000,000 per occurrence, and annually in the aggregate with respect to Products and Completed Operations Liability. Such coverage to include, but not be limited to, Blanket Contractual Liability, including liability assumed under the Contract, Tortious Liability, Contractual Liability, Contractors Protective Liability, Non Owned Automobile Liability, Attached Equipment Cross Liability, Broad Form Property Damage Liability, Products and Completed Operations Liability, and, when applicable to the Work, Hook Liability, Sudden and Accidental Pollution Liability and Explosion, Collapse and Underground Damage Liability and Forest Fire Fighting Expense Liability, and, in any event, such Commercial General Liability Insurance will provide coverage not less than the insurance required by IBC Form 2100 or its equivalent replacement. The policy will name BC Hydro as additional insured in respect of liability arising out of the Contractor's operations or its employees outside of the Contractor's Work Area, and will contain cross liability and severability of interest clauses, or equivalent wording;
- (d) Automobile Liability Insurance for owned, non-owned, leased, operated or licensed automobiles, trucks, trailers, tractors and all-terrain vehicles with limits of \$5,000,000 for accidental injury to or death of one or more Persons or damage to or destruction of property as a result of one accident or occurrence;
- (e) Contractor's Equipment Property Insurance covering loss or damage to, or loss of use of, tools, property and equipment of the Contractor and its Subcontractors, if any, or for which the Contractor and its Subcontractors, if any, are legally liable or responsible, in an amount equal to the full replacement value, if available, or such other value basis as is commercially available, of the tools, property and equipment. The policy will include a waiver of the insurer's rights of subrogation in favour of BC Hydro;
- (f) if aircraft or watercraft or both are used in connection with the Work, then the Contractor will carry Aircraft Liability and Watercraft Liability Insurance, as applicable, covering all aircraft and watercraft owned or non-owned and licensed by the Contractor with limits of liability of

\$10,000,000 for aircraft liability and \$5,000,000 for watercraft liability, for bodily injury or death of one or more Persons or damage to or destruction of property as a result of one accident or occurrence; and

- (g) such additional coverage as may be required by Law or by BC Hydro (provided that, in the case only of additional coverage required by BC Hydro, such coverage is commercially available and provided that BC Hydro will reimburse the Contractor for additional costs incurred by the Contractor in obtaining and maintaining such coverage), or which the Contractor considers necessary.

3 BC HYDRO PROVIDED INSURANCE COVERAGE

Prior to the commencement of the Work at the Site and until the date of issuance of the certificate of Substantial Completion or any other additional period of time as required by the Contract Documents, BC Hydro will obtain and maintain the following insurance coverage:

- (a) Project specific “Wrap-up” liability insurance in an amount of not less than \$100,000,000 per occurrence. This policy will have an aggregate limit of \$100,000,000 with respect only to completed operations. The policy will have a per occurrence deductible of up to \$200,000. The policy will name BC Hydro as the insured and will include the Other Contractors, the Contractor and the Subcontractors, project and construction managers, architects, engineers, and consultants, if any, while engaged in the Work and providing work or services with respect to the Project as additional insured and will contain cross liability and severability of interest clauses, or equivalent wording. The policy will maintain in force and effect a “Completed Operations Liability” endorsement coverage for a period ending not earlier than 36 months after the earlier of (i) the date of issuance of the certificate of Substantial Completion, and (ii) termination of the Contract. BC Hydro’s construction wrap-up liability coverage will be primary and non-contributory to the Contractor’s Commercial General Liability Insurance for Work at the Site; and
- (b) Broad Form “Builder’s Risk” insurance, on a replacement cost valuation basis in an amount described in Appendix 13-2 [Course of Construction Insurance Specifications]. The policy will have a per occurrence deductible as described in Appendix 13-2 [Course of Construction Insurance Specifications]. The policy will provide coverage on an “All Risks” basis, including perils of flood and earthquake, will name BC Hydro as the insured, and the Other Contractors, the Contractor and the Subcontractors as additional insureds, including any person employed directly or indirectly by either or both the Contractor and Subcontractors to perform a part or parts of the Work and any other person employed directly or indirectly to perform work or services with respect to the Project. The policy will contain a waiver of insurer’s rights of subrogation in favour of the Contractor and the Subcontractors.

The documents attached at Appendix 13-1 [Wrap-Up Liability Insurance Specifications] and Appendix 13-2 [Course of Construction Insurance Specifications] contain terms and conditions applicable to the insurances that BC Hydro is required to obtain and maintain pursuant to this Section 3. In the event of a conflict between the terms and conditions contained in:

- (c) Appendix 13-1 [Wrap-Up Liability Insurance Specifications] and the provisions of Section 3(a) of this Schedule 13 [Insurance]; and
- (d) Appendix 13-2 [Course of Construction Insurance Specifications] and the provisions of Section 3(b) of this Schedule 13 [Insurance],

the terms and conditions of the applicable Appendix will govern.

If during the 24 month period after the earlier of (i) the date of issuance of the certificate of Substantial Completion, and (ii) termination of the Contract, the “Wrap-up” liability insurance policy obtained pursuant

to Section 3(a) of this Schedule 13 [Insurance] is exhausted, BC Hydro will provide completed operations coverage on the same terms and conditions as described in Appendix 13-1 [Wrap-Up Liability Insurance Specifications] for the remaining portion of such 24 month period.

4 GENERAL INSURANCE PROVISIONS

4.1 Requirements for Contractor Provided Insurance

The insurance provided by the Contractor will be provided in accordance with the following terms and conditions:

- (a) the Contractor will provide Hydro's Representative with evidence of compliance with the *Workers Compensation Act* (British Columbia) and coverage under that Act prior to commencement of performance of the Work, and the Contractor will:
 - (i) upon request, at any time, from Hydro's Representative, provide such evidence to Hydro's Representative within five days of such request; and
 - (ii) immediately notify Hydro's Representative in writing of any change with respect to such compliance or coverage;
- (b) certificates of insurance for the policies described in Section 2 of this Schedule 13 [Insurance] will be submitted to Hydro's Representative prior to commencement of performance of the Work;
- (c) copies of insurance policies described in Section 2 of this Schedule 13 [Insurance] will be submitted to Hydro's Representative within 14 days upon written request by Hydro's Representative;
- (d) all insurance provided by the Contractor will be considered primary, non-contributory and not excess to any insurance carried by BC Hydro, unless expressly stated otherwise in the Contract Documents;
- (e) all policies of insurance to be obtained by the Contractor in accordance with this Contract will be issued by financially sound insurers acceptable to BC Hydro, acting reasonably, and, where required by statute, licensed to insure such risk in British Columbia;
- (f) all insurance provided by the Contractor will contain endorsements confirming that the policy will not be cancelled without the insurer(s) giving at least thirty (30) days prior written notice by registered mail to BC Hydro;
- (g) all insurance provided by the Contractor will contain endorsements confirming that, in the event of cancellation for non-payment of premium, the insurer(s) will give at least fifteen (15) days prior written notice by registered mail to BC Hydro;
- (h) all insurance, except for automobile liability insurance and workers compensation insurance, provided by the Contractor will:
 - (i) include BC Hydro and its directors, officers, employees and agents as additional insureds (but this requirement will not apply to equipment insurance described in Section 2(e) of this Schedule 13 [Insurance]);
 - (ii) contain a waiver of subrogation against BC Hydro and its directors, officers, employees and agents; and

- (iii) contain a cross liability or severability of interest clause (but this requirement will not apply to equipment insurance described in Section 2(e) of this Schedule 13 [Insurance]).

The Contractor will immediately give notice to Hydro's Representative if any insurance provided by the Contractor is cancelled, adversely reduced, adversely materially altered or adversely materially amended.

4.2 Requirements for BC Hydro Provided Insurance

Within 14 days of a written request by the Contractor's Representative, BC Hydro will provide to the Contractor's Representative either copies of the insurance policies (without commercially sensitive information and without premium information) described in Section 3 of this Schedule 13 [Insurance] or copies of insurance binding confirmation, at BC Hydro's election. If BC Hydro provides insurance binding confirmation, then BC Hydro will provide copies of the insurance policies within 45 days of delivery of the binding confirmation.

4.3 Minimum Amount No Limit on Recovery

All policy limits and types of insurance specified by the Contract to be obtained and maintained by the Contractor are the minimum policy limits and types of insurance that are to be provided. The Contractor will be solely responsible for determining whether the policy limits and types of insurance are adequate and for placing any excess insurance and any additional insurance which it considers necessary to protect and indemnify itself.

Subject to Section 24.1 of Schedule 2 [General Conditions], the Contractor will be liable to BC Hydro for all Claims and Claim Costs excluded by, or in excess of the policy limits of, applicable insurance policies.

4.4 BC Hydro's Right to Maintain

If, at any time, any insurance required to be obtained and maintained by the Contractor under the Contract has its policy limits reduced by the applicable insurance provider or the Contractor, from the policy limits required by the Contract, or is no longer in force, then, without limiting BC Hydro's rights in respect of any default that arises as a result of such occurrence, BC Hydro may, at its option, obtain and maintain the applicable insurance or portion of such insurance. In such event, BC Hydro may withhold and set-off the cost of insurance premiums expended for such insurance from any payments due to the Contractor.

4.5 Subcontractor Insurance

Without duplication of insurance coverage provided by BC Hydro, the Contractor will require all first tier Subcontractors to enter into an agreement with the Contractor containing provisions in the same form as those found in Section 2 of this Schedule 13 [Insurance], as applicable to the Work being undertaken by such Subcontractors. The Contractor will provide to Hydro's Representative, upon request, certificates of insurance for the insurance policies the Contractor has obtained from such Subcontractors and a copy of the agreement entered into with such Subcontractors setting out the insurance requirements of such Subcontractors, without reference to commercial terms.

4.6 Deductibles

The Contractor will be responsible for the payment of all deductibles for the insurance policies described in this Schedule 13 [Insurance], except with respect to damage arising out of the negligent acts or omissions of BC Hydro or any Person for whom BC Hydro is in law responsible (other than the Contractor and those engaged by or through the Contractor, including Subcontractors), BC Hydro will pay the proportion of the deductible that represents the proportionate fault of BC Hydro for the loss which gave rise to the damage.

Deductibles for insurance policies required under Section 2 of this Schedule 13 [Insurance] will be no more than [REDACTED], except as otherwise agreed by BC Hydro in writing.

4.7 Liability of Contractor

Neither the providing of insurance by BC Hydro or the Contractor in accordance with the requirements of this Schedule 13 [Insurance], nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim occurring will be held to relieve the Contractor from any other provisions of the Contract with respect to liability of the Contractor or otherwise.

4.8 Notice of Occurrence

Hydro's Representative and the Contractor's Representative will immediately notify, in writing, each other and the relevant insurer of any occurrence or incident likely to give rise to a claim under the policies or insurance coverage referred to in this Schedule 13 [Insurance] whether or not such occurrence or incident arises under the Contract, and of any other matter or thing in respect of which notice should be given by BC Hydro or the Contractor to the relevant insurers. In addition, both BC Hydro and the Contractor will give all such information and assistance as may be reasonably practicable in all the circumstances.

4.9 Claims Cooperation

With respect to any Claim against BC Hydro, whether insured or otherwise, the Contractor will cooperate with BC Hydro, BC Hydro's insurers, claims adjusters and other representatives to mitigate any impact of any investigations relating to the Claim on BC Hydro's operations, including the performance of the Work.