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## Article 5. CPR Requirements

### 5.1 General

- (a) The Primary Contractor shall perform the Design and Construction of the Project on or in respect of the CPR Lands so that it complies and conforms with the CPR Requirements and all other terms and conditions of this Agreement.

### 5.2 CPR Agreements

- (a) The Design and the Construction of the Project on or in respect of the CPR Lands is, as among the Province, BCTFA and CPR, governed by the terms of the CPR Agreements. Without limiting any other provision of this Agreement, the Primary Contractor:
  - (i) acknowledges, represents and warrants to the Province and to BCTFA that it has reviewed and satisfied itself, or shall be deemed to have reviewed and satisfied itself, as to the terms of the CPR Agreements, including the discretions, approvals and authorities reserved to CPR and its representatives and employees thereunder, and all limitations, prohibitions, constraints and restrictions on the Work to be performed on or in respect of the CPR Lands, including restrictions as to availability of CPR personnel, such as watchmen, flagmen, inspectors and supervisors, all of which are applicable to the Primary Contractor in respect of the Work on or in respect of the CPR Lands except as provided in this Article 5 [CPR Requirements];
  - (ii) hereby gives and makes the same acknowledgements to the Province and BCTFA as are given and made by the Province and BCTFA to CPR in the CPR Agreements and shall provide, perform and carry out the Work in a manner that is consistent with such acknowledgements;
  - (iii) agrees to be responsible for all costs and expenses incurred by CPR or its contractors in connection with the CPR Own Work in accordance with Article 5.8 [CPR Costs] of this Part 1; and
  - (iv) shall not do or omit to do or permit to be done or omitted to be done anything that would result in the Province or BCTFA breaching any terms of the CPR Agreements.
- (b) In carrying out the Work on and in respect of the CPR Lands, and save and to the extent provided otherwise in this Article 5 [CPR Requirements], the Primary Contractor shall observe, comply with and perform the provisions of the CPR Agreements applicable to the Work on and in respect of the CPR Lands. Without limiting the generality of the foregoing, the Primary Contractor shall:

- (i) undertake the Work on and in respect of the CPR Lands in strict accordance with the CPR Approved Reference Concept;
  - (ii) develop, implement, maintain and comply with the CPR Lands Project Plans and the CPR Approval Project Plans, subject to and in accordance with CPR CATRA;
  - (iii) comply with the CPR Access Protocols;
  - (iv) not obstruct, delay, prevent or impede CPR from performing its obligations under or exercising its rights pursuant to the CPR Agreements;
  - (v) carry out the Work in a manner that ensures that the CPR Operations and the operations of third parties on the CPR Lands pursuant to the permitted encumbrances set out in the CPR SRW can be carried out in a safe, continuous, uninterrupted and unhindered manner; and
  - (vi) not do or omit to do or permit to be done or omitted to be done anything in relation to the Work that creates or constitutes CPR Interference.
- (c) Except as provided in this Article 5 [CPR Requirements], the Primary Contractor shall, as part of the Work, undertake all of the works and activities to be performed by the Province and BCTFA as set out in the CPR Agreements with respect to and associated with the initial construction of the Evergreen Line on the CPR Lands. Notwithstanding the foregoing, the Primary Contractor shall not, as part of the Work, be responsible for:
- (i) the CPR Track Relocation Work;
  - (ii) the CPR/MOTI Fibre Optic Work;
  - (iii) the CPR Lands Routine Work;
  - (iv) the CPR SRW Work other than the Work to be performed by the Primary Contractor with respect to and associated with the initial construction of the Evergreen Line on the CPR Lands pursuant to this Agreement;
  - (v) the CPR Overpass Work other than the Work to be performed by the Primary Contractor with respect to and associated with the initial construction of the Evergreen Line (inclusive of the Overpass as defined in each of the CPR Ioco Crossing Agreement and the CPR Main Line Crossing Agreement) on the CPR Lands pursuant to this Agreement; and
  - (vi) any reclamation or remediation of the CPR Lands except as required by Schedule 5 [Environmental Obligations] of this Agreement,
- and, except as otherwise expressly provided in this Article 5 [CPR Requirements], the Primary Contractor shall not be subject to any of the provisions of any of the CPR Agreements to the extent that such provisions deal with the work described in Articles 5.2(c)(i) through (vi), all of this Part 1.
- (d) Further to Article 5.2(c) of this Part 1 but subject to the exceptions noted in this Article 5.2(d), the following provisions of the CPR Agreements are not applicable

to the Primary Contractor with respect to the Work on or in respect of the CPR Lands:

- (i) CPR CATRA
  - A. Section 9.3 [Crossing Agreements];
  - B. Section 10.1 [Transfer of CPR Relocation Lands];
  - C. except as provided in Article 5.2(e) of this Part 1:
    - (1) Sections 12.1 [Completion] and 12.2 [Maintenance Work]; and
    - (2) Section 13.1 [Indemnity by MOT];
  - D. except as provided in Article 5.2(e) of this Part 1 and in respect of the Primary Contractor's obligations to reimburse CPR in respect of the CPR Own Work under Article 5.8 [CPR Costs] of this Part 1, Section 13.3 [Indemnity for Taxes];
  - E. except as provided in Article 5.2(f) of this Part 1, Section 13.5 [Conduct of Claims Indemnified by MOT];
  - F. Section 14.1(d) regarding Contractor's Pollution Liability insurance;
  - G. Section 14.5 regarding self-insurance by MOT as defined in CPR CATRA;
  - H. Section 15.3 [Review of Construction Agreement];
  - I. except as provided in this Agreement, including Article 5.9(a) of this Part 1, Section 16.1 [Notices] and Article 18 [Dispute Resolution]; and
  - J. Sections 19.1 [Entire Agreement], 19.2 [No Modification] and 19.3 [Assignment and Subcontracting];
- (ii) CPR SRW
  - A. except in respect of access to the CPR Lands to carry out the Work on or in respect of the CPR Lands, Sections 2.1 [Grant of Right-of-Way] and 2.2 [CPR Access to SRW Area];
  - B. except as provided in Articles 5.2(e) and 5.4.1(b), both of this Part 1:
    - (1) Section 2.6 [Consequences of Default];
    - (2) Section 2.9 [Two Year Period of Monitoring]; and
    - (3) Section 2.11 [Drainage Issues];
  - C. Sections 3.2 [Approval of Plans and Specifications of Work] through 3.13 [Costs] inclusive;
  - D. Paragraphs (b), (c), (d), (e), (f), (h), (i), (j), (k) and (l) of Section 4.3 [Additional MOT Covenants];

- E. except as provided in Articles 5.2(e), 5.2(f), and 5.8, all of this Part 1, Article 5 [Indemnity and Insurance];
  - F. Article 6 [Transit Facilities];
  - G. except as provided in Schedule 5 [Environmental Obligations], Section 7.1 [MOT Environmental Responsibilities];
  - H. except as provided in Article 5.9(a) of this Part 1, Section 8.1 [Notices];
  - I. the first paragraph of Section 8.7 [Volumetric (or Equivalent) Statutory Right-of-Way)]; and
  - J. except as provided in Article 5.9(a) of this Part 1, Article 9 [Resolution of Disputes];
- (iii) CPR Ioco Crossing Agreement and CPR Main Line Crossing Agreement
- A. Section 2 [Grant of License], except subsection (a) therein in respect of the construction of the Overpass and the ALRT as both are defined in the applicable Crossing Agreement;
  - B. Section 6 [Maintenance];
  - C. Paragraphs (b) through (l) of Section 7 [Work - Material Alteration];
  - D. except as provided in Articles 5.2(e) of this Part 1, Sections 9 [Two Year Period of Monitoring], 12 [Indemnity], and 16 [Remedies];
  - E. except as provided in Articles 5.2(e) and 5.4.1(b), both of this Part 1, Section 11 [Drainage Issues];
  - F. except as provided in Schedule 5 [Environmental Obligations], Section 13 [Environmental Obligations];
  - G. Section 14 [Insurance];
  - H. except as provided in Article 5.2(f) of this Part 1, Section 15 [Conduct of Claims Indemnified by the Province];
  - I. Section 18 [Assignment];
  - J. Section 19 [Agreement to Bind Successors];
  - K. Section 20 [Right of First Refusal for Registered SRW];
  - L. except as provided in this Agreement, including Article 5.9(a) of this Part 1, Section 21 [Dispute Resolution], Section 24, and Section 26 [Notice];
  - M. Section 25 [Further Assurances];
  - N. Section 27 [Invoicing]; and
  - O. Section 32 [Entire Agreement]; and

- (iv) the CPR Canopy Agreement
  - A. Article 2 [Grant of License], except in respect of the initial construction by the Primary Contractor of the canopy at the Port Moody WCE Station;
  - B. Section 5.1 [Fees];
  - C. Article 6 [Net Agreement];
  - D. Section 7.2 [Construction and Maintenance];
  - E. Article 9 [Repair of Canopy], except in respect of the initial construction by the Primary Contractor of the canopy at the Port Moody WCE Station;
  - F. except as provided in Articles 5.2(e), 5.2(f), and 5.2(g), all of this Part 2, Article 11 [Liability and Insurance];
  - G. Article 13 [Recovery of CPR's Expenses], except in respect of any claim that may arise out of the initial construction by the Primary Contractor of the canopy at the Port Moody WCE Station in accordance with Article 5.2(e) of this Part 2;
  - H. Article 15 [Ownership of Canopy];
  - I. except as provided in this Agreement, including Article 5.9(a) of this Part 1, Section 16.8; and
  - J. Sections 16.1, 16.2, 16.7, and 16.9.
- (e) In the event that CPR makes any CPR Indemnity Claims against the Province or BCTFA, as applicable, in respect of the Work on or in respect of the CPR Lands under any of:
  - (i) Sections 12.1 [Completion], 12.2 [Maintenance Work], 13.1 [Indemnity by MOT] and 13.3 [Indemnity for Taxes] of CPR CATRA;
  - (ii) Sections 2.6 [Consequences of Default], 2.9 [Two Year Period of Monitoring] or 2.11 [Drainage Issues] or Article 5 [Indemnity and Insurance] of CPR SRW;
  - (iii) Sections 9 [Two Year Period of Monitoring], 11 [Drainage Issues], 12 [Indemnity] or 16 [Remedies] of the CPR Ioco Crossing Agreement or the CPR Main Line Crossing Agreement; or
  - (iv) Section 11.6 of the CPR Canopy Agreement,  
the Primary Contractor shall indemnify and hold harmless the Province or BCTFA in respect of any such CPR Indemnity Claims except to the extent that any Losses claimed by the Province or BCTFA under this indemnity are:
    - (v) directly attributable to any act or omission referred to in Section 11.2(a) or (b) or are Province Irrecoverable Losses; or
    - (vi) a CPR Indemnity Claim for bodily injury, including death, of any person or persons which are injured (including injuries leading to death) while

on the CPR Lands to the extent that any such CPR Indemnity Claim is based upon, arises out of or is connected in any with or is contributed to by the negligence, gross negligence or willful misconduct of CPR or those for whom CPR is legally responsible (within the meaning of the applicable CPR Agreement) but the exception set out in this Article 5.2(e)(vi) applies only to the extent of such negligence, gross negligence or willful misconduct of CPR or those for whom CPR is legally responsible (within the meaning of the applicable CPR Agreement).

- (f) In the event that CPR gives notice to the Province or BCTFA, as applicable, under:
- (i) Section 13.5 [Conduct of Claims Indemnified by MOT] of CPR CATRA;
  - (ii) Section 5.7 [Conduct of Claims Indemnified by the Province] of the CPR SRW;
  - (iii) Section 15 [Conduct of Claims Indemnified by the Province] of the CPR Ioco Crossing Agreement; or
  - (iv) Section 15 [Conduct of Claims Indemnified by the Province] of the CPR Main Line Crossing Agreement,

in respect of a claim that the Primary Contractor is or may be required to indemnify the Province or BCTFA, as applicable, under Section 11.1 of this Agreement, Article 5.2(e) of this Part 1 or any other provision of this Agreement, the Province or BCTFA may, at their option, require that the Primary Contractor, at the Primary Contractor's cost and expense, defend the relevant claim against the CPR and, in such case, the Primary Contractor shall fulfill the obligations of Province or BCTFA, as applicable, as set out in the Sections stated in this Article 5.2(f) of the applicable CPR Agreement.

- (g) Under:
- (i) Section 14 [Insurance] of CPR CATRA; and
  - (ii) Article 11 [Liability and Insurance] of the CPR Canopy Agreement, the Province has agreed to obtain and maintain, or to cause to be obtained and maintained, certain insurance coverages as described in the said provisions. In addition to the obligations imposed by Part 7 [Insurance, Damage and Destruction] and Schedule 14 [Insurance] of this Agreement, the Primary Contractor agrees to fulfill the Province's obligations to CPR under the applicable provisions of each of CPR CATRA and the CPR Canopy Agreement in respect insurance coverages for and related to the Work, including by:
    - (iii) obtaining and maintaining the insurance coverages required under the applicable CPR Agreement as part of the insurance coverages to be obtained and maintained by the Primary Contractor pursuant to Part 7 [Insurance, Damage and Destruction] and Schedule 14 [Insurance] of this Agreement, other than the Contractor's Pollution Liability insurance required under Section 14.1(d) of CPR CATRA;

- (iv) naming, as applicable, CPR or CPR and its associated and affiliated companies (and the directors, offices, employees, agents and trustees of all of the foregoing) as additional named insureds as required by the applicable CPR Agreement; and
- (v) complying with the requirements of each of Sections 14.2 and 14.3 of CPR CATRA and Section 11.2 of the CPR Canopy Agreement, as applicable.

### 5.3 Safety on CPR Lands

- (a) Without limiting any other provision of this Agreement, the Primary Contractor shall, with respect to the Work on or in respect of the CPR Lands:
  - (i) comply with the safety and security requirements set out in the CPR Agreements, including Section 6.1 [Safety and Security Requirements] of CPR CATRA and the CPR Safety Requirements;
  - (ii) ensure that the Health and Safety Program:
    - A. incorporates and complies with the safety and security requirements set out in the CPR CATRA, including Section 6.1 [Safety and Security Requirements] of CPR CATRA and the CPR Safety Requirements;
    - B. includes a CPR Safety and Emergency Response Plan that:
      - (1) complies with the terms of the CPR Agreements, including by addressing the following matters in a manner that complies with CPR CATRA and the CPR Safety Requirements:
        1. adherence to minimum safety requirements of CPR;
        2. personal protective equipment;
        3. emergency response procedures;
        4. working near tracks and flagging requirements;
        5. traffic control; and
        6. site access; and
      - (2) is approved in writing by CPR subject to and in accordance with CPR CATRA, including Article 4 [Construction Project Methodology] of CPR CATRA, prior to the commencement of the Work on or in respect of the CPR Lands; and
    - C. reflects CPR's corporate safety policy emphasis on the principle that "NO JOB ON OUR RAILWAY WILL EVER BE SO IMPORTANT THAT WE CAN'T TAKE THE TIME TO DO IT SAFELY".



## 5.4 Protection of CPR Property

### 5.4.1 General

- (a) In addition to the obligations imposed by Article 4 [Existing Conditions], Part 1 of Schedule 4, the Primary Contractor shall, in respect of Existing Conditions on the CPR Lands, comply with the requirements for the protection of CPR Property set out in this Article 5.4 [Protection of CPR Property].
- (b) The Primary Contractor shall, as part of the Work on or in respect of the CPR Lands, be responsible for undertaking any temporary and permanent installation, protection, removal and relocation in respect of or relating to the CPR Facilities, other than the CPR Track Relocation Work, the CPR/MOTI Fibre Optic Work and the CPR Own Work, to accommodate the Design and Construction of the Evergreen Line, including any work necessary to relocate signals or radio towers, to restore slopes and vegetation or to carry out drainage work required by:
  - (i) Section 4.2(l) of CPR CATRA; and
  - (ii) Section 2.11 [Drainage Issues] of the CPR SRW and Section 11 [Drainage Issues] of each of the CPR Crossing Agreements.

The Work to be undertaken by this Primary Contractor under this Article 5.4.1(b) shall be collectively referred to as the “**CPR Infrastructure**”.

- (c) To the extent that the Primary Contractor must relocate or restore any CPR Property as part of the Work, the Primary Contractor shall undertake such work in accordance with current Laws and other standards applicable to such property as of the date of the relocation or restoration, unless CPR and the Primary Contractor have agreed to some other standard.
- (d) The Primary Contractor shall, prior to Substantial Completion, submit to the Province’s Representative written confirmation of the CPR’s satisfaction with:
  - (i) the CPR Infrastructure; and
  - (ii) any relocation or restoration work undertaken by the Primary Contractor pursuant to Article 5.4.1(c) of this Part 1.

### 5.4.2 Settlement Monitoring on CPR Lands

- (a) The Primary Contractor shall ensure that, in carrying out the Work, any potential for settlement of Existing Conditions on or in respect of the CPR Lands, including the settlement of tracks adjacent to column locations and the Guideway, is eliminated. In the event that the Primary Contractor cannot comply with and implement the Design-Build Requirements without the possibility of settlement of any Existing Conditions on or in respect of the CPR Lands, the Primary Contractor shall take all steps necessary in the Design and the Construction to ensure that any potential for such settlement is minimized.

- (b) The Primary Contractor shall, before carrying out any construction activities on or in respect of the CPR Lands, develop and implement a settlement monitoring program that:
  - (i) demonstrates the methods and procedures that are to be carried out by the Primary Contractor to:
    - A. comply with the provisions of the CPR Agreements relating to settlement and track mis-alignment and CPR Interference; and
    - B. monitor any buildings, structures, track and roadway that are located within 30m of the centreline of the Guideway;
  - (ii) is submitted to the Province's Representative for review, acting reasonably, in accordance with the Review Procedure; and
  - (iii) complies with the requirements of Article 6.10 [Geotechnical and Hydrogeological Instrumentation and Monitoring], Part 2 of Schedule 4.
- (c) The Primary Contractor shall:
  - (i) during the construction of any foundations on or in respect of the CPR Lands and at all times while earth shoring is in place on or in respect of the CPR Lands:
    - A. monitor all Existing Conditions, including all tracks located on the CPR Lands; and
    - B. report the monitoring results to the CPR's Project Managers, both on a daily basis; and
  - (ii) at all other times during construction activities on or in respect of the CPR Lands:
    - A. monitor all Existing Conditions, including all tracks located on the CPR Lands; and
    - B. report the results to the Province's Representative, both on a weekly basis.
- (d) The Primary Contractor shall ensure that settlement monitoring activities required under Articles 5.4.2(c)(i) and (ii) of this Part 1 are carried out by a qualified surveyor who complies with the requirements of Article 6.10.9(d), Part 2 of Schedule 4, and are fully documented within the Construction Quality Management Plan.

### 5.4.3 Temporary Support Design on CPR Lands

- (a) The Primary Contractor shall not commence any construction activities on or in respect of the CPR Lands unless and until the Primary Contractor has obtained the written approval of CPR to all temporary support plans, including shoring designs and plans, on or in respect of the CPR Lands.
- (b) The Primary Contractor shall:

- (i) prepare the Design of the shoring on and in respect of the CPR Lands subject to and in accordance with the CPR Specifications and the AREMA Manual for Railway Engineering, including the requirements of Chapter 8 of the AREMA Manual for Railway Engineering;
- (ii) obtain the written approval of CPR to the said Design in accordance with the CPR CATRA; and
- (iii) submit the Design of the shoring on and in respect of the CPR Lands to the Province's Representative for review, acting reasonably, in accordance with the Review Procedure once the said Design has been approved in writing by CPR.

#### 5.4.4 Overhead Lines and Structures on CPR Lands

- (a) Without limiting any other provision of this Agreement, the Primary Contractor shall be aware of any restricted clearances for Equipment or Construction Plant moving or passing under overhead wire lines and structures within the CPR Lands. The Primary Contractor shall determine the location of such items and the applicable clearances and shall take all necessary steps to ensure that such lines and wires are protected during the movement or passing of Equipment or Construction Plant.

#### 5.4.5 Environmental Management on CPR Lands

- (a) Without limiting any other provision of this Agreement, including the terms of Schedule 5 [Environmental Obligations], the Primary Contractor shall, with respect to the CPR Lands Works, develop, implement, maintain and comply with a site-specific CPR Environmental Management Plan (CPREMP), which plan must comply with CPR CATRA and be approved in writing by CPR prior to commencing any construction activities on or in respect of the CPR Lands.
- (b) In addition to any requirements imposed by CPR CATRA, the Primary Contractor shall prepare the CPREMP in accordance with the provisions of Schedule 5 [Environmental Obligations] and the guidelines in Section 22 of the EA Application.
- (c) Prior to submitting the CPREMP to CPR for approval, the Primary Contractor shall submit the CPREMP as a component of the CEMP to the Province's Representative in accordance with Schedule 5 [Environmental Obligations].

#### 5.4.6 Discharge and Cleanup on CPR Lands

- (a) The Primary Contractor shall not, except in accordance with Schedule 5 [Environmental Obligations], the CPREMP and the CEMP, permit any products used in carrying out, providing or performing the Work, and any water used to clean or rinse out the Construction Plant, to discharge or spill on, onto or into the CPR Lands, or any part thereof, or on, onto or into any lands, ditches, streams, ponds or sewers adjacent to the CPR Lands.

- (b) The Primary Contractor shall, prior to Substantial Completion and in accordance with Schedule 5 [Environmental Obligations], the CPREMP and the CEMP:
  - (i) remove any and all:
    - A. surplus materials;
    - B. Construction Plant; and
    - C. waste products, including rinse water and debris, from the CPR Lands; and
  - (ii) leave the CPR Lands in a safe, clean, and orderly condition.

## 5.5 Additional CPR Design Requirements

- (a) Without limiting any other provision of this Agreement, the Primary Contractor shall, to the extent that the Work is to be undertaken on or in respect of the CPR Lands, ensure that the Design of such Work complies, in all respects, with the CPR Agreements and the CPR Specifications, including in respect of the following matters:
  - (i) permanent vertical and horizontal clearance requirements from the CPR tracks;
  - (ii) CPR's crash wall requirements;
  - (iii) provision of sufficient drainage systems to drain or divert all drainage away from CPR tracks and other CPR Facilities; and
  - (iv) protection or relocation of CPR Facilities.
- (b) The Primary Contractor shall, prior to commencing any construction activities on or in respect of the CPR Lands:
  - (i) develop and submit the CPR Lands Project Plans and CPR Approval Project Plans to CPR for approval in writing in accordance with CPR CATRA and contemporaneously to the Province's Representative; and
  - (ii) submit to the Province's Representative for review, acting reasonably, in accordance with the Review Procedure, such CPR Lands Project Plans and CPR Approval Project Plans as are approved in writing by CPR under CPR CATRA.

## 5.6 CPR Project Site Security

### 5.6.1 Fencing and Security Plan for CPR Lands

- (a) The Primary Contractor shall, in accordance with the requirements of Section 4.2(d) of CPR CATRA, create and implement a fencing and site security plan for the Work within the CPR Lands.

## 5.6.2 Fencing Requirements for CPR Lands

- (a) Without limiting the Primary Contractor's obligations to comply with the fencing requirements set out in the CPR Agreements, including the CPR Specifications and the CPR Safety Requirements or any of its other obligations under this Agreement, including Section 4.11 [Health and Safety], the Primary Contractor shall:
- (i) at the sole cost and expense of the Primary Contractor, install on the CPR Lands, wherever practicable, a temporary construction security fence and access gates at a distance of not less than 4.0m from the centreline of the nearest CPR track to separate the Work, or any part thereof, from the CPR Operations and the operations of third parties on the CPR Lands pursuant to the permitted encumbrances set out in the CPR SRW and to delineate the CPR Project Site;
  - (ii) keep any access gates to the CPR Project Site locked, except when entering or exiting from the CPR Lands;
  - (iii) provide, erect and maintain perimeter fencing in respect of the CPR Project Site, which fencing shall meet the following criteria:
    - A. fencing shall consist of sturdy material;
    - B. fencing shall be constructed and erected in such manner that the fencing will clearly delineate the Primary Contractor's working areas from ongoing CPR Operations and the ongoing operations of third parties on the CPR Lands pursuant to the permitted encumbrances set out in the CPR SRW, or any part thereof; and
    - C. fencing shall be highly visible at all times; and
  - (iv) cooperate with the CPR's Manager - Track Maintenance and, at the request of the CPR's Manager - Track Maintenance, provide all information and documentation required to establish delineated work areas and, once established by the CPR's Manager - Track Maintenance, comply with such delineated work areas while carrying out the Work on the CPR Lands.

## 5.6.3 Security and Access Requirements for CPR Lands

- (a) Without limiting the Primary Contractor's obligations to comply with the security and access requirements set out in the CPR Agreements, including the CPR Specifications and the CPR Safety Requirements, or any of its other obligations under this Agreement, including Section 4.11 [Health and Safety], the Primary Contractor shall ensure that:
- (i) the persons for whom the Primary Contractor is in law responsible and Construction Plant remain at all times within the work areas delineated in accordance with Article 5.6.2 [Fencing Requirements for CPR Lands] of

this Part 1 unless otherwise approved by the CPR's Manager - Track Maintenance; and

- (ii) no one other than CPR/MOTI Personnel will be allowed access to any access roads or work area on the CPR Lands.

## 5.7 Meetings and Reporting regarding CPR Lands

- (a) The Primary Contractor shall attend all meetings called by either or both of the Province's Representative or CPR and provide reporting in accordance with this Agreement and CPR CATRA with respect to the Work on or in respect of the CPR Lands, including by:
  - (i) attending a pre-construction meeting coordinated with the Province's Representative and CPR; and
  - (ii) submitting weekly 3-week rolling look-ahead schedules in order to clearly communicate planned construction activities to CPR.
- (b) Section 16.2 [Reports] of CPR CATRA imposes obligations on the Province with respect to reporting to CPR about, inter alia, the Work on or in respect of the CPR Lands. To enable the Province to comply with this obligation, the Primary Contractor shall provide, on a monthly basis and more often as appropriate in the circumstances, a report to the Province's Representative with respect to the status and progress of all aspects of the Work on or in respect of the CPR Lands, which reports shall be in a format that is, prior to the submission of the first report, approved by the Province's Representative, in its discretion, and by CPR.

## 5.8 CPR Costs

- (a) The Primary Contractor shall be responsible for all costs and expenses:
  - (i) related to the undertaking of and facilitating the execution of the Work by the Primary Contractor on or in respect of the CPR Lands as described in this Agreement, including this Article 5 [CPR Requirements]; and
  - (ii) incurred by CPR in undertaking the CPR Own Work as provided in CPR CATRA.
- (b) If the Province is invoiced for any such costs or expenses in relation to the CPR Own Work or the provision of flagpersons by CPR which are the responsibility of the Primary Contractor or, if such costs and expenses are otherwise charged directly to the Province, the Province may pay such costs and expenses and, upon demand, the Primary Contractor shall forthwith reimburse the Province for any amount so paid or, if the Province so elects, the Province may deduct any amount so paid or to be paid by the Province from any payments owing by the Province to the Primary Contractor.

## 5.9 Assistance with CPR Notice and Disputes

- (a) The Primary Contractor shall cooperate with and provide, at its own cost and expense, all information, documentation and other assistance reasonably requested by the Province or BCTFA, as applicable, to:
  - (i) give notice to CPR in accordance with the provisions of the CPR Agreements relating to the Work on or in respect of the CPR Lands; and
  - (ii) resolve any dispute between CPR and the Province or BCTFA, as applicable, relating to the Work on or in respect of the CPR Lands in accordance with the dispute resolution procedures of the applicable CPR Agreement.

## 5.10 Waiver of Claims against CPR

- (a) Each of the CPR Agreements contain provisions whereby the Province has agreed to waive any CPR Waived Claims against CPR, which provisions include:
  - (i) Sections 13.2 [No Claim or Demand] and 13.4 [CPR not liable for Consequential Loss] of CPR CATRA;
  - (ii) Section 5.2 [No MOT Claims] of CPR SRW;
  - (iii) Section 12.2 of each of the CPR Ioco Crossing Agreement and the CPR Main Line Crossing Agreement; and
  - (iv) Section 11.7 of the CPR Canopy Agreement.

The Primary Contractor, on its own behalf and on behalf of any persons for whom the Primary Contractor is in law responsible, agrees to waive as against CPR and CPR's employees, licensees, representatives and agents any claims for losses, expenses or damages that the Primary Contractor and/or any persons for whom the Primary Contractor is in law responsible may have against CPR and CPR's employees, licensees, representatives and agents that are CPR Waived Claims.

- (b) The Primary Contractor shall ensure that all Subcontracts to which the Primary Contractor is a party contain provisions which impose on the Subcontractor the same waiver of any CPR Waived Claims by the Subcontractor as are contained in Article 5.10(a) [Waiver of Claims against CPR] of this Part 1.
- (c) In the event that the Primary Contractor or any persons for whom the Primary Contractor is in law responsible makes a CPR Waived Claim against CPR or any of CPR's employees, Subcontractors, licensees, representatives or agents (whether or not in breach of the provisions of this Article 5 [CPR Requirements]) that is a CPR Waived Claim, and CPR claims indemnity against the Province or BCTFA in respect of such claim, the Primary Contractor shall, notwithstanding any other provisions of this Agreement, including any provision that limits the nature of Losses for which the Primary Contractor may be responsible, indemnify and save harmless the Province and BCTFA, as applicable, in respect

of any amounts that the Province or BCTFA may be liable to pay CPR or any of CPR's employees, contractors, licencees, representatives or agents, including the reasonable legal fees and expenses of the Province and BCTFA.