

**SCHEDULE 28
O&M INTERIM SERVICES AGREEMENT**

THIS AGREEMENT is made as of the <*> day of <*>, 2015

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure
(the “**Ministry**”)

AND

SGTP HIGHWAY BYPASS LIMITED PARTNERSHIP, a limited partnership existing under the laws of Saskatchewan, by its general partner, SGTP Highway Bypass GP Inc.
(“**Project Co**”)

WHEREAS:

- A. The Ministry and Project Co have entered into the Project Agreement.
- B. Pursuant to the terms of the Project Agreement, Project Co is required to enter into this O&M Interim Services Agreement (the “**Agreement**”) with the Ministry to provide operations and maintenance services for and in respect of a certain portion of the Works and the Existing Bypass Infrastructure prior to Substantial Completion.

NOW THEREFORE in consideration of the mutual covenants and agreements of the Parties herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. Definitions

In this Agreement, including the recitals and appendices, unless the context indicates a contrary intention, terms which are defined in the Project Agreement (and not otherwise defined in this Agreement) shall have meanings given in the Project Agreement and the following terms shall have the following meanings:

- (a) “**Conveyance Date**” means the date that Project Co’s licence to the Conveyed Lands upon which the Conveyed Infrastructure is located terminates in accordance with the Project Agreement.
- (b) “**Conveyed Infrastructure Commencement Date**” is the date the relevant Conveyed Infrastructure is open to traffic, which, for certainty:
 - (i) in the case of Service Roads and Crossroads existing at Commercial Close, shall be the date on which Project Co commences the Works in relation to such Conveyed Infrastructure; and

- (ii) in the case of new Service Roads and Crossroads, shall be the date on which such new Service Roads and Crossroads are open to traffic.
- (c) **“Employee Termination Payments”** means Employee Termination Payments (as defined in Schedule 20 – Compensation on Termination to the Project Agreement, *mutatis mutandis*) arising as a direct result of terminating this Agreement.
- (d) **“Excusing Cause”** means any Excusing Cause (as defined in the Project Agreement, *mutatis mutandis*) which arises during the Interim Maintenance Period to the extent that it interferes adversely with, or causes a failure of, the performance of the O&M Interim Services.
- (e) **“Force Majeure”** means any event of Force Majeure (as defined in the Project Agreement, *mutatis mutandis*) to the extent that it causes Project Co to be unable to perform all or a material part of the O&M Interim Services.
- (f) **“Interim Maintenance Period”** means:
 - (i) in respect of the Existing Bypass Infrastructure, from the O&M Handover Date to, but not including, the Substantial Completion Date;
 - (ii) in respect of Phase One, from the Phase One Substantial Completion Date to, but not including, the Substantial Completion Date;
 - (iii) in respect of Roadways on Conveyed Lands and Conveyed Infrastructure, from the Conveyed Infrastructure Commencement Date to the Conveyance Date; and
 - (iv) in respect of the Bypass, in the event that Substantial Completion is achieved prior to the Original Scheduled Substantial Completion Date, from the date Substantial Completion is achieved to, but not including, the Original Scheduled Substantial Completion Date.
- (g) **“Interim Maintenance Sections”** has the meaning given in Schedule 15-1 – Technical Requirements – General Information to the Project Agreement.
- (h) **“Monthly O&M Interim Services Payment”** has the meaning given in Section 5(b).
- (i) **“Non-Conformance”** has the meaning given in Schedule 14 – Integrated Management System to the Project Agreement.
- (j) **“Non-Conformance Report Tracking System”** has the meaning given in Schedule 14 – Integrated Management System to the Project Agreement.

- (k) “**O&M Handover Date**” means May 1, 2016.
- (l) “**O&M Interim Services**” means those operation, maintenance and other services set out herein which are to be provided by Project Co in accordance with the terms of this Agreement.
- (m) “**O&M Interim Services Provider**” means Regina Bypass Design Builders, an unincorporated joint venture consisting of Carmacks Enterprises Ltd., Parsons Canada, Ltd., Graham Infrastructure LP and VINCI Infrastructure Canada Limited, engaged by Project Co to perform the O&M Interim Services and any person engaged by Project Co to perform the O&M Interim Services as may be permitted by this Agreement., engaged by Project Co to perform the O&M Interim Services and any substitute person engaged by Project Co to perform the O&M Interim Services as may be permitted by this Agreement.
- (n) “**Original Scheduled Substantial Completion Date**” means October 31, 2019.
- (o) “**Party**” means the Ministry or Project Co, and “**Parties**” means the Ministry and Project Co.
- (p) “**Project Agreement**” means the project agreement made on or about the date hereof between the Ministry and Project Co providing for the design, construction, financing, operation and maintenance of the Regina Bypass.
- (q) “**Project Co Party**” means:
 - (i) the O&M Interim Services Provider;
 - (ii) any person engaged by Project Co and/or the O&M Interim Services Provider from time to time as may be permitted by this Agreement to procure or manage the provision of the O&M Interim Services (or any of them); and
 - (iii) in respect of each of the above, their subcontractors of any tier, agents, employees, officers and directors,and “**Project Co Parties**” shall be construed accordingly.
- (r) “**Quality Failure**” means any Non- Conformance that has specific Quality Failure Points assigned to it as indicated in Appendix A of this Agreement.
- (s) “**Quality Failure Deduction**” means the amount which may be deducted for the relevant Contract Month in accordance with Section 6 of this Agreement.

- (t) “**Quality Failure Point(s)**” or “**QF Point(s)**” means, in respect of any Quality Failure, the number of points assigned to such failure as indicated in Appendix A of this Agreement.
- (u) “**Relief Event**” means any Relief Event (as defined in the Project Agreement, *mutatis mutandis*) to the extent that such Relief Event causes a failure by Project Co to perform any of the O&M Interim Services.
- (v) “**Subcontractor**” means any subcontractor of Project Co engaged by or through Project Co to perform any of the O&M Interim Services, including the O7M Interim Services Provider, any supplier or consultant, and any subcontractor of any other subcontractor at any tier.
- (w) “**Subcontractor Losses**” means Subcontractor Losses (as defined in Schedule 20 – Compensation on Termination to the Project Agreement, *mutatis mutandis*) arising as a direct result of terminating this Agreement.
- (x) “**Term**” of this Agreement means the Interim Maintenance Period, unless terminated earlier in accordance with this Agreement.
- (y) “**Variation**” means a variation, addition, reduction, substitution, omission, modification, removal or other change to the whole or any part of the O&M Interim Services.
- (z) “**Variation Enquiry**” means a Variation Enquiry (as defined in the Project Agreement, *mutatis mutandis*) in respect of a Variation.

2. Interpretation

This Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:

- (a) The headings in this Agreement are for convenience of reference only, shall not constitute a part of this Agreement, and shall not be taken into consideration in the interpretation of, or affect the meaning of, this Agreement.
- (b) Unless the context otherwise requires, references to specific Sections, Paragraphs, Subparagraphs, and other divisions are references to such Sections, Paragraphs, Subparagraphs, or divisions of this Agreement and the terms “Section” and “Clause” are used interchangeably and are synonymous.
- (c) Words importing persons or parties are to be broadly interpreted and include an individual, corporation, firm, partnership, joint venture, trust, unincorporated organization, Governmental Authority, unincorporated body of persons or association and any other entity having legal capacity, and the heirs, beneficiaries,

executors, administrators or other legal representatives of a person in such capacity.

- (d) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine, feminine and neuter genders include all other genders.
- (e) References to any standard, principle, agreement or document include (subject to all relevant approvals and any other provisions of this Agreement concerning amendments) a reference to that standard, principle, agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.
- (f) The words in this Agreement shall bear their natural meaning.
- (g) References containing terms such as:
 - (i) “hereof”, “herein”, “hereto”, “hereinafter”, and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to this Agreement taken as a whole; and
 - (ii) “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- (h) In construing this Agreement, the rule known as the *ejusdem generis rule* shall not apply nor shall any similar rule or approach to the construction of this Agreement and, accordingly, general words introduced or followed by the word “other” or “including” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- (i) Where this Agreement states that an obligation shall be performed “no later than” or “within” or “by” a stipulated date or event which is a prescribed number of days after a stipulated date or event, the latest time for performance shall be 5:00 p.m.(Central Standard Time) on the last day for performance of the obligation concerned, or, if that day is not a Business Day, 5:00 p.m. (Central Standard Time) on the next Business Day.
- (j) Where this Agreement states that an obligation shall be performed “on” a stipulated date, the latest time for performance shall be 5:00 p.m. (Central Standard

Time) on that day, or, if that day is not a Business Day, 5:00 p.m. (Central Standard Time) on the next Business Day.

- (k) Any reference to time of day or date means the local time or date in Regina, Saskatchewan.
- (l) Unless otherwise indicated, time periods will be strictly construed.
- (m) Whenever the terms “will” or “shall” are used in this Agreement they shall be construed and interpreted as synonymous and to read “shall”.

3. **Conflict of Documents**

- (a) In the event of any ambiguity, conflict or inconsistency between the provisions of this Agreement and the Project Agreement, the provisions of the Project Agreement shall prevail and govern to the extent of such ambiguity, conflict or inconsistency.

4. **Performance of the O&M Interim Services**

- (a) During the Interim Maintenance Period or until this Agreement is terminated in accordance with the terms thereof, if earlier, Project Co shall perform the O&M Interim Services in respect of the Interim Maintenance Sections in accordance with the provisions of Section 400.2.6.2 of Schedule 15-3 – Technical Requirements – OM&R and Handback to the Project Agreement and in accordance with Good Industry Practice.

5. **Monthly O&M Interim Services Payment**

- (a) In consideration for the provision by Project Co of the O&M Interim Services, the Ministry shall pay to Project Co the Monthly O&M Interim Services Payment.
- (b) The “**Monthly O&M Interim Services Payment**” in respect of any Contract Month shall be an amount equal to the aggregate of (without double counting):
 - (i) in respect of O&M Interim Services provided for that Contract Month in respect of the Existing Bypass Infrastructure, the relevant amount set out in Appendix B to this Agreement;
 - (ii) in respect of O&M Interim Services provided for that Contract Month in respect of Phase One, the relevant amount set out in Appendix B to this Agreement; and

- (iii) in respect of O&M Interim Services provided for that Contract Month in respect of the Bypass (other than as provided for in Sections 5(b)(i) and 5(b)(ii)), the relevant amount set out in Appendix B to this Agreement,

LESS, the aggregate (without double counting) of the following, to the extent it is a positive amount:

- (iv) Quality Failure Deductions for that Contract Month; and
- (v) amounts which the Ministry is entitled to set off pursuant to Section 13(a).

6. Quality Failure Deduction

- (a) For purposes of Section 5(b)(iv) of this Agreement, the Quality Failure Deduction which may be deducted in calculating the Monthly O&M Interim Services Payment in respect of a Contract Month shall be _____ per day for each day during that Contract Month on which there exists a Quality Failure.

7. Non-Conformance Report Tracking System

- (a) The provisions of Part 7 of Schedule 14 – Integrated Management System to the Project Agreement shall apply in respect of the O&M Interim Services. Project Co agrees to comply with Part 7 of Schedule 14 – Integrated Management System and, without limitation, but for certainty, Project Co covenants and agrees to maintain the Non-Conformance Report Tracking System to record and monitor the status of all Non-Conformances.

8. Insurance

- (a) Project Co shall place or shall cause to be placed the applicable insurances described in Appendix C – Insurances (the “**Insurances**”) in the amounts and on the terms stated in Appendix C – Insurances. Project Co shall maintain or cause to be maintained the Insurances in good standing from the commencement of the Interim Maintenance Period throughout the Term of this Agreement.

9. Ministry’s Remedial Rights

- (a) Exercise of Remedial Rights
 - (i) The Ministry may exercise the rights set out in this Section 9 at any time and from time to time if:
 - (A) The Ministry, acting reasonably, considers that a breach by Project Co of any obligation under this Agreement, or any act or omission

on the part of Project Co or any Project Co Party in relation to performance of Project Co's obligations under this Agreement:

- (I) does or can reasonably be expected to create a serious threat to the health, safety or security of any person, including any Bypass User or Province Person;
- (II) does or can reasonably be expected to result in a materially adverse interruption in the O&M Interim Services or the availability of the Interim Maintenance Sections to Bypass Users;
- (III) does or can reasonably be expected to materially prejudice the performance of any Governmental Activities; or
- (IV) may potentially compromise the reputation or integrity of the Ministry and/or any MHI Party or the nature of the Province of Saskatchewan's highway system, so as to negatively affect public perception of that system,

provided that:

- (V) in respect of a breach by Project Co of any obligation under this Agreement, or any act or omission on the part of Project Co or any Project Co Party, which can reasonably be expected to cause any of the consequences set out in Sections 9(a)(i)(A), 9(a)(i)(A)(II) or 9(a)(i)(A)(III) the Ministry shall not exercise its rights under this Section 9 unless Project Co has failed to cure the relevant breach, act or omission within five Business Days of notice from the Ministry or, if such breach, act or omission cannot reasonably be cured within such five-Business Day period, Project Co thereafter fails to diligently and continuously pursue such cure and to cure such breach, act or omission within a reasonable period thereafter, provided that Project Co shall not be entitled to a cure period if any of the consequences set out in Sections 9(a)(i)(A)(I), 9(a)(i)(A)(II) or 9(a)(i)(A)(III) actually occurs; and
- (VI) in respect of Section 9(a)(i)(A)(IV), the Ministry shall not exercise its rights under this Section 9 unless Project Co has failed to cure the relevant breach, act or omission within five Business Days of notice from the Ministry or, if such breach, act or omission cannot reasonably be cured within such five-Business Day period, Project Co thereafter fails to diligently

and continuously pursue such cure and to cure such breach, act or omission within a reasonable period thereafter;

- (B) a labour dispute materially affects or can reasonably be expected to materially affect the O&M Interim Services, the Governmental Activities or the availability of the Interim Maintenance Sections to Bypass Users; or
 - (C) Project Co has failed to comply with any written direction issued by or on behalf of the Ministry (or any designate appointed pursuant to Section 62.1 of the Project Agreement).
- (b) Emergency
- (i) Notwithstanding that Project Co is not in breach of its obligations under this Agreement, the Ministry may exercise all of the rights set out in this Section 9 at any time and from time to time during the Interim Maintenance Period if the Ministry, acting reasonably, considers the circumstances to constitute an Emergency that relates solely to the O&M Interim Services.
- (c) Rectification
- (i) Without prejudice to the Ministry's rights under Section 6 and any other rights under this Agreement, in any of the circumstances set out in Sections 9(a) or 9(b), the Ministry may, by written notice, require Project Co to take such steps as the Ministry, acting reasonably, considers necessary or expedient to mitigate, rectify or protect against such circumstance, including, if applicable, the termination and replacement of Subcontractors, and Project Co shall use commercially reasonable efforts to comply with the Ministry's requirements as soon as reasonably practicable.
 - (ii) If the Ministry gives notice to Project Co pursuant to Section 9(c)(i) and either:
 - (A) Project Co does not either confirm, within five Business Days of such notice or such shorter period as is appropriate in the case of an Emergency, that it is willing to take the steps required in such notice or present an alternative plan to the Ministry to mitigate, rectify and protect against such circumstances that the Ministry may accept or reject acting reasonably; or
 - (B) Project Co fails to take the steps required in such notice or accepted alternative plan within such time as set out in such notice or

accepted alternative plan or within such longer time as the Ministry, acting reasonably, shall think fit,

then the Ministry may require Project Co to terminate and replace its Subcontractors or may, either itself or by engaging others (including a third party), perform or obtain the performance of the relevant O&M Interim Services to the standards required under this Agreement and the provisions of Section 10 shall apply.

(iii) Notwithstanding the foregoing provisions of this Section 9(c), in the event of an Emergency, the notice under Section 9(c)(i) shall be given as promptly as possible having regard to the nature of the Emergency and the Ministry may, prior to Project Co's confirmation under Section 9(c)(ii)(A), take such steps as are appropriate having regard to the nature of the Emergency.

(d) Costs and Expenses

(i) Subject to the Ministry's obligations pursuant to Sections 9(e) and 9(f):

(A) Project Co shall bear all costs and expenses incurred by Project Co in relation to the exercise of the Ministry's rights pursuant to this Section 9; and

(B) Project Co shall reimburse the Ministry for all reasonable costs and expenses incurred by the Ministry in relation to the exercise of the Ministry's rights pursuant to this Section 9.

(ii) If, in exercising its rights pursuant to this Section 9, the Ministry performs any part of the O&M Interim Services either itself or by engaging others, the Ministry shall be entitled to deduct from any Monthly O&M Interim Services Payment the reasonable cost of performing such O&M Interim Services. If the Ministry makes such a deduction, then Project Co shall be relieved of its reimbursement obligations under Section 9(d)(i)(B) up to the amount equal to the deduction.

(e) Reimbursement Events

(i) In this Section 9(e), a "**Reimbursement Event**" means:

(A) an act or omission of Project Co or any Project Co Party or a breach by Project Co or any Project Co Party of any obligation under this Agreement, but only to the extent such act, omission or breach is caused by a Province Person;

- (B) a labour dispute involving employees of any Province Person that materially affects or can reasonably be expected to materially affect the O&M Interim Services; or
 - (C) an Emergency.
 - (ii) If the Ministry either takes steps itself or requires Project Co to take steps in accordance with this Section 9 as a result of a Reimbursement Event:
 - (A) the Ministry shall reimburse Project Co for the reasonable costs and expenses incurred by Project Co in relation to the exercise of the Ministry's rights pursuant to this Section 9 that would not otherwise have been incurred by Project Co in the proper performance of its obligations under this Agreement; and
 - (B) subject to Section 9(d)(ii), the Ministry shall bear all costs and expenses incurred by the Ministry in relation to the exercise of the Ministry's rights pursuant to this Section 9.
- (f) Reimbursement if Improper Exercise of Rights
 - (i) If the Ministry exercises its rights pursuant to this Section 9, but the Ministry was not entitled to do so, the Ministry shall reimburse Project Co for the reasonable costs and expenses directly incurred by Project Co over and above those that would otherwise have been incurred by Project Co in the proper performance of its obligations under this Agreement and that are directly and reasonably incurred by Project Co as a result of complying with any written requirements of the Ministry issued as a result of the Ministry having exercised such rights.
 - (ii) Project Co acknowledges and agrees that Project Co has no right to require a determination of whether or not the Ministry is entitled to exercise its rights pursuant to this Section 9 before taking any such action as the Ministry may require and Project Co shall comply with all of the Ministry's requirements. Only concurrently with or after complying with the Ministry's requirements shall Project Co be entitled to refer any Dispute for resolution in accordance with Schedule 22 - Dispute Resolution Procedure to the Project Agreement.

10. Supervening Events

- (a) Upon the occurrence of an Excusing Cause, Relief Event or event of Force Majeure (collectively, "**Supervening Events**" and individually, a "**Supervening Event**"), Project Co shall, if it wishes to claim relief in respect of any such event,

give written notice to the Ministry within five Business Days of becoming aware of a Supervening Event. Such notice shall give sufficient details to identify the particular event claimed to be a Supervening Event.

- (b) A subsequent written notice shall be given by Project Co to the Ministry within a further five Business Days of the initial notice, which notice shall contain such relevant information relating to the failure to perform (or delay in performing) as is available, including, without limitation, the effect of the Supervening Event on the ability of Project Co to perform all or any part of the O&M Interim Services, the action being taken in accordance with Section 10(c) of this Agreement, the date of occurrence of the Supervening Event, and an estimate of the period of time required to overcome the Supervening Event and/or its effects.
- (c) Provided that the effect of a Supervening Event is claimed by Project Co, in writing, within five Business Days of the date on which Project Co or any Project Co Party became aware of the occurrence of such Supervening Event, to the extent Project Co's ability to perform the O&M Interim Services in accordance with this Agreement is adversely affected:
 - (i) failure by Project Co to perform, and any poor performance of any affected O&M Interim Services shall not constitute a breach of this Agreement by Project Co;
 - (ii) Project Co shall be relieved of its obligations to perform the O&M Interim Services; and
 - (iii) Non-Conformances arising in respect of such affected O&M Interim Services shall not count towards Quality Failures.
- (d) If Project Co is (or claims to be) affected by a Supervening Event, Project Co shall, and shall require all Project Co Parties to, take and continue to take commercially reasonable steps:
 - (A) to eliminate or mitigate the consequences of such event upon the performance of the obligations under this Agreement;
 - (B) to continue to perform its obligations under this Agreement to the extent possible notwithstanding the Supervening Event; and
 - (C) to resume performance of its obligations under this Agreement affected by the Supervening Event as soon as practicable.
- (e) To the extent that Project Co does not comply with its obligations under Section 10(d), such failure shall be taken into account in determining Project Co's entitlement to relief pursuant to Section 10(c);

- (f) Notwithstanding Section 10(c), the O&M Monthly Interim Services Payment shall be suspended and the Ministry shall pay to Project Co an amount which reflects the cost to Project Co of the O&M Interim Services actually provided by Project Co and, in respect of an Excusing Cause referred to in Section 41.2(v) of the Project Agreement and applicable herein, all incremental Direct Costs incurred by Project Co as a result of such Excusing Cause.

11. Variations

- (a) The Ministry may at any time issue a Variation Enquiry in respect of any Variation relating to the O&M Interim Services and the relevant provisions of Schedule 19 – Variation Procedure to the Project Agreement shall apply, *mutatis mutandis*.
- (b) Where this Agreement requires Project Co to comply with a technical standard in respect of the O&M Interim Services, and that standard has changed between the Financial Submission Date and the date that such compliance is required, Project Co shall give notice to the Ministry of such change. If, after such notice, the Ministry requires compliance with the changed standard (rather than the standard applicable as of the Financial Submission Date), then, to the extent such change affects the performance of the O&M Interim Services and would not have otherwise been required by Good Industry Practice, such changed standard shall, subject to and in accordance with Schedule 19 - Variation Procedure to the Project Agreement, result in a Variation. If the Ministry does not require compliance with the changed standard, Project Co shall continue to comply with the standard applicable as of the Financial Submission Date and no Variation shall be available. This Section 11(b) shall not apply where a change in a technical standard is also a Change in Law.

12. Termination of Agreement

- (a) This Agreement shall terminate upon the earliest of the following:
 - (i) expiry of the latest Interim Maintenance Period under Section 1(f);
 - (ii) termination of this Agreement in accordance with its terms; and
 - (iii) termination of the Project Agreement.
- (b) Without prejudice to the Ministry's rights pursuant to Section 9 of this Agreement, in the event that Project Co is in material breach of its obligations, duties or responsibilities under this Agreement and Project Co does not rectify the specified breach within 30 days of receipt of written notice of such breach from the Ministry, the Ministry may serve a further written notice on Project Co terminating this Agreement with immediate effect.

- (c) In the event the Ministry fails to pay any sum or sums due to Project Co under this Agreement, which sum or sums are not being disputed by the Ministry in accordance with Schedule 22 - Dispute Resolution Procedure and which sum or sums, either singly or in aggregate, exceed(s) \$50,000 (index linked) and such failure continues for 30 days from receipt by the Ministry of a notice of non-payment from or on behalf of Project Co (a “**Ministry Payment Default**”), Project Co may give notice to the Ministry of the occurrence of such Ministry Payment Default, which notice will specify the details thereof, and, at Project Co’s option, may:
- (i) suspend performance of the O&M Interim Services until such time as the Ministry has remedied such Ministry Payment Default; and/or
 - (ii) if such Ministry Payment Default has not been remedied within 30 days of receipt by the Ministry of notice of the occurrence of such Ministry Payment Default, terminate this Agreement in its entirety by notice in writing having immediate effect.
- (d) In the event that this Agreement is terminated under Section 12(a)(iii), the Ministry shall, subject to Section 13(a), pay to Project Co any unpaid Monthly O&M Interim Services Payment or portion thereof for all Contract Months or any portion thereof to the date of termination and such other amounts as are expressly stated to be payable in respect of this Agreement pursuant to Schedule 20 - Compensation on Termination of the Project Agreement.
- (e) In the event that this Agreement is terminated under Section 12(b), the Ministry shall, subject to Section 13(a), pay to Project Co any unpaid Monthly O&M Interim Services Payment or portion thereof for all Contract Months or any portion thereof to the date of termination.
- (f) In the event that this Agreement is terminated under Section 12(c)(ii), the Ministry shall, subject to Section 13(a), pay to Project Co any unpaid Monthly O&M Interim Services Payment or portion thereof for all Contract Months or any portion thereof to the date of termination and the Employee Termination Payments and Subcontractor Losses.
- (g) Project Co shall at all times take commercially reasonable steps to minimize and mitigate any loss for which Project Co is entitled to bring a claim against the Ministry pursuant to this Agreement.

13. Payment of Termination Amount

- (a) Either Party may set off against any amount due from such Party any amount due from the other Party under, or for breach of the terms of, this Agreement.

- (b) Within five Business Days of the date of termination of this Agreement, Project Co shall provide to the Ministry full details of the amount which it believes to be due to Project Co pursuant to Section 11 and the basis for its calculation, together with such supporting documentation as may be necessary to verify such amount (a “**Termination Claim**”).
- (c) Within five Business Days of receipt of a Termination Claim, the Ministry may request that Project Co provide such further details and supporting documentation as it may reasonably require to verify the amount due to Project Co pursuant to Section 11.
- (d) The amount due to Project Co pursuant to Section 11, and the basis for the calculation of such amount, shall be notified to Project Co by the Ministry within five Business Days of receipt of such further details and supporting documentation or (if no such details have been requested by the Ministry) within five Business Days of receipt of the Termination Claim, and, without prejudice to Project Co’s right to dispute the amount notified by the Ministry pursuant to this Section 13(d), Project Co shall then submit to the Ministry a full invoice for such amount.
- (e) Within 60 days following receipt of such invoice, the Ministry will pay such amount to Project Co.
- (f) If the Ministry fails to make payment of any such amount by the relevant final date for payment, it shall pay to Project Co interest at the Default Interest Rate on such amount for the period until such payment is made.

14. **Post-Termination Transition**

- (a) Upon termination of this Agreement pursuant to Section 12, Project Co shall forthwith cease performance of the O&M Interim Services in a proper and orderly manner and, subject to, and without derogating from, Project Co’s rights and obligations under and pursuant to the Project Agreement, within five Business Days, Project Co shall vacate the Interim Maintenance Sections and remove therefrom in a proper and orderly manner all waste materials and site accommodation, plant and machinery used in or arising out of the O&M Interim Services, and shall leave the Site in a clean, tidy and safe condition.

15. **Project Co Indemnity**

- (a) Project Co shall indemnify and save harmless the Ministry and the Province Persons and each of their respective directors, officers, employees, agents and representatives from and against any and all Direct Losses which may be suffered, sustained, incurred or brought against them as a result of, in respect of, or arising out of any one or more of the following:

- (i) any physical loss of or damage to all or any part of the Site or the Bypass, or to any equipment, assets or other property related thereto;
- (ii) the death or personal injury of any person;
- (iii) any physical loss of or damage to property or assets of any third party; or
- (iv) any other loss or damage of any third party,

in each case, arising, directly or indirectly, out of, or in consequence of, or involving or relating to, the performance or any breach of this Agreement by Project Co or any act or omission of Project Co or any Project Co Party in relation to the performance of Project Co's obligations under this Agreement, except to the extent caused, or contributed to, by:

- (v) the breach of this Agreement by the Ministry or any act or omission of the Ministry or any Province Person; or
- (vi) a deliberate or negligent act or omission of a Bypass User that results in undue interference with Project Co's performance of the O&M Interim Services and Project Co has been unable to take commercially reasonable steps necessary to prevent, negate or mitigate the undue interference due to acting in accordance with a recommendation or instruction of the Ministry or an appropriate Province Person, except to the extent:
 - (A) any such deliberate or negligent act or omission is caused or contributed to by Project Co or any Project Co Party; or
 - (B) the Bypass User is acting in accordance with a direction, recommendation or instruction of Project Co or any Project Co Party.

16. Ministry Indemnity

- (a) The Ministry shall indemnify and save harmless Project Co and the Project Co Parties and each of their respective directors, officers, employees, agents and representatives from and against any and all Direct Losses which may be suffered, sustained, incurred or brought against them as a result of, in respect of, or arising out of any one or more of the following:
 - (i) the death or personal injury of any person arising, directly or indirectly, out of, or in consequence of, or involving or relating to, the performance or breach of this Agreement by the Ministry or any act or omission of any Province Person, except to the extent caused, or contributed to, by the

breach of this Agreement by Project Co or by any act or omission of Project Co or any Project Co Party;

- (ii) any physical loss of or damage to all or any part of any property or assets of Project Co or any Project Co Party, arising, directly or indirectly, out of, or in consequence of, or involving or relating to, breach of this Agreement by the Ministry or any deliberate or negligent act or omission of any Province Person, except to the extent caused, or contributed to, by the breach of this Agreement by Project Co or by any act or omission of Project Co or any Project Co Party; and
- (iii) any physical loss of or damage to property or assets of any third party, or any other loss or damage of any third party, arising, directly or indirectly, out of, or in consequence of, or involving or relating to, breach of this Agreement by the Ministry or any deliberate or negligent act or omission of any Province Person, except to the extent caused, or contributed to, by the breach of this Agreement by Project Co or by any act or omission of Project Co or any Project Co Party,

provided that there shall be excluded from the indemnity given by the Ministry any liability for the occurrence of risks against which Project Co is required to insure under this Agreement and the Project Agreement to the extent of the proceeds available or that should have been available but for a failure by Project Co to comply with its obligations to properly insure under this Agreement and the Project Agreement.

17. **Dispute Resolution Procedure**

- (a) All Disputes shall be resolved in accordance with, and the Parties shall comply with, Schedule 22 - Dispute Resolution Procedure to the Project Agreement.

18. **Notices**

- (a) Notices to Parties
 - (i) All notices, requests, demands, instructions, certificates, consents and other communications (each being a “**Notice**”) required or permitted under this Agreement shall be in writing (whether or not “written notice” or “notice in writing” is specifically required by the applicable provision of this Agreement) and served by sending the same by registered mail or by hand or transmitted by electronic transmission to the address or electronic mail address as follows:

If to Project Co:

SGTP Highway Bypass Limited Partnership
1903 E Turvey Road

Regina, SK S4N 3A4

E-mail: [REDACTED]

Fax number: [REDACTED]

Attn.: [REDACTED]

If to the Ministry:

Ministry of Highways and Infrastructure
Victoria Tower
1200 – 1855 Victoria Avenue
Regina, Saskatchewan
S4P 3T2

E-mail: zvezdan.lazic@gov.sk.ca
Fax: 306-933-5188
Attn.: Zev Lazic - Executive Director,
Major Projects

With a copy to:

SaskBuilds Corporation
720-1855 Victoria Avenue
Regina, Saskatchewan
S4P 3T2

E-mail: Miguel.morrisette@gov.sk.ca
Fax: 306-798-0626
Attn.: Miguel Morrisette, Project
Director

(b) Electronic Transmission

- (i) Where any Notice is provided or submitted to a Party via electronic transmission, an original of the Notice sent via electronic transmission shall promptly be sent by regular mail or registered mail. For greater certainty, a Notice given via electronic transmission shall not be invalid by reason only of a Party's failure to comply with this Section 18(b).

(c) Change of Address

- (i) Either Party to this Agreement may, from time to time, change any of its contact information set forth in Sections 18(a) or 18(b) by prior Notice to the other Party, and such change shall be effective on the Business Day that next follows the recipient Party's receipt of such Notice unless a later effective date is given in such Notice.

(d) Deemed Receipt of Notices

- (i) Subject to Sections 18(d)(ii) and 18(d)(iii):
 - (A) a Notice given by registered mail shall be deemed to have been received on the third Business Day after mailing;
 - (B) a Notice given by hand delivery shall be deemed to have been received on the day it is delivered; and
 - (C) a Notice given by electronic transmission shall be deemed to have been received on the day it is transmitted by electronic transmission.
 - (ii) If the Party giving the Notice knows or ought reasonably to know of difficulties with the postal system which might affect negatively the delivery of mail, any such Notice shall not be mailed but shall be made or given by personal delivery or by electronic transmission in accordance with this Section 18.
 - (iii) If any Notice delivered by hand or transmitted by electronic transmission is so delivered or transmitted, as the case may be, either on a day that is not a Business Day or on a Business Day after 4:00 p.m. (recipient's local time), then such Notice shall be deemed to have been received by such recipient on the next Business Day.
- (e) Service on the Ministry
- (i) Where any Notice is required to be served on the Ministry, the obligation to serve such Notice shall be fulfilled by serving it on the Ministry in accordance with the provisions of this Section 18.

19. Amendments

- (a) This Agreement may not be varied, amended or supplemented except by an agreement in writing signed by duly authorized representatives of the Parties and stating on its face that it is intended to be an amendment, restatement or other modification, as the case may be, to this Agreement.

20. Waiver

- (a) No waiver made or given by a Party under or in connection with this Agreement shall be binding or effective unless the waiver is in writing, signed by an authorized representative of the Party giving such waiver, and delivered by such Party to the other Parties. No waiver made with respect to any right, power or remedy in one instance will be deemed to be a waiver with respect to any other instance involving the exercise of such right, power, or remedy or with respect to any other right, power, or remedy.

- (b) Failure by any Party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.

21. Relationship Between the Parties

- (a) The Parties are independent contractors. This Agreement is not intended to and does not create or establish between the Parties, or between the Ministry and any Project Co Party, any relationship as partners, joint venturers, employer and employee, master and servant, or (except as provided in this Agreement), of principal and agent, and does not create or establish any relationship whatsoever between the Ministry and any representative or employee of Project Co or the Project Co Parties.

22. Entire Agreement

- (a) Except where provided otherwise in this Agreement, this Agreement and the Project Agreement (including all schedules thereto and all agreements and documents entered into in connection therewith) constitute the entire agreement between the Parties in connection with the subject matter of this Agreement and supersede all prior representations, communications, negotiations and understandings, whether oral, written, express or implied, concerning the subject matter of this Agreement.

23. Severability

- (a) Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is declared invalid, unenforceable or illegal by the courts of a competent jurisdiction, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is invalid, unenforceable or illegal, the Parties shall, acting in good faith, promptly 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.

24. Enurement

- (a) This Agreement shall enure to the benefit of, and be binding on, each of the Parties and their respective successors and permitted transferees and assigns.

25. Governing Law and Jurisdiction

- (a) This Agreement shall be governed by and construed in accordance with the laws of the Province of Saskatchewan and the laws of Canada applicable therein and shall be treated in all respects as an Saskatchewan contract, without regard to conflict of laws principles.
- (b) Subject to Schedule 22 - Dispute Resolution Procedure to the Project Agreement, both Parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Saskatchewan and all courts competent to hear appeals therefrom.
- (c) Nothing in this Agreement affects the rights, protections and immunities of the Crown under *The Proceedings Against the Crown Act* (Saskatchewan).

26. Further Assurance

- (a) Each Party shall do all things, from time to time, and execute all further documents necessary to give full effect to this Agreement.

27. Language of Agreement

- (a) Each Party acknowledges having requested and being satisfied that this Agreement and related documents be drawn in English. Chacune des parties reconnaît avoir demandé que ces documents soient rédigés en anglais et s'en déclare satisfaite.

28. Proof of Authority

- (a) the Ministry reserves the right to require any person executing this Agreement on behalf of Project Co to provide proof, in a form acceptable to the Ministry, that such person has the requisite authority to execute this Agreement on behalf of and to bind Project Co.

29. Counterparts

- (a) This Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all the Parties shall constitute a full, original and binding agreement for all purposes. Counterparts may be executed either in original or PDF form provided that any Party providing its signature in PDF form shall promptly forward to such Party an original signed copy of this Agreement which was provided in PDF form.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF SASKATCHEWAN, as represented by**

the Minister of Highways and Infrastructure

Per:

Name:
Title:

Per:

Name:
Title:

**SGTP HIGHWAY BYPASS LIMITED
PARTNERSHIP, a limited partnership existing under
the laws of Saskatchewan, by its general partner, SGTP
Highway Bypass GP Inc.**

Per:

Name:
Title:

Per:

Name:
Title:

I/We have authority to bind the corporation.

APPENDIX A
QUALITY FAILURES

O&M Performance Requirements		
Feature	Non-Conformance	Consequences for Non-Conformance*
Non-Conformance Register	10 or more Non-Conformance Record Points recorded and outstanding in the NCR Points Register as related to the O&M Interim Services.	1 QF Point/day

APPENDIX B

SCHEDULE OF MONTHLY O&M INTERIM SERVICES PAYMENTS

From	To	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Existing Bypass Infrastructure	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Phase One	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of the Bypass (other than as included in (A) or (B))	Aggregate Monthly O&M Interim Services Payment in respect of O&M Interim Services
		(A)	(B)	(C)	(D = A + B + C)
29-Jul-2015	31-Jul-2015				
01-Aug-2015	31-Aug-2015				
01-Sep-2015	30-Sep-2015				
01-Oct-2015	31-Oct-2015				
01-Nov-2015	30-Nov-2015				
01-Dec-2015	31-Dec-2015				
01-Jan-2016	31-Jan-2016				
01-Feb-2016	29-Feb-2016				
01-Mar-2016	31-Mar-2016				

From	To	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Existing Bypass Infrastructure	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Phase One	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of the Bypass (other than as included in (A) or (B))	Aggregate Monthly O&M Interim Services Payment in respect of O&M Interim Services
01-Apr-2016	30-Apr-2016				
01-May-2016	31-May-2016				
01-Jun-2016	30-Jun-2016				
01-Jul-2016	31-Jul-2016				
01-Aug-2016	31-Aug-2016				
01-Sep-2016	30-Sep-2016				
01-Oct-2016	31-Oct-2016				
01-Nov-2016	30-Nov-2016				
01-Dec-2016	31-Dec-2016				
01-Jan-2017	31-Jan-2017				
01-Feb-2017	28-Feb-2017				

From	To	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Existing Bypass Infrastructure	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Phase One	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of the Bypass (other than as included in (A) or (B))	Aggregate Monthly O&M Interim Services Payment in respect of O&M Interim Services
01-Mar-2017	31-Mar-2017				
01-Apr-2017	30-Apr-2017				
01-May-2017	31-May-2017				
01-Jun-2017	30-Jun-2017				
01-Jul-2017	31-Jul-2017				
01-Aug-2017	31-Aug-2017				
01-Sep-2017	30-Sep-2017				
01-Oct-2017	31-Oct-2017				
01-Nov-2017	30-Nov-2017				
01-Dec-2017	31-Dec-2017				
01-Jan-2018	31-Jan-2018				

From	To	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Existing Bypass Infrastructure	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Phase One	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of the Bypass (other than as included in (A) or (B))	Aggregate Monthly O&M Interim Services Payment in respect of O&M Interim Services
01-Feb-2018	28-Feb-2018				
01-Mar-2018	31-Mar-2018				
01-Apr-2018	30-Apr-2018				
01-May-2018	31-May-2018				
01-Jun-2018	30-Jun-2018				
01-Jul-2018	31-Jul-2018				
01-Aug-2018	31-Aug-2018				
01-Sep-2018	30-Sep-2018				
01-Oct-2018	31-Oct-2018				
01-Nov-2018	30-Nov-2018				
01-Dec-2018	31-Dec-2018				

From	To	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Existing Bypass Infrastructure	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of Phase One	Monthly O&M Interim Services Payment in respect of O&M Interim Services provided in respect of the Bypass (other than as included in (A) or (B))	Aggregate Monthly O&M Interim Services Payment in respect of O&M Interim Services
01-Jan-2019	31-Jan-2019				
01-Feb-2019	28-Feb-2019				
01-Mar-2019	31-Mar-2019				
01-Apr-2019	30-Apr-2019				
01-May-2019	31-May-2019				
01-Jun-2019	30-Jun-2019				
01-Jul-2019	31-Jul-2019				
01-Aug-2019	31-Aug-2019				
01-Sep-2019	30-Sep-2019				
01-Oct-2019	31-Oct-2019				

APPENDIX C

INSURANCES

1. O&M INTERIM SERVICES INSURANCE COVERAGE

1.1 From and after execution of this Agreement and until the termination of this Agreement, Project Co shall, at its own expense, obtain and maintain, or cause to be obtained and maintained, the following insurances as further described in Schedule A to this Appendix C:

- (a) “All Risks” Property;
- (b) Boiler and Machinery;
- (c) Commercial General Liability and Non-Owned Automobile Liability (to be maintained by the O&M Interim Services Provider and each of the Subcontractors involved in the O&M Interim Services);
- (d) Automobile Liability (to be maintained by the O&M Interim Services Provider and each of the Subcontractors involved in the O&M Interim Services);
- (e) Environmental Impairment (Pollution) Liability;
- (f) “All Risks” Contractors’ Equipment; and
- (g) Workers’ Compensation, in accordance with Laws and the requirements of the Government Authority.

2. NO LIMIT ON RECOVERY

2.1 Notwithstanding any other provision of this Agreement, it is hereby agreed that the limits of liability specified in this Appendix C for insurance policies, whether such policies are required to be obtained by the Ministry or by Project Co, shall in no way limit Project Co’s liability or obligations to the Ministry or the Ministry’s liability or obligations to Project Co, as applicable.

3. ADDITIONAL COVER

- 3.1 Without prejudice to the other provisions of this Appendix C, the Ministry and Project Co shall, at all relevant times and at their own expense, obtain and maintain those insurances which they are required to obtain and maintain by Applicable Law, or that they consider necessary.
- 3.2 The Ministry reserves the right to require Project Co to purchase such additional insurance coverage as the Ministry may reasonably require. The Ministry also reserves the right to request such higher or lower limits of insurance or otherwise

alter the types of coverage requirements, their minimum amounts and deductibles (taking into consideration such matters as the nature of the O&M Interim Services, contract value, industry standards and availability of insurance) as the Ministry may reasonably require from time to time. Any additional costs of such additional and/or amended insurance shall be borne by the Ministry and any cost savings resulting from the implementation of such additional and/or amended insurance shall be for the account of the Ministry.

4. RESPONSIBILITY FOR DEDUCTIBLES

- 4.1 The Party responsible for the matter giving rise to a claim, to the extent responsible therefor, shall be responsible and liable for the payment of deductibles under any policy of insurance under which it is an insured party or under any policy of insurance Project Co is required to maintain under this Appendix C. In the event that responsibility for the matter giving rise to the claim is indeterminable, the First Named Insured under the policy of insurance is responsible and liable for the payment of deductibles.

5. COOPERATION WITH INSURER'S CONSULTANT

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

6. TOTAL OR SUBSTANTIAL DESTRUCTION

- 6.1 In the event of damage to, or destruction of, all or substantially all of the Interim Maintenance Sections for which there is coverage under an insurance policy, any insurance proceeds received by Project Co shall first be applied so as to ensure the performance by Project Co of its obligations under this Agreement.

7. SUBCONTRACTORS

- 7.1 Project Co shall require that all Subcontractors are covered by, or obtain, the insurance described in this Appendix C. Project Co shall be solely responsible and liable for any damages which the Ministry may suffer as a direct result of Project Co's failure to comply with the foregoing.

- 7.2 If Project Co receives notice that any Subcontractor employed by or through Project Co is not covered by any insurance required by this Appendix C to be obtained by Project Co, Project Co shall:
- (a) ensure that such insurance coverage is put in place;
 - (b) remove the Subcontractor from the applicable Interim Maintenance Section and ensure that such Subcontractor does not perform any further part of the O&M Interim Services until after such insurance coverage is put in place; or
 - (c) if the Subcontractor cannot be covered by a particular policy as required by this Appendix C, replace the Subcontractor with a new Subcontractor who can obtain the required insurance coverage; it being acknowledged by Project Co that the requirements and restrictions set forth in the Agreement regarding new and replaced Subcontractors shall be complied with.

8. RENEWAL

- 8.1 Project Co shall provide to the Ministry, at least 5 Business Days prior to the expiry date of any policy of insurance required to be obtained by Project Co pursuant to this Appendix C, evidence of the renewal of each such policy satisfactory to the Ministry, acting reasonably.

9. NAMED AND ADDITIONAL INSUREDS AND WAIVER OF SUBROGATION

- 9.1 All insurance provided by Project Co shall:
- (a) include the Ministry and any other party specified in Schedule A of this Appendix C as Named Insureds to the extent specified in Schedule A of this Appendix C;
 - (b) include the Ministry, the Lenders, the Lenders' Agent and any other party specified in Schedule A of this Appendix C as Additional Insureds, or loss payees to the extent of their respective insurable interests to the extent specified in Schedule A of this Appendix C or as required pursuant to any agreement relating to the Project to which Project Co is a party;
 - (c) except with respect to the Automobile Liability and Workers' Compensation specified in Schedule A of this Appendix C, contain a waiver of subrogation as against the Ministry, the MHI Parties, the Lenders and Lenders' Agent and their respective shareholders, officials, directors, officers, employees, servants, consultants (other than design consultants) and agents;

- (d) contain a breach of warranty provision whereby a breach of a condition by Project Co will not eliminate or reduce coverage for any other insured; and
- (e) be primary insurance with respect to any similar coverage provided by any insurance obtained by or available to the Ministry and/or the Lenders and Lenders' Agent.

9.2 Notwithstanding that “the Ministry” includes each ministry, agency, board or other subdivision, department or branch of the Ministry, for purposes of this Appendix C, including Schedule A hereto, certain ministries and agencies of the Ministry are listed as Named Insureds and/or Additional Insureds for greater certainty and for insurance evidence requirements.

10. CERTIFICATES OF INSURANCE AND CERTIFIED COPIES OF POLICIES

10.1 Prior to the commencement of any part of the O&M Interim Services, Project Co will provide the Ministry and the Lenders' Agent with certified copies of policies, confirming that the insurances specified in Section 1.1(a) have been obtained and are in full force and effect.

10.2 Prior to the commencement of any part of the O&M Interim Services, Project Co will provide the Ministry and the Lenders' Agent with certificates of insurance or certified copies of policies, confirming that the insurances specified in Sections 1.1 (b), (c), (d), (e), (f) and (g) have been obtained and are in full force and effect. If certificates of insurance are provided, certified copies of the entire contents of all relevant insurance policies will subsequently be provided to the Ministry no later than 90 days after the date of execution of this Agreement.

11. FAILURE TO MEET INSURANCE REQUIREMENTS

11.1 If Project Co fails to obtain or maintain the insurance required by this Appendix C, fails to furnish to the Ministry a certified copy or certificate of insurance of each policy to be obtained by this Appendix C as shown or if, after furnishing such documentation, the policy lapses, is cancelled, or is materially altered, then the Ministry shall have the right, without obligation to do so, to obtain and maintain such insurance itself in the name of Project Co, and the cost thereof shall either, at the Ministry's option, be payable by Project Co to the Ministry on demand or be deducted by the Ministry from the next payment or payments otherwise due to Project Co under this Agreement.

11.2 If coverage under any insurance policy required to be obtained by Project Co should lapse, be terminated or be cancelled, then, if directed by the Ministry, Project Co shall immediately cease performing the O&M Interim Services until satisfactory evidence of renewal is produced.

12. MODIFICATION OR CANCELLATION OF POLICIES

- 12.1 Except as noted in Schedule A to this Appendix C, all insurance provided by Project Co shall contain endorsements confirming that the policy will not be cancelled, adversely reduced, adversely materially altered or adversely materially amended without the insurer(s) giving at least 30 days prior written notice by registered mail, at the address specified, to the Ministry. For greater certainty, the terms “adversely reduced”, “adversely materially altered” and “adversely materially amended” as used in this provision shall mean any decrease or reduction in policy limits, aggregate limits or sub-limits (other than as a result of claims under the policy), any increase in any policy deductible or self-insured retention, any reduction in the policy coverage period, cancellation or suspension of coverage with respect to any insured parties from the time the policy was issued for that policy period, addition of any exclusions or restrictions from the time the policy was issued for that policy period and any reduction or restriction in the scope of coverage provided under the policy, in all cases when such adverse reduction, adverse material alteration or adverse material amendment is initiated by the insurer.
- 12.2 All insurance provided by Project Co shall contain endorsements confirming that, in the event of cancellation for non-payment of premium, the insurer(s) will give at least 15 days prior written notice by registered mail, at the address specified, to the Ministry.
- 12.3 With respect to insurances described in Sections 1.1(a) and (c) breach of any of the terms or conditions of the policies required to be provided by Project Co, or any negligence or wilful act or omission or false representation by an Insured under these policies, shall not invalidate the insurance with respect to the Ministry, but only to the extent that such breach is not known to these parties.

13. INSURERS

- 13.1 All policies of insurance to be obtained by Project Co in accordance with this Appendix C shall be issued by financially sound Insurers acceptable to the Ministry, acting reasonably, and, where required by statute, licensed to insure such risk in the Province of Saskatchewan.
- 13.2 To be eligible to provide insurance, an Insurer must have the capacity to provide the particular insurance and shall have current ratings from time to time of either:
- (a) a Financial Strength Rating of not lower than “A-” for three out of the previous five years but not lower than “B” at any time during those five years, and a Financial Size Category not lower than VII, such ratings being those established by A.M. Best Company (**Best**); or
 - (b) a Long-Term Financial strength Rating of not lower than “A-” for three out of the past five years but not less than “BBB” at any time during those five years, a Short-Term Financial Strength Rating of not lower than “A-3” for three out of the previous five years and a Financial Enhancement

Rating of not lower than “A-” for three out of the previous five years but not less than “BB+” at any time during those five years, such ratings being those established by Standard and Poor’s (S&P); or

- (c) if the Insurer is not rated by Best or S&P, an Insurer that is acceptable to the Ministry, acting reasonably, with respect to the insurances required by this Appendix C.

14. POLICY TERMS AND CONDITIONS

- 14.1 All policies of insurance to be obtained by Project Co in accordance with this Appendix C shall be in form and substance satisfactory to the Ministry and its insurance advisors, acting reasonably.
- 14.2 To achieve the minimum limits for any type of insurance required under this Appendix C, it is permissible to arrange the insurance under a single policy, or by a combination of primary, umbrella and/or excess policies.

15. FAILURE TO COMPLY

- 15.1 Neither failure to comply nor full compliance by Project Co with the insurance provisions of this Appendix C shall relieve Project Co of its liabilities and obligations under this Agreement.

SCHEDULE A TO APPENDIX C TO SCHEDULE 28

INSURANCE REQUIREMENTS

O&M Interim Services Insurance – The Regina Bypass Project

During the Interim Maintenance Period

Insurances to be provided, or caused to be provided, by Project Co

Type	Amount	Maximum Deductible	Principal Cover
<p>“All Risk” Property</p>	<p>Limit of Liability of (full replacement cost value) for all property to be insured and including while on the Site or while in transit, and material and supplies destined for incorporation into the Project or intended to be used in the performance of O&M Interim Services and all In-Contract Equipment</p> <p>Business Interruption (Gross Revenue or Gross Profits Form), – minimum period of indemnity – including interdependency and contingent coverage re losses at key supplier premises, property in transit or in storage off-site (included in Limit of Liability above)</p> <p>If a covered loss causes an interruption to the Ministry services or activities, the Business Interruption loss will include the costs of carrying the Project financing, during the affected period</p> <p>Extra and Expediting Expenses (minimum sub-limit)</p> <p>Principal Extensions:</p> <ul style="list-style-type: none"> • Replacement Cost Valuation (Property) • Most Recent Technology Replacement Cost Valuation (Equipment or Machinery) • Flood (to policy limit with annual aggregate) 	<p>of loss value / minimum</p> <p>Earthquake</p> <p>Flood</p> <p>All other losses</p> <p>30 days waiting period applicable to time element coverages</p>	<p>All Risks Property insurance covering all property to be insured with a sum insured equivalent to the full replacement cost value of the property insured, and including necessary Business Interruption and Expediting Expenses.</p> <p>Coverage shall be maintained continuously during the period of the Interim Maintenance Period</p> <p>Such insurance will include Inland Transportation, By-Laws and Off Premises coverage.</p> <p>This coverage shall be primary with respect to the Project without right of contribution of any insurance carried by HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure or the Lenders.</p>

Type	Amount	Maximum Deductible	Principal Cover
<ul style="list-style-type: none"> Natural or man-made earth movement, including earthquake, landslide or subsidence (to policy limit with annual aggregate) 			
<ul style="list-style-type: none"> Electronic Data Processing equipment and media, including data restoration and re-creation costs 			
<ul style="list-style-type: none"> Debris Removal (minimum sub-limit) 			
<ul style="list-style-type: none"> Transit (minimum sub-limit) 			
<ul style="list-style-type: none"> Unnamed locations (minimum sub-limit) 			
<ul style="list-style-type: none"> Professional Fees (minimum sub-limit) 			
<ul style="list-style-type: none"> Fire Fighting Expenses (minimum sub-limit) 			
<ul style="list-style-type: none"> Valuable Papers (minimum sub-limit) 			
<ul style="list-style-type: none"> Accounts Receivable (minimum sub-limit) 			
<ul style="list-style-type: none"> Contamination Clean-up or Removal (minimum sub-limit) 			
<ul style="list-style-type: none"> Civil Authority Access Interruption (minimum) 			
<ul style="list-style-type: none"> Prevention of Ingress/Egress (minimum) 			
<ul style="list-style-type: none"> Automatic Coverage for Newly Acquired Locations (90 day reporting period acceptable) 			
<ul style="list-style-type: none"> By-Laws including demolition and increased replacement / repair costs 			

Type	Amount	Maximum Deductible	Principal Cover
	<ul style="list-style-type: none"> • Off Premises Services Interruption • Margin of profit extension for contractors • Joint Loss Agreement (if separate “All Risk” Property and Boiler and Machinery policies are arranged) <p>Permitted Exclusions:</p> <ul style="list-style-type: none"> • Cyber risk • Mould, fungi and fungal derivatives • Faulty workmanship, materials construction, design or latent defects but resultant damage to be insured • War risk • Terrorism • Nuclear or radioactive contamination, except radioactive isotopes intended for scientific, medical, industrial or commercial use 		
<i>Comments</i>	<ul style="list-style-type: none"> • Named Insured will include Project Co, HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure and the Lenders – Lenders will be covered as Loss Payee and Mortgagee • All loss proceeds payable to the Insurance Trustee in accordance with the Insurance Trust Agreement • No provision allowing a coinsurance penalty • Waiver of Subrogation against all Named Insureds, including but not limited to Project Co, the Lenders, Lenders’ Agent as well as officers, employees, servants and agents of the foregoing 		
Boiler & Machinery	Minimum Limit of Insured Object Business Interruption Insurance included, subject to a period of indemnity (Included in Limit per	each Accident to an per claim, Direct Damage Business Interruption – Maximum 30 day	Boiler & Machinery insurance on a Comprehensive Policy Form basis including HVAC on a full replacement cost basis, including all appropriate endorsements and extensions as well as necessary Business Interruption and Expediting and Extra

Type	Amount	Maximum Deductible	Principal Cover
	<p>Accident above)</p> <p>If a covered accident to insured objects(s) causes an interruption to the Ministry services or activities, the Business Interruption loss will include the costs of carrying the Project financing, during the affected period</p> <p>Sub-limits (minimum each):</p> <ul style="list-style-type: none"> • Ammonia Contamination • Automatic Coverage • Bylaws • Errors and Omissions • Expediting Expenses • Extra Expense • Hazardous Substances • Professional Fees • Water Damage 	<p>Waiting Period</p>	<p>Expense coverage.</p> <p>Coverage shall be maintained continuously during the period of the Interim Maintenance Period</p> <p>Boiler and Machinery Insurance may be arranged on a combined Property/Boiler and Machinery basis, subject to the Boiler and Machinery section of such a policy being arranged on a Comprehensive Form basis.</p> <p>This coverage shall be primary with respect to the Project without right of contribution of any insurance carried by HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure or the Lenders.</p>
<i>Comments</i>	<ul style="list-style-type: none"> • Named Insured will include Project Co, HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure and the Lenders – Lenders will be covered as Loss Payee and Mortgagee • All loss proceeds payable to the Insurance Trustee in accordance with the Insurance Trust Agreement • As nearly as possible, coverage will be structured to dovetail with the Property Insurance • Joint Loss Agreement (if separate “All Risk” Property and Boiler and Machinery policies are arranged) 		
Automobile Liability	<p>(Minimum) for Project Co and Project Co’s O&M Interim Services Provider vehicles</p> <p>(Minimum) for vehicles of any other subcontractors, sub-subcontractors, consultants, and sub-consultants, and workmen, tradesmen or other</p>		<p>Standard Saskatchewan Owners Form For all vehicles operated by Project Co, the O&M Interim Services Provider, all subcontractors, sub-subcontractors, consultants and sub-consultants, operated in connection with the Project.</p> <p>Business Automobile Liability insurance covering third party</p>

Type	Amount	Maximum Deductible	Principal Cover
<p>persons working on or at the Site</p> <p>Commercial General Liability and Non-Owned Automobile Liability</p> <p>For Project Co, the Construction Contractor, all subcontractors, sub-subcontractors, consultants and sub-consultants, including Direct and Contingent Employers Liability, Products and Completed Operations Liability, and the Ministry's and Contractor's Protective extensions</p>	<p>each occurrence, and in the annual aggregate with respect to Broad Form Products and Completed Operations for Project Co and Project Co's O&M Interim Services Provider</p> <p>each occurrence and in the annual aggregate with respect to Broad Form Completed Operations for any other contractor, subcontractors, sub-subcontractors, consultants and sub-consultants, workmen, tradesmen, or other persons involved in the O&M Interim Services</p> <p>In both instances, limits of liability may be structured as any combination of primary plus supplementary layers and Umbrella and/or Excess, or primary plus Umbrella and/or Excess</p> <p>Sub-limits (Project Co and Project Co 's O&M Interim Service Provider):</p> <ul style="list-style-type: none"> • Full policy limits with respect to Non-Owned Automobile Liability • Prairie or Forest Fire Fighting Expenses <p>Principal Extensions (required to be provided by the Project Co and its O&M Interim Services Provider; shall be endeavoured to be provided by any other contractor, subcontractors, sub-subcontractors, consultants, sub-consultants, workmen, tradesmen or</p>		<p>property damage and bodily injury liability (including accident benefits) arising out of any licensed vehicle.</p> <p>Policies shall be endorsed to preclude cancellation, except upon 60 days prior written notice provided to HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure and the Lenders.</p> <p>Commercial General Liability insurance covering all operations on an occurrence basis against claims for Bodily Injury (including Death), Broad Form Property Damage (including Loss of Use), and including Broad Form Products and Completed Operations Liability.</p> <p>This Commercial General Liability insurance will cover activities connected to the O&M Interim Services.</p> <p>This insurance shall be maintained in effect during the Interim Maintenance Period until following the earlier of the termination of the insured's person's involvement in the O&M Interim Services.</p> <p>Policies shall be endorsed to preclude cancellation, except upon 30 days prior written notice provided to HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure and the Lenders.</p>

Type	Amount	Maximum Deductible	Principal Cover
			<p>other persons involved in the O&M Interim Services):</p> <ul style="list-style-type: none"> • Owner’s and Contractor's Protective • Blanket Contractual (written) • Direct and Contingent Employers Liability • Personal Injury (nil participation) • Cross Liability and Severability of Interest with respect to each insured party • Blasting/demolition/excavating/underpinning/pile driving/shoring/caisson work/work below ground surface/tunnelling/grading, and similar operations associated with the Works as applicable • Elevator and Hoist Collision Liability • Non-Owned Automobile Liability • Prairie or Forest Fire Fighting Expenses – subject to sub-limit • Permission for Unlicensed Vehicles’ (partial road use) • Unlicensed Equipment • Loss of Use Without Property Damage • Loading and Unloading of Automobiles • Broad Form Property Damage • Broad Form Completed Operations • Intentional Injury, committed to Protect Persons or Property

Type	Amount	Maximum Deductible	Principal Cover
	<ul style="list-style-type: none"> Worldwide Territory, subject to suits being brought in Canada or the US <p>Permitted Exclusions:</p> <ul style="list-style-type: none"> Injury to employees, where Workers Compensation provides valid coverage Property in the care, custody or control of the insured, except as provided under Broad Form Products and Completed Operations Operation of licensed motor vehicles, other than attached machinery while used for its purpose, or at the Project Site Cyber risk Mould, fungi and fungal derivatives Professional liability of engineers, architects, and other professional consultants Nuclear or radioactive contamination, except release of radioactive isotopes intended for scientific, medical, industrial or commercial use 		
<i>Comments</i>	<ul style="list-style-type: none"> HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure will be identified as Additional Insureds or insured clients of Project Co and its Affiliates 		
Project Specific Pollution Liability (Combined Contractors' Pollution Liability and Pollution Legal	per claim and in the aggregate for all claims, inclusive of defense and all costs and expenses Principal Extensions: <ul style="list-style-type: none"> Hazardous Substances occurring at or emanating from the Facility or Site during the Policy Period Microbial Matter (including Fungus/Mould) 	per claim inclusive of defense and all costs and expenses	Pollution Liability insurance covering third party bodily injury, property damage consequential loss or damage, including clean-up and restoration costs, both at the Site and Off-Site, as required. Extended Reporting Period: Minimum of _____ after completion of the Interim Services This coverage shall be primary with respect to the Facility without right of contribution of any insurance carried by HER

Type	Amount	Maximum Deductible	Principal Cover
Liability – Claims Made) Combined Limit subject to Pollution Legal Liability with a minimum \$2 million sub-limit	<ul style="list-style-type: none"> • Underground / above ground storage tanks • First Party Restoration and Clean-up Costs • Disposal Site Extension, including Transportation (reporting required) • Duty to Defend • Canada and US Territory • Contractual Liability • Emergency Response Costs Permitted Exclusions: <ul style="list-style-type: none"> • Terrorism • War • Intentional Non-compliance • Prior Knowledge • Worker’s Compensation Insurance (Saskatchewan) • Employers’ Liability • Professional Liability • Nuclear Liability • Property Damage to Motor Vehicles during Transportation 		MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure or the Lenders.
Comments	• HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways will be identified as Additional Insureds or insured clients of Project Co		
“All Risks” Contractors’	If Site equipment is three years old or less the sum insured shall be equal to _____ of the replacement		“All Risks” coverage on all owned, rented, leased or

Type	Amount	Maximum Deductible	Principal Cover
<p>Equipment To cover Project Co, the O&M Interim Services Provider, subcontractors, sub-subcontractors consultants and sub-consultants</p>	<p>value of all contractors equipment used at the project. If Site equipment is more than three years old, actual cash value basis of loss settlement is acceptable.</p>		<p>borrowed contractors' equipment used at the Project Site.</p>
<p>Comments</p> <ul style="list-style-type: none"> Waiver of subrogation rights against Project Co, HER MAJESTY THE QUEEN IN RIGHT OF SASKATCHEWAN as represented by the Minister of Highways and Infrastructure, the O&M Interim Services Provider , subcontractors, sub-subcontractors, consultants, sub-consultants, Lenders, Lenders' Agent as well as officers, directors, shareholders and employees of the foregoing 			
<p>Underwriters</p>	<p>Principal underwriters in compliance with Clause 13 of this Appendix C.</p>		
<p>Worker's Compensation</p>	<p>In accordance with the Province's Act established benefits and schedules</p>	<p>Not Applicable</p>	<p>(i) Project Co and its Affiliates shall obtain and maintain, Workers Compensation (Saskatchewan), in accordance with the Province of Saskatchewan requirements.</p> <p>(ii) Project Co shall ensure that satisfactory evidence of Worker's Compensation Insurance (Saskatchewan) is provided by all Project Co Parties, including all other consultants, sub consultants, contractors, subcontractors, suppliers and tradesmen working at the Site.</p> <p>Prior to commencement of the O&M Interim Services, each of the foregoing shall provide satisfactory written confirmation of compliance, from the appropriate authority, including confirmation that all required assessments have been paid to date.</p> <p>Upon Termination of the O&M Interim Services, Project Co shall be provided with satisfactory written confirmation that all required assessments have been paid to date.</p> <p>On request, within 30 days of such request, Project Co shall deliver to the Ministry evidence of the workers compensation</p>

Type	Amount	Maximum Deductible	Principal Cover
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coverage maintained by any person involved in the O&M Interim Services, or confirmation of that person's exemption from workers compensation coverage.

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