

SCHEDULE 5

INSURANCE

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SCHEDULE 5**INSURANCE REQUIREMENTS****1. INTERPRETATION****1.1 Definitions**

In this Schedule, in addition to the definitions set out in Schedule 1 [Definitions and Interpretation] to this Agreement:

“**BI Policy**” has the meaning set out in Section 3.4 of this Schedule;

“**Boiler and Machinery Policy**” has the meaning set out in Section 3.3 of this Schedule;

“**Construction CGL Policy**” has the meaning set out in Section 2.1 of this Schedule;

“**Construction Property Policy**” has the meaning set out in Section 2.2 of this Schedule;

“**SSBA**” means the Saskatchewan School Board Association General Insurance Program;

“**Insuring Party**” has the meaning set out in Section 5.11 of this Schedule;

“**Lender Endorsements**” means the endorsements set out in Appendix 5A [Lender Endorsements (Non-SSBA)] and Appendix 5B [Lender Endorsements (SSBA)];

“**Non-Insuring Party**” has the meaning set out in Section 5.11 of this Schedule;

“**Project Co Operating CGL Policy**” has the meaning set out in Section 3.1 of this Schedule;

“**Project Co Operating Property Policy**” has the meaning set out in Section 3.2 of this Schedule; and

2. CONSTRUCTION-RELATED INSURANCE REQUIREMENTS**2.1 Wrap-Up Liability Insurance**

During the Construction Period, the Authority will take out and maintain in force, or will cause to be taken out and maintained in force, commercial general liability insurance on a wrap-up basis (the “**Construction CGL Policy**”) which will include the following terms:

- (a) coverage in an amount of not less than _____ inclusive per occurrence and _____ in the aggregate with respect to Broad Form Products and Completed Operations, for bodily injury, death, and damage to property including loss of use thereof;
- (b) a deductible not exceeding _____ per occurrence;
- (c) include as named insureds, the Authority, the School Boards, Project Co, the Project Contractors, Design firms (but excluding their professional liability) and all Sub-

Contractors, but excluding suppliers whose only function is to supply or transport products to the Site, and not extending to any activities, works, jobs or undertakings of any of the insureds other than those directly related to the Design and Construction;

- (d) include Lender Endorsements substantially in the form set out in Appendix 5A, including, without limitation, naming the Senior Lenders as additional insureds;
- (e) contain a waiver of subrogation against all insureds under the policy; and
- (f) include coverage for:
 - (1) premises and operations liability;
 - (2) damage to existing structures;
 - (3) broad form completed operations for a period of 24 months after Service Commencement (and Project Co acknowledges that it is responsible for payment of the premium for any such coverage in excess of 24 months);
 - (4) blanket contractual liability;
 - (5) cross liability/severability of interests;
 - (6) owners' and contractors' protective liability;
 - (7) contingent employer's liability;
 - (8) personal injury liability;
 - (9) shoring, blasting, excavating, underpinning, demolition, piledriving and caisson work, work below ground surface, tunnelling and grading, as applicable;
 - (10) liability with respect to non-owned licensed vehicles, with a sublimit of ;
 - (11) broad form property damage;
 - (12) limited pollution liability including hostile fire with a sublimit of (120 hours detection/120 hours notice coverage structure);
 - (13) blanket tenants legal liability with a sublimit of ;
 - (14) liberalized notice of claim requirement (requirement to report will commence when knowledge is held by any of one or more designated project persons to be identified by Project Co);
 - (15) permission for unlicensed vehicles (partial road use);

- (16) unlicensed equipment;
- (17) worldwide territory (suits brought in Canada/US);
- (18) accident benefits;
- (19) use of attached machinery;
- (20) loading and unloading of automobiles;
- (21) loss of use without damage to property;
- (22) partial road use;
- (23) elevator and hoist collision liability;
- (24) intentional injury committed to protect persons or property;
- (25) watercraft (not in excess of);
- (26) medical payments (per person), in the aggregate;
- (27) physical damage to non-owned auto with a sublimit of ;
- (28) forest fire fighting expenses with a sublimit of ; and
- (29) employee benefits administrative errors and omissions with a sublimit of

2.2 Course of Construction Coverage

During the Construction Period the Authority will take out and maintain in force, or will cause to be taken out and maintained in force, course of construction insurance against "All Risks" of physical loss or damage (the "**Construction Property Policy**") covering all materials, property, structures and equipment purchased for, entering into or forming part of the Sites or the Schools including all Design and Construction, while located anywhere within Canada or the United States of America during construction, erection, installation and testing of the Schools which will include the following terms:

- (a) coverage in an amount of not less than the replacement value of the Schools determined at the time of replacement with the following sublimits:
 - (1) for property insured under the policy and stored at an off Site location or in transit in Canada or the United States of America, a limit of not less than the total value of all property stored at any single location, or the value of the largest single shipment to be transported by land to the Site if such transport by land is not covered by marine cargo insurance;

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- (2) the full replacement value of all material and equipment forming part of the Schools lifted on Site by cranes during Construction;
 - (3) professional fees to establish the quantum of any covered loss,
 - (4) firefighting expense, ;
 - (5) debris removal and clean up, ;
 - (6) offsite storage, ;
 - (7) expediting and extra expense, combined
 - (8) defence costs, ;
 - (9) testing and commissioning, 90 days; and
 - (10) first party pollution/contaminant clean up,
- (b) include coverage for:
- (1) immediate repairs;
 - (2) off premises service interruption;
 - (3) soft costs;
 - (4) margin of profit;
 - (5) valuable papers;
 - (6) accounts receivable;
 - (7) damage resulting from frost/freezing to concrete;
 - (8) interruption by civil authority or apparent civil authority (8 weeks);
 - (9) escalation 120%;
 - (10) underground services, temporary buildings and structures, temporary boilers and pressure vessels, scaffolding, false work, forms, hoardings, excavation, site preparation, landscaping and similar work;
 - (11) electronic data processing equipment and media, including the cost to restore or recreate data;
 - (12) prevention of ingress or egress (8 weeks); and

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- (13) costs of demolition and the increased cost to repair or replace resulting from the application of bylaws or ordinances;
- (c) deductibles, per occurrence, not exceeding the following amounts and if more than one deductible applies, the highest one will apply:
- (1) for floods,
 - (2) for testing and commissioning,
 - (3) for design error,
 - (4) for soft costs, a deductible waiting period of 30 days;
 - (5) for earthquakes, the greater of _____ of the total insured value of the Schools at the time of the loss; and
 - (6) for all other insured perils,
- (d) include, as named insureds, the Authority, the School Boards, Project Co, the Project Contractors and all Sub-Contractors, as their interests may appear, and not extending to any activities, works, jobs or undertakings of any of the insureds other than those directly related to the Design and Construction;
- (e) include Lender Endorsements substantially in the form set out in Appendix 5A, including, without limitation, naming the Senior Lenders as additional insureds and loss payees and, with respect to the delay in start-up coverage referred to in Section 2.2(f), name Project Co and the Senior Lenders as the exclusive loss payees;
- (f) delay in start-up coverage:
- (1) in an amount sufficient to compensate Project Co for the loss of gross revenues actually sustained resulting from reduction in revenue and increase in cost of working, caused by the delay in any School Service Commencement resulting from any of the perils insured against under the Construction Property Policy;
 - (2) having an indemnity period of not less than 24 months in respect of the Schools;
 - (3) having a waiting period of 30 days in respect of the Schools;
 - (4) including Project Co as a named insured and the Senior Lenders as additional insureds and loss payees;
- (g) exclusion for contractor's equipment of any description, except scaffolding, formwork, falsework and hoarding (if values are declared) and of any equipment supplied, installed, tested or commissioned by the Authority and of any other property supplied

by the Authority which will not form a permanent part of the real property of the Schools;

- (h) permit use and occupancy of the incomplete Schools by Project Co, the Project Contractors, the Sub-Contractors, the Authority and the School Boards prior to the Service Commencement Date for:
 - (1) construction purposes;
 - (2) office purposes;
 - (3) installing, testing and commissioning or storing of equipment or machinery; and
 - (4) staff orientation and training; and
- (i) contain a waiver of subrogation against all named insureds and additional named insureds other than architects or engineers who are not employees of a named insured or additional named insured for their liability in the event of loss caused by or resulting from any error in design or any other professional error or omission pertaining to the subject of such insurance.

2.3 Other Construction Period Coverage

During the Construction Period, Project Co will take out, maintain in force and renew or will cause to be taken out, maintained in force and renewed with respect to Design and Construction for the Schools:

- (a) automobile liability insurance which will include the following terms:
 - (1) coverage in an amount of not less than _____ inclusive per occurrence;
 - (2) coverage for Project Co, the Project Contractors and all Sub-Contractors, which coverage is not required to be in a single policy; and
 - (3) include coverage for third party property damage and bodily injury (including accident benefits) arising out of the use of any automobile used in connection with the Project;
- (b) if aircraft or watercraft are used in connection with the Project and except to the extent covered under the Construction CGL Policy, aircraft and watercraft (including owned and non-owned) liability insurance for bodily injury, death and damage to property including loss of use thereof and including aircraft passenger hazard if applicable which will include the following terms:
 - (1) coverage in an amount of not less than _____ inclusive per occurrence;
 - (2) coverage for Project Co, the Project Contractors and all Sub-Contractors;
 - (3) include the Authority as an additional insured;

- (4) contain a waiver of subrogation against the Authority; and
- (5) a deductible not exceeding _____ per occurrence;
- (c) if ocean marine cargo is used to transport any of the materials, equipment or property supplied under or used during the Project and which are critical to achieve Service Commencement, marine cargo insurance, covering all such materials, equipment and other property, which will include the following terms:
 - (1) coverage in an amount not less than the full replacement value of the shipment;
 - (2) coverage for Project Co, the Project Contractors and all Sub-Contractors;
 - (3) include the Authority as an additional named insured;
 - (4) subject to the conditions of the Institute Cargo Clauses (All Risks), including war and strikes extensions, and including transit and storage where applicable;
 - (5) if an entire vessel is chartered for shipping materials, equipment or property then charterer's liability insurance will also be provided in amounts sufficient to protect and indemnify the Authority, Project Co, the Project Contractors and all Sub-Contractors from and against all liability arising out of the chartering of such vessel; and
 - (6) a deductible not exceeding _____ per occurrence;
- (d) "all risks" insurance covering all key construction equipment owned, leased or rented by Project Co, the Project Contractors or any Sub-Contractor for use during the Construction or for which any of them may be responsible which will include the following terms:
 - (1) coverage in an amount of not less than the actual cash value of such equipment;
 - (2) coverage for Project Co, the Project Contractors and all Sub-Contractors;
 - (3) contain a waiver of subrogation against the Authority; and
 - (4) a deductible not exceeding _____ per occurrence;
- (e) workers' compensation insurance in accordance with Schedule 2 [Design and Construction Protocols];
- (f) Project Specific Professional Liability:
 - (1) _____ per claim and _____ in the aggregate;

- (2) maximum deductible ;
 - (3) minimum extended reporting period (36 months after Service Commencement Date); and
 - (4) named insureds: Design-Builder (as appropriate), all engineers, architects and other professional consultants and sub-consultants that provide professional design services in connection with the Design;
- (g) Project Specific Pollution Liability:
- (1) per claim and in the aggregate
 - (2) minimum deductible per claim inclusive of defence and all costs and expenses;
 - (3) minimum extended reporting period (36 months after Service Commencement Date);
 - (4) Completed Operations: minimum 36 months after Service Commencement Date; and
 - (5) named insureds: Project Co and its Affiliates and all other parties engaged in the Project, including the Design-Builder, Sub-Contractors, sub-subcontractors, consultants and sub-consultants; and
 - (6) the Authority, the School Boards, the Senior Lenders and the Indenture Trustee (as defined in the Lenders' Remedies Agreement) will be identified as additional insureds;
- (h) Comprehensive Crime:
- (1) Employee Dishonesty.

3. OPERATION AND MAINTENANCE-RELATED INSURANCE REQUIREMENTS

3.1 Project Co Commercial Liability Policy

Subject to Section 4 of this Schedule, during the Operating Period Project Co will take out, maintain in force and renew or will cause to be taken out, maintained in force and renewed, comprehensive general liability insurance (the “**Project Co Operating CGL Policy**”) which will include the following terms:

- (a) coverage in an amount of not less than inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and in the aggregate with respect to products and completed operations;
- (b) a deductible not exceeding per occurrence

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- (c) include as named insureds, Project Co, the Authority and the Service Provider but excluding suppliers whose only function is to supply or transport products to the Sites, and not extending to any activities, works, jobs or undertakings of any of the insureds other than those directly related to the Services;
- (d) include Lender Endorsements substantially in the form set out in Appendix 5A, including, without limitation, naming the Senior Lenders and the Authority as additional insureds;
- (e) contain a waiver of subrogation against the Authority and the named insureds identified under Section 3.1(c) of this Schedule;
- (f) include coverage for:
- (1) products and broad form completed operations liability;
 - (2) blanket written contractual liability;
 - (3) protective liability;
 - (4) contingent employer's liability;
 - (5) personal injury liability;
 - (6) non-owned automobile liability;
 - (7) bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from radioactive isotopes (away from a nuclear facility) which have reached the final stage of fabrication so as to be useable for any scientific, medical, agricultural, commercial or industrial purpose;
 - (8) cross liability;
 - (9) employees and volunteers as additional insureds;
 - (10) broad form property damage;
 - (11) legal defence costs;
 - (12) blasting, demolition, excavating, under-pinning, pile driving, shoring, caisson work, work below ground surface, tunnelling, grading, and similar operations associated with the Construction (as applicable) ;
 - (13) unlicensed equipment;
 - (14) loading and unloading of vehicles;
 - (15) intentional injury committed to protect persons or property; and

(16) worldwide territory (suits brought in Canada/US).

3.2 Project Co All Risks Property Insurance

Subject to Section 4 of this Schedule, during the Operating Period Project Co will take out, maintain in force and renew or will cause to be taken out, maintained in force and renewed all risks property insurance (the "**Project Co Operating Property Policy**") which will include the following terms:

- (a) coverage in an amount of not less than the replacement cost of the Schools determined at the time of replacement and all equipment, supplies or other property owned or leased by Project Co or the Service Provider based on the cost of repairing, replacing or reinstating (whichever is the least) with new materials of like kind and quality without deduction for depreciation;
- (b) deductibles, per occurrence, not exceeding the following amounts:
 - (1) for earthquakes, the greater of _____ of the total insured value of the Schools at the time of the loss;
 - (2) for floods, _____ ; and
 - (3) for all other insured perils, _____ ;
- (c) include as named insureds Project Co and its Affiliates, the Authority, Senior Lenders, the Service Provider, Project Co Persons involved in the Services, including all other contractors, Sub-contractors, sub-subcontractors, suppliers while working on Site, tradesmen while working on Site, engineers, architects, consultants and sub-consultants (other than for professional liability), and others as additional insureds, as may be required from time to time, arising from all operations and activities pertaining to the Services, and the control and use of the Sites;
- (d) include Lender Endorsements substantially in the form set out in Appendix 5A, including, without limitation, naming the Senior Lenders as additional insureds and loss payees;
- (e) contain a waiver of subrogation against all named insureds and additional named insureds except to the extent a loss is deemed to have been caused by or resulting from an error in Design or any other professional error or omission;
- (f) include coverage for earthquake and flood; and
- (g) include coverage for loss or damage caused by mould and micro-organisms when caused by or resulting from an event not excluded elsewhere in the policy.

For greater certainty, the Project Co Operating Property Policy is required to provide coverage for the equipment, supplies or other property owned or leased by Project Co or the Service Provider and referred to in Section 3.2(a) of this Schedule.

3.3 Boiler and Machinery

Subject to Section 4 of this Schedule, during the Operating Period Project Co will take out, maintain in force and renew or will cause to be taken out, maintained in force and renewed boiler and machinery insurance (the “**Boiler and Machinery Policy**”) (effective from the earlier of (a) the date on which testing and commissioning of any boiler and machinery is complete; and (b) the earliest School Service Commencement Date) covering all boilers, pressure vessels, electrical and mechanical machines included in the Schools on a comprehensive basis which will include the following terms:

- (a) coverage to be in an amount of not less than
- (b) a deductible of _____ per occurrence _____ for large air conditioning units);
- (c) include as named insureds the Authority, Project Co, the Senior Lenders and the Service Provider; and
- (d) include Lender Endorsements substantially in the form set out in Appendix 5A, including, without limitation, naming the Senior Lenders as additional insureds and naming the Senior Lenders as loss payee.

3.4 Business Interruption Insurance

Subject to Section 4 of this Schedule, during the Operating Period, Project Co will take out, maintain in force and renew or will cause to be taken out, maintained in force and renewed business interruption insurance (the “**BI Policy**”) to fully compensate Project Co and/or the Authority, as applicable, for any respective loss of revenue (less Avoidable Costs) resulting from or attributable to any insured perils under the Project Co Operating Property Policy for up to 36 months (but excluding the first 7 days) and payable notwithstanding any contractual obligation of the Authority to make Service Payments, Initial Relocatable Classroom Payments or Relocatable Classroom Payments following the occurrence of any insured peril. The BI Policy will name Project Co and the Senior Lenders as the exclusive loss payees and named insureds.

3.5 Other Operating Period Coverage

During the Operating Period, Project Co will take out, maintain in force and renew or will cause to be taken out, maintained in force and renewed:

- (a) employee dishonesty (crime) insurance against the fraudulent/dishonest acts of employees of Project Co with coverage for any one occurrence or claim of not less than _____, with deductibles in an amount not exceeding _____ per occurrence;
- (b) workers’ compensation insurance coverage for all employees of Project Co and any Sub-Contractor engaged in the performance of the Services, in accordance with Laws and the requirements of any Governmental Authority;
- (c) during the Operating Period when construction, rehabilitation or major repair work is being carried out by or on behalf of Project Co under this Agreement and the risks

associated with such work are not insured by the insurance described in the policies described in Section 2 or Section 3 of this Schedule, Project Co will, subject to Section 4 of this Schedule, take out, maintain in force and renew or will cause to be taken out, maintained and renewed such of the insurance described in Section 2 or Section 3 of this Schedule in such amounts, as a prudent owner would reasonably require, as determined by the Authority acting reasonably, at least 10 Business Days before the commencement of the applicable period during which the insurance is required. To the extent such work is undertaken pursuant to a Change Certificate and such work is not covered in the policies described in Section 2 or Section 3 of this Schedule, the Change Certificate for such work will include such insurance coverage as the Authority, acting reasonably, considers necessary in the circumstances; and

- (d) environmental impairment (pollution) liability, with:
 - (1) minimum coverage of _____ per claim and in the aggregate for all claims, inclusive of defense and all costs and expenses; and
 - (2) maximum deductible of _____ per claim inclusive of defense and all costs and expenses.

- (e) Sexual molestation and abuse liability, with:
 - (1) maximum deductible, self-insured retention or reciprocal _____ for clarity Project Co. is responsible for all costs and claims under and up to _____
 - (2) coverage in an amount of not less than _____ per occurrence and in the aggregate, including limit selected in (1);
 - (3) Umbrella Liability policy in the amount of _____ per occurrence and in the aggregate, for clarity the total available limit should be _____ including (1), (2) and (3) for sexual molestation and abuse liability;
 - (4) Excess Sexual Molestation and Abuse Warranty Endorsement; and,
 - (5) Full policy documents of the SSBA arrangement are available in the data room.

During the Operating Period prior to the Service Commencement Date, Project Co is required to take out, maintain in force and renew, or cause to be taken out, maintained in force and renewed, the coverage specified in this Section 3.5, only with respect to the Sites and Schools for which School Service Commencement has been achieved.

3.6 Authority’s Operating Period Insurance

During the Operating Period, the Authority will take out, maintain in force, pay for and renew or will cause to be taken out, maintained in force, paid for and renewed (under SSBA or otherwise), the following insurance, none of which will include Project Co, the Project Contractors or its Sub-Contractors as insureds:

- (a) comprehensive general liability insurance, in the amount of not less than inclusive per occurrence against third party bodily injury, personal injury and property damage arising out of the performance by the Authority of its obligations under this Agreement including the following terms:
- (1) coverage for:
- (A) products and completed operations liability;
 - (B) blanket written contractual liability;
 - (C) protective liability;
 - (D) contingent employer's liability;
 - (E) personal injury liability;
 - (F) non-owned automobile liability;
 - (G) cross liability;
 - (H) employees and volunteers as additional insureds; and
 - (I) broad form property damage.
- (2) deductibles not exceeding _____ with a _____ deductible for bodily or personal injury; and
- (b) if the foregoing is placed under SSBA, the policy will contain a waiver of rights of subrogation against Project Co and the Service Provider.

4. SASKATCHEWAN SCHOOL BOARDS ASSOCIATION INSURANCE PROGRAM (SSBA)

4.1 SSBA

Unless the Authority delivers a notice to Project Co in accordance with Section 4.2 of this Schedule, the Authority will take out, maintain in force and renew or will cause to be taken out, maintained in force and renewed under the SSBA the following policies:

- (a) the Project Co Operating CGL Policy;
- (b) the Project Co Operating Property Policy;
- (c) the Boiler and Machinery Policy;
- (d) the BI Policy; and,
- (e) the sexual molestation and abuse liability policy;

and each such policy will:

- (f) be made available to Project Co by SSBA;
- (g) provide insurance coverage comparable to or better than the coverage required for each such policy as described in Sections 2 and 3, as the case may be, of this Schedule;
- (h) satisfy the requirements set out in Section 5 of this Schedule;
- (i) be on terms comparable to or better than those offered by Qualified Insurers licensed in Saskatchewan and
- (j) include Lender Endorsements substantially in the form set out in Appendix 5B instead of Appendix 5A.

4.2 Relief from Obligation to Provide Insurance

If the Authority delivers a notice to Project Co no later than 90 days prior to the Service Commencement Date or any anniversary thereof, Project Co will take out, maintain in force and renew or will, in accordance with Section 3 of this Schedule, cause to be taken out, maintained in force and renewed any of the policies of insurance described in such notice. If the Authority gives notice under this Section 4.2 following any period in which the Authority has taken out the Project Co Operating CGL Policy, the Authority will obtain and provide an endorsement to the expiring SSBA policy that there will be an extended reporting period of 24 months.

5. GENERAL INSURANCE PROVISIONS

5.1 Insurance Representative

Before commencing any Construction, Project Co will appoint an insurance representative who will communicate with the Authority and keep the Authority advised of all material matters of insurance, including claims, possible claims and policy changes or amendments. Project Co will at all times maintain such a representative throughout the Term. Such representative will be an individual located in Canada and Project Co will advise the Authority promptly of any change in such representative during the Term.

5.2 Insurers and Terms of Policies

Each of Project Co and the Authority will ensure that all policies for the insurance they are respectively required to obtain pursuant to this Schedule are obtained and maintained with Qualified Insurers licensed in Saskatchewan and, subject to this Schedule, are in such forms and contain such terms and conditions which are equal to or better than those that would be obtained by prudent owners and operators of projects of similar scope and magnitude to the Project and, in addition to the required inclusions or permitted exclusions for each policy specifically described in this Schedule, include such other inclusions and exclusions as such prudent owner or operator would require or permit. To be eligible to provide insurance an insurer will have an A.M. Best Company Financial Strength Rating of not lower than "A-" or in the absence of an A.M. Best rating, a Standard and Poor's rating of "BBB" or an equivalent rating.

5.3 Additional Insurance

None of the insurance coverage amounts or sublimits specified in this Schedule limit the liability of Project Co with respect to any obligations of Project Co to the Authority arising under this Agreement. Project Co will obtain and maintain, or cause to be obtained and maintained, at its cost, all such other policies of insurance and such similar policies of insurance with higher insurance coverage amounts and sublimits required by Law or which Project Co deems necessary having regard for the policies of insurance which prudent owners and operators of projects of similar scope and magnitude to the Project would obtain and maintain, or cause to be obtained and maintained, including:

- (a) directors and officers liability and corporate indemnification insurance; and
- (b) professional errors and omissions insurance covering professional error and omissions for which Project Co, the Design-Builder or any Design Professionals may be liable in connection with the Project.

5.4 Particular Requirements of Policies

Without limiting the generality of this Schedule and the provisions of Section 6 (Insurance, Damage and Destruction) of this Agreement:

- (a) each policy of insurance (other than those specified in Sections 2.3(a), 2.3(b), 2.3(d), 2.3(e), 3.5 and 5.3 of this Schedule) required under this Agreement will:
 - (1) bear an endorsement to the effect that the insurer will not effect any adverse material change or amendment to the policy or any cancellation of the policy without first giving at least 60 days prior written notice by registered mail to the Authority and each of the other named insureds and loss payees, provided that the Construction CGL Policy and the Construction Property Policy will each bear an endorsement providing that the policy is non-cancellable by the insurer except for the following:
 - (A) non payment of the premium;
 - (B) bankruptcy or insolvency of the named insured;
 - (C) termination of the Project prior to the expiry date of the policy (termination does not refer to the early completion of the Project); or
 - (D) indefinite suspension of the Project;
 - (2) contain an endorsement to the effect that the policy (other than the policies set out in Section 2.3 of this Schedule) will not be invalidated and coverage thereunder will not be denied to any insureds by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policy other than as a result of a negligent act, misrepresentation or omission of such insured; and

- (3) be primary and not require the sharing of any loss by any insurer of the Authority or any other named insured;
- (b) each policy of liability insurance (other than those specified in Sections 2.3(a), 2.3(b), 2.3(d), 2.3(e), 3.5 and 5.3 of this Schedule) required under this Agreement will contain a cross liability and severability of interests endorsement to the effect that Project Co and the Authority and the other insureds will each be entitled to indemnification under such policy as if each were alone insured under such policy and notwithstanding that the claim in respect of which indemnification is sought is made by any other insured; and
- (c) each policy of property insurance required under this Agreement must be on a stated amount co-insurance basis, other than:
 - (1) the contractor's equipment insurance described in Section 2.3(d) of this Schedule;
 - (2) any policies of insurance placed under SSBA; and
 - (3) the Construction Property Policy.

5.5 Evidence of Insurance

In respect of those policies of insurance:

- (a) required pursuant to this Schedule, other than those policies obtained pursuant to Section 2.1, Section 2.2 or under SSBA pursuant to Section 4 of this Schedule, upon the issue of and upon every renewal of each such policy, and otherwise upon request by the Authority, Project Co will deliver to the Authority a certificate of insurance of each such policy or other satisfactory evidence of adequate insurance; and
- (b) pursuant to Section 2.1, Section 2.2 or under SSBA pursuant to Section 4 of this Schedule, upon the issue of and upon every renewal of each such policy, and otherwise upon request by Project Co, the Authority will deliver to Project Co a certificate of insurance of each such policy or other satisfactory evidence of adequate insurance.

On request, the party responsible for obtaining any policy of insurance required under this Schedule will provide to the other party a certified copy of such policy within a reasonable period of such request provided that any policy obtained through SSBA will be subject to the requesting party agreeing to comply with all commercially reasonable confidentiality requirements required by SSBA.

No review or approval of any insurance certificate or insurance policy by either party will derogate from or diminish such party's rights under this Agreement.

5.6 Claims

Project Co will:

- (a) maintain a written register of all claims and incidents, and report all incidents immediately, that might reasonably result in a claim under any of the policies of insurance required by this Agreement and will allow the Authority to inspect such register at any time; and
- (b) notify the Authority within 5 Business Days after making any claim under any of the policies for the insurance required by this Agreement where the value of the claim exceeds \$10,000 or (regardless of the value of the claim) the claim involves personal injury or death, accompanied by full particulars of the incident giving rise to the claim.

5.7 Project Co Deductibles

Subject to Section 5.8 of this Schedule, Project Co will be responsible for the deductible portion of, or waiting period for, any claim made on any policy of insurance maintained pursuant to this Schedule. If any such policy is maintained under SSBA, the deductibles in respect of each such policy will be the lesser of the amount specified:

- (a) in this Schedule; and
- (b) in the applicable SSBA policy.

5.8 Authority Deductibles

The Authority will be responsible for the deductible portion of, or waiting period for, any claim made on the policies of insurance maintained pursuant to this Schedule and made in respect of any:

- (a) earthquake or flood, except to the extent that the flood or the flood damage is caused by, attributable to or increased by the actions or inactions of Project Co or any Sub-Contractor;
- (b) Compensation Event; or
- (c) claims made under the policies of insurance maintained by the Authority pursuant to Section 3.6 of this Schedule.

5.9 No Indemnification for Insured Claims

Subject to Sections 8.3, 8.4, 8.5 and 8.7 of this Agreement, Project Co will not be entitled to claim compensation, indemnification or reimbursement from the Authority under this Agreement to the extent that Project Co:

- (a) is entitled to recover any such amounts under any insurance in force at the time of loss;
or

- (b) would have been entitled to recover any such amounts under any insurance if it had complied with its obligation to take out and maintain, or cause to be taken out and maintained, insurance in accordance with this Agreement.

5.10 Compliance

- (a) Project Co will comply with the terms, conditions and requirements of all policies for the insurance required by this Schedule and will not do or omit to do, or permit to be done or omitted by any Project Co Person, anything on or with respect to the Schools or the Sites that could reasonably be expected to result in the cancellation of any insurance required by this Schedule, or that would reasonably be expected to entitle any insurer to refuse to pay any claim under the policy for any such insurance.
- (b) The Authority will not do, or permit to be done by any Authority Person, anything on or with respect to the Schools or the Sites that could reasonably be expected to result in the cancellation of any insurance required by this Schedule, or that would entitle any insurer to refuse to pay any claim under the policy for any such insurance.
- (c) The Authority and Project Co will, and Project Co will cause the Project Contractors and the Sub-Contractors to:
 - (1) comply with all insurance policy warranties made known to them; and
 - (2) take any and all special precautions necessary to prevent fires occurring in or about the Schools as required by the terms of the Construction Property Policy.

5.11 Failure to Insure

Subject to Section 6.16 (Consequences of Risks becoming Uninsurable), if either party (the “**Non-Insuring Party**”) fails or refuses to obtain or maintain in force any insurance required to be effected by it under this Schedule, or to provide evidence of such insurance and renewals in relation thereto as and when required and in accordance with this Schedule, the other party (the “**Insuring Party**”) will, without prejudice to any of its other rights under this Agreement or otherwise, have the right itself to procure such insurance, in which event any amounts paid by the Insuring Party for that purpose together with all reasonable costs incurred by the Insuring Party in procuring such insurance will become due and payable by the Non-Insuring Party to the Insuring Party.

5.12 Project Co Contractors and Sub-Contractors

Project Co will determine the applicable insurance coverage to be obtained by Project Contractors and Sub-Contractors provided that such insurance coverages will be consistent with insurance that prudent Sub-Contractors would be required to maintain for projects of similar scope and magnitude to the Project.

6. INSURANCE PAYMENT**6.1 Project Co Premiums**

Other than as set out in Section 6.2 of this Schedule, Project Co will pay all premiums assessed under the policies of insurance required to be maintained pursuant to this Schedule.

6.2 Authority Premiums

The Authority will pay all premiums under the policies of insurance described in this Schedule other than the following in respect of which Project Co will pay all premiums:

- (a) those described in Section 2.3 (Other Construction Period Coverage) of this Schedule, subject to Section 6.3 (Increases in Premiums) of this Schedule;
- (b) those described in Section 3.5 (Other Operating Period Coverage) of this Schedule; and
- (c) any other policies of insurance obtained by Project Co pursuant to Section 5.3 (Additional Insurance) of this Schedule.

For any policy of insurance which Project Co is responsible for obtaining and the Authority is responsible for paying the premium under this Schedule (other than any policy obtained under the SSBA), Project Co will include with its invoice to the Authority for the Payment Period in which the premiums for such policies become payable by Project Co, a copy of the premium invoice (including all applicable Taxes and reasonable brokerage commissions) from the respective insurance broker together with all other relevant documentation which the Authority may reasonably require and the Authority will pay such amount concurrently with the payment due to Project Co in accordance with Section 8 of Schedule 8 [Payments].

6.3 Increases in Premiums

If and to the extent any increase in the amount of any premium payable in respect of any policy of insurance the premium for which is to be paid by the Authority pursuant to Section 6.2 of this Schedule is reasonably attributable to the acts or omissions of Project Co or any Project Co Person, Project Co will pay the amount of any such increase.

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