

PORT MANN/HIGHWAY 1 PROJECT

**SCHEDULE 1
DEFINITIONS AND INTERPRETATION**

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**PORT MANN/HIGHWAY 1 PROJECT
SCHEDULE 1: DEFINITIONS AND INTERPRETATION**

**PART 1
DEFINITIONS**

1.1 Definitions

In this Agreement, including the Recitals and Schedules hereto, unless otherwise specified or the context otherwise requires, the following words and expressions have the following meanings:

“**AASHTO**” means American Association of State Highway and Transportation Officials.

“**Access**” means, for the purposes of Schedule 23 [Privacy Protection], disclosure by the provision of access.

“**Active Construction Zone**” means an area in which surveying, construction, maintenance or utility activities take place on or adjacent to a roadway, to the extent that the passage of public traffic may be influenced and includes:

- (a) prior to the Total Completion Date, the entire Project Site; and
- (b) following the Total Completion Date, those areas of the Project Site within which the Constructor is then carrying out any DB Work.

“**Additional Concession Lands**” means:

- (a) the lands and interests in land described in Appendix C [Additional Concession Lands] to Schedule 8; and
- (b) any land or Land Rights the parties agree in writing to include in “Additional Concession Lands”.

“**Additional Concession Lands Acquisition Date**” in respect of a parcel of Additional Concession Lands means the “**Additional Concession Lands Acquisition Date**” for such parcel as specified for the parcel in Appendix C [Additional Concession Lands] to Schedule 8.

“**Additional Concession Lands Acquisition Notice**” has the meaning given in Section 2.3 [Additional Concession Lands Acquisition Notice] of Schedule 8.

“**Additional Concession Lands Notification Date**” in respect of a parcel of Additional Concession Lands means the date that precedes the Additional Concession Lands Acquisition Date for such parcel by the period of time equal to the Lead Time for such parcel.

“**Adverse Claims**” has the meaning given in Section 10.5A [Adverse Claims].

“**Advisory Signing Plan**” means the sub-plan of the Traffic Management Plan described in Section 4.2.4 [Advisory Signing Plan] of Part 4 of Schedule 4.

“**Affiliate**” means, with respect to a person (in this definition, the “Subject Person”) any one or more of the following, as applicable:

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- (a) any other person or persons that Control the Subject Person, or is or are Controlled by the Subject Person, or is or are Controlled by the same person or persons that Control the Subject Person; and
- (b) in the case of a corporation, any other corporation that is an “affiliate” of the first mentioned corporation within the meaning of “affiliate” as defined in the *Business Corporations Act* (British Columbia) as at the date of this Agreement (excluding any subsequent amendment to such definition and notwithstanding the provisions of Section 2.6 [References to Statutes and Reference Documents] of this Schedule);

and includes:

- (c) in the case of the Constructor, each Partner of the Constructor and any person that is an “affiliate” of such Partner of the Constructor within the meaning of “affiliate” as defined in the *Business Corporations Act* (British Columbia) as at the date of this Agreement; and
- (d) in the case of each Partner of the Constructor and any person that is an “affiliate” of such Partner of the Constructor within the meaning of “affiliate” as defined in the *Business Corporations Act* (British Columbia) as at the date of this Agreement.

“**Agreement**” means this agreement including all recitals and schedules to this agreement, as amended, supplemented or restated from time to time by agreement in writing signed by the parties.

“**APEGBC**” means the Association of Professional Engineers and Geoscientists of British Columbia.

“**Applicable Accounting Principles**” means either generally accepted accounting principles in the jurisdiction of the relevant entity or the applicable reporting framework in the jurisdiction of the relevant entity at the applicable time.

“**Applicant**” has the meaning given in Section 8.1(a).

“**Arbitration Dispute Notice**” has the meaning given in Section 4.1 [Referral to Arbitration] of Schedule 16.

“**Arbitrator**” has the meaning given in Section 4.5 [No Conflict for Arbitrator] of Schedule 16.

“**Architect**” means a person having a Certificate of Practice with the Architectural Institute of British Columbia.

“**ASTM**” means the American Society for Testing and Materials.

“**Authority Change**” means any of the following as initiated by the Authority:

- (a) a variation in the design, quality or scope of the Fraser Heights Connector, the Tolling Commencement Components or the Primary Highway Components, or the construction thereof;
- (b) a variation in the design, quality or scope of the Toll System or the Tolling, including a variation in the Authority’s tolling regime for the Concession Highway as set out in

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Schedule 18 [Tolling] of the draft "Concession Agreement" dated May 5, 2008 and included in the Data Room; or

- (c) [Intentionally Deleted]
- (d) any other variation in the DB Requirements or this Agreement,

or any other matter which, by the terms of this Agreement, is stated to constitute an Authority Change or in respect of which the provisions of Section 7.1 [Authority Changes] are stated to be applicable.

"Authority Default" has the meaning given in Section 13.1 [Authority Default].

"Authority Default Termination Sum" has the meaning given in Section 1.1(b) of Schedule 13 [Compensation on Termination].

"Authority Indemnified Person" means:

- (a) the Authority's Representative in its capacity as such under this Agreement;
- (b) the Province;
- (c) BCTFA;
- (d) any agent or professional advisor (including legal and financial advisors) of the Authority, the Province or BCTFA (excluding the Constructor and any person for whom the Constructor is in law responsible); and
- (e) any director, officer or employee of the Authority, the Province or BCTFA or of any person falling within subsection (d) of this definition.

"Authority Non-Excusable Event" means any of the following:

- (a) any wrongful act, wrongful omission, negligent act, negligent omission or wilful misconduct; or
- (b) any breach in the due performance or observance of any of the Authority's obligations under this Agreement or any other Authority Project Document,

of or by the Authority or any person for whom the Authority is in law responsible.

"Authority Permits" means the Permits listed in Appendix B [Authority Permits] to Schedule 4.

"Authority Project Documents" means this Agreement and, if and when executed and delivered in accordance with this Agreement, the Interface Agreement and the Independent Certifier Contract.

"Authority's Representative" means Gary A. Webster, P. Eng. or such substitute as may be appointed by the Authority pursuant to Section 1.2 [Change of Authority's Representative] of Schedule 2.

"Authority Required Insurance" means the insurance to be obtained by the Authority in accordance with Section 6.1 [Authority Insurance Coverages].

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“**Authority Subsequent Contamination**” means any Subsequent Contamination caused by the Authority, any person for whom the Authority is in law responsible, or the Province, on any part of the Project Infrastructure or the Project Site.

“**BCERMS**” or “**British Columbia Emergency Response Management Systems**” means the Province’s comprehensive management system based upon the Incident Command System that ensures a coordinated and organized response and recovery to all emergency incidents and disasters and provides the framework for a standardized emergency response in British Columbia.

“**BCICAC**” means the British Columbia International Commercial Arbitration Centre.

“**BCTFA**” means BC Transportation Financing Authority.

“**Best Management Practices**” means, for the purposes of Schedule 6 [Environmental Obligations], the current set of provincially-applicable environmental best management practices for highway construction, maintenance and operations.

“**BMIS**” or “**Bridge Management Information System**” means the Ministry’s corporate structure asset management application that is used to maintain inventory and condition data for Structures to support the Ministry programs.

“**Bridge**” means, for the purposes of Schedule 4 [Design and Construction], a structure providing a means of transit for pedestrians and/or vehicles above the land and/or water surface of a valley, arroyo, gorge, river, stream, lake, canal, tidal inlet, gut or strait, above a highway, railway or other obstruction, whether natural or artificial and consisting of the following essential parts:

- (a) the Substructure consisting of its Abutments and Pier or Piers supporting the Superstructure;
- (b) the Superstructure slab, girder, Truss, arch or other span or spans supporting the highway loads and transferring to them the Substructure; and
- (c) the highway and its incidental parts functioning to receive and transmit traffic loads.

“**Bridge Deck**” means, for the purposes of Schedule 4 [Design and Construction], the structural element under the deck wearing surface system that transfers loads from the deck surface to the Bridge’s Superstructure or Substructure components.

“**Bridge Structural Engineer**” means a Professional Engineer specializing in Bridge structural design, construction, maintenance and rehabilitation.

“**Business Day**” means a day other than a Saturday, Sunday or Statutory Holiday in British Columbia.

“**Cassiar Connector**” at any time means the Cassiar Connector Lands and the Other Highway Infrastructure on the Cassiar Connector Lands at that time.

“**Cassiar Connector Lands**” at any time means any portions of the Original Other Highway Lands described as “Cassiar Connector Lands” in Appendix D [Original Other Highway Lands] to Schedule 8, that, before that time, have been made available to the Constructor pursuant to Section 5.11 [Cassiar

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Connector Lands] of Schedule 8, for the purpose of carrying out thereon any Cassiar Connector Work, but does not include any such lands with respect to which, at that time, the Land License has terminated under Section 1.4 [Termination of Land License] of Schedule 8.

“**Cassiar Connector Work**” means, together, all of the DB Work described in the following provisions:

- (a) Sections 1.4.1.1(a), 1.4.1.1(c) and Note (2)(a) to Table 1.3.1 [Geometric Design Criteria: Highway 1], each of Part 2 of Schedule 4, including the specific provisions contained in Section 1.4.1.3 [Deviations from the Specified Design Criteria] of Part 2 of Schedule 4 as applicable thereto;
- (b) Section 14.5.1(d) of Part 2 of Schedule 4; and
- (c) Section 14.6 [Cassiar Tunnel Lane Control System] of Part 2 of Schedule 4, together with the Directional Signing Strategy and the general provisions contained in Section 14.2 [General Requirements and Field Equipment] of Part 2 of Schedule 4, each as applicable thereto.

“**CEAA**” means the Canadian Environmental Assessment Agency.

“**CEAA Screening Decision Letter**” means each screening recommendation, report and/or decision summary, as the case may be, provided by the CEAA at the conclusion of the CEAA screening assessment conducted as part of the harmonized federal/provincial review undertaken for the EA Application review processes and as attached as:

- (a) Part 2 [CEAA Screening Decision Letter] to Appendix A to Schedule 6 in respect of the Environmental Assessment Certificate; and
- (b) Part 2 [SFPR CEAA Screening Decision Letter] to Appendix C to Schedule 6 in respect of the SFPR Environmental Assessment Certificate.

“**Central Segment**” means, collectively, the Primary Highway Components in respect of the following Road Sections (as described by the start and end chainages specified in Appendix C [Schedule of Road Sections] to Schedule 10):

- (a) Road Section 5e to and including Road Section 8e; and
- (b) Road Section 4w to and including Road Section 7w.

“**Certificate of Substantial Completion**” means the certificate issued by the Independent Certifier in accordance with Article 6 [Construction Certification] of Part 3 of Schedule 4 confirming the achievement of Substantial Completion for the Relevant Components referred to therein.

“**Certificate of Tolling Commencement Completion**” means the certificate issued by the Independent Certifier in accordance with Section 6.5 [Issuance of Certificate of Tolling Commencement] of Part 3 of Schedule 4 confirming the achievement of Substantial Completion for the Tolling Commencement Components.

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“**Certificate of Total Completion**” means the certificate issued by the Independent Certifier in accordance with Article 6 [Construction Certification] of Part 3 of Schedule 4 confirming the achievement of Total Completion for the Relevant Components referred to therein.

“**Change Certificate**” has the meaning given in Section 2.8 [Change Certificate] of Schedule 11.

“**Change in Control**” of a person (in this definition, the “**Subject Person**”) means a change, directly or indirectly, in the person(s) having, directly or indirectly, Control of the Subject Person, or the acquisition by a person, directly or indirectly, of Control of the Subject Person.

“**Change in Costs**” has the meaning given in Section 1.4 [Authority Changes] of Schedule 11.

“**Change in Law**” means the coming into force, after the Financial Submittal Date, of any new Law in Canada (including a new Law relating to Taxes), or amendment to or repeal of any Law in Canada (including an existing Law relating to Taxes) (but excluding in each case any lawful requirements of any Governmental Authority (unless resulting from a Change in Law) and any change in the interpretation of any Law other than a judgement of a relevant Court which changes binding precedent in British Columbia) which is binding on the Constructor, but excluding any such amendment or repeal:

- (a) arising from or in any way connected to or having substantially the same effect as any Law which, as of the Financial Submittal Date:
 - (i) had been introduced as a Bill in the Legislative Assembly of British Columbia or the Parliament of Canada or in a draft statutory instrument published or issued by a Governmental Authority; or
 - (ii) had been published in the Canada Gazette or in a draft bill as part of a Governmental Authority discussion or consultation paper;
- (b) relating to the application for, coming into effect, terms, implementation, repeal, revocation or otherwise of any Permit;
- (c) made by the Lieutenant Governor in Council of the Province after the Financial Submittal Date in order to carry out the Tolling in accordance with Schedule 18 [Tolling] of the draft “Concession Agreement” dated May 5, 2008 and included in the Data Room;
- (d) consisting of an amendment, replacement or repeal of the Motor Vehicle Fees Regulation (British Columbia); or
- (e) consisting of an amendment, replacement or repeal of any of the Reference Documents or the Environmental Guidelines and Policies.

“**Change Report**” has the meaning given in Section 2.3 [Authority Changes] of Schedule 11.

“**Checking Team**” means a group of engineers assigned to independently undertake a design check in accordance with the Design and Certification Procedure.

“**Claim**” means any claim, demand, action, cause of action, suit or proceeding.

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“**Clear Zone**” has the meaning, for the purposes of Schedule 4 [Design and Construction], as set out in the BC Supplement to TAC.

“**Clock-face Hour**” means the period of 60 minutes which, for any relevant hour xx, starts with xx:00 and ends with xx:59.

“**Closure**” means any partial or total closure, obstruction, blockage or other restriction or interference (howsoever arising) impeding the flow of traffic on or affecting the ability of the public to pass and re-pass over a highway of whatever duration including, without limitation, any partial or total closure, obstruction, blockage, restriction or interference:

- (a) that is instigated by the Constructor;
- (b) that is required for any works by a Governmental Authority or for any inspection, investigation or survey (whether carried out by the Constructor, the Authority, the Province or any other Governmental Authority or any other person);
- (c) that results from an Incident;
- (d) that is instigated by the Police or other Relevant Authority for health, safety or emergency reasons or that results from Protest Action; or
- (e) that materially affects the ability to use that highway or such part thereof in a safe manner resulting from the build up of snow or ice or from any other natural event physically affecting the highway,

but excluding a Stoppage, and provided also that any traffic congestion or slowing of the flow of traffic in a lane or lanes within the highway will not by itself be considered to be a Closure (including where the same results from speed restrictions properly imposed from time to time as a direct result of adverse weather conditions or seasonal restrictions for the time being affecting the highway, but excluding where the standard of construction and/or condition of the highway has contributed to the need for such speed restrictions).

“**CMS**” means changeable message signs.

“**CN Rail**” means Canadian National Railway Company.

“**CN Rail Access**” has the meaning given in Section 2.9(b)(i) of Appendix A [FHC Work Scope] to Schedule 24.

“**CN Rail Property Acquisition Agreement**” means the agreement dated December 22, 2004 between CN Rail and BCTFA.

“**Communications Director**” means the individual appointed to such position from time to time by the Authority.

“**Communications Representative**” means the Constructor’s representative whose role and responsibility is described in Section 1.2A [Communications Representative] of Schedule 9.

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“**Compensation Event**” means any of the following events or circumstances:

- (a) the circumstances referred to in Section 2.15(d) as constituting a Compensation Event;
- (b) a breach by the Authority of Section 3.1 [Provision of Project Site];
- (c) the existence as at the Financial Submittal Date of any Project Site Agreement, Railway Crossing Agreement, Railway Order, Encumbrance or Utility Agreement, or amendment thereto, affecting any Original Lands or Designated Lands or any Infrastructure on any Original Lands or Designated Lands, that:
 - (i) is a Project Site Agreement, Railway Crossing Agreement, Railway Order, Encumbrance or Utility Agreement, or amendment thereto, that:
 - (A) is not described in Appendix C [Utility Agreements] to Schedule 4 or in any of Appendices A [Original Concession Lands], D [Original Other Highway Lands], F [Certain Project Site Encumbrances] and H [Railway Crossing Agreements and Railway Orders] to Schedule 8;
 - (B) is not registered in the Land Title Office against title to any Original Lands or Designated Lands as at the Financial Submittal Date; and
 - (C) the Constructor does not otherwise have knowledge of, could not have discovered through the exercise of reasonable due diligence, and could not have reasonably anticipated from an analysis of all relevant information available to the Constructor (including the Disclosed Data) as at the Financial Submittal Date, having regard to the opportunity afforded the Constructor to conduct such due diligence and analysis before the Financial Submittal Date (provided that any investigation of Crown grants or unregistered leases shall be deemed not to be required for reasonable due diligence to have been exercised for these purposes);
 - or
 - (ii) is an Encumbrance registered in the Land Title Office against title to any Original Lands or Designated Lands as at the Financial Submittal Date and consists of a mortgage, an assignment of rents, a right of first refusal to purchase or to lease, or an option to purchase or to lease; or
 - (iii) is a lease, other than a lease in respect of Utilities, and other than a Utility Agreement;
- (d) [Intentionally Deleted]
- (e) a claim asserting infringement of aboriginal rights or aboriginal treaty rights or aboriginal title by any first nation(s);
- (f) the circumstances referred to in Section 1.4(e) of Schedule 6 [Environmental Obligations] as constituting a Compensation Event, or any defect in the Environmental Assessment

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Certificate or the SFPR Environmental Assessment Certificate other than in connection with changes or amendments to the Environmental Assessment Certificate or the SFPR Environmental Assessment Certificate that are the responsibility and risk of the Constructor pursuant to Section 1.4 [Environmental Impacts and Changes to Environmental Assessment Certificates] of Schedule 6;

- (g) the circumstances referred to in Section 4.20(c) as constituting a Compensation Event;
- (h) delay by the Authority in disbursing Property Damage Insurance Proceeds in accordance with Section 6.18(c) or Section 6.18(d), as applicable, after all conditions to such authorization and direction have been satisfied, beyond the relevant time periods provided for in those Sections;
- (i) the circumstances referred to in Section 11.1(a)(iv) as constituting a Compensation Event;
- (j) the circumstances referred to in Section 11.2(c) as constituting a Compensation Event;
- (k) the circumstances referred to in Section 11.3(c) as constituting a Compensation Event;
- (l) the circumstances referred to in Section 11.4(d) as constituting a Compensation Event;
- (m) the circumstances referred to in Section 11.5(c) as constituting a Compensation Event;
- (n) the circumstances referred to in Section 17.2(b) as constituting a Compensation Event;
- (o) the existence of any Authority Subsequent Contamination, except to the extent:
 - (i) any actions required to be taken by the Constructor pursuant to Part 3 [Contamination and Hazardous Substances] of Schedule 6 in respect of Authority Subsequent Contamination are required to be taken as a result of or in connection with the Constructor or any person for whom the Constructor is in law responsible causing, contributing to or exacerbating any such Contamination; or
 - (ii) any such Authority Subsequent Contamination is caused, contributed to or exacerbated by the Constructor or any person for whom the Constructor is in law responsible;
- (p) the circumstances referred to in Section 2.2(d)(i) of Schedule 2 [Representatives, Review Procedure and Consent Procedure] as constituting a Compensation Event;
- (q) the circumstances referred to in Section 5.10(b) of Schedule 8 [Lands] as constituting a Compensation Event;
- (r) the Authority funds any holdback required to be retained as owner under the *Builders Lien Act* (British Columbia) from amounts payable to the Constructor under this Agreement;
- (s) subject to Section 8.9(a), a Protest Action;

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- (t) a Discriminatory Change in Law;
- (u) damage to or destruction of:
 - (i) the Existing Port Mann Bridge or part thereof caused by a vessel impact by a vessel greater than that contemplated by the requirements of a Class II bridge pursuant to CAN/CSA-S6-06 occurring prior to the earlier of Substantial Completion of the Central Segment and the date the Existing Port Mann Bridge is taken out of service; or
 - (ii) the New Concession Bridge or part thereof caused by a vessel impact by a vessel greater than that contemplated by the requirements of a Class I bridge pursuant to CAN/CSA-S6-06, provided that, if such vessel impact occurs after Substantial Completion of the Central Segment, all vessel collision protection requirements applicable to the New Concession Bridge as set out in Section 3.4.1(f) of Part 2 [Design and Construction Requirements] of Schedule 4 have been complied with and implemented by the Constructor,

the onus of establishing which shall be on the Constructor;
- (v) damage to or destruction of the Project Infrastructure or part thereof caused by a Seismic Event, provided that:
 - (i) the cost to repair and restore the damage to and destruction of Project Infrastructure caused by the Seismic Event exceeds \$5,000,000 (index linked) for a single Seismic Event; and
 - (ii) if such Seismic Event occurs after the Substantial Completion Date, all seismic design requirements specified in the DB Requirements applicable to the damaged Project Infrastructure have been complied with and implemented by the Constructor,

the onus of establishing which shall be on the Constructor;
- (w) any study, test or trial conducted by the Authority in respect of the DB Work, to the extent that a delay or disruption of the DB Work or any other adverse effect on traffic flows on the relevant part of the Concession Highway or physical damage to the Project Infrastructure is caused as a direct result thereof;
- (x) acts or omissions of any Third Party Contractor occurring on or after the Effective Date;
- (y) the deletion, pursuant to Section 7.1 of a Gravel License, of any of the Gravel Pits (as defined in such Gravel License) from such Gravel License;
- (z) the existence of a Nonconformity caused solely by an Authority Non-Excusable Event; and
- (aa) [Intentionally Deleted]

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- (bb) [Intentionally Deleted]
- (cc) [Intentionally Deleted]
- (dd) [Intentionally Deleted]
- (ee) the inability of the Authority to continue to provide the certification to the Constructor contained in Section 10.7(d).

“Complaints Protocol” has the meaning given in Section 18.2(b) of this Agreement.

“Complete License” means, in respect of any licensed personal property, a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully-paid, sublicensable, transferable and assignable license, for the Authority, and its employees, contractors, consultants, advisors, sublicensees, successors and assigns to:

- (a) reproduce, create derivative works of, distribute, publicly perform, publicly display, digitally transmit, and otherwise use such licensed property;
- (b) use, make, have made, sell, offer to sell, import and otherwise exploit any product or service based on, embodying, incorporating or derived from such licensed property; and
- (c) exercise any and all other present or future rights in such licensed property.

“Compulsory Acquisition Laws” means all Laws authorizing the expropriation or other compulsory acquisition of land or Land Rights, including the *Transportation Act* (British Columbia), the *Transportation Investment Act* (British Columbia) and the *Expropriation Act* (British Columbia).

“Compulsory Acquisition Order” means any order or other process of any Court or other relevant body or authority pursuant to a Compulsory Acquisition Law effecting the expropriation or other compulsory acquisition of any land or Land Rights in any Original Lands, Designated Lands or Additional Concession Lands forming or intended to form part of the Project Site, but does not include any Railway Order.

“Concept Review” means, for the purposes of Schedule 4 [Design and Construction], a concept review of Design Data in accordance with Bylaw 14(b) [Quality Management] of the APEGBC Bylaws and in accordance with the APEGBC Concept Review Guidelines.

“Concession Bridge(s)” at any time means the Existing Port Mann Bridge and any New Concession Bridge at that time.

“Concession Highway” at any time means the Concession Lands and the Concession Infrastructure at that time, and includes the Concession Bridge(s).

“Concession Highway Segment” means each of the Western Segment, the Central Segment and the Eastern Segment.

“Concession Infrastructure” at any time means the Original Concession Infrastructure at that time and the Upgraded Concession Infrastructure at that time.

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“**Concession Lands**” at any time means the Original Concession Lands, plus any Designated Concession Lands, Additional Concession Lands and Future Railway Lands that, before that time, have been made available to the Constructor as provided in Section 1.3 [Commencement of Land License] of Schedule 8, but excluding:

- (a) any Removed Lands;
- (b) any Temporary Land Rights in any Original Concession Lands, Designated Concession Lands, Additional Concession Lands or Future Railway Lands that have terminated or expired; and
- (c) any Land Rights (other than fee simple interests) in any Original Concession Lands, Designated Concession Lands, Additional Concession Lands or Future Railway Lands that have been terminated.

“**Confidential Information**” means all confidential or proprietary information of a party that is (whether before, on or after the date of this Agreement) supplied, or to which access is granted, to or on behalf of the other party pursuant to or relating to this Agreement (including the terms of this Agreement and any documents or information supplied in the course of proceedings under the Dispute Resolution Procedure), either in writing, or in any other form, directly or indirectly pursuant to discussions with the other party, and includes all documents, computer records, specifications, formulae, evaluations, methods, processes, technical descriptions, reports, analyses, compilations, studies and other data, records, drawings and information and other documents whether prepared by or on behalf of a party which contain or otherwise reflect or are derived from such information, and expressly includes Disclosed Data and Personal Information.

“**Consequential Losses**” means any damages or losses that would be considered under applicable British Columbia law to constitute consequential damages or losses.

“**Consent Procedure**” means the procedure defined in Section 2.2 [Consent Procedure] of Schedule 2 whereby submissions for consent are made by the Concessionaire to the Authority’s Representative.

“**Construction**” means:

- (a) the performance of all construction, completion, testing, commissioning and other services and activities required to construct and complete the Tolling Commencement Components and the Primary Highway Components in accordance with the Final Design for the Tolling Commencement Components and the Primary Highway Components in order to achieve Total Completion of the Tolling Commencement Components and the Primary Highway Components;
- (b) the performance of all project management, quality management, environmental management, communications management and other management services and activities required for the carrying out of the foregoing;
- (c) the supply of all Plant, Construction Plant, other property and workers for the carrying out of the foregoing; and

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- (d) all other work, services and activities to be provided by the Constructor in respect of the foregoing,

all as set out and described in and in accordance with the DB Requirements, including the Design and Construction Requirements, the Design and Certification Procedure and this Agreement.

“Construction Activities” means the Construction, the Fraser Heights Work, the demolition of the Existing Port Mann Bridge, any Reinstatement Work, any rectification work in respect of a Latent Defect to be carried out by the Constructor pursuant to Section 17.2(a), and any other component of the DB Work that:

- (a) comprises the alteration, upgrading, augmenting, construction, completion, testing or commissioning of any part of the Project Infrastructure;
- (b) comprises the assessment of any Structure or other Infrastructure forming part of the Project Infrastructure; or
- (c) may affect the structural integrity of any Structures, pavement, or other Infrastructure forming part of the Project Infrastructure,

and including any such component of the DB Work carried out as part of any Supervening Event, Authority Change, or Constructor Proposal accepted by the Authority in accordance with Schedule 11 [Changes].

“Construction Certificate” means a certificate in respect of the Construction or any other Construction Activities as provided by the Constructor pursuant to the Design and Certification Procedure.

“Construction Period” means the period commencing with the Effective Date and ending on (and including) the Total Completion Date.

“Construction Period Traffic Management Remittances” means the remittances paid or payable by the Constructor to the Authority pursuant to Section 2.2(a) of Schedule 10 [Performance Mechanism].

“Construction Plant” means plant, materials, tools, implements, equipment, machinery, vehicles, buildings, structures, necessary for or used or to be used in the performance of the DB Work, but does not include Plant.

“Construction Quality Management Plan” or **“CQMP”** means the plan for the quality management of the Construction prepared by the Constructor in accordance with Appendix C [Construction Quality Management Plan] to Schedule 7.

“Construction Records” means, for the purposes of Schedule 4 [Design and Construction], all documents of any kind which record the as-built features of the Concession Highway.

“Constructor” means Kiewit/Flatiron General Partnership, a general partnership formed by Peter Kiewit Sons Co. and Flatiron Constructors Canada Limited, or any assignee or replacement permitted under this Agreement.

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“**Constructor Breakage Costs**” means, without duplication, amounts reasonably and properly payable by the Authority to the Constructor under the terms of this Agreement, to compensate the Constructor for Direct Losses sustained by the Constructor as a direct result of the early termination of this Agreement, but only to the extent that:

- (a) the Direct Losses are incurred in connection with the DB Work and in respect of the performance of the DB Work, including, without duplication:
 - (i) costs of materials or goods ordered or subcontracts placed that cannot be cancelled without such Direct Losses being incurred;
 - (ii) expenditures reasonably incurred in anticipation of the performance of the DB Work in the future;
 - (iii) demobilisation costs, including the cost of any relocation of Construction Plant used in connection with the DB Work; and
 - (iv) termination payments that are required under applicable Laws or under lawful contracts of employment to be made to employees of the Constructor and are reasonably and properly incurred by the Constructor arising as a direct result of termination of this Agreement (provided that the Constructor takes all reasonable steps to mitigate such termination payments) and provided that in calculating such amount no account will be taken of any liabilities and obligations of the Constructor arising out of:
 - (A) contracts of employment or other agreements entered into by the Constructor to the extent that such contracts of employment or agreements were not entered into substantially in connection with the DB Work; or
 - (B) contracts of employment or other agreements entered into by the Constructor to the extent that such contracts of employment or agreements were not entered into in the ordinary course of business and on reasonable commercial arm’s length terms;
- (b) the Direct Losses are incurred under arrangements and/or agreements that are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms;
- (c) the Constructor has used all reasonable efforts to mitigate the Direct Losses; and
- (d) the Authority is not otherwise able or entitled (for default or otherwise) to terminate this Agreement without payment or for reduced payment;

and provided that any compensation for loss of future profits of the Constructor that would otherwise be included pursuant to the foregoing shall not exceed the future profits that the Constructor could reasonably have been expected to earn in the first year immediately following the Termination Date.

“**Constructor Default**” has the meaning given in Section 12.1 [Constructor Default].

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“**Constructor Default Termination Sum**” has the meaning given in Section 2.1(b) of Schedule 13 [Compensation on Termination].

“**Constructor Indemnified Persons**” means

- (a) any agent or professional advisor (including legal and financial advisor) of the Constructor (excluding Subcontractors), in its capacity as such in connection with the Project; and
- (b) any director, officer or employee of the Constructor or of any person included under subsection (a) of this definition.

“**Constructor Insolvency Event**” means the occurrence of any of the following:

- (a) any resolution of the Constructor or of the shareholders or directors of any Partner is passed for the dissolution, liquidation or winding-up of the Constructor or any Partner, or for the suspension of operations of the Constructor or any Partner, or authorizing any of the actions in any of subsections (b) through (f) of this definition;
- (b) a decree, declaration or order of a court having jurisdiction is issued or entered, adjudging the Constructor or any Partner bankrupt or insolvent, or ordering the winding-up or liquidation of the Constructor or any Partner, or approving any reorganization, arrangement, compromise, composition, compounding, extension of time, moratorium or adjustment of liabilities of the Constructor or any Partner under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency, moratorium, reorganization or analogous law of any applicable jurisdiction, or any action or proceeding is commenced or instituted against the Constructor or any Partner for any of the foregoing and such action or proceeding against the Constructor or any Partner continues unstayed and is not withdrawn or dismissed within 45 days after it is commenced or instituted, or any action or proceeding is commenced or instituted by the Constructor or any Partner for any of the foregoing;
- (c) if execution, distress, sequestration or any analogous process is issued, filed or levied against the Constructor or any Partner or against all or a substantial part of the property or assets of the Constructor or any Partner and such execution, distress, sequestration or other process continues unstayed and in effect and is not withdrawn, dismissed, overturned or set aside within the period of 45 days following its issuance or filing and such execution, distress, sequestration or analogous process has or could reasonably be expected to have a material adverse effect on the performance by the Constructor of its obligations under this Agreement;
- (d) a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator, provisional liquidator, agent for a secured creditor, or other person with similar powers, is appointed in any manner in respect of the Constructor or any Units or any Partner or in respect of all or a substantial portion of the property and assets of the Constructor or any Partner, or any creditor takes control, or takes steps to take control, of the Constructor or of any Units or of a Partner or of all or a substantial portion of the property and assets of the Constructor or any Partner, or any action or proceeding is commenced or instituted

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against the Constructor or any Partner for any of the foregoing and such action or proceeding against the Constructor or any Partner continues unstayed and is not withdrawn or dismissed within 45 days after it is commenced or instituted, or any action or proceeding is commenced or instituted by the Constructor or any Partner for any of the foregoing;

- (e) the Constructor or any Partner admits its inability to pay or fails to pay its debts generally as they become due, acknowledges its insolvency, makes an assignment in bankruptcy or makes any other assignment for the benefit of creditors, or files any proposal, notice of intention or petition or otherwise commences or consents to or acquiesces in the commencement of any proceeding seeking any reorganization, arrangement, compromise, composition, compounding, extension of time, moratorium or adjustment of liabilities of the Constructor or any Partner under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency, moratorium, reorganization or analogous law of any applicable jurisdiction, or consents to or acquiesces in the appointment in any manner of a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator, provisional liquidator, agent for a secured creditor or other person with similar powers in respect of the Constructor or the Units or any Partner or in respect of all or a substantial portion of the property or assets of the Constructor or any Partner; or
- (f) the Constructor or a Partner suffers any event, or any event or set of circumstances occurs or comes about, analogous to any of the foregoing events or sets of circumstances set out in this definition, in any jurisdiction in which the Constructor or any Partner is incorporated, formed, domiciled or resident.

“Constructor Non-Excusable Event” means any of the following:

- (a) any wrongful act, wrongful omission, negligent act, negligent omission or wilful misconduct; or
- (b) any breach in the due performance or observance of any of the Constructor’s obligations under this Agreement or any other Project Document to which it is a party,

of or by the Constructor or any person for whom the Constructor is in law responsible.

“Constructor Remittances” means in respect of any period of time the aggregate of the remittances that were or are paid or payable by the Constructor to the Authority for or in respect of that period of time pursuant to Part 2 [Payment Obligations of Constructor] of Schedule 10.

“Constructor Submissions” means any document, materials or other communications by the Constructor under this Agreement relating to the Project or the DB Work.

“Constructor's Environmental Obligations” means:

- (a) the obligations of the Constructor under this Agreement to comply with and carry out all requirements of Environmental Laws, the Environmental Assessment Certificate and the SFPR Environmental Assessment Certificate in connection with the DB Work; and

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- (b) the obligations of the Constructor under Schedule 6 [Environmental Obligations], including with respect to the Environmental Assessment Certificate and the SFPR Environmental Assessment Certificate:
 - (i) the Environmental Assessment Certificate and the SFPR Environmental Assessment Certificate; and
 - (ii) remediation of Contamination on Designated Lands required to be carried out and completed by the Constructor pursuant to an Authority Change issued pursuant to Section 4.4 [Remediation According to Report and Remediation Plan] of Schedule 6 [Environmental Obligations].

“Constructor's Partnership Agreement” means the partnership agreement dated February 29, 2008 between the Initial Partners.

“Contact Information” means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual.

“Contamination” means the presence of any Hazardous Substance in the environment, except Hazardous Substances present in the environment in quantities or concentrations below permissible levels as set by applicable Environmental Laws. If Contamination is present in soil, surface water or ground water, then the soil, surface water or groundwater, as the case may be, containing the Contamination will also be deemed for the purposes of this Agreement to be Contamination.

“Contracting Affiliate” means any Affiliate of the Constructor that performs any DB Work or is a party to any Project Document and includes any Partner.

“Contract Price” has the meaning given in Section 10.1A [Contract Price].

“Contract Year” means each period of 12 calendar months commencing on January 1 and ending on December 31 during the DB Term, provided that:

- (a) the first Contract Year shall be the period from the Effective Date to the next following December 31; and
- (b) the last Contract Year shall be the period ending on the Termination Date and beginning on the next preceding January 1.

“Control” of a person means any of the following:

- (a) the power to direct or cause the direction of the management, actions, policies or decisions of that person, whether directly or indirectly through other persons, and whether through the ownership of shares, voting securities, partnership interests, units of ownership, or other ownership interests, or by contract, or otherwise;
- (b) legal or beneficial ownership or control over equity or ownership interests in that person, whether directly or indirectly through other persons:

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- (i) having a subscribed value (taking into account contributions to be made) of more than one half of the subscribed value (taking into account contributions to be made) of all equity or ownership interests in that person; or
 - (ii) carrying more than one half of the voting rights for:
 - (A) the management, actions, policies or decisions of that person; or
 - (B) the election or appointment of directors or managers of that person;
- or
- (c) if the person is a corporation, “**control**” within the meaning of Section 2(3) of the *Business Corporations Act* (British Columbia) as at the date of this Agreement (excluding any subsequent amendment to such definition and notwithstanding the provisions of Section 2.6 [References to Statutes] of this Schedule).

“**Corrective Action**” means an action to eliminate the cause of an existing Nonconformity, defect or other undesirable situation to prevent its recurrence.

“**Court**” means the Supreme Court of British Columbia and courts of appeal therefrom.

“**CPI**” means the All-items Consumer Price Index for Canada, not seasonally adjusted, as published by Statistics Canada (or its successor government department or agency), or such substitute index as is formally designated by the Government of Canada, or if no index is published or designated by the Government of Canada in substitution therefor, such substitute index as is agreed by the Authority and the Constructor (and, failing such agreement, as determined in accordance with the Dispute Resolution Procedure) as most closely approximating the All-items Consumer Price Index for Canada. Whenever the Official Time Base (currently 2002=100) is changed or a substitute index is designated, historical value will be rebased through the use of a conversion factor as published by the Government of Canada or, in the absence of such publication, such conversation factor as is agreed by the Authority and the Constructor (and, failing such agreement, as determined in accordance with the Dispute Resolution Procedure) to achieve comparability.

“**Cross Street**” means, for the purposes of Schedule 4 [Design and Construction] and Schedule 10 [Performance Mechanism], any roadway crossing the Concession Highway, regardless of whether there are any ramp connections to the Concession Highway or the jurisdiction of the roadway, and including Lougheed Highway, Mary Hill Bypass, United Boulevard, Canada Way and 104 Avenue.

“**CSA**” means the Canadian Standards Association.

“**Cut-off Date**” has the meaning given in Section 10.3A(a).

“**CVSE**” means the Commercial Vehicle Safety and Enforcement Branch of the Ministry.

“**CWS**” means the Canadian Wildlife Service.

“**Damages Cap**” has the meaning given in Section 9.4B(b) of this Agreement.

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“Data Room” means the secure website established by the Ministry for the Project prior to the date of this Agreement containing or referring to materials, documents, information and data in respect of the Project (which may or may not include materials, documents, information and data in respect of the Fraser Heights Connector) and including, as an additional secure website, the FHC Data Room; for record purposes the content of the said secure websites, as at the Financial Submittal Date, have each been copied onto a computer hard drive and three identical copies of each such computer hard drive have been distributed (one to the Constructor and two to the Authority) and signed by the parties for the purposes of identification.

“DB Intellectual Property” means the Intellectual Property (including the Design Data and the Records), and all Intellectual Property Rights therein, which is created, brought into existence, acquired, licensed or used by the Constructor or any Subcontractor, directly or indirectly, for the purposes of the DB Work or otherwise for the purposes of the this Agreement.

“DB Latent Defect Mandatory Costs” has the meaning given in Section 5A.5(b)(iii).

“DB Latent Defect Period” has the meaning given in Section 5A.3 [DB Latent Defect] of this Agreement.

“DB Operational Components” means the Tolling Gantries and the Roadside Toll Facility.

“DB Required Insurance” means the insurance to be obtained by the Constructor pursuant to Section 6.1A [Constructor Insurance Coverages].

“DB Requirements” means all standards, specifications, procedures, design criteria, design guidelines and other requirements applicable to the DB Work, all as set out in this Agreement as at the Effective Date and as amended, supplemented or replaced from time to time after the Effective Date in accordance with this Agreement, and includes the Design and Construction Requirements.

“DB Term” means the period commencing on the Effective Date and ending at 11:59 p.m. on the date that is the later of:

- (a) the end of the DB Warranty Periods; and
- (b) the completion of any work performed by the Constructor to correct any DB Work Defects, including DB Work Latent Defects, pursuant to Part 5A [DB Work] of this Agreement.

“DB Warranty Periods” has the meaning given in Section 5A.2(b).

“DB Work” means all work and activities of or required of the Constructor and the Subcontractors in connection with the performance of any obligations of the Constructor under this Agreement, and the conduct of all work and operations of the Constructor and the Subcontractors on or in relation to the Project, the Project Site and the Project Infrastructure including, without limitation, the Design, the Construction, the Fraser Heights Work, the Reinstatement Work and all other design activities and Construction Activities.

“DB Work Defect” has the meaning given in Section 5A.1 [Representation as to DB Work].

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“**DB Work Latent Defect**” has the meaning given in Section 5A.3 [DB Work Latent Defects].

“**Default Rate**” at any time means simple interest at an annual rate that is [REDACTED] per annum over the Prime Rate at that time. If and when the Prime Rate changes, the Default Rate shall change by the same amount at the same time.

“**Design**” means:

- (a) the design of the Tolling Commencement Components and the Primary Highway Components, including the preparation of all construction drawings and as-built drawings for the Tolling Commencement Components and the Primary Highway Components;
- (b) the performance of all project management, quality management, environmental management, communications management and other management services and activities required for the carrying out of the foregoing;
- (c) the supply of all Plant, Construction Plant, other property and workers for the carrying out of the foregoing;
- (d) all other work, services and activities to be provided by the Constructor in respect of the foregoing,

all as set out and described in and in accordance with the DB Requirements, including the Design and Construction Requirements, the Design and Certification Procedure and this Agreement.

“**Design Build Director**” means the person appointed by the Constructor pursuant to Section 3.1 [Design Build Director] of Schedule 2, or such substitute as may be appointed by the Constructor pursuant to Section 3.2 [Change of Design Build Director] of Schedule 2.

“**Design and Certification Procedure**” means the procedure defined in Part 3 [Design and Certification Procedure] of Schedule 4 for the review of Design Data in connection with the DB Work.

“**Design and Construction Requirements**” means the standards, specifications, procedures, design criteria, design guidelines and other requirements applicable to all design activities included within the DB Work and to all Construction Activities, as set out in this Agreement as at the Effective Date and as amended, supplemented or replaced from time to time after the Effective Date in accordance with this Agreement.

“**Design Certificate**” mean a certificate in respect of the Design or any other design activities in respect of the other Construction Activities as provided by the Constructor pursuant to the Design and Certification Procedure.

“**Design Data**” means all calculations, designs, design or construction information, standards, specifications, plans, drawings, graphs, sketches, models and other materials, including all eye readable or computer or other machine readable data and including all design submissions required under the DB Requirements, used, prepared or to be prepared by or on behalf of the Constructor and/or any of the Constructor’s agents, employees, Subcontractors, the Authority or the Province relating to the DB Work or to any Authority Change or Constructor Proposal.

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“Designated Concession Lands” means:

- (a) the lands and interests in land described in Appendix B [Designated Concession Lands] to Schedule 8; and
- (b) any land or Land Rights the parties agree in writing to include in “Designated Concession Lands”.

“Designated Fraser Heights Lands” means the Designated Concession Lands identified as “Fraser Heights Lands” in Appendix B [Designated Concession Lands] to Schedule 8 and the Designated Other Highway Lands identified as “Fraser Heights Lands” in Appendix E [Designated Other Highway Lands] to Schedule 8.

“Designated Lands” means the Designated Concession Lands and the Designated Other Highway Lands.

“Designated Lands Acquisition Date” in respect of a parcel of Designated Concession Lands means the Designated Concession Lands “Acquisition Date” for such parcel as specified for the parcel in Appendix B [Designated Concession Lands] to Schedule 8 and in respect of a parcel of Designated Other Highway Lands means the “Designated Other Highway Lands Acquisition Date” for such parcel as specified in Appendix E [Designated Other Highway Lands] to Schedule 8.

“Designated Lands Acquisition Notice” has the meaning given in Section 2.1 [Designated Lands Acquisition Notice] of Schedule 8.

“Designated Lands Notification Date” in respect of a parcel of Designated Lands (other than Designated Fraser Heights Lands) means the date that precedes the Designated Lands Acquisition Date for such parcel by a period of time equal to the Lead Time for such parcel.

“Designated Other Highway Lands” means:

- (a) the lands and interests in land described in Appendix E [Designated Other Highway Lands] to Schedule 8; and
- (b) any land or Land Rights the parties agree in writing to include in “Designated Other Highway Lands”.

“Designer” means T.Y. Lin International or H5M, a joint venture of Hatch Mott MacDonald Ltd. and MMM Group Limited, as appropriate, or any assignee or replacement permitted under this Agreement.

“Design Life” has the meaning given to that term in CAN/CSA-S6-06.

“Design Management Plan” means the Design Management Plan submitted by the Constructor in accordance with Section 1.1 [Submission of Design Management Plan] of Part 3 of Schedule 4.

“Design Manager” means the Key Individual identified by such title in Section 3.3(a) of Schedule 2 [Representatives, Review Procedure and Consent Procedure], or such replacement as may be designated by the Constructor pursuant to Section 3.3 [Key Individuals] of Schedule 2.

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“Design Quality Management Plan” or **“DQMP”** means the plan for the quality management of the Design prepared by the Constructor in accordance with Appendix B [Design Quality Management Plan] to Schedule 7.

“Design Team” means the group of Professional Engineers within the Designer’s organization undertaking the design or assessment of the DB Work in connection with the DB Requirements.

“Detailed Design” means the detailed design to be developed from the preliminary design shown in the Design and Construction Requirements in respect of each part of the DB Work so as to allow construction of that part in accordance with the Design and Construction Requirements and so as to comply with, fulfill and satisfy the requirements of the Design and Construction Requirements.

“Detour Route” means, for the purposes of Schedule 4 [Design and Construction], a route which takes traffic off the regular route and, using existing or newly made temporary roadways within the construction work zone, guides traffic around the work zone.

“DFO” means the Department of Fisheries and Oceans of the Federal Government.

“Direct Losses” means Losses other than Indirect Losses.

“Disclosed Data” means any and all information, data, reports and documents from time to time disclosed, provided or made available by the Authority or the Province or their representatives or any other person on behalf of the Authority or the Province, to the Constructor, its Subcontractors or their respective representatives, in connection with or pertaining to the Project, the DB Work, the Project Site, the Project Infrastructure, the requirements of any Governmental Authority, traffic records and forecasts, or any obligations undertaken by the Constructor under this Agreement, and whether disclosed, provided or made available before, on or after the Effective Date, and including without limitation:

- (a) any Design Data provided or made available by the Authority or the Province;
- (b) any and all plans, drawings, materials, books, records, files, correspondence, studies, tests, test results, test data, certificates, investigations, samples, surveys, reports, statements, documents, facts, information, projections and traffic information (including without limitation volume counts, classification counts, origin and destination data, speed and travel time information and vehicle jurisdiction data including, without limitation, any of the foregoing stored electronically or on computer-related media);
- (c) any and all information relating to the Existing Contamination;
- (d) the Geotechnical and Survey Data;
- (e) the information, data, reports and documents set out or referred to in this Agreement including in any Schedule;
- (f) any of the foregoing provided in connection with the Request for Qualifications and/or the Request for Proposals; and
- (g) anything contained or referred to in the Data Room or the FHC Data Room.

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“Discriminatory Change in Law” means a Change in Law consisting of the bringing into force, amendment or repeal of a Law by the Province which specifically applies to:

- (a) the Project and not to other bridge or highway projects whose design or construction are procured on a basis similar to the Project; or
- (b) the Constructor and not to any other persons.
- (c) [Intentionally Deleted]

“Dispute Resolution Procedure” means the procedure set out in Schedule 16 [Dispute Resolution Procedure].

“Draw Request” has the meaning given in Section 10.3A(a).

“EA Application” means each application, including submissions, to obtain the Environmental Assessment Certificate and to obtain the SFPR Environmental Assessment Certificate.

“Early Completion Bonus” has the meaning given in Section 10.2A(a).

“Eastern Segment” means, collectively, the Primary Highway Components in respect of the following Road Sections (as described by the start and end chainages specified in Appendix C [Schedule of Road Sections] to Schedule 10):

- (a) Road Section 9e to and including Road Section 11e; and
- (b) Road Section 1w to and including Road Section 3w.

“Economic Sustainability Route” has the meaning, for the purposes of Schedule 4 [Design and Construction], given in the Seismic Retrofit Manual.

“Effective Date” means March 17, 2009.

“Emergency” means the existence or occurrence of any of the following:

- (a) a serious threat or risk to:
 - (i) the health or safety of members of the public as users of the Project Infrastructure or otherwise;
 - (ii) the environment; or
 - (iii) the safety or integrity of the Project Infrastructure or any property adjacent to or in the vicinity of the Project Site;
- (b) any event or circumstance that prevents or unjustifiably restricts use of the Project Infrastructure as a public highway; and
- (c) any event or circumstance in respect of the Project Infrastructure or the Project Site that prevents the Authority, the Province or any other Relevant Authority from carrying out

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any function or duty that it is required by Laws to carry out in respect of the Project Infrastructure or the Project Site.

“Emergency Response Plan” means the plan prepared by the Constructor comprising a sub-plan of the Traffic Management Plan described in Section 4.2.2 [Emergency Response Plan] of Part 4 of Schedule 4.

“Encumbrance” means any mortgage, lien, pledge, judgment, execution, charge, security interest, restriction, covenant, restrictive covenant, easement, right of way, encroachment, condition, right of re-entry, lease, licence, permit to use or occupy land, crossing agreement, assignment, option, right to acquire, right of first refusal or pre-emption, trust, title defect, claim or encumbrance of any nature whatsoever, whether registered or registrable, and whether or not created by statute.

“Environmental Assessment Certificate” means environmental assessment certificate #T08-01 issued pursuant to the *Environmental Assessment Act* (British Columbia) on June 12, 2008 and attached as Part 1 [Environmental Assessment Certificate] of Appendix A to Schedule 6, as amended by the Environmental Assessment Certificate Amendments upon the issuance of the Environmental Assessment Certificate Amendments, and as further amended, supplemented or replaced from time to time after the Effective Date.

“Environmental Assessment Certificate Amendments” means any and all amendments, acceptances, replacements and/or additions to the Environmental Assessment Certificate and the CEAA Screening Decision Letter required to permit both:

- (a) the replacement of the Existing Port Mann Bridge with the New Concession Bridge; and
- (b) the demolition of the Existing Port Mann Bridge.

“Environmental Authority” means a Governmental Authority exercising its authority under Environmental Laws.

“Environmental Director” means the individual appointed to such position from time to time by the Authority.

“Environmental Guidelines and Policies” has the meaning given to such term in Section 1.1(a) of Schedule 6 [Environmental Obligations], as such guidelines, policies and practices are amended, supplemented or replaced from time to time in accordance with Section 1.1(b) of Schedule 6 [Environmental Obligations].

“Environmental Laws” means:

- (a) all requirements and provisions under or prescribed by any and all applicable Laws;
- (b) all applicable rules, regulations, orders-in-council, codes, protocols, guidelines, policies, procedures, concessions, grants, franchises, licences, permits, approvals, plans, authorizations, agreements and any other governmental requirements, promulgated under or pursuant to any Laws; and

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- (c) all applicable judicial, administrative or regulatory judgments, orders, decisions, certificates and exemptions, including without limitation those rendered by any Governmental Authority;

all as may be amended from time to time, relating to environmental assessment, the protection of the natural environment, the protection of plant, animal and human health, and the protection of land, water and air resources, including those relating to occupational health, management of waste, safety and transportation of dangerous goods, and the safety requirements and procedures that would, in the ordinary and usual course of the operation, management, repair, maintenance and rehabilitation of similar facilities in British Columbia by any person, be recognized, followed and implemented by such person, and includes without limitation the *Canadian Environmental Protection Act* (Canada), the *Fisheries Act* (Canada), the *Transportation of Dangerous Goods Act* (Canada), the *Canada Water Act* (Canada), and the *Environmental Management Act* (British Columbia).

“**Environmental Management Plan**” or “**EMP**” means the plan described in Section 2.7 [Environmental Management Plan] of Schedule 6.

“**Environmental Manager**” means the Key Individual identified by such title in Section 3.3(a) of Schedule 2 [Representatives, Review Procedure and Consent Procedure], or such replacement as may be designated by the Constructor pursuant to Section 3.3 [Key Individuals] of Schedule 2.

“**Environmental Quality Management Plan**” or “**EQMP**” means the plan for the quality management of the Constructor’s Environmental Obligations prepared by the Constructor in accordance with Appendix F [Environmental Quality Management Plan] to Schedule 7.

“**Excluded Event**” means an Unavailability Event or a Traffic Disruption Event, as the case may be, that is:

- (a) directly attributable to an Authority Non-Excusable Event;
- (b) directly attributable to a Police Incident not caused or permitted to occur by the Constructor;
- (c) directly attributable to a Non-Police Incident of less than 30 minutes’ duration not caused or permitted to occur by the Constructor;
- (d) directed by a Governmental Authority having jurisdiction, in response to some event or circumstance not caused or permitted to occur by the Constructor;
- (e) directed by the Authority, in response to some event or circumstance not caused or permitted to occur by the Constructor;
- (f) directly attributable to a Compensation Event;
- (g) required solely to permit the conduct of work by or on behalf of a Utility Supplier or Railway other than Utility Work;
- (h) directly attributable to, and resulting unavoidably from, a Latent Defect; or

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- (i) directly attributable to any Special Event specified by the Authority and of the duration required by the Authority.

“Existing Contamination” means any Contamination that, at the Financial Submittal Date, is situated in, on, under or over, or affects:

- (a) any Original Lands or Qualified Municipal Lands;
- (b) any Infrastructure or other improvements on or to any Original Lands or Qualified Municipal Lands;
- (c) any Designated Lands or Qualified Future Railway Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement; or
- (d) any Infrastructure or other improvements on or to any Designated Lands or Qualified Future Railway Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement;

and specifically excludes any Contamination that, at the Financial Submittal Date, is situated in, on, under or over, or affects:

- (e) any part of the Additional Concession Lands, the Future Railway Lands other than Qualified Future Railway Lands, or Non-Province Controlled Lands other than Qualified Municipal Lands; or
- (f) any Infrastructure or other improvements on any part of the Additional Concession Lands, the Future Railway Lands other than Qualified Future Railway Lands, or Non-Province Controlled Lands other than Qualified Municipal Lands.

“Existing Port Mann Bridge” means the Port Mann Bridge and all related Infrastructure as at the date of this Agreement located between chainage 3979+130 and chainage 4000+000 (as such chainages are shown in the Reference Concept), as altered, upgraded, augmented or demolished from time to time by the carrying out of the DB Work, but excludes all Utilities of Utility suppliers and any Infrastructure and other property of Railways.

“Existing Port Mann Bridge Demolition Target Date” means at any time the date (in this definition, the “subject date”) that is two years after the Substantial Completion Date, as such subject date may be extended pursuant to this Agreement.

“Expert” has the meaning given in Section 3.1 [Referral to Expert] of Schedule 16.

“Expert Dispute Notice” has the meaning given in Section 3.1 [Referral to Expert] in Schedule 16.

“Expiry Date” means the date on which the DB Term ends.

“Extensible Reinforcement” means, for the purposes of Schedule 4 [Design and Construction], reinforcement elements that are within the soil for mechanically stabilized earth walls and are subject to long term creep, including geogrids.

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“External Quality Audit” means either or both:

- (a) a second party Quality Audit conducted by parties having an interest in the relevant organization, such as customers; and
- (b) a third party Quality Audit conducted by an external independent organization such as a certification or registration body.

“Extraordinary Traffic” means extraordinary traffic as defined in the *Transportation Act* (British Columbia).

“Federal Government” means Her Majesty the Queen in right of Canada.

“FHC Construction” means:

- (a) the performance of all construction, completion, testing, commissioning and other services and activities required to construct and complete the Fraser Heights Connector in accordance with the FHC Design in order to achieve Total Completion of the Fraser Heights Connector;
- (b) the performance of all project management, quality management, environmental management, communications management and other management services and activities required for the carrying out of the foregoing;
- (c) the supply of all Plant, Construction Plant, other property and workers for the carrying out of the foregoing; and
- (d) all other work, services and activities to be provided by the Constructor in respect of the foregoing,

all as set out and described in and in accordance with the DB Requirements, the FHC Design, the Design and Certification Procedure and this Agreement, including Schedule 24 [Fraser Heights Connector].

“FHC Data Room” means the secure website established, as a subsite of and as part of the Data Room, by the Ministry for the Fraser Heights Connector portion of the Project prior to the date of this Agreement containing or referring to materials, documents, information and data in respect of the Fraser Heights Connector.

“FHC Design” means the compendium of drawings, plans, specifications, and other material produced by the Designer to calculate, determine and define the FHC Construction necessary for the Fraser Heights Work which has been submitted by the Constructor and accepted by the Authority’s Representative in accordance with the Design and Certification Procedure.

“FHC LDs” has the meaning given in Section 1(a) of Schedule 32 [Liquidated Damages].

“FHC Reference Concept” means the Fraser Heights Reference Concept Plan, Sheets 1 to 7, September 2007 in folder 0420 of the FHC Data Room.

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“**FHC Substantial Completion Date**” means the date on which Substantial Completion occurs in respect of the Fraser Heights Connector, as established by the relevant Certificate of Substantial Completion.

“**FHC Substantial Completion Target Date**” means December 31, 2012, as such date may be extended pursuant to this Agreement.

“**FHC Total Completion Date**” means the date on which Total Completion occurs in respect of the Fraser Heights Connector, as established by the relevant Certificate of Total Completion.

“**Final Design**” means the final design in respect of a component of the DB Work produced by the Constructor in accordance with Article 2 [Design Submissions, Review and Reports] of Part 3 of Schedule 4 [Design and Construction].

“**Financial Base Date**” means January 1, 2008.

“**Financial Submittal Date**” means July 8, 2008.

“**First Nations Requirements**” has the meaning given in Section 1.1 [First Nations Requirements] of Schedule 22.

“**Fisheries Authorization**” means all authorizations required to be obtained (whether in the name of either or both the Authority and the Province) under subsection 35(2) or any other provisions of the *Fisheries Act* (Canada) in respect of the DB Work.

“**FOIPPA**” means the *Freedom of Information and Protection of Privacy Act* (British Columbia).

“**Force Majeure Event**” means any of the following events or circumstances:

- (a) war, hostilities (whether declared or undeclared), invasion, revolution, armed conflict, act of foreign enemy or terrorism;
- (b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
- (c) nuclear explosion, combustion of nuclear fuel or ionizing radiation;
- (d) riot or civil commotion (other than riot or civil commotion constituting a Protest Action); and
- (e) governmental expropriation or confiscation of property by the Federal Government, to the extent that such expropriation or confiscation does not result in a breach of Section 3.1 [Provision of Project Site].

“**Force Majeure Termination Sum**” has the meaning given in Section 3.1(a) of Schedule 13 [Compensation on Termination].

“**Foreseeable Contamination**” means Existing Contamination:

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- (a) that is disclosed in information contained in the Disclosed Data (and for the purposes of this definition “information contained in the Disclosed Data” means information, data, reports and documents located or disclosed in the Data Room or the FHC Data Room excluding any such information, data, reports and documents that are located or disclosed in the Data Room or the FHC Data Room in either case solely by way of links to external websites); or
- (b) that could reasonably have been foreseen or anticipated by the carrying out of all of the following as at the Financial Submittal Date:
 - (i) a Phase 1 Environmental Site Assessment as described by the CSA in Standard CAN/CSA-Z768-01;
 - (ii) a Stage 1 of a Preliminary Site Investigation in accordance with the MOE Technical Guidance Document No. 10 entitled “Checklist for Reviewing a Preliminary Site Investigation” dated October 2005; or
 - (iii) the process for contaminated sites impact assessment set out under Chapter 10 entitled “Contaminated Sites Impact Assessment” of the EA Application for the Environmental Assessment Certificate dated September 2007.

“**Foundation**” means, for the purposes of Schedule 4 [Design and Construction], the structure required to transfer load from a pier or abutment into the supporting soils, including pile caps, pile footings, caissons and drilled shafts.

“**Fraser Heights Connector**” or “**FHC**” means, collectively, the:

- (a) SFPR Extension;
- (b) 176 Street Extension; and
- (c) Golden Ears Connector.

“**Fraser Heights Lands**” or “**FHC Lands**” at any time means:

- (a) those portions of the Original Concession Lands described as “Fraser Heights Lands” in Appendix A [Original Concession Lands] to Schedule 8 and those portions of the Original Other Highway Lands described as “Fraser Heights Lands” in Appendix D [Original Other Highway Lands] to Schedule 8; plus
- (b) any portion of Designated Concession Lands described as “Fraser Heights Lands” in Appendix B [Designated Concession Lands] to Schedule 8 that, before that time, have been made available to the Constructor as provided in Section 1.3 [Commencement of Land License] of Schedule 8 and any portion of Designated Other Highway Lands described as “Fraser Heights Lands” in Appendix E [Designated Other Highway Lands] to Schedule 8 that, before that time, have been made available to the Constructor as provided in Section 1.3 [Commencement of Land License] of Schedule 8;

on which the Fraser Heights Work is to be carried out, but excluding

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- (c) any Temporary Land Rights in any Original Other Highway Lands or Designated Other Highway Lands described in subsections (a) and (b) of this definition that have terminated or expired; or
- (d) any Land Rights (other than fee simple interests) in any Original Other Highway Lands or Designated Other Highway Lands described in subsection (a) and (b) of this definition, that have been terminated.

“Fraser Heights Work” or **“FHC Work”** means, together, all of the DB Work required in accordance with this Agreement in respect of the Fraser Heights Connector, including all DB Work described in Schedule 24 [Fraser Heights Connector], and including, without limitation, the FHC Design and the FHC Construction.

“Full Closure” means a Closure affecting all of the lanes in one or both travelling directions within a Road Section of the Concession Highway or Concession Bridge(s) or in both travelling directions within a Cross Street or Interchange Ramp.

“Future Railway Lands” means any land and improvements owned or held by or under the control of any of the Railways, on or over which any DB Work or Project Infrastructure will be required to be carried out or constructed or will otherwise cross or encroach, and with respect to which Railway Agreements are to be acquired or entered into pursuant to Section 5.10 [Railway Agreements] to Schedule 8, and for greater certainty does not include any Original Lands, Designated Lands or Additional Concession Lands.

“GAAP” means, with respect to any entity at any time, generally accepted accounting principles in effect in Canada as applicable to that entity at that time, including, if so accepted and applicable, the accounting recommendations published in the Handbook of the Canadian Institute of Chartered Accountants.

“GEB Road” means the portion of TransLink’s new roadway connecting between approximately 96 Avenue/Highway 15 in the west and the Golden Ears Bridge project in the east.

“GEC” or **“Golden Ears Connector”** means the Project Infrastructure resulting from the carrying out of the DB Work described in Section 1.1(c) of Appendix A [FHC Work Scope] to Schedule 24.

“Geotechnical Engineer” means a Professional Engineer specializing in geotechnical matters.

“Geotechnical and Survey Data” means only the borehole and test pit logs, and the survey point data, provided as part of the Disclosed Data, and for greater certainty, excludes the reports and other information associated with such logs and data.

“Good Industry Practice” means the exercise of that degree of skill, diligence, prudence and foresight that would reasonably and ordinarily be expected from a person, skilled and experienced in any of the design, construction, operation, maintenance, rehabilitation and tolling of bridges and roads similar in type to the Concession Highway, the Other Highway Facilities and the Municipal Facilities, seeking in good faith to comply with all applicable Laws and the same contractual obligations as the contractual obligations of the Constructor under this Agreement and under the same or similar circumstances and conditions.

“Governmental Authority” means:

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- (a) the Province;
- (b) the Federal Government; and
- (c) any:
 - (i) federal, provincial, territorial, regional, municipal or local governmental authority, quasi-governmental authority, Court, government organization, commission, board or tribunal;
 - (ii) regulatory, administrative or other agency; or
 - (iii) political or other subdivision, department or branch of any of the foregoing;

having jurisdiction in any way over or in respect of any aspect of the performance of this Agreement or the DB Work, or the Project Site or the Project Infrastructure, including the Vancouver Fraser Port Authority.

“**Gravel License**” has the meaning given in Section 4.5(b) of Schedule 8 [Lands].

“**Gravel Pits**” means the gravel pits, stockpile sites, staging/aggregate processing areas and quarries identified in Section A of Appendix I [Gravel Pits and Form of Gravel License] to Schedule 8.

“**GST**” means the goods and services tax imposed pursuant to Part IX of the *Excise Tax Act* (Canada).

“**Guarantees**” means joint and several guarantees of even date herewith in the form of Schedule 30 and provided by each of the Guarantors jointly and severally in accordance with the terms of this Agreement, and “**Guarantee**” means either of them.

“**Guarantors**” means Kiewit Construction Company and HOCHTIEF Aktiengesellschaft, and each of them is a “**Guarantor**”.

“**Guarantor Insolvency Event**” means the occurrence of any of the following in relation to either Guarantor:

- (a) any resolution of the directors or shareholders of the Guarantor is passed for the dissolution, liquidation or winding-up of the Guarantor, or for the suspension of operations of the Guarantor, or authorizing any of the actions in any of subsections (b) through (f) of this definition;
- (b) a decree, declaration or order of a court having jurisdiction is issued or entered, adjudging the Guarantor bankrupt or insolvent, or ordering the winding-up or liquidation of the Guarantor, or approving any reorganization, arrangement, compromise, composition, compounding, extension of time, moratorium or adjustment of liabilities of the Guarantor under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency, moratorium, reorganization or analogous law of any applicable jurisdiction, or any action or proceeding is commenced or instituted against the Guarantor for any of the foregoing and such action or proceeding against the Guarantor continues

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unstayed and is not withdrawn or dismissed within 45 days after it is commenced or instituted, or any action or proceeding is commenced or instituted by the Guarantor for any of the foregoing;

- (c) if execution, distress, sequestration or any analogous process is issued, filed or levied against the Guarantor or against all or a substantial part of the property or assets of the Guarantor and such execution, distress, sequestration or other process continues unstayed and in effect and is not withdrawn, dismissed, overturned or set aside within the period of 45 days following its issuance or filing and such execution, distress, sequestration or analogous process has or could reasonably be expected to have a material adverse effect on the performance by the Guarantor of its obligations under this Agreement;
- (d) a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator, provisional liquidator, agent for a secured creditor, or other person with similar powers, is appointed in any manner in respect of the Guarantor or in respect of all or a substantial portion of the property and assets of the Guarantor, or any creditor takes control, or takes steps to take control, of the Guarantor or of all or a substantial portion of the property and assets of the Guarantor, or any action or proceeding is commenced or instituted against the Guarantor for any of the foregoing and such action or proceeding against the Guarantor continues unstayed and is not withdrawn or dismissed within 45 days after it is commenced or instituted, or any action or proceeding is commenced or instituted by the Guarantor for any of the foregoing;
- (e) the Guarantor admits its inability to pay or fails to pay its debts generally as they become due, acknowledges its insolvency, makes an assignment in bankruptcy or makes any other assignment for the benefit of creditors, or files any proposal, notice of intention or petition or otherwise commences or consents to or acquiesces in the commencement of any proceeding seeking any reorganization, arrangement, compromise, composition, compounding, extension of time, moratorium or adjustment of liabilities of the Guarantor under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency, moratorium, reorganization or analogous law of any applicable jurisdiction, or consents to or acquiesces in the appointment in any manner of a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator, provisional liquidator, agent for a secured creditor or other person with similar powers in respect of the Guarantor or in respect of all or a substantial portion of the property or assets of the Guarantor; or
- (f) the Guarantor suffers any event, or any event or set of circumstances occurs or comes about, analogous to any of the foregoing events or sets of circumstances set out in this definition, in any jurisdiction in which the Guarantor is incorporated, formed, domiciled or resident.

“**Guardrail**” means, for the purposes of Schedule 4 [Design and Construction], a Barrier fastened to the edge of a Bridge Deck to prevent vehicles from running over the side of the Bridge.

“**Hazardous Substance**” means any hazardous waste, hazardous product, hazardous substance, contaminant, toxic substance, deleterious substance, dangerous good, pollutant, waste, hazardous waste, reportable substance, and any other substance, in respect of which the storage, manufacture, handling,

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disposal, treatment, generation, use, transport, remediation or Release into or presence in the environment is prohibited, controlled or regulated under Environmental Laws including without limitation:

- (a) oil, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or toxic substances or any other contaminants or pollutants;
- (b) any such substance which may or could pose a hazard to any real property, or to persons on or about any real property, or causes any real property to be in violation of any Environmental Laws, including without limitation any mixing or combination of any such substance with any other such substance that would cause a breach of any applicable Environmental Laws;
- (c) asbestos in any form which is or could become friable, radon gas, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of limits prescribed by any Environmental Laws; and
- (d) any such substance defined as or included in the definitions of “dangerous goods”, “deleterious substance”, “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous wastes”, “restricted hazardous waste”, “toxic substances”, “special waste”, “waste” or words of similar import under any applicable Environmental Laws, including without limitation the *Canadian Environmental Protection Act* (Canada), the *Fisheries Act* (Canada), the *Transportation of Dangerous Goods Act* (Canada), the *Canada Water Act* (Canada) and the *Environmental Management Act* (British Columbia), including the Hazardous Waste Regulation promulgated thereunder.

“**Health and Safety Laws**” means all Laws relating to occupational health and safety, including the *Workers Compensation Act* (British Columbia) and the OHS Regulation.

“**Health and Safety Program**” has the meaning given in Section 4.13 [Health and Safety Program].

“**High Occupancy Vehicle**” or “**HOV**” means a Motor Vehicle which is entitled to use a High Occupancy Vehicle Lane.

“**High Occupancy Vehicle Lane**” or “**HOV Lane**” means a high occupancy vehicle lane as defined in the *Motor Vehicle Act* (British Columbia).

“**Holding Company**” means, with respect to a corporation, another corporation of which the first mentioned corporation is a “subsidiary” within the meaning of “subsidiary” as defined in the *Business Corporations Act* (British Columbia) as at the date of this Agreement (excluding any subsequent amendment to such definition and notwithstanding the provisions of Section 2.6 [References to Statutes] of this Schedule).

“**IAERC**” means the Inter-Agency Environmental Review Committee, as described in the Terms of Reference therefor contained in the EA Application, to be established by the parties as contemplated in Schedule 6 [Environmental Obligations].

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Section 16

“ICS” or “Incident Command System” means the system used as a basis for emergency response planning and incident management by many government agencies and industry in British Columbia.

“Identified First Nations” means the

“Implementation Plan” means the sub-plan of the Traffic Management Plan described in Section 4.2.3 [Implementation Plan] of Part 4 of Schedule 4.

“Incident” means any motor vehicle collision, motor vehicle breakdown or parking, flooding, Release of a Hazardous Substance, Debris, Emergency or other unplanned event or circumstance of any nature whatsoever occurring on, over, across or in relation to the Project Infrastructure that:

- (a) results in the potential occurrence or the occurrence of a Closure; or
- (b) potentially disrupts or disrupts the use of the Fraser River in the vicinity of the Concession Bridges by marine traffic or fishing.

“Independent Certifier” means the independent firm of Professional Engineers selected by the Authority and the Constructor pursuant to Article 3 [Independent Certifier] of Part 1 of Schedule 4, and any replacement appointed pursuant thereto.

“Independent Certifier Contract” means the agreement to be entered into by the Authority, the Constructor and the Independent Certifier pursuant to Section 3.2 [Independent Certifier Contract] of Part 1 of Schedule 4, as amended, supplemented or replaced from time to time.

“Indirect Losses” means:

- (a) any loss of revenue and loss of profits that might have been, or might be, obtained or received from a source other than the Concession Highway, the Project and the DB Work; and
- (b) any loss of business opportunity with respect to a source other than the Concession Highway, the Project and the DB Work; and
- (c) in the case of obligations of the Constructor to the Authority, Consequential Losses suffered by a third party, for which the Authority, the Province or BCTFA is, pursuant to a contractual commitment entered into by the Authority, the Province or BCTFA with such third party, liable to indemnify such third party (in this definition, an **“Authority Contractual Commitment”**) where:
 - (i) the entering into by the Authority, the Province or BCTFA of the Authority Contractual Commitment and the nature, scope, extent and terms of the indemnification provisions contained therein (including any liability of the Authority, the Province or BCTFA in respect of Consequential Losses) were, at the time such Authority Contractual Commitment was entered into, inconsistent with Past Practice, or otherwise outside the normal course of the customary

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activities of the Authority, the Province or BCTFA, as the case may be, and unreasonable having regard to all relevant circumstances at the time; and

- (ii) neither the Authority, the Province or BCTFA did any of the following:
 - (A) disclosed the Authority Contractual Commitment in the Data Room or the FHC Data Room or to the Constructor; or
 - (B) consulted with the Constructor prior to entering into the Authority Contractual Commitment; or
 - (C) consulted with any Affiliate, agent or representative of the Constructor prior to entering into the Authority Contractual Commitment in the case of an Authority Contractual Commitment entered into prior to the date of this Agreement; and
- (iii) the Authority Contractual Commitment was entered into for reasons other than the *bona fide* pursuit of:
 - (A) completion of a Relevant Component;
 - (B) performance of the Project or the DB Work; or
 - (C) furtherance of the Authority's obligations in respect of the Project or the DB Work;

and

- (iv) "**Past Practice**" refers to the customary practice of the Authority, the Province or BCTFA at the time an Authority Contractual Commitment is entered into, with respect to the nature, scope, extent and terms of indemnification provisions (including any liability of the Authority, the Province or BCTFA in respect of Consequential Losses) contained in contractual arrangements entered into by the Authority, the Province or BCTFA with arm's length third parties, having regard to the nature of the Authority Contractual Commitment and all relevant circumstances at the time any such Authority Contractual Commitment was entered into;

and

- (d) in the case of obligations of the Authority to the Constructor, any of the following:
 - (i) Consequential Losses suffered by any Subcontractor;
 - (ii) Consequential Losses suffered by any Affiliate or former Affiliate of a Subcontractor;
 - (iii) Consequential Losses suffered by any Relevant Person; and

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- (iv) Consequential Losses suffered by any third party (other than a person referred to in any of subsections (d)(i), (d)(ii) and (d)(iii) of this definition) for which the Constructor or a Subcontractor is, pursuant to a contractual commitment entered into by the Constructor or Subcontractor with such third party, liable to indemnify such third party (in this definition, a “**Constructor Contractual Commitment**”) where:
- (A) the entering into by the Constructor or Subcontractor of the Constructor Contractual Commitment was avoidable with the exercise of reasonable diligence and foresight; or
 - (B) the nature, scope, extent and terms of the indemnification provisions contained in the Constructor Contractual Commitment (including any liability of the Constructor or Subcontractor in respect of Consequential Losses) were, at the time such Constructor Contractual Commitment was entered into, not on reasonable arm’s length commercial terms or otherwise not in the ordinary course of business; or
 - (C) the Constructor Contractual Commitment was entered into for a reason other than:
 - (1) the *bona fide* pursuit of completion of a Relevant Component;
 - (2) the performance of the DB Work; and
 - (3) the furtherance of the Constructor’s obligations in respect of the Project or the DB Work.

For the avoidance of doubt, loss of Toll Revenue suffered or incurred by the Authority, and Losses suffered or incurred by the Authority under or pursuant to the Project Documents, do not constitute Indirect Losses.

“**Inflation Index**” means, for the purposes of Schedule 10 [Performance Mechanism], the annual inflation index for a Contract Year, calculated in accordance with Section 3.9 [Calculation of Inflation Index] of Schedule 10.

“**Infrastructure**” means all road and highway infrastructure including roadways, hard shoulders, slip roads, side roads, access roads, pavement, bridges, tunnels and other highway structures whether over or under the travelled surface, together with all related supporting infrastructure, buildings, improvements and amenities, including all intelligent traffic systems and equipment, equipment and infrastructure necessary to support, facilitate and carry out tolling and the recording and collection of tolls (including field subsystems, toll readers, licence plate recognition systems, cameras, vehicle classification systems, roadside processing units, and communication infrastructure), fences and barriers, curbs, culverts, drainage systems including outfalls and balancing ponds, grassed areas, hedges and trees, planted areas, footways, road markings, road traffic signs, road traffic signals, road lighting, communications installations, weigh stations, washrooms and rest areas, picnic sites, pullouts, embankments, retaining walls and cuttings.

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“Initial Partners” means Peter Kiewit Sons Co., a company incorporated under the laws of Nova Scotia and Flatiron Constructors Canada Limited., a company incorporated under the laws of British Columbia.

“Initial Partnership Agreements” means the agreements described in Part 3 [Initial Partnership Agreements] of Schedule 25.

“Initial Railway Crossing Agreements” means the railway crossing agreements described in Appendix H [Railway Crossing Agreements and Railway Orders] to Schedule 8.

“Initial Railway Orders” means the orders of the Canadian Transportation Agency (or its predecessor the National Transportation Agency) described in Appendix H [Railway Crossing Agreements and Railway Orders] to Schedule 8.

“Inspection and Test Plan” or **“ITP”** means a detailed spreadsheet of all major on and off Project Site inspection and test activities for DB Work performed by the Constructor and that of its Subcontractors.

“Intellectual Property” means all access codes, algorithms, application programming interfaces (APIs), apparatus, circuit designs and assemblies, concepts, data, databases and data collections, designs, diagrams, documentation, drawings, equipment designs, flow charts, formulae, ideas and inventions (whether or not patentable or reduced to practice), IP cores, know-how, materials, marks (including brand names, product names, logos and slogans), methods, models, net lists, network configurations and architectures, procedures, processes, protocols, schematics, semiconductor devices, software code (in any form including source code and executable or object code), specifications, subroutines, techniques, test vectors, tools, uniform resource identifiers including uniform resource locators (URLs), user interfaces, web sites, works of authorship, and other forms of technology.

“Intellectual Property Rights” means all past, present and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world in respect of any Intellectual Property:

- (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights and mask work rights;
- (b) trademark and trade name rights and similar rights;
- (c) trade secret rights;
- (d) patent and industrial property rights;
- (e) other proprietary rights in Intellectual Property of every kind and nature; and
- (f) rights in or relating to registrations, renewals, extensions, combinations, divisions and reissues of, and applications for, any of the rights referred to in subsections (a) through (e) above.

“Interchange Ramp” means, for the purposes of Part 4 [Traffic Management] of Schedule 4 and Schedule 10 [Performance Mechanism], that portion of any entrance or exit ramp connecting the Concession Highway mainline to a Cross Street.

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“Interested Parties” means those persons who may be affected by the carrying out of the DB Work or who are duly authorized by Law to review or otherwise take an interest in the DB Work, including the Relevant Authorities.

“Interface Agreement” means an interface agreement substantially in the form attached as Schedule 18 [Interface Agreement] entered into during the DB Term among the Authority, the Constructor and one or more Operators and Tolling Contractors, as thereafter amended, supplemented or replaced from time to time.

“Interim Design” means an interim design for a component of the DB Work produced by the Constructor in accordance with Article 2 [Design Submissions, Review and Reports] of Part 3 of Schedule 4.

“Internal Quality Audit” means a first party Quality Audit of an organization’s own processes conducted by or on behalf of the relevant organization.

“Intervening Subsequent Contamination” means any Subsequent Contamination (other than Authority Subsequent Contamination) introduced onto or into:

- (a) any part of the Original Lands;
- (b) any part of any Infrastructure or other improvements on or to any Original Lands;
- (c) any part of the Designated Lands or Qualified Future Railway Lands that becomes part of the Concession Lands or the Other Highway Lands under this Agreement; or
- (d) any part of any Infrastructure or other improvements on or to any Designated Lands or Qualified Future Railway Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement;

after the Financial Submittal Date and before the date such part is made available to the Constructor as provided in Section 1.3 [Commencement of Land License] of Schedule 8.

“IRI” or **“International Roughness Index”** means, for the purposes of Schedule 4 [Design and Construction], the measure of the pavement smoothness based on the longitudinal profile of the pavement surface as defined in the World Bank Paper 46.

“ISO 9001:2000 Standard” means the ISO 9001:2000 International Standard for Quality Management Systems, as revised and updated from time to time, or, if such standard ceases to be available for any reason, such other replacement standard as the Authority may designate, acting reasonably.

“ITS Equipment” has the meaning given in Section 14.1 [ITS Equipment] of Part 2 of Schedule 4.

“Key Individuals” means the individuals specified by the Constructor in Section 3.3(a) of Schedule 2 [Representatives, Review Procedure and Consent Procedure], as changed from time to time in accordance with Sections 3.3(b) and (c) of Schedule 2 [Representatives, Review Procedure and Consent Procedure].

“Labour Dispute” means any lawful or unlawful strike (including a general strike in British Columbia), lockout, go-slow or other labour dispute occurring after the Effective Date affecting generally the whole

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or a significant section of the highway construction industry in British Columbia and/or the highway operation and maintenance industry in British Columbia.

“Land Rights” means an estate or interest in or right over or relating to any land (including an air space parcel, foreshore and land covered by water) whether legal, equitable, contractual, irrevocable, revocable, permanent, temporary or otherwise including, without limitation, a fee simple interest, a leasehold estate, a statutory right of way, an easement, a license, a permit or a Railway Order.

“Lane Closure” means any Closure affecting a lane or lanes within a Road Section of the Concession Highway or Concession Bridge(s) or within a Cross Street or Interchange Ramp, but excludes a Full Closure.

“Lane Delay” means any traffic congestion or slowing of the flow of traffic in a lane or lanes within the Concession Highway or Concession Bridge(s) (except where the same results from speed restrictions properly imposed from time to time as a direct result of adverse weather conditions or seasonal restrictions for the time being affecting the Concession Highway or Concession Bridge(s), unless the standard of construction and/or condition of the Concession Highway or Concession Bridge(s) has contributed to the need for such speed restrictions) caused by a Lane Closure, a Full Closure or a Stoppage, and measured in accordance with Section 2.4(b) of Part 4 [Traffic Management Requirements] of Schedule 4.

“Lane Shift” means, for the purposes of Schedule 4 [Design and Construction], a transfer of traffic along lane(s) of the same route and which, using existing roadway lanes or surfaces, guides traffic around the work zone.

“Late Completion Plan” has meaning given in Section 12.5A [Late Completion Plan].

“Latent Defect” means any defect:

- (a) in the Existing Port Mann Bridge; or
- (b) in any Original Concession Infrastructure other than the Existing Port Mann Bridge, provided that at the time of the discovery of such defect the Original Concession Infrastructure containing such defect has not been disturbed by the carrying out of the DB Work by the Constructor (other than only to the extent such disturbing is necessary to discover the existence, nature and extent of such defect), the onus of establishing which shall be on the party responsible for the disturbance,

in each case existing as at the Effective Date which the Constructor is not aware of as at the Effective Date, and which could not reasonably have been discovered, ascertained or anticipated as at the Effective Date by a competent person acting in accordance with Good Industry Practice during a visual examination of the Original Concession Infrastructure on or before the Financial Submittal Date or from an analysis of all relevant information available to the Constructor prior to the Financial Submittal Date (including the Disclosed Data as it exists as at the Financial Submittal Date) having regard to the opportunity afforded the Constructor to conduct such inspection, examination and analysis before the Financial Submittal Date.

“Laws” means all laws (including the common law), statutes, regulations, treaties, judgments and decrees and all official directives, bylaws, rules, consents, approvals, authorizations, guidelines, orders and

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policies of any Governmental Authority having the force of law from time to time affecting, applicable to or otherwise relating to the Project, the DB Work, the Project Site, the Project Infrastructure, the Authority or the Constructor, as the case may be, including, for greater certainty, those related to the issuance of Permits and any building codes.

“Lead Time” means:

- (a) in respect of a parcel of Designated Lands (other than Designated Fraser Heights Lands), the minimum period of time ahead of the Designated Lands Acquisition Date for such parcel that the Authority must receive the Designated Lands Acquisition Notice for such parcel in order for the Authority to make such parcel available to the Constructor by the Designated Lands Acquisition Date for such parcel, as such period of time is specified for such parcel in Appendix B [Designated Concession Lands] or Appendix E [Designated Other Highway Lands] to Schedule 8; and
- (b) in respect of a parcel of Additional Concession Lands, the minimum period of time ahead of the Additional Concession Lands Acquisition Date for such parcel that the Authority must receive the Additional Concession Lands Acquisition Notice for such parcel in order for the Authority to make such parcel available to the Constructor by the Additional Concession Lands Acquisition Date for such parcel, as such period of time is specified for such parcel in Appendix C [Additional Concession Lands] to Schedule 8.

“Letter of Credit” means an irrevocable letter of credit in the form of Schedule 29 issued by a bank or financial institution acceptable to the Authority, acting reasonably, and whose long term debt has a credit rating of not less than A (Standard & Poors) or A (Moody’s Investors Service Inc.).

“License to Construct” has the meaning given in Section 5.12(c) of Schedule 8 [Lands]. For certainty, a License to Construct may only be granted over License to Construct Eligible Lands, and shall not constitute a Project Site Agreement or a Railway Agreement.

“License to Construct Areas” means those License to Construct Eligible Lands or parts thereof over which the Authority, the Province or BCTFA obtains a License to Construct as contemplated by Section 5.12 [Licenses to Construct] of Schedule 8. For certainty, License to Construct Areas shall not form part of any Concession Lands, Other Highway Lands or Municipal Lands, and shall not form part of the Project Site.

“License to Construct Eligible Lands” means any lands that are not:

- (a) Original Lands;
- (b) Designated Lands;
- (c) Additional Concession Lands;
- (d) lands owned or held by or under the control of any of the Railways including Future Railway Lands;
- (e) Non-Province Controlled Lands; or

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(f) Municipal Lands.

“**Lifeline Structure**” has the meaning, for the purposes of Schedule 4 [Design and Construction], given in CAN/CSA-S6-06.

“**Liquidated Damages**” has the meaning given in Section 9.4A [Liquidated Damages].

“**Liquidated Damages Event**” means an event giving rise to liability of the Constructor for Liquidated Damages described in Schedule 32 [Liquidated Damages].

“**Losses**” means any and all damages, losses, loss of revenue, loss of toll revenue, liabilities, charges, judgments, court orders, penalties, fines, assessments, costs and expenses (including legal and other professional charges and expenses on a full indemnity basis) of any nature and kind whatsoever and howsoever arising, whether under statute or contract, at common law, in equity, in connection with judgments or criminal or quasi criminal proceedings, or otherwise, and whether direct, indirect or consequential, and “**Loss**” will be construed accordingly.

“**Mainroad**” means Mainroad Lower Mainland Contracting Ltd.

“**Maintenance**” means the maintenance and repair of the Project Infrastructure as required to ensure that the Project Infrastructure is maintained and repaired in accordance with the requirements of the Authority.

“**Major Culverts**” means, for the purposes of Schedule 4 [Design and Construction], structures 3 metres or more in diameter or span constructed of various materials (typically corrugated iron) and required to convey watercourses under the highway.

“**Major Events**” means events having a high public value, including concerts, sport games, conventions, parades and marathons, occurring at BC Place, GM Place, Pacific Coliseum or other major venues or elsewhere within the Municipalities.

“**Major Retaining Wall**” means, for the purposes of Schedule 4 [Design and Construction], a structure whose purpose is to structurally retain earth and which are inventoried as Structures by the Ministry when the wall face is greater than 45 degrees and the maximum exposed wall height exceeds 2.0m, with the primary purpose of the structure not being to support Bridge Abutments and rock fall or avalanche catchments.

“**Major Sign Structures**” means, for the purposes of Schedule 4 [Design and Construction], overhead sign support structures typically of Truss construction with the horizontal members either supported at both ends or cantilevered over the Travelled Lanes.

“**Major Stoppage**” means an occasional, temporary interruption of traffic flow on the Concession Highway, in each case of not less than two minutes’ duration and not more than 20 minutes’ duration, caused or directed by the Constructor for the purpose of facilitating Construction Activities.

“**Mark-up**” means, for the purposes of Schedule 11 [Changes], any margin, mark-up, overhead charge, premium or other increase over or above the any actual amount incurred for salary, wages, machinery, equipment, tools or any other input.

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“**Maximum Payment Curve**” means the cumulative maximum payment schedule for monthly progress payments of the Contract Price attached as Schedule 33 [Maximum Payment Curve] to this Agreement, and as may subsequently be amended from time to time by the parties in accordance with this Agreement.

“**Median**” means, for the purposes of Schedule 4 [Design and Construction], the portion of a divided highway separating the travelled ways for traffic in opposing directions.

“**Minimum Traffic Performance Criteria**” has the meaning given in Section 10.1 [General Requirements] of Part 2 of Schedule 4.

“**Minister**” means the member of the Executive Council of the Province who is charged from time to time with the administration of the *Transportation Investment Act* (British Columbia) and the *Transportation Act* (British Columbia), and includes the Minister’s deputy and any person authorized to act for or on behalf of either of them with respect to any matter under or contemplated by this Agreement.

“**Ministry**” means the ministry of the Province headed by the Minister.

“**Ministry of Forests Protocol Agreement**” means the Protocol Agreement between the Ministry of Forests and the Ministry of Transportation and Highways signed by the Deputy Minister of Forests on September 9, 1992 and by the Deputy Minister of Transportation and Highways on August 8, 1992, as supplemented by the unsigned draft Protocol Agreement between the Ministry of Forests and the Ministry of Transportation dated May 25, 2002, as further supplemented July 26, 2005.

“**Ministry Standards**” means all standards and specifications referred to or identified in Schedule 4 [Design and Construction] or elsewhere in this Agreement, including the Reference Documents, issued or adopted by the Authority or the Province as applicable generally to the design, construction, operation, maintenance, rehabilitation and/or tolling of roads, highways, Bridges and related Structures, systems and improvements, or specifically to the DB Work or to all or any parts or components of the Project Infrastructure and the Project Site, in each case as at the Effective Date or as subsequently amended or revised after the Effective Date.

“**Minor Stoppage**” means an occasional, temporary interruption of traffic flow on the Concession highway, in each case of less than or equal to two minutes’ duration, caused or directed by the Constructor for the purpose of facilitating Construction Activities.

“**Minor Works**” has the meaning given in Section 7.3 [Minor Works].

“**Minor Works Valuation**” means a reasonable estimate consistent with the principles set out in Section 2.4 [Valuation of Change in Costs] of Schedule 11, of the net amount of all Changes in Costs to be incurred by the Constructor to implement an Authority Change or Constructor Proposal as a result of the implementation of the Authority Change or Constructor Proposal, with all future forecast amounts being discounted to the estimated date of payment or saving at a discount rate that is 1% per annum over the Prime Rate.

“**MOE**” means the Ministry of Environment of the Province.

“**Motorcycle**” means a Motor Vehicle that runs on 2 or 3 wheels and has a saddle or seat for the driver to sit astride and does not have a Trailer.

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“**Motor Vehicle**” means a motor vehicle as defined in the *Motor Vehicle Act* (British Columbia).

“**Motor Vehicle Owner**” means the person to whom the Number Plate for that Motor Vehicle was issued.

“**Municipal Facilities**” at any time means the Municipal Lands and the Municipal Infrastructure at that time.

“**Municipal Infrastructure**” at any time means the Original Municipal Infrastructure and the Upgraded Municipal Infrastructure at that time.

“**Municipalities**” means the City of Vancouver, the Corporation of the City of Burnaby, the Corporation of the City of Coquitlam, the Corporation of the City of Surrey, and the Corporation of the Township of Langley, and “**Municipality**” means any one of them.

“**Municipal Lands**” at any time means any Non-Province Controlled Lands, access to which has, before that time, been given by the municipality or highway authority having ownership or control of such lands to the Constructor or a Subcontractor, for the purpose of the construction thereon of any Infrastructure, as part of the carrying out of the DB Work, but does not include any such lands with respect to which, at that time, the Constructor and the Subcontractors are no longer entitled to exercise such right of access for such purpose (and, for certainty, “**Municipal Lands**,” does not include any Original Lands, Designated Lands or Additional Concession Lands).

“**Municipal Roadway**” means, for the purposes of Schedule 4 [Design and Construction], any portion of a Cross Street or adjacent roadway within the jurisdiction of a Municipality.

“**NCE Default Points**” means those points assigned to the Constructor in accordance with Section 4.1A [Assignment of Points by Concessionaire to Constructor] of Schedule 10.

“**NCE Default Points Balance**” has the meaning given in Section 4.4(e)(ii) of Schedule 10 [Performance Mechanism].

“**NCE Remittance Points**” means those points assigned to the Constructor in accordance with Section 4.1 [Assignment of NCE Remittance Points] of Schedule 10.

“**NCE Remittance Points (Default) Balance**” has the meaning given in Section 4.3(b) of Schedule 10 [Performance Mechanism].

“**NCE Remittance Points (Remittance) Balance**” has the meaning given in Section 4.2(b)(ii) of Schedule 10 [Performance Mechanism].

“**New Concession Bridge**” at any time means the new bridge or replacement bridge connecting Highway 1 to Highway 1 across the Fraser River resulting from the carrying out of the DB Work in accordance with the DB Requirements, other than the Existing Port Mann Bridge.

“**Non-Compliance Event**” or “**NCE**” means a failure by the Constructor to meet a specific Performance Measure listed in Appendix D [Assignment of NCE Remittance Points] to Schedule 10.

“**Non-Compliance Remittances**” means the remittances paid or payable by the Constructor to the Authority pursuant to Section 2.5(a) of Schedule 10 [Performance Mechanism].

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“**Nonconformity**” means any failure by the Constructor to perform any of its obligations under this Agreement in respect of any aspect of the DB Work, and which failure is not rectified by the Constructor within the applicable time period, if any, stipulated in this Agreement, including but not limited to the following:

- (a) defective workmanship or repairs not in compliance with the requirements of this Agreement;
- (b) use of materials and/or equipment not in compliance with the requirements of this Agreement;
- (c) deficient, incomplete and/or illegible Quality Records;
- (d) inadequate and/or ineffective defect identification processes;
- (e) failure to achieve documented response time requirements;
- (f) failure to comply with Quality Management System processes;
- (g) failure to take Corrective Action or Preventative Action against any such Nonconformity within the required time; and
- (h) failure to meet the Constructor’s reporting obligations under this Agreement,

but excluding any such failure arising after the Substantial Completion Date in respect of:

- (i) the FHC Construction of the SFPR Extension and the Golden Ears Connector;
- (j) the Construction of the Upgraded Other Highway Infrastructure; and
- (k) the Construction of the Upgraded Municipal Infrastructure.

“**Nonconformity Report**” means a document issued by the Authority’s Representative or the Constructor pursuant to Section 6.1 [Nonconformity Reporting Process] of Schedule 7 detailing the description of an identified Nonconformity and the proposed rectification and action taken or to be taken to deal with such Nonconformity.

“**Nonconformity Tracking System**” means a system to track Nonconformity Reports issued by the Authority’s Representative or the Constructor as set out in Section 6.2 [Nonconformity Report Tracking System] of Schedule 7.

“**Non-Foreseeable Contamination**” means all Existing Contamination other than Foreseeable Contamination.

“**Non-Permitted Full Closure**” means a Full Closure that occurs or subsists:

- (a) in a Road Section in circumstances not expressly permitted pursuant to Section 2.3 [Permitted Full Closures] of Part 4 of Schedule 4; or

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- (b) on a Cross Street in circumstances not expressly permitted pursuant to Section 3.4 [Permitted Full Closures] of Part 4 of Schedule 4.

“Non-Permitted Lane Closure” means a Lane Closure that occurs or subsists in a Road Section or on a Cross Street or Interchange Ramp:

- (a) during a Restricted Period applicable to that Road Section, Cross Street or Interchange Ramp, as the case may be; or
- (b) during a Special Event described in Section 1.5 [Special Events] of Part 4 of Schedule 4,

but excludes a Non-Permitted Full Closure.

“Non-Permitted Lane Delay” means a Lane Delay that occurs or subsists in a Road Section outside the Restricted Periods applicable to that Road Section and that exceeds the Permissible Delay Time in respect of:

- (a) the applicable Highway 1 segment identified in Section 2.4(a)(i)(A) or Section 2.4(a)(ii)(A), as applicable, of Part 4 [Traffic Management Requirements] of Schedule 4; or
- (b) the Highway 1 segment identified in Section 2.4(a)(i)(B) or Section 2.4(a)(ii)(B), as applicable, of Part 4 [Traffic Management Requirements] of Schedule 4,

at the relevant time of day.

“Non-Permitted Stoppage” means a Stoppage that occurs or subsists on a Cross Street:

- (a) during a Restricted Period applicable to that Cross Street; or
- (b) outside the Restricted Periods applicable to that Cross Street, in circumstances not expressly permitted pursuant to Section 3.3 [Permitted Stoppages] of Part 4 of Schedule 4.

“Non-Police Incident” means an Incident as a result of which the Police do not require closure of all or part of any Road Section.

“Non-Province Controlled Lands” means any land owned or held by or under the control of a municipality or a highway authority other than the Authority, the Province and BCTFA, and shall not include any Original Lands, Designated Lands and Additional Concession Lands.

“Non-Resident Motor Vehicle Owner” means a Motor Vehicle Owner who is the registered owner of a Motor Vehicle that does not have a Number Plate issued for the Province of British Columbia.

“No Threshold Compensation Event” means each of the Compensation Events referred to in subsections (a), (b), (f), (h), (i), (j), (k), (l), (m), (o), (p), (r), (t) and (y) of the definition of Compensation Event in this Section.

“Notice of Intention to Terminate” has the meaning given in Section 14.7(a).

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“**Notice of Project**” has the meaning given in Section 4.12(b)(ii)(B).

“**Number Plate**” for a Motor Vehicle registered under the *Motor Vehicle Act* (British Columbia) has the same meaning as in that Act and for a Motor Vehicle registered in another jurisdiction means the licence plate and any validation decals for attachment to the licence plate issued by the authority in that jurisdiction authorized to issue licence plates.

“**OHS Regulation**” means the *Occupational Health and Safety Regulation* (British Columbia) promulgated pursuant to the *Workers Compensation Act* (British Columbia).

“**176 Street Extension**” means the Project Infrastructure resulting from the carrying out of the DB Work described in Section 1.1(b) of Appendix A [FHC Work Scope] to Schedule 24.

“**Open Graded Asphalt**”, “**OGA**”, “**Open Graded Friction Course**” or “**OGFC**” each means, for the purposes of Schedule 4 [Design and Construction] and Schedule 24 [Fraser Heights Connector], asphalt pavement which feature an open aggregate structure in which larger sized aggregate is bound together by asphalt cement.

“**Operating Period**” means the period commencing on the day following the Total Completion Date and ending on the Termination Date.

“**Operation**” means the routine operation of the Project Infrastructure in accordance with the requirements of the Authority.

“**Operator**” means a person who has entered into a contract with the Authority for any or all of the Operation, the Maintenance and the Rehabilitation.

“**Original Concession Infrastructure**” means Infrastructure including Structures situated in, on, under or over any part of the Original Concession Lands at the date of this Agreement including the Existing Port Mann Bridge, but excluding Utilities of Utility Suppliers, Infrastructure and other property of Railways, and Third Party Facilities.

“**Original Concession Lands**” means the lands and interests in land described in Appendix A [Original Concession Lands] to Schedule 8 and includes the lands (including land covered by water) that are leased by the Province or BCTFA under the Vancouver Fraser Port Authority Lease.

“**Original Infrastructure**” means the Original Concession Infrastructure and the Original Other Highway Infrastructure.

“**Original Lands**” means the Original Concession Lands and the Original Other Highway Lands.

“**Original Municipal Infrastructure**” means Infrastructure (excluding Utilities of Utility Suppliers) including Structures situate in, on, under or over any part of the Municipal Lands at the time access to such part is given by the municipality or highway authority that controls or owns such part to the Constructor or a Subcontractor, for the purpose of the construction thereon of any Infrastructure as part of the carrying out of the DB Work, but only for so long as the Constructor or a Subcontractor is entitled to exercise such right of access to such Municipal Lands for such purpose.

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“Original Other Highway Infrastructure” means Infrastructure including Structures situated in, on, under or over any part of the Original Other Highway Lands at the date of this Agreement, but excluding Utilities of Utility Suppliers and Third Party Facilities.

“Original Other Highway Lands” means the lands and interests in land described in Appendix D [Original Other Highway Lands] to Schedule 8.

“Other Highway Facilities” at any time means the Other Highway Lands and the Other Highway Infrastructure at that time.

“Other Highway Infrastructure” at any time means the Original Other Highway Infrastructure at that time and the Upgraded Other Highway Infrastructure at that time.

“Other Highway Lands” at any time means:

- (a) the Original Other Highway Lands (other than Cassiar Connector Lands) at that time;
- (b) any Cassiar Connector Lands at that time; and
- (c) any Designated Other Highway Lands that, before that time, have been made available to the Constructor as provided in Section 1.3 [Commencement of Land License] of Schedule 8;

provided that:

- (d) **“Other Highway Lands”** excludes:
 - (i) any Temporary Land Rights in any Original Other Highway Lands or Designated Other Highway Lands that have terminated or expired; and
 - (ii) any Land Rights (other than fee simple interests) in any Original Other Highway Lands or Designated Other Highway Lands that have been terminated; and
- (e) after the FHC Total Completion Date, **“Other Highway Lands”** shall not include any Fraser Heights Lands.

“Other Land” means any land other than the Original Lands, the Designated Lands, the Additional Concession Lands, the Future Railway Lands, Non-Province Controlled Lands, Municipal Lands and any License to Construct Areas.

“Overpass” means a grade separated Structure carrying a highway over a road, a lesser highway, a railway or a watercourse.

“Panel” has the meaning given in Section 3.2(a) of Schedule 16 [Dispute Resolution Procedure].

“Participants” has the meaning given in Section 8.8(a) [Responsibility for Participants and Trespassers].

“parties” means the parties to this Agreement unless reference is made specifically to another agreement or document.

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“**Partner**” means each of the Initial Partners and any person from time to time holding Units including a holder of securities that are convertible into Units, and “**Partners**” means any or all such persons.

“**Partnership Agreements**” means each of the Initial Partnership Agreements and any other agreement or agreements among any of the Partners or among any of the Partners and the Constructor relating in any way to the Constructor or to Units or to the Partners’ ownership interests in or rights and powers with respect to the Constructor, including any agreement relating to the subscription for Units or equity (or other funding) by any person including Partners, the Constructor or any Affiliate of the Constructor or a Partner, as supplemented, amended or replaced in accordance with this Agreement.

“**Partnerships BC**” means Partnerships British Columbia Inc.

“**Pavement Marking**” means, for the purposes of Schedule 4 [Design and Construction], a retro-reflective mechanism such as paint used to delineate a profile, such as a road.

“**Permissible Delay Time**” has the meaning given in Section 2.4 [Permissible Delays] of Part 4 of Schedule 4.

“**Permits**” means:

- (a) all permissions, consents, approvals, certificates, permits, licences, statutory agreements and authorizations required from any Governmental Authority; and
- (b) all necessary permissions, consents, approvals and agreements from any third parties;

needed to carry out the DB Work in accordance with this Agreement, including all such permissions, consents, approvals, certificates, permits, licences, statutory and other agreements and authorizations required under or pursuant to any other permit, the Environmental Assessment Certificate, the SFPR Environmental Assessment Certificate, the First Nations Requirements, the Requirements of Interested Parties, any Project Site Agreement or any Project Site Encumbrance (and for greater certainty does not include any Railway Agreements or permits thereunder).

“**person**” means a legal entity, individual, corporation, body corporate, partnership (including the Constructor), joint venture, association, trust, syndicate, limited liability company, pension fund, union, Governmental Authority, and the heirs, executors, administrators and legal representatives of an individual.

“**Personal Information**” means recorded information about an identifiable individual collected or created by the Constructor as a result of this Agreement or any previous agreement between the Authority or the Province and the Constructor dealing with the same subject matter as this Agreement.

“**Person Year**” means 2,080 hours of employment less vacation and statutory holiday entitlement.

“**Plant**” means plant, goods, products, commodities, materials, supplies, machinery, equipment, apparatus and other tangible property including Toll Assets and ITS Equipment:

- (a) intended to form part of the Project Infrastructure or actually forming part of the Project Infrastructure; or

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- (b) intended to be incorporated into or permanently affixed to real property forming part of the Project Site or actually incorporated into or permanently affixed to real property forming part of the Project Site.

“**PMB Demolition LDs**” has the meaning given in Section 1(e) of Schedule 32 [Liquidated Damages].

“**Police**” means any of:

- (a) the Royal Canadian Mounted Police;
- (b) any other provincial, federal, regional or municipal police force, police department or other law enforcement body and any related governing body having territorial jurisdiction over or in respect of the Project Infrastructure, the Project Site or any part thereof from time to time;
- (c) a member of the Royal Canadian Mounted Police or any other law enforcement body or related governing body referred to in subsection (b) above; and
- (d) any other official who has or is exercising the powers of a constable or a peace officer while engaged in law enforcement duties, when those duties are exercised in relation to a matter in connection with, or which incidentally affects the operation of, the Project Infrastructure, the Project Site or any part thereof from time to time.

“**Police Incident**” means any Incident as a result of which the Police require closure of all or part of any Road Section.

“**Preventative Action**” means an action to eliminate the cause of a potential Nonconformity or other undesirable situation in order to prevent its occurrence.

“**Primary Highway Components**” means the Upgraded Infrastructure resulting from the carrying out of the DB Work in accordance with Part 2 [Design and Construction Requirements] of Schedule 4 and in accordance with the Constructor’s Final Design in respect thereof, but excluding:

- (a) the Fraser Heights Connector; and
- (b) the Tolling Commencement Components,

and provided that, for the purposes of the certification of Total Completion:

- (c) the Primary Highway Components shall include ten lanes from the Cape Horn interchange to the 152 Street interchange; and
- (d) the demolition of the Existing Port Mann Bridge shall constitute a separate Relevant Component.

“**Primary Highway Components Warranty Period**” has the meaning given in Section 5A.2(b).

“**Prime Contractor**” means a “prime contractor” as defined and described in the *Workers Compensation Act* (British Columbia) and the OHS Regulation, respectively.

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“**Prime Rate**” at any time means the variable rate of interest per annum announced from time to time by Canadian Imperial Bank of Commerce (or its successor) as such bank’s “prime” rate then in effect for determining interest rates on Canadian dollar commercial loans made by it in Canada.

“**Privacy Code**” has the meaning given in Section 15.2(c).

“**Professional Engineer**” means a person who is registered as a professional engineer with the APEGBC.

“**Project**” means the Port Mann/Highway 1 Project to be carried out by the Authority.

“**Project Documents**” means:

- (a) this Agreement;
- (b) the Provincial Payment Guarantee and Support Agreement;
- (c) if and when executed by the parties in accordance with this Agreement, the Interface Agreement and the Independent Certifier Contract;
- (d) the Letters of Credit; and
- (e) the Guarantees;

and all other documents executed and delivered by or on behalf of the parties pursuant to Section 2.17 [Execution and Delivery of Project Documents] and Schedule 27 [Closing Deliveries].

“**Project Infrastructure**” at any time means:

- (a) the Concession Infrastructure at that time;
- (b) the Other Highway Infrastructure at that time; and
- (c) the Municipal Infrastructure at that time;

provided that, after the Total Completion Date, “**Project Infrastructure**” means only any Infrastructure on Municipal Lands on which the Constructor is obligated under Section 2.6(e) to perform work after the Total Completion Date, but only so long as such lands are Municipal Lands and in any event only until completion of such work.

“**Project Schedule**” means the schedule of the milestone dates for the DB Work set out in Appendix A [Project Schedule] to Schedule 3 as of the Effective Date, and as subsequently amended from time to time in accordance with Section 1.2 [Project Schedule] of Schedule 3.

“**Project Site**” at any time means:

- (a) the Concession Lands at that time;
- (b) the Other Highway Lands at that time; and
- (c) any Municipal Lands at that time;

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provided that, after the Total Completion Date, “**Project Site**” means only any Municipal Lands on which the Constructor is obligated under Section 2.6(e) to perform work after the Total Completion Date, but only so long as such lands are Municipal Lands and in any event only until completion of such work.

“**Project Site Agreements**” means any and all agreements and instruments (including the Vancouver Fraser Port Authority Lease) setting out terms and conditions on which Land Rights in any parcel of Original Lands, Designated Lands or Additional Concession Lands that are less than a fee simple interest are at any time, on or after the date of this Agreement, held by the Province or BCTFA including Land Rights:

- (a) described in the column titled “Land Rights Held if other than a Fee Simple Interest” in Part 2 of either of Appendices A [Original Concession Lands] and D [Original Other Highway Lands] to Schedule 8; and
- (b) described in the column titled “Land Rights to be Acquired if other than a Fee Simple Interest” in any of Appendices B [Designated Concession Lands], C [Additional Concession Lands] and E [Designated Other Highway Lands] to Schedule 8;

and any amendments thereto, but does not include any Railway Agreements or any Compulsory Acquisition Orders.

“**Project Site Encumbrances**” means any and all Encumbrances from time to time charging, encumbering or affecting any Original Lands, Designated Lands, Additional Concession Lands, Future Railway Lands or Municipal Lands on or after the date of this Agreement, and any amendments thereto, and including:

- (a) any such Encumbrances described in Appendix F [Certain Project Site Encumbrances] to Schedule 8;
- (b) any such Encumbrances disclosed in the Disclosed Data;
- (c) any such Encumbrances registered in the Land Title Office against title to any Original Lands, Designated Lands, Additional Concession Lands, Future Railway Lands or Municipal Lands; and
- (d) any permit issued in replacement of a statutory right of way registered in the Land Title Office against title to any Original Lands, Designated Lands or Additional Concession Lands that is cancelled on cancellation of a certificate of title in the Land Title Office for any parcel of Original Lands, Designated Lands or Additional Concession Lands.

but does not include any agreement between the Province and/or BCTFA on the one hand and the Authority on the other, pursuant to Section 2(1.1) of the *Transportation Investment Act* (British Columbia), or pursuant to which the Province and/or BCTFA grants to the Authority any rights with respect to the Concession Highway or the Other Highway Facilities.

“**Property Acquisition Plan**” means a plan of the relevant parcel of land that complies with all the requirements of the document dated June 5, 2007 titled “Technical Specifications for Property Acquisition Plans” forming part of the Disclosed Data.

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“Property Damage Insurance Proceeds” has the meaning given in Section 6.18(b).

“Proposal” means:

- (a) the technical submittal dated February 29, 2008; and
- (b) the financial submittal dated the Financial Submittal Date,

each submitted by Connect Highways Development Group Limited Partnership to the Province or the Authority in response to the Request for Proposals, together with all amendments and supplements to such technical proposal and financial proposal.

“Protest Action” means any civil disobedience, protest action, riot, civil commotion, blockade or embargo, including any action taken or threatened to be taken, by any person or persons protesting or demonstrating against the carrying out of any part of the Project (including the construction of the Project Infrastructure) or against the construction or operation of highways and bridges in general, occurring after the Effective Date, but excluding any Labour Dispute or any other strike, lockout or industrial relations dispute or job action.

“Province” means Her Majesty the Queen in right of the Province of British Columbia.

“Provincial Payment Guarantee and Support Agreement” means the Provincial Payment Guarantee and Support Agreement dated March 17, 2009 between the Province, the Constructor and the Authority.

“PST” means the tax that is imposed pursuant to the *Social Service Tax Act* (British Columbia).

“Qualified Coordinator” has the meaning given in Section 4.12(b)(i).

“Qualified Future Railway Lands” means any Future Railway Lands that are:

- (a) included within the scope of the Environmental Assessment Certificate; and
- (b) included within the lands shown as being included within the Reference Concept;

and includes any Future Railway Lands that are the subject of the Province’s application for New BNSF Railway Orders as defined in Section 5.10(b) of Schedule 8 [Lands].

“Qualified Governmental Entity” means any of the following:

- (a) the Province or any ministry or department of the Province;
- (b) any person having the legal capacity, power and authority to become a party to and to perform the Authority’s obligations under this Agreement and the other Authority Project Documents, the duties, obligations and liabilities of which are guaranteed and supported by the Province or any ministry or department of the Province on no worse terms for the Constructor than the duties, obligations and liabilities of the Authority are guaranteed and supported by the Province pursuant to the Provincial Guarantee and Support Agreement;
- (c) the Federal Government; and

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- (d) any person having the legal capacity, power and authority to become a party to and to perform the Authority's obligations under this Agreement and the other Authority Project Documents, the duties, obligations and liabilities of which are guaranteed and supported by the Federal Government or any ministry or department of the Federal Government on no worse terms for the Constructor than the duties, obligations and liabilities of the Authority are guaranteed and supported by the Province pursuant to the Provincial Guarantee and Support Agreement.

"Qualified Insurer" means a reputable and duly qualified insurer of good standing in the worldwide insurance market, licensed to transact insurance business in Canada, rated A.M. Best A- or better or Standard & Poors Ratings Services, a division of the McGraw-Hill Companies, Inc. (in this definition, **"Standard & Poors"**) A or better, provided that:

- (a) if a rating from A.M. Best Company or Standard & Poors is not available, or if A.M. Best Company or Standard & Poors ceases to provide ratings for insurance companies, then having a rating equivalent to or better than the A.M. Best A- rating or the Standard & Poors A rating as at the date of this Agreement, from another rating agency of equivalent calibre that provides ratings of equivalent quality, all as agreed upon by the parties or, failing such agreement, as determined by the Dispute Resolution Procedure; or
- (b) if A.M. Best Company changes its A- rating or Standard & Poors changes its A rating, then having a rating equivalent to or better than the A.M. Best A- rating or the Standard & Poors A rating as at the date of this Agreement, from A.M. Best Company or Standard & Poors or another rating agency of equivalent calibre that provides ratings of equivalent quality, all as agreed upon by the parties or, failing such agreement, as determined by the Dispute Resolution Procedure.

"Qualified Municipal Lands" means any Municipal Lands that are:

- (a) included within the scope of the Environmental Assessment Certificate and/or the SFPR Environmental Assessment Certificate; and
- (b) included within the lands shown as being included within the Reference Concept or the FHC Reference Concept.

"Quality Audit" means a systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which audit criteria are fulfilled.

"Quality Audit Plans" means the Constructor's audit plans defining the Internal Quality Audits and External Quality Audits that the Constructor shall perform or cause to be performed on its own processes and the processes of its Subcontractors.

"Quality Director" means the individual appointed to such position from time to time by the Authority.

"Quality Documentation" means all documentation required in accordance with Schedule 7 [Quality Management] which together constitutes and describes the Quality Management System, including the Quality Manual, Quality Management Plans, Work Method Statements and Quality Audit Plans.

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“Quality Management Plan” or **“QMP”** means each detailed quality management plan of the Constructor detailing which procedures and associated resources shall be applied by whom and when for each aspect of the DB Work required in accordance with this Agreement, including the Design Quality Management Plan, the Construction Quality Management Plan, the Traffic Quality Management Plan and the Environmental Quality Management Plan.

“Quality Management System” means the Constructor’s management system that establishes the organizational structure, procedures, processes, systems, management plans and resources for determining and implementing the Quality Policy in the performance of the DB Work in accordance with this Agreement.

“Quality Manual” means the Constructor’s quality manual meeting the requirements set out in Appendix A [Quality Manual] to Schedule 7 and:

- (a) outlining the Quality Management System for all aspects of the DB Work, and for the complete organization (including the Constructor and its Subcontractors) involved in performing the DB Work;
- (b) establishing Quality Policy and Quality Objectives; and
- (c) outlining the means by which the Constructor shall establish, implement, control and continually improve processes to achieve that Quality Policy and those Quality Objectives.

“Quality Objectives” means the objectives related to quality that are measurable and consistent with the Quality Policy and which are to be formally expressed and recorded in the Quality Manual in accordance with Schedule 7 [Quality Management], provided that, alternatively, each Quality Management Plan may have its own Quality Objectives which are directly related to applicable Quality Policy expressed or recorded in the Quality Manual.

“Quality Policy” means the overall intentions and direction of the Constructor related to quality applicable to the overall organization (including the Constructor and its Subcontractors) involved in performing the DB Work which are to be formally expressed and recorded in the Quality Manual in accordance with Schedule 7 [Quality Management], provided that, alternatively, each Quality Manual Plan may have its own Quality Policies which are directly related to applicable Quality Objectives expressed or recorded in the Quality Manual.

“Quality Records” has the meaning given in Section 5.8 [Quality Records] of Schedule 7.

“Railway Agreements” means any and all Railway Crossing Agreements, Railway Construction/Entry Permits and Railway Orders from time to time.

“Railway Construction/Entry Permits” means all consents, approvals, permissions and agreements, and amendments thereto, required to be obtained from a Railway pursuant to a Railway Crossing Agreement, a Railway Order or applicable Laws, for the carrying out of DB Work on land or improvements of a Railway, but does not include any Railway Crossing Agreements or Railway Orders.

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“Railway Crossing Agreements” means the Initial Railway Crossing Agreements and any and all subsequent agreements (and amendments thereto) entered into by the Province and/or BCTFA with a Railway allowing or providing for:

- (a) Infrastructure comprising or to comprise Project Infrastructure to be located upon and across land and/or improvements of a Railway; and
- (b) the construction, maintenance and use of such Infrastructure upon and across such land and/or improvements.

“Railway Order” means the Initial Railway Orders and any other order of the Canadian Transportation Agency (or its predecessor the National Transportation Agency):

- (a) granted in favour of the Province and/or BCTFA allowing or providing for:
 - (i) Infrastructure comprising or to comprise Project Infrastructure to be located upon and across land and/or improvements of a Railway; and
 - (ii) the construction maintenance and use of such Infrastructure upon and across such land and/or improvements; or
- (b) for the carrying out of DB Work, on land or improvements of a Railway, excluding any such order contemplated by subsection (a) of this definition;

and amendments thereto.

“Railways” means CN Rail, Canadian Pacific Railway Company and Burlington Northern Santa Fe Railway Company, and **“Railway”** means any one of them.

“Records” has the meaning given in Section 1.1 [Constructor Records] of Schedule 17 [Records and Reports].

“Records Management Protocol” means the protocol developed by the Constructor pursuant to Section 1.3 [Records Management Protocol] of Schedule 17.

“Recovery Plan” has the meaning given in Section 12.5A(c).

“Reduced Tolling Period” has the meaning given in Section 5A.5(b)(iii).

“Reference Concept” means the Reference Concept dated October 2007 in folder 0902.10 of the Data Room.

“Reference CPI” means:

- (a) for the first day of any calendar month, the CPI for the third preceding calendar month (for example, the Reference CPI for December 1 in any year will be the CPI for September in that year); and

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- (b) for any other day in a month, a number calculated by linear interpolation between the Reference CPI applicable to the first day of the month in which such day falls as determined according to subsection (a) above and the Reference CPI applicable to the first day of the month immediately following the month in which such day falls as determined according to subsection (a) above. For the purpose of carrying out this linear interpolation, calculations will be carried to six decimal places and rounded, such that the results will be expressed to five decimal places (with numbers of 5 or more rounded up).

“Reference Documents” means the references, codes, standards, specifications, guidelines, policies, reports, publications, manuals, bulletins and other such documents listed in Appendix A [Reference Documents] to this Schedule, each as amended, supplemented or replaced from time to time in accordance with Section 1.2(b) of this Schedule.

“Rehabilitation” means the rehabilitation of the Project Infrastructure in accordance with the requirements of the Authority.

“Reinstatement Plan” has the meaning given in Section 6.16 [Reinstatement Plan].

“Reinstatement Work” has the meaning given in Section 6.15 [Restoration and Reinstatement of Damage or Destruction].

“Release” includes any spill, leak, deposit, pumping, pouring, emission, emptying, discharging, injecting, escape, leaching, migration, disposal, dumping or other form of release of a Hazardous Substance, or permitting of any of the foregoing.

“Relevant Authority” means any entity whose authority is or may be required for the carrying out of all or any part of the DB Work or which has any authority or right in respect of the Project, the Project Infrastructure, the Project Site or any part thereof under any Laws and includes Governmental Authorities.

“Relevant Components” means each of the following:

- (a) collectively, the Fraser Heights Connector;
- (b) collectively, the Tolling Commencement Components;
- (c) collectively, the Primary Highway Components, provided that:
 - (i) for the purposes of the certification of Substantial Completion of the Central Segment, the Primary Highway Components shall include eight lanes from the Cape Horn interchange to the 152 Street interchange; and
 - (ii) for the purposes of the certification of Total Completion:
 - (A) the Primary Highway Components shall include ten lanes from the Cape Horn interchange to the 152 Street interchange; and
 - (B) the demolition of the Existing Port Mann Bridge shall constitute a separate Relevant Component; and

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- (d) individually, the relevant component or components of the Upgraded Infrastructure resulting from the completion of any discrete element of other Construction Activities carried out by the Concessionaire after the Total Completion Date.

“Relevant Persons” means:

- (a) the Partners;
- (b) persons who formerly were Partners;
- (c) Affiliates of the Constructor or of any person described in any of subsections (a) and (b) of this definition; and
- (d) persons who formerly were Affiliates of the Constructor or of any person described in any of subsections (a) and (b) of this definition.

“Relevant Property” means any property that is not within the boundary of the Original Lands, the Designated Lands, the Additional Concession Lands, the Future Railway Lands, or any Non-Province Controlled Lands that at any time become Municipal Lands under this Agreement, that is affected:

- (a) by any Contamination in, on, under or over:
 - (i) any Original Lands, or any Designated Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement; or
 - (ii) any Concession Infrastructure or Other Highway Infrastructure;or
- (b) by any migration or leaching of Contamination from:
 - (i) any Original Lands, or any Designated Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement; or
 - (ii) any Concession Infrastructure or Other Highway Infrastructure.

“Relevant Third Party” means:

- (a) any person having a legal interest in any Relevant Property who suffers damage, injury or other harm caused by:
 - (i) Contamination in, on, under or over:
 - (A) any Original Lands, or any Designated Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement; or
 - (B) any Concession Infrastructure or Other Highway Infrastructure;or

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- (ii) by migration or leaching of any Contamination into or onto the Relevant Property from:
 - (A) any Original Lands, or any Designated Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement; or
 - (B) any Concession Infrastructure or Other Highway Infrastructure;

and

- (b) any person who suffers damage, injury or other harm caused by any Contamination in, on or under any Relevant Property from time to time to the extent such Contamination constitutes Contamination which has migrated or leached into or onto the Relevant Property from:
 - (i) any Original Lands, or any Designated Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement; or
 - (ii) any Concession Infrastructure or Other Highway Infrastructure;

and “**Relevant Third Party**” includes the Authority, the Province and BCTFA to the extent they have a legal interest in any Relevant Property.

“**Relevant Unavailability Event**” means an Unavailability Event, other than an Excluded Event.

“**Relief Event**” means any of the following events or circumstances:

- (a) receipt by the Constructor of an order or direction by Police or fire, ambulance or other emergency services or other Relevant Authorities, provided such order or direction does not result from the occurrence of another Supervening Event;
- (b) the inability of the Constructor to obtain a required Permit or a required renewal or extension thereof due to any unreasonable delay by a Relevant Authority, provided that the Constructor has made all reasonable efforts to obtain such Permit, renewal or extension, including making complete and timely application and, to the extent practicable, considering modifications to the applicable design;
- (c) the inability of the Constructor to obtain a required Railway Crossing Agreement, Railway Order or Railway Construction/Entry Permit or a required renewal or extension thereof due to any unreasonable delay by a Railway, provided that the Constructor has made all reasonable efforts to obtain such Railway Crossing Agreement, Railway Order or Railway Construction/Entry Permit, renewal or extension, including making complete and timely application and, to the extent practicable, considering modifications to the applicable design;
- (d) the failure by a Utility Supplier to comply with the terms of the applicable Utility Information Sheet, provided that the Constructor has made all reasonable efforts to cause such Utility Supplier to so comply;

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- (e) fire, explosion, lightning, storm or flood affecting the Project Site or the Project Infrastructure;
- (f) damage to or destruction of the Project Infrastructure or part thereof caused by a Seismic Event, provided that:
 - (i) the cost to repair and restore the damage to or destruction of Project Infrastructure caused by the Seismic Event is less than or equal to \$5,000,000 (index linked) for a single Seismic Event; and
 - (ii) if such Seismic Event occurs after the Substantial Completion Date, all seismic design requirements specified in the DB Requirements applicable to the damaged Project Infrastructure have been complied with and implemented by the Constructor,

the onus of establishing which shall be on the Constructor;
- (g) a Labour Dispute;
- (h) blockade or embargo falling short of a Protest Action or a Force Majeure Event;
- (i) the occurrence of a Change in Law other than:
 - (i) a Discriminatory Change in Law;
 - (ii) a Change in Law relating to Taxes; or
 - (iii) a Change in Law occurring prior to the Total Completion Date and affecting only the DB Requirements relating to the Construction Activities;
- (j) the existence of any Non-Foreseeable Contamination or any Intervening Subsequent Contamination; and
- (k) the discovery of any Undisclosed Utilities.

“Reports” has the meaning given in Section 2.1 [Required Reports] of Schedule 17.

“Request for Proposals” means the request for proposals in respect of the Project issued by the Province on August 7, 2007, together with all amendments, supplements and addenda thereto.

“Request for Qualifications” means the Request for Qualifications in respect of the Project issued by the Province on May 22, 2007, together with all amendments, supplements and addenda thereto.

“Required Authority Change” means an Authority Change contemplated in any of the following:

- (a) Section 2.16(a)(ii);
- (b) Section 1.2(b) of this Schedule;
- (c) Section 5.10 [New and Amended Utility Agreements] of Part 1 of Schedule 4;

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- (d) [Intentionally Deleted]
- (e) Section 1.1(b) of Schedule 6 [Environmental Obligations];
- (f) Section 1.3(b) of Schedule 6 [Environmental Obligations];
- (g) [Intentionally Deleted]
- (h) Sections 4.4(b) and 4.4(c) of Schedule 6 [Environmental Obligations];
- (i) Section 2.8 [Extension of Acquisition Date by Authority] of Schedule 8;
- (j) Section 5.5 [Additions or Changes by Authority Change] of Schedule 8; and
- (k) Section 2.1 [Other Agreements with First Nations] of Schedule 22.

“Required Insurance” means the Authority Required Insurance (required pursuant to Section 6.1 [Authority Required Insurance]) and the DB Required Insurance (required pursuant to Section 6.1A [Constructor Required Insurance]).

“Requirements of Interested Parties” means the lawful requirements of Interested Parties, whether established pursuant to Laws, the provisions of this Agreement or otherwise, as disclosed or described in the Disclosed Data or which, as of the Financial Submittal Date, the Constructor otherwise had knowledge of, could have discovered through the exercise of reasonable due diligence, or could have reasonably anticipated from an analysis of all relevant information available to the Constructor (including the Disclosed Data) as at the Financial Submittal Date, having regard to the opportunity afforded the Constructor to conduct such due diligence and analysis before the Financial Submittal Date.

“Rest Area” means, for the purposes of Schedule 4 [Design and Construction], a developed Roadside area for the use of the travelling public, containing washrooms, litter receptacles and other facilities and classified as follows:

- (a) Class “A”: a major full service facility, containing a large, permanent building with sinks, usually with 9 or more flush or composting toilets, power, and illumination of pedestrian and/or parking facilities and possibly also containing a tourist information facility operated by others;
- (b) Class “B”: a moderate sized facility containing a permanent building, usually with 4 or more flush or composting toilets; and
- (c) Class “C”: a small facility containing one or more one-person Structures with pit or chemical toilet facilities.

“Restricted Periods” means those periods of time, as set out in Section 2.2 [Restricted Periods] and Section 3.2 [Restricted Periods] of Part 4 of Schedule 4, during any Construction Activity for an identified location within the Active Construction Zone, during which there are restrictions on the Constructor’s available Traffic Management measures in accordance with Part 4 [Traffic Management] of Schedule 4.

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“**Restricted Person**” means any person who, or any member of a group of persons acting together, any one of which:

- (a) has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by Canada for reasons other than its trade or economic policies;
- (b) has as any part of its business the illegal manufacture, sale, distribution or promotion of narcotics substances or arms, or is or has been involved in the promotion, support or carrying out of terrorism;
- (c) in the case of an individual, he or she (or, in the case of a legal entity, any of the members of its board of directors or its senior executive) has been sentenced to imprisonment or otherwise given a custodial sentence, other than a suspended sentence, for any criminal offence, other than minor traffic offences, less than five years prior to the effective date of any proposed transaction;
- (d) has as its primary business the acquisition of distressed assets or investments in companies or organizations which are or are believed to be insolvent or in a financial standstill situation or potentially insolvent;
- (e) is subject to a claim of the Authority, the Province or any other Governmental Authority under any proceedings (including regulatory proceedings) which have been concluded or are pending at the time of any proposed transfer and which (in respect of any such pending claim, if it were to be successful) would, in the view of the Authority, in either case, be reasonably likely to materially affect the performance by the Constructor of its obligations under this Agreement; or
- (f) has been convicted of an offence under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), or has been convicted of the commission of a money laundering offence or a terrorist activity financing offence under the *Criminal Code* (Canada).

“**Retained Structures**” means the Brunette Avenue Underpass, the Brunette Avenue/Coquitlam River Overpass, the Brunette Avenue/BNSF Rail Overpass, the Grandview Highway Underpass, the Gilmore Diversion Underpass and the Douglas Road Underpass.

“**Review Procedure**” means the procedure defined in Section 2.1 [Review Procedure] of Schedule 2 whereby submissions for review are made by the Concessionaire to the Authority’s Representative.

“**RIMS**” or “**Road Inventory and Maintenance System**” means the Ministry’s corporate asset management system that maintains road asset and inventory information for the provincial highway network and through its multiple linear referencing provides the basis to integrate with other Ministry asset management systems.

“**Risk Assessment Plan**” means the sub-plan of the Traffic Management Plan described in Section 4.2.5 [Risk Assessment Plan] of Part 4 of Schedule 4.

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“**Road Safety Audit**” means an audit carried out in accordance with Article 12 [Road Safety Audit] of Part 2 of Schedule 4.

“**Road Safety Audit Certificate**” has the meaning given in Section 4.3 [Road Safety Audit Certificates] of Part 3 of Schedule 4.

“**Road Safety Audit Team**” means a group of individuals appointed from time to time in accordance with the Design and Certification Procedure to carry out road safety audits in respect of the DB Work.

“**Road Section**” means any of the road sections identified in Appendix C [Schedule of Road Sections] to Schedule 10.

“**Roadside Toll Facility**” has the meaning given in Section 13.1 [Facilities] of Part 2 of Schedule 4.

“**Roughness**” means, for the purposes of Schedule 4 [Design and Construction], a measure of the riding comfort experienced by the road user, where the roughness may be due to deficiencies with the original construction or the result of deterioration from traffic and environmental conditions, with the extent of the pavement distortion combined with a vehicle’s suspension and operating speed all contributing to the ride quality.

“**RPMS**” or “**Roadway Pavement Management System**” means the Ministry’s corporate pavement asset management application that is used for monitoring the condition of paved highways to support the planning, programming and delivery of the annual resurfacing plan.

“**RWIS**” means the Road Weather Information System that provides real time reporting of pavement and weather information.

“**Schedules**” means the schedules to this Agreement.

“**Seismic Event**” means an earthquake and includes snowslide, landslide or other earth movements occurring concurrently with and directly resulting from an earthquake shock, but does not include flood (meaning waves, tides, tidal waves, and the rising of, the breaking out or the overflow of any body of water, whether natural or man made, whether or not caused by or attributable to an earthquake). More than one earthquake shock occurring within any 168 hours shall be deemed a single earthquake.

“**Service Life**” has the meaning given to that term in CAN/CSA-S6-06.

“**SFPR**” or “**South Fraser Perimeter Road**” means the Province’s South Fraser Perimeter Road project extending from the 176 Street/Highway 1 interchange in the east, westward through the Municipalities of Surrey and Delta (including the Fraser Heights interchange and the SFPR Extension alignment portions of the Fraser Heights Connector).

“**SFPR Environmental Assessment Certificate**” means environmental assessment certificate #T08-02 issued pursuant to the *Environmental Assessment Act* (British Columbia) on July 24, 2008 and attached as Part 1 [Environmental Assessment Certificate] of Appendix C to Schedule 6, as amended, supplemented or replaced from time to time after the Effective Date.

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“**SFPR Extension**” means the Project Infrastructure resulting from the carrying out of the DB Work described in Section 1.1(a) of Appendix A [FHC Work Scope] to Schedule 24 [Fraser Heights Connector].

“**SFPR Table of Commitments and Assurances**” means the document attached as Appendix [D] [SFPR Table of Commitments and Assurances] to Schedule 6, as amended, supplemented or replaced from time to time after the Effective Date.

“**SGSB**” means, for the purposes of Schedule 24 [Fraser Heights Connector], select granular sub-base.

“**Shoulder**” means, for the purposes of Schedule 4 [Design and Construction], the area between the edge of the outside traffic lane and the Ditch, including the components of Shoulder top, Shoulder edge and Shoulder side slope, and with the Shoulder edge being the breakpoint between the Shoulder top and the Shoulder side slope.

“**Sign**” means, for the purposes of Schedule 4 [Design and Construction], a lettered board, message or other display which includes all regulatory, warning, guide or informational, advisory, construction and maintenance, route markers and all special or other messages/displays under provincial jurisdiction as defined by the Province but excluding electronically controlled messages/displays, but including the Sign Face Overlay.

“**Site Condition Rating**” has the meaning given in Section 4.8(d) of Schedule 7.

“**Site Materials**” means all materials, including soil, aggregates, gravel, rocks, coal, minerals or other deposits, excavated, arising or produced in connection with the carrying out of the DB Work on the Concession Lands and the Other Highway Lands.

“**Site Superintendent**” means, for the purposes of Schedule 4 [Design and Construction], a person appointed by the Constructor or any Subcontractor to direct the work on the Project Site.

“**Special Events**” has the meaning given in Section 1.5 [Special Events] of Part 4 of Schedule 4.

“**Sta.**” or “**Station**” means, for the purposes of Schedule 4 [Design and Construction], Station as a measure, in metres, from a given starting point, as referenced on construction drawings.

“**Stakeholder**” means, for the purposes of Schedule 9 [Communication and Consultation], commuters, local residents, business and goods movers and the list of audience and stakeholders referred to in section 2 of the Strategic Communications and Consultation Plan.

“**Statutory Holiday**” means a holiday as defined in the *Interpretation Act* (British Columbia).

“**Stoppage**” means a Minor Stoppage or a Major Stoppage.

“**Strategic Communications and Consultation Plan**” means the Port Mann/Highway 1 Project Communications & Consultation Plan (Update October 2007), as amended, supplemented or replaced by the Authority from time to time as contemplated in Section 3.1 [Strategic Communications and Consultation Plan] of Schedule 9.

“**Structures**” means any (temporary or permanent):

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- (a) Tunnel, Major Culvert, Major Retaining Wall, Major Sign Structure;
- (b) multi-span Bridge, tunnel or culvert having a cumulative span of 5 metres or more;
- (c) Bridge, tunnel or culvert (other than of corrugated metal) having a span of 1.8 metres or more and where the cover to the road surface is less than 1 metre;
- (d) corrugated metal Bridge or culvert having a span of 0.9 metres or more (irrespective of cover to the road surface);
- (e) pedestrian or cycle underpass (irrespective of span and cover to the road surface);
- (f) retaining wall, including reinforced earth, anchored earth and cribwall systems with slope between 45° and 90° to the horizontal, where the level of the fill at the back of the wall is greater than 1.5 metre above the finished ground level in front of the wall;
- (g) Sign or signal gantry or high mast for lighting, television cameras, catenary lighting systems, intelligent transportation system equipment or tolling equipment;
- (h) buildings and weigh stations; and
- (i) facing panel systems more than 1.5 metres in height.

forming part of the Project Infrastructure.

“Subcontract” means any contract entered into by a Subcontractor in relation to the carrying out of any DB Work.

“Subcontractor” means any party that enters into a contract for the carrying out of any DB Work (including any contract for the supply of any Plant or Construction Plant) with:

- (a) the Constructor; or
- (b) any subcontractor of any tier of the Constructor.

“Subsequent Contamination” means:

- (a) any Contamination, other than Existing Contamination, that is situated in, on, under or over, or affects:
 - (i) any Original Lands;
 - (ii) any Infrastructure or other improvements on or to any Original Lands;
 - (iii) any Designated Lands or Qualified Future Railway Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement; or

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- (iv) any Infrastructure or other improvements on or to any Designated Lands or Qualified Future Railway Lands that at any time become part of the Concession Lands or the Other Highway Lands under this Agreement;
- (b) any Contamination, whenever occurring, that is situated in, on, under or over, or affects:
 - (i) any Additional Concession Lands or Future Railway Lands, other than Qualified Future Railway Lands, that at any time become part of the Concession Lands under this Agreement; or
 - (ii) any Infrastructure or other improvements on or to any Additional Concession Lands or Future Railway Lands, other than Qualified Future Railway Lands, that at any time become part of the Concession Lands under this Agreement;
- and
- (c) any Contamination occurring in, on, under or over:
 - (i) any Non-Province Controlled Lands while they are Municipal Lands under this Agreement; or
 - (ii) any Infrastructure or other improvements on or to any Non-Province Controlled Lands while they are Municipal Lands under this Agreement.

“Substantial Completion” means, in respect of any of the Relevant Components, the satisfactory completion, in accordance with the Design and Certification Procedure, of all DB Work required in respect of such Relevant Components in accordance with all Laws, Permits, applicable DB Requirements and other requirements applicable to such Relevant Components referred to or set out in this Agreement, to such extent as is necessary to permit the safe, uninterrupted and unobstructed public use of such Relevant Components, including but not limited to:

- (a) in the case of the Tolling Commencement Components:
 - (i) if required by the Authority’s Representative, the Authority’s Representative has received confirmation satisfactory to it acting reasonably that rights in and title to the Toll Assets have passed to the Authority in accordance with Section 2.12(a);
 - (ii) [Intentionally Deleted]
- (b) paving of all road surfaces contained within such Relevant Components;
- (c) completion of all Structures and drainage systems contained within such Relevant Components;
- (d) full operation of all traffic lighting and signalization contained within such Relevant Components;
- (e) full operation of all ITS Equipment contained within such Relevant Components;

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- (f) all permanent Pavement Markings at all intersections and on all major roads contained within such Relevant Components;
- (g) installation of all regulatory, warning and guide signing contained within such Relevant Components;
- (h) installation of all Median and Roadside Barrier and other safety devices contained within such Relevant Components;
- (i) completion of all Utility Work related to such Relevant Components and all work with respect to Infrastructure or other property of Railways related to such Relevant Components;
- (j) all construction staging areas for such Relevant Components located on the Project Site have been returned to their original condition or a condition otherwise acceptable to the Authority; and
- (k) all Debris, superfluous materials and equipment have been removed from the portion of the Project Site containing such Relevant Components, and such portion of the Project Site has been satisfactorily cleared,

in each case in accordance with the DB Requirements and this Agreement, and “**Substantially Completed**”, “**Substantially Completing**” and “**Substantially Complete**” have corresponding meanings, provided that, if the Constructor, having complied with Section 2.6 [Access to Municipal Lands], has been unable to obtain reasonable and timely access to any Non-Province Controlled Lands required for the purposes of constructing, altering, upgrading or augmenting thereon any Infrastructure intended to form part of the Primary Highway Components, such that, by the date (in this definition the “**Subject Date**”) that is the later of the Substantial Completion Target Date and the date all of the Primary Highway Components would have been Substantially Completed but for the parts thereof located on such Non-Province Controlled Lands, the Constructor has been unable to substantially complete the parts of the Primary Highway Components intended to be located on such Non-Province Controlled Lands solely as a result of such failure to obtain access thereto (the onus of establishing which shall be on the Constructor), then, as at the Subject Date, without prejudice to the Constructor’s rights and obligations under Section 2.6 [Access to Municipal Lands], the parts of the Primary Highway Components intended to be located on such Non-Province Controlled Lands shall be excluded from the determination of whether or not the Primary Highway Components have been Substantially Completed, and a Certificate or Certificates of Substantial Completion may be issued for the Primary Highway Components or the relevant Concession Highway Segment(s) thereof without regard to the state of completion of those parts of the Primary Highway Components on such Non-Province Controlled Lands.

“**Substantial Completion Date**” means the date (which for greater certainty shall not be earlier than the Tolling Commencement Date) on which Substantial Completion occurs in respect of all of the Primary Highway Components, including, in the event that the Constructor obtains the certification separately for all of any of the Western Segment, the Central Segment and the Eastern Segment, the occurrence of Substantial Completion in respect of all such Concession Highway Segments, as established by the relevant Certificate or Certificates of Substantial Completion, as the case may be.

“**Substantial Completion LDs**” has the meaning given in Section 1(c) of Schedule 32 [Liquidated Damages].

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“**Substantial Completion Longstop Date**” means at any time the date that is one (1) year after the then current latest Substantial Completion Target Date, as such first mentioned date may be extended pursuant to this Agreement.

“**Substantial Completion Target Date**” means:

- (a) in respect of the Eastern Segment, December 31, 2012; and
- (b) in respect of each of the Western Segment and the Central Segment, December 31, 2013,

as each such date may be extended pursuant to this Agreement.

“**Superpave**” means, for the purposes of Schedule 24 [Fraser Heights Connector], hot mixed asphalt pavement designed and constructed in accordance with DBSS Sections 501 and 502, as modified in Schedule 24 [Fraser Heights Connector].

“**Supervening Event**” means any of a Compensation Event, Relief Event or Force Majeure Event.

“**Supervening Event Notice**” has the meaning given in Section 8.2(a).

“**Surveillance Quality Audit**” means Quality Audits conducted by or on behalf of the Authority as contemplated in Section 4.3.2(a) of Schedule 7 [Quality Management].

“**Table of Commitments and Assurances**” means the document attached as Appendix B [Table of Commitments and Assurances] to Schedule 6, as amended, supplemented or replaced from time to time after the Effective Date.

“**TAF**” means a technical appraisal form substantially in the format attached as Appendix F [Sample Contents for a Structural TAF] to Schedule 4, and submitted by the Constructor to the Authority’s Representative in accordance with the Design and Certification Procedure.

“**Tax**” or “**Taxes**” means, from time to time, all present and future taxes, surtaxes, duties, levies, imposts, rates, fees, deductions, withholdings, assessments and similar impositions imposed, levied, rated, collected, charged, withheld or assessed by or payable to any Governmental Authority (including income, capital (including large corporations), withholding, consumption, sales, use, transfer, goods and services or other value-added, excise, customs, anti-dumping, countervail, net worth, stamp, registration, franchise, payroll, employment, health, education, business, school, property, local improvement, development, education development and occupation taxes, surtaxes, duties, levies, imposts, rates, fees, deductions, withholdings, assessments and similar impositions), and any other payments imposed by any Governmental Authority in lieu of any of the foregoing, together with all fines, interest, penalties on or in respect of, or in lieu of or for non-collection of, those taxes, surtaxes, duties, levies, imposts, rates, payments, assessments, withholdings, dues and other charges, and includes all PST and GST except where stated to the contrary.

“**Taxi**” means a Car duly licensed for hire by a Governmental Authority having authority for such licensing.

“**Technical Proposal**” means the proposal submitted by Connect Highways Development Group Limited Partnership in response to the Request for Proposals.

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“Temporary Land Rights” means any Land Rights (other than fee simple interests) in any Original Lands, Designated Lands, Additional Concession Lands or Future Railway Lands that have a scheduled expiry date that will occur before the Expiry Date.

“Temporary Works” means all works and things of a temporary nature of every kind required in or about the execution and completion of the DB Work.

“Termination Date” means the earlier of:

- (a) the Expiry Date; and
- (b) the effective date of termination of this Agreement according to its terms.

“Third Party Contractor” means any contractor (excluding the Constructor and any person for whom the Constructor is in law responsible) that, on behalf of the Authority, has carried out or will carry out work after the Effective Date in respect of the Project Infrastructure or otherwise on the Project Site, and includes an Other Prime Contractor as defined in Section 4.16(a), Mainroad, any Operator and any Tolling Contractor.

“Third Party Facilities” means bus shelters, telephone facilities, Utilities and other public facilities and associated equipment, plant, materials and apparatus installed and operated or to be installed and operated on the Project Site by any transit authority, communications provider, Utility Supplier or other third party.

“Toll Assets” means all assets, equipment and Infrastructure, wherever located from time to time, necessary to support, facilitate and carry out the tolling of the Concession Bridge(s) or the Concession Highway or part thereof, the recording and collection of tolls in respect of the Concession Bridge(s) or the Concession Highway or part thereof, and the operation of the Toll System, including:

- (a) all field subsystems including Toll Readers, license plate recognition systems, cameras, vehicle classification systems and roadside processing units;
- (b) all Toll Devices that have been distributed to the public;
- (c) communication infrastructure;
- (d) all spares, test equipment, Toll Device stores and any custom maintenance equipment;
- (e) central servers, works stations, and customer service work stations;
- (f) telephone switching systems;
- (g) physical data archives both on site and off site;
- (h) all third party software licenses;
- (i) manuals for all equipment and software;
- (j) a Complete License to use any proprietary software;
- (k) customer records and agreements;

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- (l) accounting records;
- (m) all Intellectual Property and Intellectual Property Rights necessary for the operation of the Toll System;
- (n) daily transaction records and customer data;
- (o) passwords for all subsystems and accounts; and
- (p) subcontracting agreements for supply, maintenance and operation of the Toll System;

but excluding money and bank accounts.

“**Toll Bonus Period**” has the meaning given in Section 10.2A(a)(iv).

“**Toll Device**” means a device that:

- (a) may be installed or carried on, or in or attached to, a Motor Vehicle; and
- (b) allows electronic identification of the person who is to pay the Designated Toll, or the Toll Account or Prepaid Account from which a Designated Toll is to be paid, arising from the Motor Vehicle’s use of a Bridge.

“**Toll Device User**” means a Registered User to whom a valid Toll Device has been issued.

“**Tolling Gantries**” has the meaning given in Section 13.1 [Facilities] of Part 2 of Schedule 4.

“**Toll Reader**” means equipment that detects Toll Devices.

“**Toll Revenue**” means in respect of any period of time toll revenues (including fines, penalties, interest and other charges for non-payment or late payment of tolls) actually collected or paid in that period of time in respect of the tolling of the Concession Bridge(s) or the Concession Highway or part thereof.

“**Toll System**” means the complete electronic tolling system for the tolling of the Concession Bridge(s) including software.

“**Tolling**” means, each to the extent not included as part of the DB Work:

- (a) the design of the Toll System;
- (b) the performance of all supply, installation, implementation, testing, commissioning and other services and activities required to furnish and install the Toll System and to complete all system acceptance testing of the Toll System to achieve Total Completion of the Toll System;
- (c) the charging and collecting of tolls and interest and other fees and charges, including the enforcement of remedies for non-payment of tolls, on behalf of the Authority;
- (d) the operation and maintenance of the Toll System, including back office and customer service activities;

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- (e) the performance of all project management, quality management, environmental management, communications management and other management services and activities required for the carrying out of the foregoing;
- (f) the supply of all Plant, Construction Plant, other property and workers for the carrying out of the foregoing; and
- (g) all other work, services and activities to be provided in respect of the foregoing.

“Tolling Commencement Components” means the following:

- (a) unrestricted free flow movement of traffic on Highway 1 and the Lougheed Highway;
- (b) a minimum of six general purpose lanes (three per direction) and two HOV Lanes (one per direction) along Highway 1 between the Brunette Avenue Interchange and the 152 Street Interchange;
- (c) a minimum of four lanes (two per direction) provided on Lougheed Highway through the Cape Horn Interchange, with a minimum of six lanes (three per direction) on Lougheed Highway from both ends of the ramp terminals to and from Highway 1 (ie. auxiliary lanes for merging and diverging) provided that, if the Constructor’s Design provides for the integration of Lougheed Highway with Highway 1 as part of a collector distributor road system at the Cape Horn Interchange to alleviate traffic weaving, Lougheed Highway may be reduced to two continuous lanes (one per direction) through the Cape Horn Interchange;
- (d) unrestricted free flow connections for the following movements at the Cape Horn Interchange:
 - (i) Highway 1 westbound to Lougheed Highway eastbound;
 - (ii) Lougheed Highway eastbound and westbound to Highway 1 eastbound;
- (e) a combined total of either two or three on-ramp lanes from the Lougheed Highway and the Mary Hill Bypass shall be directly connected to Highway 1 westbound; and
- (f) all of the Upgraded Concession Infrastructure from just east of the 160 Street Interchange to the 152 Street Interchange; however, Highway 1 shall only operate as six lanes between the 152 Street and 160 Street Interchanges (two general purpose lanes and one HOV Lane per direction).

“Tolling Commencement Date” means the date on which Substantial Completion occurs in respect of the Tolling Commencement Components, as established by the Certificate of Tolling Commencement Completion.

“Tolling Commencement Target Date” means December 1, 2012.

“Tolling Components Warranty Period” has the meaning given in Section 5A.2(a).

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“**Tolling Contractor**” means a person who has entered into a contract with the Authority for any or all of the Tolling.

“**Tolling Gantries**” has the meaning given in Section 13.1 [Facilities] of Part 2 of Schedule 4.

“**Tolling LDs**” has the meaning given in Section 1(b) of Schedule 32 [Liquidated Damages].

“**Total Completion**” means:

- (a) in respect of the Primary Highway Components the satisfactory full and final completion, in accordance with the Design and Certification Procedure, of all DB Work required in respect of the Tolling Commencement Components and the Primary Highway Components in accordance with all Laws, Permits, applicable DB Requirements and other requirements applicable to the Tolling Commencement Components and the Primary Highway Components referred to or set out in this Agreement , other than the demolition of the Existing Port Mann Bridge;
- (b) in respect of the demolition of the Existing Port Mann Bridge, the satisfactory full and final completion, in accordance with the Design and Certification Procedure, of the demolition, removal and disposal thereof in accordance with all Laws, Permits and DB Requirements applicable to such demolition, including Sections 3.6 [Existing Port Mann Bridge] and 16.1 [Demolition] of Part 2 of Schedule 4; and
- (c) in respect of any other of the Relevant Components, the satisfactory full and final completion, in accordance with the Design and Certification Procedure, of all DB Work required in respect of such Relevant Components in accordance with all Laws, Permits, applicable DB Requirements and other requirements applicable to such Relevant Components referred to or set out in this Agreement,

and “**Totally Completed**”, “**Totally Completing**” and “**Totally Complete**” have corresponding meanings, provided that, if the Constructor, having complied with Section 2.6 [Access to Municipal Lands], has been unable to obtain reasonable and timely access to any Non-Province Controlled Lands required for the purposes of constructing, altering, upgrading or augmenting thereon any Infrastructure intended to form part of the Primary Highway Components, such that by the date (in this definition the “**Subject Date**”) that is the later of the Total Completion Target Date and the date all of the Primary Highway Components would have been Totally Completed but for the parts thereof located on such Non-Province Controlled Lands, the Constructor has been unable to totally complete the parts of the Primary Highway Components intended to be located on such Non-Province Controlled Lands solely as a result of such failure to obtain access thereto (the onus of establishing which shall be on the Constructor), then, as at the Subject Date, without prejudice to the Constructor’s rights and obligations under Section 2.6 [Access to Municipal Lands], the parts of the Primary Highway Components intended to be located on such Non-Province Controlled Lands shall be excluded from the determination of whether or not the Primary Highway Components have been Totally Completed, and a Certificate of Total Completion may be issued for the Primary Highway Components without regard to the state of completion of those parts of the Primary Highway Components on such Non-Province Controlled Lands.

“**Total Completion Date**” means the date on which Total Completion occurs in respect of the Primary Highway Components (other than the demolition of the Existing Port Mann Bridge), as established by the relevant Certificate of Total Completion.

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“**Total Completion LDs**” has the meaning given in Section 1(d) of Schedule 32 [Liquidated Damages].

“**Total Completion Target Date**” means November 30, 2014, as such date may be extended pursuant to this Agreement.

“**Traffic Control**” means the placement or erection of Signs, signals, Pavement Markings or other installations, and the use of flaggers and other personnel, for the purpose of regulating, warning or guiding traffic.

“**Traffic Control Plan**” or “**TCP**” means the sub-plan or sub-plans of the Traffic Management Plan prepared by the Constructor in accordance with Section 4.2.1 [Traffic Control Plans] of Part 4 of Schedule 4.

“**Traffic Control Supervisor**” or “**TCS**” means a person appointed by the Constructor in accordance with Section 5.4 [Traffic Control Supervisor(s)] of Part 4 of Schedule 4.

“**Traffic Disruption Event**” means a Non-Permitted Lane Delay, a Non-Permitted Lane Closure, a Non-Permitted Full Closure or a Non-Permitted Stoppage.

“**Traffic Engineer**” means the person appointed by the Constructor in accordance with Section 5.3 [Traffic Engineer] of Part 4 of Schedule 4.

“**Traffic Management**” means the recognition of the various situations where Traffic Control and guidance are required, and the implementation of effective procedures, including Traffic Control, to safely control and guide traffic with minimal interruptions and delays.

“**Traffic Management Communications Plan**” means the plan prepared by the Constructor in accordance with Part 4 [Traffic Management Communications] of Schedule 9.

“**Traffic Management Plan**” or “**TMP**” means the plan prepared by the Constructor in accordance with Article 4 [Traffic Management Plan] of Part 4 of Schedule 4.

“**Traffic Manager**” means the Key Individual identified by such title in Section 3.3(a) of Schedule 2 [Representatives, Review Procedure and Consent Procedure], or such replacement as may be designated by the Constructor pursuant to Section 3.3 [Key Individuals] of Schedule 2.

“**Traffic Quality Management Plan**” or “**TQMP**” means the plan for the quality management of the Traffic Management for the Concession Highway prepared by the Constructor in accordance with Appendix E [Traffic Quality Management Plan] to Schedule 7.

“**Trailer**” includes a vehicle without motive power designed to be drawn by or used in conjunction with a Motor Vehicle.

“**TransLink**” means South Coast British Columbia Transportation Authority.

“**Travelled Lane**” means, for the purposes of Schedule 4 [Design and Construction], the surface of a highway:

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- (a) between the painted Shoulder line on one side and the painted Shoulder line on the other side; or
- (b) in the absence of Shoulder lines, from asphalt edge to asphalt edge; or
- (c) in the absence of hard surfacing, as defined for a dirt and gravel highway, including the trafficable portions of Rest Areas, Pullout areas, parking areas, Weigh Scale Areas, and any other vehicle-accessible portions within the highway right-of-way.

“**Trespassers**” has the meaning given in Section 8.8(a).

“**Truck Tractor**” means a Motor Vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle drawn and of the load of the other vehicle.

“**Tunnels**” means, for the purposes of Schedule 4 [Design and Construction], any buried structure intended to convey pedestrian, wild life, farm animals or vehicular traffic, with a minimum dimension of 3 meters and including Snowsheds with respect to inspection and performance requirements.

“**Unavailability Event**” means the Closure, for any reason, of a lane within any of the Road Sections.

“**Unavailability Events Remittances**” means the remittances paid or payable by the Constructor to the Authority pursuant to Section 2.4(a) of Schedule 10 [Performance Mechanism].

“**Underpass**” means a Structure carrying a road, a lesser highway, a railway or pedestrians over a highway.

“**Undisclosed Utilities**” means any Utilities located on, in, under or over the Project Site and the Project Infrastructure, the existence or actual location of which, as at the Financial Submittal Date:

- (a) was not disclosed to the Constructor in the Disclosed Data as at the Financial Submittal Date; and
- (b) the Constructor does not otherwise have knowledge of, could not have discovered through the exercise of reasonable due diligence, and could not have reasonably anticipated from an analysis of all relevant information available to the Constructor (including the Disclosed Data) as at the Financial Submittal Date, having regard to the opportunity afforded the Constructor to conduct such due diligence and analysis before the Financial Submittal Date.

“**Units**” means units or other equity interests of any class in the capital of the Constructor, and any other ownership interests in the Constructor.

“**Unusual Event**” means:

- (a) any Unavailability Event;
- (b) any Police Incident or Non-Police Incident, whether or not resulting in an Unavailability Event; or

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(c) a Statutory Holiday.

“Upgraded Concession Infrastructure” at any time means the Infrastructure (including Original Concession Infrastructure) situated in, on, under or over any part of the Concession Lands, as such Infrastructure is altered, upgraded and augmented at that time by the carrying out of the DB Work, including upgraded as well as new Infrastructure, and including the Existing Port Mann Bridge and the New Concession Bridge, but excluding Utilities of Utility Suppliers, Infrastructure and other property of Railways, and Third Party Facilities.

“Upgraded Infrastructure” means the Upgraded Concession Infrastructure, the Upgraded Municipal Infrastructure and the Upgraded Other Highway Infrastructure.

“Upgraded Municipal Infrastructure” at any time means the Infrastructure (including the Original Municipal Infrastructure but excluding Utilities of Utility Suppliers) situated in, on, under and over any part of the Municipal Lands access to which has been given by the municipality or highway authority that controls or owns such part to the Constructor or a Subcontractor, for the purpose of the construction thereon of any Infrastructure as part of the carrying out of the DB Work (but only for so long as the Constructor or a Subcontractor is entitled to exercise such right of access to such Municipal Lands for such purpose), as such Infrastructure is altered, upgraded and augmented at that time by the carrying out of the DB Work, and may include upgraded as well as new Infrastructure.

“Upgraded Other Highway Infrastructure” at any time means the Infrastructure (including the Original Other Highway Infrastructure) situated in, on, under or over any part of the Other Highway Lands, as such Infrastructure is altered, upgraded and augmented at that time by the carrying out of the DB Work, including upgraded as well as new Infrastructure, but excluding Utilities of Utility Suppliers and Third Party Facilities.

“Utilities” means privately, publicly or cooperatively owned lines, facilities or systems for transmitting or distributing electricity, data, communications, gas, oil and petroleum products, water and sewage or other similar commodity which serve the public directly or indirectly, including underground, surface and overhead facilities as well as facilities which use common poles, ducts or conduits on a shared basis, and all related Infrastructure.

“Utility Agreements” means the Utility Information Sheets and the other agreements listed in Part 1 [List of Utility Agreements] of Appendix C to Schedule 4, and any other agreement entered into by the Authority, the Province or BCTFA with a Utility Supplier in connection with the construction, installation, operation, repair, preservation, relocation and/or maintenance of Utilities in, on, under, over or adjacent to the Project Infrastructure and the Project Site or any part thereof, and includes any site or other permits issued thereunder or pursuant thereto, all as amended, supplemented or replaced from time to time.

“Utility Information Sheets” means the documents listed as items 1 to 12 in Part 1 [List of Utility Agreements] of Appendix C to Schedule 4 and attached in Part 2 [Copies of Utility Information Sheets] thereof, as amended, supplemented or replaced from time to time.

“Utility Supplier” means the owner of any Utility.

“Utility Work” means temporary and permanent installation, protection, removal and relocation works relating to Utilities carried out in connection with or as part of the DB Work, including installation,

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protection, removal and relocation of poles, pole lines, conduits, gas pipes, oil pipes, sewers and tile lines, and related and ancillary works.

“**Value Engineering Proposal**” has the meaning given in Section 7.4 [Value Engineering Proposals].

“**Vancouver Fraser Port Authority Lease**” means any lease between Vancouver Fraser Port Authority as landlord and the Authority, the Province or BCTFA as tenant, for the lands of Vancouver Fraser Port Authority where one or both of the Concession Bridges is located or is to be located, as amended, supplemented or replaced from time to time.

“**Vehicle Identification Device**” means a Toll Reader, a video camera or any other device or equipment located on or on an approach to a Bridge for detecting or identifying Motor Vehicles that are driven on a Bridge.

“**Warranty Period**” means five years following the earlier of:

- (a) the FHC Substantial Completion Date; and
- (b) the Termination Date.

“**Western Segment**” means the Primary Highway Components in respect of, collectively, the following Road Sections (as described by start and end chainages specified in Appendix C [Schedule of Road Sections] to Schedule 10):

- (a) Road Section 1e to and including Road Section 4e; and
- (b) Road Section 8w to and including Road Section 11w.

“**Wildlife**” has the meaning given in the *Wildlife Act* (British Columbia).

“**Work Method Statements**” or “**WMS**” means written management plans for critical and complex activities, processes or plans where the absence of written instructions could have a negative impact on worker safety, quality, consistency, cost or schedule, which constitute commitments of the Constructor and describe how work shall be performed, inspected or tested and shall include a checklist to confirm that work is being conducted in accordance with the appropriate standard, code, specification or plan in accordance with this Agreement.

“**Workers’ Compensation Board**” means the Board defined in and continued under the *Workers Compensation Act* (British Columbia).

“**Works Schedule**” means the detailed schedule for design, investigation, construction and all related activities within the DB Work, to be submitted by the Constructor pursuant to, and as subsequently amended from time to time in accordance with, Section 1.3 [Works Schedule] of Schedule 3.

1.2 Reference Documents

- (a) The Reference Documents are referenced in this Agreement by the “Short Form” identified on Appendix A [Reference Documents] to this Schedule.

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- (b) The Constructor shall at all times during the DB Term comply with the then most current versions of all Reference Documents, provided that, if and to the extent that any amendment, supplement or replacement of or to any Reference Document impacts the design, quality or scope of the Fraser Heights Connector, the Tolling Commencement Components or the Primary Highway Components, or the construction thereof:
 - (i) if and to the extent that compliance with such amendment, supplement or replacement of or to such Reference Document is required for the Constructor's continued compliance with Laws (the onus of establishing which shall be on the Constructor), but without limiting the Constructor's obligation to comply with Laws, the Authority shall issue an Authority Change to require compliance with such amendment, supplement or replacement of or to such Reference Document and the provisions of Part 7 [Authority Changes and Constructor Proposals] shall apply accordingly; and
 - (ii) in all other cases, the Constructor shall not be required to comply with such amendment, supplement or replacement of or to such Reference Document unless the Authority has issued an Authority Change to require such compliance, in which case the provisions of Part 7 [Authority Changes and Constructor Proposals] shall apply accordingly.

**PART 2
INTERPRETATION**

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

2.1 [Intentionally Deleted]

2.2 Waiver of Contra Proferentum

The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same, or against the party benefiting from such terms or provisions.

2.3 Headings

The table of contents, headings and sub-headings, and references to them, in this Agreement, are for convenience of reference only, do not constitute a part of this Agreement, and will not be taken into consideration in the interpretation or construction of, or affect the meaning of, this Agreement.

2.4 Cross References

All references to Parts, Articles, Sections, subsections, paragraphs and Schedules are references to the relevant Parts, Articles, Sections, subsections, paragraphs and Schedules of this Agreement unless reference is made to another Agreement. Without limiting the generality of the foregoing, reference in this Agreement, or in a Schedule of this Agreement, to a Part, Article or Section refers to the applicable

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Part, Article or Section in this Agreement (excluding the Schedules), unless reference to a Part, Article or Section of a particular Schedule of this Agreement is indicated.

2.5 Internal References

The words “**herein**”, “**hereof**” and “**hereunder**” and other words of similar import refer to this Agreement as a whole and not to any particular Part, Article, Section, subsection or Schedule of this Agreement.

2.6 Reference to Statutes and Reference Documents

- (a) Unless a reference to a statute is expressly limited to a statute in effect at a particular time, references to any statute or statutory provision (including any subordinate legislation) include any statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and include any orders, regulations, bylaws, ordinances, orders, codes of practice, instruments or other subordinate legislation made under the relevant statute.
- (b) Unless a reference to a Reference Document is expressly limited to a Reference Document in effect at a particular time (and provided that the reference to a particular name, date, edition, version or similar description as a “Document Name” identified for a particular Reference Document on Appendix A [Reference Documents] to this Schedule shall not constitute such an express limitation), but subject to Section 1.2(b) of this Schedule, references to any Reference Document include any document which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same.
- (c) Unless a reference to an Environmental Guideline and Policy is expressly limited to an Environmental Guideline and Policy in effect at a particular time (and provided that the reference to a particular name, date, edition, version or similar description for a particular Environmental Guideline and Policy in Section 1.1 [Environmental Guidelines and Policies] of Schedule 6 shall not constitute such an express limitation), but subject to Section 1.1(b) of Schedule 6 [Environmental Obligations], references to any Environmental Guideline and Policy include any document which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same.

2.7 Reference to Statutory or Public Duties or Functions

References to statutory or public duties or functions are references to such duties or functions (including powers and discretions) from time to time and include any common law duties and functions (including powers and discretions).

2.8 Reference to Right or Duty of a Governmental Body

A reference to any right, power, obligation, duty or responsibility of any department, ministry, agency, board, commission, corporation or other entity of any Governmental Authority is to the

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department, ministry, agency, board, commission, corporation or other entity of the Governmental Authority that, pursuant to Laws, has such right, power, obligation or responsibility at the relevant time.

2.9 Time

All references to time of day are references to Pacific Standard time or Pacific Daylight Saving time, as the case may be, in Vancouver, British Columbia.

2.10 Time of the Essence

Time is of the essence of this Agreement, and remains of the essence in respect of any extension of time given.

2.11 Number

Words importing the singular include the plural and vice versa.

2.12 Gender

Words importing a particular gender include all genders.

2.13 Reference to Office of a Governmental Body

Each reference to a minister, ministry, office, branch, agency or similar body of any Governmental Authority is deemed to be a reference to any successor or replacement in function of such minister, ministry, office, branch, agency or similar body.

2.14 Reference to Public Organizations

Any reference to a public organization will be deemed to include a reference to any successor(s) to such public organization or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such public organization.

2.15 Persons for Whom Constructor is Responsible

A reference to a person or persons for whom the Constructor is in law responsible means and is limited to: the Design Build Director, the Constructor's Contracting Affiliates, employees, agents, professional advisors; any person for whom the Constructor is responsible in law or by the terms of this Agreement; any person over whom the Constructor could reasonably be expected to exercise control; and the Subcontractors and their respective officers, employees, consultants and agents.

2.16 Persons for Whom Authority is Responsible

A reference to a person or persons for whom the Authority is in law responsible means and is limited to:

- (a) the Authority's Representative in its capacity as such under this Agreement; and
- (b) employees, agents, professional advisors (including legal and financial advisors) and contractors of the Authority (which may include Third Party Contractors) in all cases

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only while performing functions of, or on behalf of, the Authority in relation to the Project, the Project Site, the Project Infrastructure or this Agreement;

but excludes the Constructor and any person for whom the Constructor is in law responsible pursuant to Section 2.15 [Persons for Whom Constructor is Responsible] of this Schedule.

2.17 Reference to Corporate Entity

Any reference to a corporate entity includes and is also a reference to any corporate entity that is a successor to such entity.

2.18 Currency

All monetary amounts are expressed in Canadian dollars and all amounts to be calculated and paid pursuant to this Agreement are to be calculated and paid in Canadian dollars.

2.19 Indexation

Except as otherwise expressly provided, references to amounts or sums being “**indexed**” or “**index linked**” are references to amounts or sums which have been or are to be adjusted to reflect the effects of inflation as measured by changes in the Reference CPI from the value applicable as at the Financial Base Date. Such adjustment will be calculated by applying the following formula to the amounts or sums to be adjusted:

$$\text{Adjusted amount or sum} = \text{amount or sum} \times \frac{\text{Reference CPI}_m}{\text{Reference CPI}_{bd}}$$

where Reference CPI_m is the Reference CPI as at the date of the calculation, and Reference CPI_{bd} is the Reference CPI at the Financial Base Date.

2.20 Costs

Without limiting Section 9.10 [Costs and Expenses], whenever this Agreement obliges the Authority to pay any amount to the Constructor in respect of any costs, expenses, fees, charges, liabilities, losses, claims or other sums incurred by the Constructor:

- (a) such obligation will be construed as applying only to so much of such sums as have been properly incurred on an arm’s length commercial basis or, where not incurred on an arm’s length commercial basis (including when the payment is made to an Affiliate of the Constructor), so much of them as are proper and reasonable; and
- (b) the Constructor will, when requested by the Authority, provide reasonable supporting evidence of such costs, expenses, fees, charges, liabilities, losses, claims or other sums.

2.21 Knowledge of Authority

The Authority will not be imputed with knowledge of any fact, matter or thing unless that fact, matter or thing is within the actual knowledge of the Authority’s Representative or within the actual

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knowledge of those of the Authority's employees and agents who have responsibilities in connection with the conduct of the Project or the DB Work.

2.22 Knowledge of Constructor

Without limiting the extent of its actual knowledge, the Constructor will for all purposes of this Agreement be deemed to have such knowledge in respect of the Project and the DB Work as is held (or ought reasonably to be held) by all persons involved in carrying out the DB Work including the Constructor, any Subcontractors, and their respective officers, employees, consultants and agents.

2.23 Performance to Standards

Any requirement for any thing or action to be "in accordance with" or "in compliance with" any standard, code or specification or other requirement or stipulation means that such thing or action is to exceed or at least equal that standard, code, specification or other requirement or stipulation.

2.24 Words of Inclusion

The words "include", "includes" or "including" are to be construed as meaning "include without limitation", "includes without limitation" and "including without limitation", respectively, and the words following "include", "includes" and "including" shall not be considered to set forth an exhaustive list.

2.25 General Meanings Not Restricted

General words are not given a restrictive meaning:

- (a) if they are introduced by the word "other", by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing; or
- (b) by reason of the fact that they are followed by particular examples intended to be embraced by those general words.

2.26 Trade Meanings

Unless otherwise defined in this Agreement, words or abbreviations which have well-known trade meanings are used in accordance with those meanings.

2.27 Decisions of the Authority

- (a) Where in this Agreement the Authority, the Province, the Minister or the Authority's Representative is entitled to make a decision or determination or to grant or withhold any consent, approval or acceptance or to exercise any judgement, "in its discretion" or "in the discretion" of the Authority or the Province or the Minister or the Authority's Representative or words of similar import, such expressions shall be interpreted to mean in the sole, absolute and unfettered discretion of the Authority, the Province, the Minister or the Authority's Representative, as the case may be.
- (b) Where in this Agreement the Authority, the Province, the Minister or the Authority's Representative is entitled to make a decision or determination or to grant or withhold any

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consent, approval or acceptance or to exercise any judgement, and there is neither express language conferring discretion as provided in Section 2.27(a) of this Schedule nor express language requiring the Authority, the Province, the Minister or the Authority's Representative, as the case may be, to act reasonably, the Authority, the Province, the Minister or the Authority's Representative, as the case may be, shall be entitled to make the decision or determination or to grant or withhold the consent, approval or acceptance or to exercise judgement, as the case may be, having regard solely to what it considers to be its own best interests or the best interests of the Authority.

2.28 All Reasonable Efforts

- (a) The expression "**all reasonable efforts**", when used in connection with an obligation of the Constructor, means taking all reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account the Constructor's obligations hereunder to mitigate delays and additional costs to the Authority, and in any event taking no less steps and efforts than those that would be taken by a reasonable and prudent person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that person's own benefit.
- (b) The expression "**all reasonable efforts**", when used in connection with an obligation of the Authority, means taking all reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account the Authority's obligations hereunder to mitigate delays and additional costs to the Constructor, and in any event taking no less steps and efforts than those that would be taken by a reasonable and prudent person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that person's own benefit, provided that the foregoing shall not require the Authority to:
- (i) take any action which is contrary to the public interest, as determined by the Authority in its discretion; or
 - (ii) undertake any mitigation measure that might be available arising out of any status that it might have as a Crown agent that would not normally be available to a private commercial party.

2.29 Accounting Terms

All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with GAAP, consistently applied.

2.30 Severability

Each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality will not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is held to be invalid, unenforceable or illegal, the parties will promptly endeavour in

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good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Agreement as nearly as possible to its original intent and effect.

2.31 No Derogation from Laws

No provision of this Agreement is intended to derogate from or be inconsistent with or in conflict with any Laws and should not be interpreted in a manner as to result in any derogation, inconsistency or conflict and, if any such provision is found by a court of competent jurisdiction to be inconsistent with or in conflict with any Laws, the applicable Laws will prevail and such provision will be read down or rendered inoperative (either generally or in such particular situation, as appropriate), to the extent of such conflict or inconsistency, as the case may be and, if any such provision is found by a court of competent jurisdiction to derogate from any Laws, then such provision will be read down or rendered inoperative (either generally or in such particular situation, as appropriate) to the extent of the derogation.

2.32 Rights and Obligations of Constructor

- (a) If the Constructor is comprised of more than one legal entity, the obligations and liabilities of the Constructor under this Agreement shall be the obligations and liabilities of each legal entity comprising the Constructor, jointly and severally with each other such legal entity.
- (b) If the Constructor is a general partnership, the obligations and liabilities of the Constructor under this Agreement shall be the obligations and liabilities of the Constructor and each of the Partners, jointly and severally with each other.
- (c) Any action by the Constructor pursuant to this Agreement shall be in the name of the Constructor and shall not be commenced or continued by either of the Partners in their individual capacities, but shall at all times require the Partners to act in concert, and any liability or obligation of the Authority hereunder shall be owed to the Constructor and not to either of the Partners in their individual capacities.

2.33 Principles for Resolving Conflicts within Documents

In the case of any conflict, ambiguity or inconsistency between or among any of the provisions within the main body of this Agreement or any of the Schedules hereto, the following principles will apply:

- (a) the provisions establishing the higher quality, manner or method of performing the DB Work, using the more stringent standards, will prevail, with the intent that the provisions which produce the higher quality with the higher levels of safety, durability, performance and service will govern; and
- (b) in the case of any other conflict, ambiguity or inconsistency, the Authority and the Constructor will endeavour in good faith to agree upon which provision will prevail and, if the matter has not been resolved to their mutual satisfaction within 10 Business Days from the identification of the conflict, ambiguity or inconsistency, then either the Authority or the Constructor may refer the matter for resolution in accordance with the Dispute Resolution Procedure applying accepted rules of contract interpretation.

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2.34 No Additional Payments or Time

The Constructor will not be entitled to any additional payment, reduction in remittances or extension of time under this Agreement as a result of the existence of any conflict, ambiguity or inconsistency referred to in Section 2.33 [Principles for Resolving Conflicts within Documents] of this Schedule or as a result of giving effect to any resolution of any such conflict, ambiguity or inconsistency pursuant to Section 2.33 [Principles for Resolving Conflicts within Documents] of this Schedule (whether by the terms of Section 2.33 [Principles for Resolving Conflicts within Documents] of this Schedule, by agreement between the Authority and the Constructor, or pursuant to the Dispute Resolution Procedure).

2.35 [Intentionally Deleted]

2.36 [Intentionally Deleted]

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APPENDIX A
REFERENCE DOCUMENTS

Short Form	Document Name
AASHTO Roadside Design Guide	<i>AASHTO Roadside Design Guide</i> , 2002.
AASHTO Specifications for Segmental Bridges	<i>AASHTO Guide Specifications for Design and Construction of Segmental Highway Bridges</i> , 2003.
AASHTO Standard Specifications	<i>AASHTO Standard Specifications for Highway Bridges</i> , 17th Edition, 2002, (including interim revisions).
APEGBC Bylaws	<i>APEGBC Bylaws of the Association</i> , Amended December 2005.
APEGBC Concept Review Guidelines	<i>APEGBC Guideline for Professional Structural Concept Review</i> , August 1994.
ASCE Guidelines	<i>American Society of Civil Engineers Guidelines for the Design of Cable-Stayed Bridges</i> , 1991.
Asphalt Institute MS-2	<i>Asphalt Institute Mix Design Methods for Asphalt Concrete and Other Hot-Mix Types</i> , Sixth Edition, Reprinted 1997.
Asphalt Institute MS-17	<i>Asphalt Institute Asphalt Overlays for Highway and Street Rehabilitation</i> , Second Edition, 2000.
Asphalt Institute SP-2	<i>Asphalt Institute Superpave Level 1 Mix Design</i> , Third Edition, Revised 2001.
Asphalt Overlays Manual	<i>Asphalt Institute Asphalt Overlays for Highway and Street Rehabilitation</i> , Manual Series No. 17 (MS-17), 2000.
Asset Management Plan Development Guide	BC Ministry of Transportation <i>Guide for Developing an Asset Management Plan for Highway Concessions</i> , April 2007.
ASTM A416	ASTM A416, <i>Standard Specifications for Steel Strand, Uncoated Seven-Wire for Prestressed Concrete</i> , 2006.
ASTM C117	ASTM C117, <i>Standard Test Method for Materials Finer than 75-μm (No. 200) Sieve in Mineral Aggregates by Washing</i> , 2004.
ASTM C136	ASTM C136, <i>Standard Test Method for Sieve Analysis of Fine and Coarse Aggregates</i> , 2006.
ASTM D1621	ASTM D1621, <i>Method A, Standard Test Method for Comprehensive Properties of Rigid Cellular Plastics</i> , 2004.
ASTM D2244	ASTM D2244, <i>Standard Practice for Calculation of Color Tolerances and Color Differences from Instrumentally Measured Color Coordinates</i> , 2007.
ASTM D3035	ASTM D3035, <i>Standard Specification for Polyethylene (PE) Plastic Pipe (DR-PR) Based on Controlled Outside Diameter</i> , 2006.
ASTM D3203	ASTM D3203 <i>Standard Test Method for Percent Air Voids in Compacted Dense and Open Bituminous Paving Mixtures</i> , 2005.
ASTM D4694	ASTM D4694 <i>Standard Test Method for Deflections with a Falling-Weight-Type Impulse Load Device</i> , 2003.
ASTM D4956	ASTM D4956, <i>Standard Specification for Retroreflective Sheeting for Traffic Control</i> , 2007.
ASTM D6359	ASTM D6359, <i>Standard Specification for Minimum Retro-reflectance of Newly Applied Pavement Marking Using Portable Hand-Operated Instruments</i> , 1999.
ASTM D698	ASTM D698 <i>Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort (12 400 ft-lbf/ft³ (600 kN-m/m³))</i> , 2007.

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Short Form	Document Name
ASTM D913	ASTM D913, <i>Standard Test Method for Evaluating Degree of Resistance to Wear of Traffic Paint</i> , 2003.
ASTM F714	ASTM F714, <i>Standard Specification for Polyethylene (PE) Plastic Pipe (SDR-PR) Based on Outside Diameter</i> , 2006.
ASTM V6	American Society for Testing Materials V6.
ATC-32	ATC-32 <i>Improved Seismic Design Criteria for California Bridges: Provisional Recommendations</i> , 1996
ATC-49	ATC-49 <i>Recommended LRFD Guidelines for the Seismic Design of Highway Bridges</i> , 2003
BC Building Code	<i>British Columbia Building Code</i> , 2006
BC Supplement to CAN/CSA-S6-06	BC Ministry of Transportation <i>Bridge Standards and Procedures Manual – Volume 1 – Supplement to CAN/CSA-S6-06</i> , 2007.
BC Supplement to TAC	BC Ministry of Transportation <i>Supplement to TAC Geometric Design Guide (BCTAC)</i> , 2007.
Best Management Practices for Highway Maintenance Activities	BC Ministry of Transportation <i>Best Management Practices for Highway Maintenance Activities</i> , July 2004.
BMIS Data Dictionary	BC Ministry of Transportation <i>BMIS Data Dictionary</i>
BMIS User Manual	BC Ministry of Transportation <i>Bridge Management Information System User Manual</i> , 2006.
Bridge Standards and Procedures Manual	BC Ministry of Transportation <i>Bridge Standards and Procedures Manual – Volumes 1 to 4</i> , 2007.
CAN/CSA-A23.1-04/A23.2-04	CAN/CSA-A23.1-04/A23.2-04, <i>Concrete Materials and Methods of Concrete Construction/Methods of Test and Standard practices for Concrete</i> , 2004.
CAN/CSA-B72-M87	CAN/CSA-B72-M87, <i>Installation Guide for Lightning Protection Systems</i> , 1987 (reaffirmed 2003)
CAN/CSA-G164-M92	CAN/CSA-G164-M92 (R2003) <i>Hot Dip Galvanizing of Irregularly Shaped Articles</i> , 2003
CAN/CSA-S6-06	<i>Canadian Highway Bridge Design Code</i> , CAN/CSA-S6-06, November 2006.
CAN/CSA-W47.1	CAN/CSA-W47.1, <i>Certification of Companies for Fusion Welding of Steel</i> , 2003.
CAN/CSA-W59	CAN/CSA-W59, <i>Welded Steel Construction (Metal Arc Welding)</i> , 2003.
CAN/ULC-S102.2-03-EN	CAN/ULC-S102.2-03-EN <i>Method of Test for Surface Burning Characteristics of Flooring, Floor Coverings, and Miscellaneous</i> , Underwriters' Laboratories of Canada, 2005 Catalogue of ULC Standards.
Canutec Emergency Response Guidebook	Transport Canada Response and Operations Division <i>Canutec Emergency Response Guidebook</i> , 2004.
CAPA IPP Standards	Canadian Access and Privacy Association <i>Information and Privacy Professional (IPP), Professional Standards/Competencies</i> , March 27, 2007.
Cassiar Tunnel Maintenance Manuals	<i>Cassiar Tunnel Electrical Maintenance Standards</i> , March 1995 and <i>Cassiar Tunnel Maintenance Manual</i> , 1995.
Count Station Guidelines	BC Ministry of Transportation <i>Count Station Installation and Maintenance Guidelines</i> , January 2004.
Counterflow Operations Manual	BC Ministry of Transportation <i>Counterflow Operations Manual</i> , July 11, 2007.

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Short Form	Document Name
CRTC Customer Service Standards	Canadian Radio-television and Telecommunications Commission <i>Decision CRTC 2000-24 Final standards for quality of service indicators for use in telephone company regulation and other related matters</i> , January 20, 2000, <i>Decision CRTC 2005-17 Retail quality of service rate adjustment plan and related issues</i> , March 24, 2005, <i>Decision CRTC 2005-20 Finalization of quality of service rate rebate plan for competitors</i> , March 31, 2005 and <i>8660 Reports on Quality of Service Indicators and Reporting Letters</i> .
Culvert and Fish Passage Fact Sheet	BC Ministry of Transportation <i>Culvert and Fish Passage Fact Sheet</i> , October 2000
Cycling Guide	BC Ministry of Transportation <i>Cycling Guide</i> , 2000.
DBSS	BC Ministry of Transportation <i>Design Build Standard Specifications for Highway Construction</i> , February 2006
Design Response Spectra	BC Ministry of Transportation <i>Design Firm-Ground (Class C) Response Spectra and Ground Motions, Proposed New Port Mann Bridge, Port Coquitlam/Surrey</i> , July 24, 2007.
Diagram S24-A1	BC Ministry of Transportation <i>Diagram S24-A1: Port Mann/Highway 1 Project – Fraser Heights Intersection</i> , April 14, 2008.
Directional Signing Strategy	<i>Directional Signing Strategy for the Port Mann/Highway 1 Corridor Project</i> , July 5, 2007 (Draft).
Drainage Structures Rating Guidelines	BC Ministry of Transportation <i>Drainage and Debris Control Structures Rating Guidelines (Draft)</i> .
DriveBC User Manual	BC Ministry of Transportation <i>DriveBC User Manual</i> , Spring 2007 Release.
Electrical and Signing Materials Standards	BC Ministry of Transportation <i>Electrical and Signing Materials Standards (Draft)</i> , 2003.
Electrical and Traffic Engineering Manual	BC Ministry of Transportation <i>Electrical and Traffic Engineering Manual – Guidelines for the Design of Lighting, Signal and Sign Installation</i> , December 2003.
Electrical Maintenance Specifications	BC Ministry of Transportation <i>Performance Based Electrical Maintenance Specifications</i> , March 2007.
Explosive Spill Plan	BC Ministry of Environment <i>British Columbia Marine Oil Spill Response Plan, British Columbia Inland Oil Spill Response Plan and British Columbia Hazardous Material Response Plan</i> , all January 2007.
FHWA Guidelines	U.S. Department of Transportation Federal Highway Administration <i>Mechanically Stabilized Earth Walls and Reinforced Soil Slopes Design and Construction Guidelines, Publication No. FHWA-NHI-00-043</i> , , March 2001.
Guide to Rural Subdivision Approvals	BC Ministry of Transportation <i>Guide to Rural Subdivision Approvals</i> , May 2, 2006.
GVRD Best Management Practices for Stormwater	Greater Vancouver Regional District <i>Stormwater Best Management Practices for Stormwater</i> , October 1999
Heavy Metal Memorandum of Understanding	BC Ministry of Transportation and BC Ministry of Environment <i>Clarification of Independent Remediation Requirements for Selected Heavy Metals at Ministry of Transportation Active Roadway Sites</i> , July 11, 2001.
Highway Capacity Manual	Transportation Research Board, Washington, D.C. <i>Highway Capacity Manual Special Report 209, 3rd Edition</i> , revised 1997.

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Short Form	Document Name
IHO S-44	International Hydrographic Organization <i>IHO Standards for Hydrographic Surveys</i> , 4th Edition, 1998.
ITE Data Dictionary	Institute of Transportation Engineers <i>Advanced Traffic Management Systems Data Dictionary</i>
ITE Message Set	Institute of Transportation Engineers <i>Message Set for External Traffic Management Centre Communication</i>
ITE Temporary Traffic Control Guidelines	Institute of Transportation Engineers <i>Guidelines for In-Service Road Safety Operational Review of Temporary Traffic Control</i> , 2004.
Landscape Irrigation Standards	Irrigation Industry Association of British Columbia <i>Standards for Landscape Irrigation Systems</i> , March 1997.
Landscape Policy and Design Standards	BC Ministry of Transportation <i>Landscape Policy and Design Standards</i> , 1991
LMD 8000 Programming Guide	BC Ministry of Transportation <i>LMD-8000 Programming Guide</i> , June 1999.
Manual of Aesthetic Design Practice	BC Ministry of Transportation <i>Manual of Aesthetic Design Practice</i> , 1991.
Manual of Control of Erosion and Shallow Slope Movement	BC Ministry of Transportation <i>Manual of Control of Erosion and Shallow Slope Movement, Vancouver Island Highway Project</i> , August 22, 1997
Manual of Standard Traffic Signs and Pavement Markings	BC Ministry of Transportation <i>Manual of Standard Traffic Signs and Pavement Markings</i> , September 2000.
Ministry Jurisdictional Atlas	BC Ministry of Transportation <i>Lower Mainland – Howe Sound District Jurisdictional Atlas, City of Vancouver, City of Burnaby, City of Coquitlam, City of Surrey and Township of Langley</i>
MMCD	<i>Master Municipal Construction Document – General Condition, Specifications, and Standard Detail Drawings</i> , 2000.
National Building Code	National Research Council of Canada <i>National Building Code of Canada</i> , 2005.
NCHRP Report 350	<i>National Cooperative Highway Research Program (NCHRP) Report 350</i> .
Noise Policy	BC Ministry of Transportation <i>Revised Policy for Mitigating the Effects of Traffic Noise from Freeways and Expressways</i> , November 1993.
NTCIP	<i>National Transportation Communications for ITS Protocol</i> .
Nursery Stock Standards	Canadian Nursery Landscape Association <i>Canadian Standards for Nursery Stock</i> , 8th Edition, 2006.
Oregon F-Mix Interim Report	Oregon Department of Transportation <i>Interim Report SPR 371 Development of Maintenance Practices for Oregon F-Mix</i> , August 1999.
Pavement Surface Condition Rating Manual	BC Ministry of Transportation <i>Pavement Surface Condition Rating Manual</i> , March 2002.
Pedestrian Crossing Control Manual	BC Ministry of Transportation <i>Pedestrian Crossing Control Manual for British Columbia</i> , 1994.
Perm Count Stations Maintenance Training Strategy	BC Ministry of Transportation <i>Maintenance of Perm Count Stations Training Strategy and Outline</i> ,
Portland Cement Specification	Ontario Ministry of Transportation <i>Manual for Condition Rating of Rigid Pavements SP-026 for Concrete Surfaces</i>
PTI Guide	Post-Tensioning Institute <i>Recommendations for Stay-Cable Design, Testing and Installation</i> , March 2001.
Recognized Products List	BC Ministry of Transportation <i>Recognized Products List</i> , October 2007 Edition.

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Short Form	Document Name
RIMS Meta Data Specifications	BC Ministry of Transportation <i>Roadway Information Management System (RIMS) Inventory Data - Detailed Meta Data Specifications</i> , November 2004.
Road Safety Audit Guidelines	BC Ministry of Transportation <i>Road Safety Audit Guidelines</i> , April 1, 2004.
Road Salt Code of Practice	Environment Canada <i>Code of Practice for the Environmental Management of Road Salts</i> , April 2004.
RPMS Data File Definitions	BC Ministry of Transportation <i>RPMS Pavement Condition Data File Definitions</i> , September 2006.
Seismic Retrofit Manual	BC Ministry of Transportation <i>Bridge Standards and Procedures Manual – Volume 4 – Seismic Retrofit Design Criteria</i>
SFPR Environmental Management Plan Framework	Gateway Program: South Fraser Perimeter Road <i>Environmental Management Plan Framework</i> , July 2008.
SFPR Stormwater Management Plan Outline	Gateway Program: South Fraser Perimeter Road <i>SFPR Stormwater Management Plan Outline</i> , July 2007.
Sign Pattern Manual	BC Ministry of Transportation <i>Sign Pattern Manual</i> , February 2003.
SkyTrain RTP 2000 Design Manual	Rapid Transit 2000 Ltd. <i>SkyTrain RTP 2000 Design Manual</i> , Document No. 48,004, Revision 4, October 25, 1999.
Snow Avalanche Safety Manual	BC Ministry of Transportation <i>Snow Avalanche Safety Measures for Highways Manual</i> , February 2003.
Standard Bridge Drawings	BC Ministry of Transportation <i>Bridge Standards and Procedures Manual – Volume 3 – Standard Drawings</i>
Standard Electrical Equipment Maintenance Manual	BC Ministry of Transportation <i>Maintenance Manual for Standard Electrical Equipment</i> , March 2001.
Standard Highway Sign Specifications	BC Ministry of Transportation <i>Specifications for Standard Highway Sign Materials, Fabrication and Supply</i> , 2004.
Step 508 Accessibility Standards	<i>Section 508 of the Rehabilitation Act of 1973, as amended</i> (29 U.S.C. 794d).
Stormwater Design Guidelines	Greater Vancouver Regional District <i>Stormwater Design Guidelines, and Stormwater Source Control Design Guidelines</i> , April 2005
Stormwater Planning Guidebook	BC Ministry of Water, Land and Air Protection <i>Stormwater Planning: A Guidebook for British Columbia</i> , May 2002
TAC Bikeway Traffic Control Guidelines	Transportation Association of Canada <i>Bikeway Traffic Control Guidelines for Canada</i> , 1999.
TAC Geometric Design Guide	Transportation Association of Canada <i>Geometric Design Guide for Canadian Roads</i> , 1999.
TAC Manual of Uniform Traffic Control Devices	Transportation Association of Canada <i>Manual of Uniform Traffic Control Devices</i> , 2000.
TAC Road Safety Audit Guide	Transportation Association of Canada <i>Canadian Road Safety Audit Guide</i> , 2001.
TAC Roadway Lighting Design Guide	Transportation Association of Canada <i>Guide for the Design of Roadway Lighting</i> , 2006.
TAC Salt Management Guide	Transportation Association of Canada <i>Salt Management Guide</i> , 1999.
Technical Bulletin DS96001	BC Ministry of Transportation <i>Clear Zone Standards</i> , Technical Bulletin DS96001.

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Short Form	Document Name
Technical Bulletin TE-2000-03	BC Ministry of Transportation <i>Sign Illumination</i> , Technical Bulletin TE-2000-03
Technical Bulletin TE-2001-02	BC Ministry of Transportation <i>Advance Warning Sign Placement and Timing in Construction Zones</i> , Technical Bulletin TE-2001-02
Technical Bulletin TE-2001-06	BC Ministry of Transportation <i>Clarification of the Use of Reflective Tape Borders on Traffic Signal Backboards</i> , Technical Bulletin TE-2001-06
Technical Bulletin TE-2001-07	BC Ministry of Transportation <i>Vehicle Underpass Lighting</i> , Technical Bulletin TE-2001-07
Technical Bulletin TE-2001-08	BC Ministry of Transportation <i>Design Criteria for All Cantilever, Sign Bridge and Custom Pole Structures</i> , Technical Bulletin TE-2001-08
Technical Bulletin TE-2002-01	BC Ministry of Transportation <i>Audible Effects of High Visibility Delineation</i> , Technical Bulletin TE-2002-01
Technical Bulletin TE-2002-03	BC Ministry of Transportation <i>Post Mounted Flasher Application</i> , Technical Bulletin TE-2002-03
Technical Bulletin TE-2002-07	BC Ministry of Transportation <i>Interim Bicycle Guidelines for Traffic Signals</i> , Technical Bulletin TE-2002-07.
Technical Bulletin TE-2004-01	BC Ministry of Transportation <i>Revisions to Electrical and Traffic Engineering Manual (December 2003)</i> , Technical Bulletin TE-2004-01
Technical Bulletin TE-2005-02	BC Ministry of Transportation <i>Revisions to Electrical and Traffic Engineering Manual (December 2003)</i> , Technical Bulletin TE-2005-02
Technical Bulletin TE-2005-03	BC Ministry of Transportation <i>Use of Countdown Pedestrian Signals</i> , Technical Bulletin TE-2005-03
Technical Bulletin TE-2005-04	BC Ministry of Transportation <i>Web Camera Design, Installation and Commissioning Specifications</i> , Technical Bulletin TE-2005-04
Technical Bulletin TE-2005-05	BC Ministry of Transportation <i>Lane Use Signs and Pavement Markings at Multi-Lane Roundabouts</i> , Technical Bulletin TE-2005-05
Technical Bulletin TE-2005-07	BC Ministry of Transportation <i>Clarification of the Use of Green Arrow Signal Displays on Traffic Signals at Interchanges</i> , Technical Bulletin TE-2005-07
Technical Bulletin TE-2005-09	BC Ministry of Transportation <i>Revisions to Electrical and Traffic Engineering Manual (December 2003)</i> , Technical Bulletin TE-2005-09
Technical Bulletin TE-2006-01	BC Ministry of Transportation <i>Uninterruptible Power Supplies (UPS) at Signalized Intersections and at Traffic Control or Warning Devices Interconnected with Railways</i> , Technical Bulletin TE-2006-01
Technical Bulletin TE-2006-03	BC Ministry of Transportation <i>Traffic Signal Uninterruptible Power Supply Maintenance Standards</i> , Technical Bulletin TE-2006-03
Technical Bulletin TE-2006-04	BC Ministry of Transportation <i>Traffic Signal Uninterruptible Power Supply Maintenance Standards</i> , Technical Bulletin TE-2006-04
Technical Bulletin TE-2006-05	BC Ministry of Transportation <i>Use of Countdown Pedestrian Signals</i> , Technical Bulletin TE-2006-05
Technical Bulletin TE-2007-02	BC Ministry of Transportation <i>Traffic Signal/Railway Signal Interconnects</i> , Technical Bulletin TE-2007-02.
Technical Circular T-01/04	BC Ministry of Transportation <i>Pavement Structure Design Guidelines</i> , Technical Circular T-01/04

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Short Form	Document Name
Technical Circular T-01/06	BC Ministry of Transportation <i>Text Based "Do Not Enter" and "Wrong Way" Signs – Application at Interchanges</i> , February 15, 2006.
Technical Circular T-02/04	BC Ministry of Transportation <i>Road Safety Audit (RSA) Policy</i> , March 8, 2004 and <i>Clarification Road Safety Audit (RSA) Policy</i> , March 17, 2004
Technical Circular T-02/05	BC Ministry of Transportation <i>Specifications for Work Zone Sign Substrate Material - Ministry of Transportation (MoT) Projects</i> , February 24, 2005
Technical Circular T-04/07	BC Ministry of Transportation <i>Guidelines on the Use of Portable Traffic Signals (PTS)</i> , August 3, 2007
Technical Circular T-05/05	BC Ministry of Transportation <i>Policy Manual for Supplemental Signs</i> , July 14, 2005.
Technical Circular T-07/05	BC Ministry of Transportation <i>Signing and Markings for Multi-lane Roundabouts</i> , July 27, 2005.
Technical Circular T-08/05	BC Ministry of Transportation <i>Policy for use of "Keep Right Except to Pass" Sign</i> , August 17, 2005.
Technical Circular T-09/05	BC Ministry of Transportation <i>Traffic Control Manual for Work on Roadways - Safety Apparel and Traffic Control Retro-Reflectivity Specifications</i> , Issued September 16, 2005, Revised March 2, 2006.
Technical Circular T-10/04	BC Ministry of Transportation <i>ARD Testing at Quarry and Rock Cut Sites</i> , November 2004.
Technical Circular T-15/06	BC Ministry of Transportation <i>New Standard for Sign Fonts (Clearview Type Font) and Update to Sheeting reflectivity standards on Guide and Custom Signs (ASTM Type 9/3 and ASTM Type 9/9)</i> , September 5, 2006.
Technical Circular T-16/06	BC Ministry of Transportation <i>Guidelines for the Operation of Changeable Message Signs (CMSs) and Portable Changeable Message Signs (PCMSs)</i> , September 6, 2006.
Technical Circular T-17/06	BC Ministry of Transportation <i>Use of Hog Fuel for Road Construction Purposes</i> , October 2006.
Tolling Guidelines	BC Ministry of Transportation <i>Guidelines for Tolling</i> , April 2003.
Traffic Control Manual	BC Ministry of Transportation <i>Traffic Control Manual for Work on Roadways</i> , Revised and Consolidated 1999
Traffic Controller Assembly Manual	BC Ministry of Transportation <i>Traffic Controller Assembly Manual</i> , January 2004.
Traffic Controller Design Manual	BC Ministry of Transportation <i>Traffic Controller Design Manual</i> , January 2004.
Traffic Management Guidelines	BC Ministry of Transportation <i>Traffic Management Guidelines for Work on Roadways</i> , September 2001.
Traffic Operations Requirements	<i>Port Mann/Highway 1 Traffic Operations Modelling and Performance Requirements</i> , October 19, 2007.
Traffic Sign Catalogue	BC Ministry of Transportation <i>Traffic Sign Catalogue</i> , 2006.
Trans Canada Highway Manual	BC Ministry of Transportation <i>Trans Canada Highway – Freeway Service Patrol Operations and Procedures</i> , February 1999.
TransLink Infrastructure Design Guidelines	Greater Vancouver Transportation Authority <i>Infrastructure Design Guidelines</i> , January 2002.

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Short Form	Document Name
Transport Canada RTD-10	Transport Canada <i>Road-Railway Grade Crossings Technical Standards and Inspection, Testing and Maintenance Requirements</i> , March 2002.
TRB Sign Maintenance Manual	US Transportation Research Board, National Research Council <i>Maintenance Management of Street and Highway Signs NCHRP Synthesis 157</i> , ISSN 0547-5570, ISBN 0-309-04910-5
Urban Stormwater Guidelines	Department of Fisheries and Oceans Canada <i>Urban Stormwater Guidelines and Best Management Practices for the Protection of Fish and Fish Habitat</i> (Draft Discussion Document Revision 4), 2005
Utility Policy Manual	BC Ministry of Transportation <i>Utility Policy Manual</i> , March 1995.
World Bank Paper 46	World Bank <i>Technical Paper Number 46: Guidelines for Conducting and Calibrating Road Roughness Measurements</i> , 1986.