

SCHEDULE 20

INSURANCE TRUST AGREEMENT

made the 21st day of June, 2016

BETWEEN:

THE CITY OF WINNIPEG

(the "City")

AND:

BNY TRUST COMPANY OF CANADA,

a trust company incorporated under the laws of Canada,
acting in its capacity as agent for and on behalf of the Lenders

(the "Lenders' Agent")

AND:

PLENARY ROADS [REDACTED]

PLENARY ROADS [REDACTED]

18(1)(c)(i)(ii)

and

PCL [REDACTED]

("Project Co")

AND:

BNY TRUST COMPANY OF CANADA,

a trust company incorporated under the laws of Canada,
acting in its capacity as Account Trustee

(the "Account Trustee")

WHEREAS:

- A. The City and Project Co have entered into the Project Agreement.
- B. The City, the Lenders' Agent and Project Co have entered into the Lenders' Direct Agreement.

- C. The City, the Lenders' Agent and Project Co have agreed that all amounts from time to time contained in the Insurance Trust Account are to be held in trust by the Account Trustee in accordance with the terms of this Insurance Trust Agreement, and that no releases, distributions or transfers of any funds from the Insurance Trust Account shall be made other than in accordance with the terms of this Insurance Trust Agreement.

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

SECTION A DEFINITIONS

In this Insurance Trust Agreement, unless the context otherwise requires:

- A1.1 **"Bank"** means the Bank of Montreal;
- A1.2 **"Business Day"** has the meaning given in the Project Agreement;
- A1.3 **"Change of Authorization Event"** has the meaning given in Section G1.1 of this Insurance Trust Agreement;
- A1.4 **"Change of Authorization Notice"** has the meaning given in Section G1.2(b) of this Insurance Trust Agreement;
- A1.5 **"Default Notice"** means a written notice given by the Lenders' Agent to the Account Trustee that an event of default under the Lending Agreements has occurred and is continuing;
- A1.6 **"Default Period"** means the period commencing on the date upon which the Account Trustee receives a Default Notice and ending on the date upon which the Account Trustee receives written notice from the Lenders' Agent that the event of default which was the subject matter of the applicable Default Notice has been cured;
- A1.7 **"Design and Construction"** has the meaning given in the Project Agreement;
- A1.8 **"Governmental Authority"** has the meaning given in the Project Agreement;
- A1.9 **"Insurance Policies"** has the meaning given in Section D1.1 of this Insurance Trust Agreement;
- A1.10 **"Insurance Proceeds"** has the meaning given in Section D1.2 of this Insurance Trust Agreement;
- A1.11 **"Insurance Trust Account"** means Account No. [REDACTED], 18(1)(c)(i)(ii) which account shall be solely for the purpose of holding and distributing Insurance Proceeds in accordance with this Schedule 21;
- A1.12 **"Insurance Trust Agreement"** means this insurance trust agreement;
- A1.13 **"Lenders"** has the meaning given in the Project Agreement;
- A1.14 **"Lenders' Direct Agreement"** means the lenders' direct agreement made on or about the date hereof between the City, Project Co and the Lenders' Agent;

- A1.15 “**Lending Agreements**” has the meaning given in the Project Agreement;
- A1.16 “**New Infrastructure**” has the meaning given in the Project Agreement;
- A1.17 “**OMR Services**” has the meaning given in the Project Agreement;
- A1.18 “**Order**” has the meaning given in Section F1.11 of this Insurance Trust Agreement;
- A1.19 “**Party**” means any of the City, Project Co, the Lenders’ Agent or the Account Trustee, and “**Parties**” means all of the City, Project Co, the Lenders’ Agent and the Account Trustee;
- A1.20 “**Project**” has the meaning given in the Project Agreement;
- A1.21 “**Project Agreement**” means the project agreement made on or about June 21st, 2016 between the City and Project Co; and
- A1.22 “**Trust Property**” means all of the property held in trust by the Account Trustee pursuant to this Insurance Trust Agreement, including, without limitation, the Insurance Trust Account, and all amounts from time to time contained therein, the Insurance Policies and the Insurance Proceeds.

SECTION B INTERPRETATION

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

- B1.1 The headings in this Insurance Trust Agreement are for convenience of reference only, shall not constitute a part of this Insurance Trust Agreement, and shall not be taken into consideration in the interpretation of, or affect the meaning of, this Insurance Trust Agreement.
- B1.2 Unless the context otherwise requires, references to specific Sections, Clauses, Paragraphs, Subparagraphs, and other divisions are references to such Sections, Clauses, Paragraphs, Subparagraphs, or divisions of this Insurance Trust Agreement and the terms “Section” and “Clause” are used interchangeably and are synonymous.
- B1.3 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.
- B1.4 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.
- B1.5 References to any standard, principle, agreement or document include (subject to all relevant approvals and any other provisions of this Insurance Trust Agreement concerning amendments) a reference to that standard, principle, agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.
- B1.6 The words in this Insurance Trust Agreement shall bear their natural meaning.

B1.7 References containing terms such as:

- (a) “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 Insurance Trust Agreement taken as a whole; and
- (b) “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”.

B1.8 In construing this Insurance Trust Agreement, the rule known as the *ejusdem generis* rule shall not apply nor shall any similar rule or approach apply to the construction of this Insurance Trust 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.

B1.9 Where this Insurance Trust 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. on the last day for performance of the obligation concerned, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.

B1.10 Where this Insurance Trust Agreement states that an obligation shall be performed “on” a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.

B1.11 Any reference to time of day or date means the local time or date in Winnipeg, Manitoba.

B1.12 Unless otherwise indicated, time periods will be strictly construed.

B1.13 Whenever the terms “will” or “shall” are used in this Insurance Trust Agreement they shall be construed and interpreted as synonymous and to read “shall”.

SECTION C INSURANCE TRUST ACCOUNT

C1.1 Prior to the commencement of a Default Period, the Insurance Trust Account, and all amounts from time to time contained therein, including interest thereon, shall be held in trust by the Account Trustee for the benefit of Project Co. During a Default Period, the Insurance Trust Account, and all amounts from time to time contained therein, shall be held in trust by the Account Trustee for the benefit of the Lenders’ Agent and the Lenders, provided that, upon receipt by the Account Trustee of a Change of Authorization Notice, the Insurance Trust Account, and all amounts from time to time contained therein, shall be held in trust by the Account Trustee for the benefit of the City.

C1.2 The Account Trustee shall not release, distribute or transfer any funds from the Insurance Trust Account other than in accordance with the terms of this Insurance Trust Agreement.

C1.3 Notwithstanding any other provision of this Insurance Trust Agreement and subject to Section C1.4, the Lenders’ Agent, the City, and Project Co agree that, if any of them either

receives any Insurance Proceeds from the Insurance Trust Account or has the right to direct the Account Trustee to advance funds in respect of any Insurance Proceeds from the Insurance Trust Account to third parties, such funds shall be directed, used or advanced only for one of the following purposes:

- (a) the repair, reinstatement, restoration or replacement of the New Infrastructure or any other assets, materials or goods necessary or desirable for the carrying out of the Design and Construction or the OMR Services in respect of which such Insurance Proceeds have been paid;
- (b) the completion of the Project; or
- (c) indemnification for any City loss for which the subject Insurance Proceeds were paid under the Insurance Policies (as defined below).

For greater certainty, use of any Insurance Proceeds received in respect of a claim by Project Co for delay in start-up, soft costs insurance or business interruption insurance may be applied in accordance with the terms of the Lending Agreements so as to enable Project Co to carry out the Design and Construction and the OMR Services.

C1.4 Notwithstanding anything in this Insurance Trust Agreement, if the City is entitled to indemnification under the Insurance Policies in respect of any loss incurred by the City, such related insurance proceeds are to be paid directly to the City by the insurer or the Account Trustee and shall not be Insurance Proceeds subject to Section C1.3(a) or (ii) of this Insurance Trust Agreement.

SECTION D INSURANCE

D1.1 Project Co shall deliver, or cause to be delivered, to the Account Trustee originals of all property and asset related insurance policies that Project Co is required to maintain under the Project Agreement (collectively, the “**Insurance Policies**”), and the Account Trustee shall hold the Insurance Policies in trust for the benefit of each of the beneficiaries and loss payees, as the case may be, thereunder.

D1.2 The Account Trustee shall distribute any proceeds of any Insurance Policy that are paid over to it by any insurer, Project Co, the Lenders’ Agent or the City (the “**Insurance Proceeds**”) as follows:

- (a) in the case of the all risks course of construction (builders’ risk), boiler and machinery insurance or property insurance policies that Project Co is required to maintain under the Project Agreement:
 - (i) if the Account Trustee has not received a Default Notice and:
 - (A) if the amount of such Insurance Proceeds, together with the aggregate of all Insurance Proceeds paid in respect of the same loss or claim, is less than \$250,000, gross of the deductible, to Project Co to repair, restore or replace the assets in respect of which such Insurance Proceeds have been paid; or
 - (B) if the amount of such Insurance Proceeds, together with the aggregate of all Insurance Proceeds paid in respect of the same loss or claim, is equal to or greater than \$250,000, gross of the

deductible, to the Lenders' Agent to reimburse Project Co for the costs of repairing, restoring or replacing the assets in respect of which such Insurance Proceeds have been paid; or

- (ii) if the Account Trustee has received a Default Notice, to the Insurance Trust Account to be distributed by the Account Trustee in such amounts and to such persons as the Lenders' Agent may at any time or from time to time direct in writing, provided that, if the Account Trustee has received a Change of Authorization Notice, the Account Trustee shall release such Insurance Proceeds from the Insurance Trust Account in such amounts and to such parties as the City may at any time or from time to time direct in writing, in each case, to repair, restore or replace the assets in respect of which such Insurance Proceeds have been paid; and
 - (b) in the case of any other Insurance Policies, to the Lenders' Agent, or, following receipt by the Account Trustee of a Change of Authorization Notice, to the City, to be distributed to the parties entitled thereto.
- D1.3 The Account Trustee shall distribute any excess Insurance Proceeds remaining after the distributions contemplated in Section D1.2(b) have been made, including, without limitation, any Insurance Proceeds held in the Insurance Trust Account:
- (a) if the Account Trustee has not received a Default Notice, to Project Co; and
 - (b) if the Account Trustee has received a Default Notice, to such persons as the Lenders' Agent, or, following receipt by the Account Trustee of a Change of Authorization Notice, the City, may at any time or from time to time direct in writing.

SECTION E ACCOUNT AGREEMENT

- E1.1 The Account Trustee hereby agrees to promptly provide to the Lenders' Agent all monthly statements and other information with respect to the Insurance Trust Account provided to the Account Trustee by the Bank pursuant to the relevant account agreement. The Account Trustee further agrees that it shall make such requests to the Bank for additional information with respect to the Insurance Trust Account as the Lenders' Agent may from time to time request in writing.
- E1.2 The Account Trustee hereby agrees to promptly provide to the City all monthly statements and other information with respect to the Insurance Trust Account provided to the Account Trustee by the Bank pursuant to the relevant account agreement. The Account Trustee further agrees that it shall make such requests to the Bank for additional information with respect to the Insurance Trust Account as the City may from time to time request in writing.

SECTION F THE ACCOUNT TRUSTEE

- F1.1 The Account Trustee shall not have any duty or obligation to manage, control, use, make any payment in respect of, register, record, insure, inspect, sell, dispose of or otherwise deal with any part of the Trust Property except as expressly provided by the terms of this Insurance Trust Agreement. The Account Trustee shall carry out all written directions given by the Lenders' Agent, the City or Project Co, as applicable, in accordance with this Insurance Trust Agreement and shall not be required to exercise any discretion in exercising any of its duties under this Insurance Trust Agreement in pursuance of such written

directions. The Account Trustee shall not be bound to do or take any act, action or proceeding by virtue of the powers conferred on it hereby unless and until it shall have been required to do so under the terms hereof and has received instruction, advice or direction from the Lenders' Agent, the City or Project Co, as applicable, as to the action to be taken (except with respect to actions specifically set out herein to be performed by the Account Trustee).

- F1.2 The Account Trustee will exercise its powers and carry out its obligations hereunder as account trustee honestly, in good faith and in the best interests of the beneficiaries hereunder and in connection therewith will exercise that degree of care, diligence, and skill that a reasonably prudent professional trustee would exercise in comparable circumstances. Unless otherwise required by law, the Account Trustee will not be required to give bond surety or security in any jurisdiction for the performance of any duties or obligations hereunder. No provision of this Insurance Trust Agreement shall be construed to relieve the Account Trustee from liability for its own dishonesty, fraud, negligence (including, without limitation, negligence in the handling of funds), wilful misconduct, bad faith or reckless disregard of any duty hereunder.
- F1.3 The Account Trustee will not be subject to any liability whatsoever, in tort, contract or otherwise in connection with the Trust Property or the carrying out of its duties under this Insurance Trust Agreement to the Lenders' Agent, the Lenders, Project Co or any other person for any action taken or permitted by it to be taken, or for its failure to take any action, or for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Account Trustee (including, but not limited to, any act or provision of any present or future law or of any Governmental Authority, any act of God or war, or the unavailability of any wire or communication facility), provided that the foregoing limitation will not apply in respect of any action or failure to act arising from or in connection with wilful misconduct, negligence or reckless disregard of duty by the Account Trustee. The Account Trustee in doing anything or permitting anything to be done in respect of the Trust Property or the carrying out of its duties under this Insurance Trust Agreement is, and will be conclusively deemed to be, acting as trustee for the beneficiaries hereunder and not in any other capacity. Except to the extent provided in this Section F1.3, the Account Trustee will not be subject to any liability for debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Trust Property, arising out of anything done or permitted by it to be done or its failure to take any action in respect of the execution of its duties hereunder and resort will be had solely to the Trust Property for the payment or performance thereof, and no other property or assets of the Account Trustee, whether owned in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedure with regard to any obligation under this Insurance Trust Agreement.
- F1.4 The Account Trustee shall not be required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers hereunder, or in acting at the request or direction of the Lenders' Agent on behalf of the Lenders, unless it shall have received adequate indemnity or security against such risk or liability satisfactory to it.
- F1.5 Notwithstanding the foregoing, the Account Trustee shall be liable for any action or failure to act arising from or in connection with the dishonesty, fraud, negligence (including, without limitation, negligence in the handling of funds), wilful misconduct, bad faith or reckless disregard of any duty hereunder by the Account Trustee or any of its directors, officers or employees, or the failure to comply with the standard of care referred to in Section F1.2.

- F1.6 Except as otherwise provided in Sections F1.3, F1.4 and F1.5:
- (a) the Account Trustee may rely and shall be protected in acting or refraining from acting upon any signature, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document reasonably believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties; and
 - (b) the Account Trustee may exercise its powers and perform its duties by or through such attorneys, representatives, agents and employees as it shall appoint; and may consult with counsel, accountants and other skilled persons selected and employed or retained by it, and the Account Trustee shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the written advice of such counsel, accountants or other skilled persons (provided that such advice pertains to such matters as the Account Trustee may reasonably presume to be within the scope of such person's area of competency) and not contrary to any express provision in this Insurance Trust Agreement.
- F1.7 Project Co hereby agrees to pay, indemnify and hold harmless the Account Trustee from and against any and all loss, liability, cost, claim and expense incurred by the Account Trustee with respect to the performance of this Insurance Trust Agreement by the Account Trustee or any of the Account Trustee's directors, officers or employees, unless arising from its or their own dishonesty, fraud, negligence (including, without limitation, negligence in the handling of funds), wilful misconduct, bad faith or reckless disregard of any duty hereunder.
- F1.8 Subject to the terms and conditions set forth in the Account Trustee fee letter, the Account Trustee shall receive from the Trust Property reasonable compensation for its services hereunder and shall be reimbursed by Project Co for its reasonable fees and expenses (including the disbursements and reasonable fees of counsel).
- F1.9 The Account Trustee agrees to look solely to Project Co, and not, except as expressly set forth herein, to the Lenders' Agent, the Lenders or the City for any claim for indemnification which may arise under this Insurance Trust Agreement.
- F1.10 The Account Trustee shall be responsible for keeping all appropriate books and records relating to the receipt and disbursement of all money which it receives hereunder.
- F1.11 If at any time the Account Trustee is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Trust Property held by it hereunder (including but not limited to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of Trust Property) (each, an "**Order**"), the Account Trustee is authorized to comply therewith in any manner as it or legal counsel of its own choosing deems appropriate. The Account Trustee shall in no way be bound to call for further evidence (whether as to due execution validity or effectiveness, or the jurisdiction of any court, or as to the truth of any fact), and shall not be responsible for any loss that may be occasioned by its failing to do so. If the Account Trustee complies with any Order, the Account Trustee shall not be liable to any of the Parties hereto or to any other person or entity even though such Order may be subsequently modified or vacated or otherwise determined to have been without legal force or effect. If the Account Trustee is served with any Order, it shall forthwith and, in any event, within three Business Days, deliver a copy of such Order to each of the Lenders' Agent, the City and Project Co.

- F1.12 Unless otherwise specifically set forth herein, the Account Trustee shall proceed as soon as practicable to collect any cheques or other collection items at any time deposited hereunder. All such collections shall be subject to the Account Trustee's usual collection practices or terms regarding items received by the Account Trustee for deposit or collection. Except and to the extent provided herein, the Account Trustee shall not be required, or have any duty, to notify any person of any payment or maturity under the terms of any instrument deposited hereunder, nor to take any legal action to enforce payment of any cheque, note or security deposited hereunder, or to exercise any right or privilege which may be afforded to the holder of any such security.
- F1.13 In the event that the Account Trustee determines that any direction, instruction, notice or other communication given under this Insurance Trust Agreement by the Lenders' Agent or, where the Account Trustee has received a Change of Authorization Notice, the City, is ambiguous or uncertain, the Account Trustee may, in its sole discretion, refrain from taking any action other than retaining possession of the Trust Property, unless the Account Trustee has received written instructions, signed by the Lenders' Agent or, if the Account Trustee has received a Change of Authorization Notice, the City, which resolve such ambiguity or uncertainty, provided that the Account Trustee shall, forthwith upon determining that such direction, instruction, notice or other communication is ambiguous or uncertain, seek clarification from the Lenders' Agent, or where the Account Trustee has received a Change of Authorization Notice, the City, to resolve such ambiguity or uncertainty.
- F1.14 Prior to receipt of a Change of Authorization Notice by the Account Trustee, any instruction, notice or other communication delivered to the Account Trustee by the Lenders' Agent shall be paramount to and supersede any direction, instruction, notice or other communication from any other Party to this Insurance Trust Agreement, and the Account Trustee shall comply with such direction, instruction, notice or other communication from the Lenders' Agent. After the Account Trustee has received a Change of Authorization Notice, any instruction, notice or other communication delivered to the Account Trustee by the City shall be paramount to and supersede any direction, instruction, notice or other communication from any other Party to this Insurance Trust Agreement, and the Account Trustee shall comply with such direction, instruction, notice or other communication from the City.
- F1.15 Each of the Lenders' Agent and the City shall provide to the Account Trustee an incumbency certificate setting out the names and sample signatures of individuals authorized to give instructions to the Account Trustee hereunder. The Account Trustee shall be entitled to rely on each such incumbency certificate until a revised or replacement incumbency certificate is provided to the Account Trustee by the Lenders' Agent or the City, as applicable. The Account Trustee shall refuse to act upon any instruction given by the Lenders' Agent or the City which is signed by any person other than an individual named in the incumbency certificate provided to the Account Trustee by the Lenders' Agent or the City, as applicable, pursuant to this Section F1.15, as any such incumbency certificate may be amended, supplemented or replaced from time to time.
- F1.16 The Account Trustee shall be entitled to rely on, and act upon, any direction, instruction, notice or other communication provided to it hereunder, provided that any such direction, instruction, notice or other communication is signed by an individual named in the incumbency certificate delivered to the Account Trustee by the Lenders' Agent or the City, as applicable, pursuant to Section F1.15.
- F1.17 The Account Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Account Trustee, in

its reasonable judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Account Trustee, in its reasonable judgment, determine at any time that its acting under this Insurance Trust Agreement has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 30 days written notice to the other Parties, provided that:

- (a) the Account Trustee's written notice shall describe the circumstances of such non-compliance; and
- (b) if such circumstances are rectified to the satisfaction of the Account Trustee within such 30 day period, then such resignation shall not be effective.

SECTION G LENDERS' AGENT AND CITY RIGHTS TO DIRECT

G1.1 Until the termination of the Project Agreement in accordance with the Lenders' Direct Agreement and receipt by Project Co of any amounts to which it is entitled pursuant to Schedule 15 – Termination Payments to the Project Agreement and all Insurance Proceeds to the extent that the value of such Insurance Proceeds was deducted from the amounts payable to Project Co by the City (a "**Change of Authorization Event**"), the Lenders' Agent shall, subject to Section C and Section D of this Insurance Trust Agreement, have the exclusive right to direct the Account Trustee with respect to the Insurance Trust Account, the Insurance Policies and the Insurance Proceeds.

G1.2 Upon the occurrence of a Change of Authorization Event:

- (a) the Lenders' Agent shall cease to be entitled, and the City shall thenceforth be entitled, to direct the Account Trustee with respect to the Insurance Trust Account, the Insurance Policies and the Insurance Proceeds; and
- (b) the Lenders' Agent and the City shall jointly provide notice to the Account Trustee (a "**Change of Authorization Notice**") that the City shall, as of the date of such Change of Authorization Event, have the exclusive right to direct the Account Trustee with respect to the Insurance Trust Account, the Insurance Policies and the Insurance Proceeds.

SECTION H TERMINATION

H1.1 Subject to the provisions of Section H1.2, this Insurance Trust Agreement shall remain in full force and effect and be binding in accordance with and to the extent of its terms until:

- (a) the obligations of Project Co to the Lenders' Agent and the Lenders under the Lending Agreements have been paid and performed in full and the Lenders have no further obligation to make any further advances or other credit accommodations under the Lending Agreements; and
- (b) the obligations of Project Co to the City have been paid and performed in full.

H1.2 The Account Trustee may terminate this Insurance Trust Agreement at any time upon 60 days prior written notice to the other Parties hereto, provided that no termination of this Insurance Trust Agreement by the Account Trustee shall be effective until such time as the Lender's Agent, the City, and Project Co have entered into a replacement insurance trust

agreement on the same terms and conditions as this Insurance Trust Agreement with a replacement account trustee satisfactory to the Lenders' Agent, the Lenders and the City.

SECTION I ASSIGNMENT

I1.1 The Account Trustee shall not assign, transfer or otherwise dispose of any of its rights or obligations under this Insurance Trust Agreement without the prior written consent of the Lenders' Agent, the City and Project Co.

SECTION J NOTICES

J1.1 All notices, requests, demands, instructions, certificates, consents and other communications required or permitted under this Project Agreement shall be in writing (whether or not "written notice" or "notice in writing" is specifically required by the applicable provision of this Insurance Trust Agreement) and served by sending the same by registered mail or by hand, (in each case, with a copy by electronic transmission), as follows:

If to the City:

The City of Winnipeg
Winnipeg Transit
Asset Management Office
414A Osborne Street
Winnipeg, MB R3L 2A1

Attn.: Jesse Crowder, P.Eng., Project Manager
Email: jcrowder@winnipeg.ca

With a copy to:

The City of Winnipeg
Winnipeg Transit
Office of the Director
421 Osborne Street
Winnipeg, MB R3L 2A2

Attn.: Dave Wardrop, Director
Email: dwardrop@winnipeg.ca

If to the Lenders' Agent:

BNY Trust Company of Canada
Address: 320 Bay Street, 11th Floor
Toronto, ON M5H 4A6

Attn.: Corporate Trust Administration
Email: henry.hamilton@bnymellon.com

If to Project Co:

Plenary Roads [REDACTED]
Address: 400 Burrard Street, Suite 2000
Vancouver, BC V6C 3A6

18(1)(c)(i)(ii)

Attn.: Brian Clark, Senior Vice President
Email: Brian.Clark@plenarygroup.com

If to the Account Trustee: BNY Trust Company of Canada
Address: 320 Bay Street, 11th Floor
Toronto, ON M5H 4A6

Attn.: Corporate Trust Administration
Email: Brian.Cheng@BNYmellon.com

- J1.2 Any Party to this Insurance Trust Agreement may, from time to time, change any of its contact information set forth in Section J1.1 by prior notice to the other Parties, 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.
- J1.3 Subject to Sections J1.4 and J1.5:
- (a) a notice given by registered mail shall be deemed to have been received on the third Business Day after mailing; and
 - (b) a notice given by hand delivery shall be deemed to have been received on the day it is delivered.
- J1.4 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 in accordance with this Section J.
- J1.5 If any notice delivered by hand is so delivered 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.

SECTION K AMENDMENTS

- K1.1 This Insurance Trust 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 Insurance Trust Agreement.

SECTION L WAIVER

- L1.1 No waiver made or given by a Party under or in connection with this Insurance Trust 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.
- L1.2 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.

SECTION M RELATIONSHIP BETWEEN THE PARTIES

M1.1 The Parties are independent contractors. This Insurance Trust Agreement is not intended to and does not create or establish between the Parties any relationship as partners, joint venturers, employer and employee, master and servant, or, except as provided in this Insurance Trust Agreement, of principal and agent.

SECTION N ENTIRE AGREEMENT

N1.1 Except where provided otherwise in this Insurance Trust Agreement, this Insurance Trust Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings, whether oral, written, express or implied, concerning the subject matter of this Insurance Trust Agreement.

SECTION O SEVERABILITY

O1.1 Each provision of this Insurance Trust Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Insurance Trust 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 Insurance Trust Agreement. If any such provision of this Insurance Trust 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 Insurance Trust Agreement as near as possible to its original intent and effect.

SECTION P ENUREMENT

P1.1 This Insurance Trust Agreement shall enure to the benefit of, and be binding on, each of the Parties and their respective successors and permitted transferees and assigns.

SECTION Q GOVERNING LAW AND JURISDICTION

Q1.1 This Insurance Trust Agreement shall be governed by and construed in accordance with the laws of Manitoba and the laws of Canada applicable therein and shall be treated in all respects as a Manitoba contract, without regard to conflict of laws principles.

Q1.2 The Parties agree that the courts of the Province of Manitoba and all courts competent to hear appeals therefrom shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Insurance Trust Agreement and hereby irrevocably attorn to the exclusive jurisdiction of such courts.

SECTION R FURTHER ASSURANCE

R1.1 Each Party shall do all things, from time to time, and execute all further documents necessary to give full effect to this Insurance Trust Agreement.

SECTION S LANGUAGE OF AGREEMENT

S1.1 Each Party acknowledges having requested and being satisfied that this Insurance Trust Agreement and related documents be drawn in English. Chacune des parties reconnaît

avoir demandé que ce document et ses annexes soient rédigés en anglais et s'en declare satisfaite.

SECTION T COUNTERPARTS

T1.1 This Insurance Trust 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 faxed form provided that any Party providing its signature in faxed form shall promptly forward to such Party an original signed copy of this Insurance Trust Agreement which was so faxed.

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

THE CITY OF WINNIPEG

Per: _____

Name: Brian Bowman, J.D, B.A. (Adv), CPA (Hon.),
CGA (Hon)

Title: Mayor

Per: _____

Name: Richard Kachur

Title: City Clerk

We have authority to bind the City.

Approved as to Financial Details:

Approved:

Michael Ruta, FCA
Chief Financial Officer

Douglas D. McNeil, P.Eng.
Chief Administrative Officer

Certified as to Contract Details:

Certified as to Contract Details:

Dave Wardrop, CPA, CMA, P.Eng.
Director of Transit

Lester Deane, P.Eng.
Director of Public Works

Reviewed as to Business Terms:

Reviewed as to Business Terms:

Scott Payne
Project Manager
Manager, Asset Management Office
Winnipeg Transit

Brad Neirinck, P.Eng.
Manager of Engineering
Public Works Department

Legally Reviewed and Certified as to Form:

Lisa R. Rowswell, Solicitor

for Director of Legal Services and City Solicitor

BNY TRUST COMPANY OF CANADA, acting in its
capacity as Lenders' Agent

Per: _____

Name:

Title:

Per: _____

Name:

Title:

We have authority to bind the corporation.

PLENARY ROADS [REDACTED]

18(1)(c)(i)(ii)

Per: _____

Name:

Title:

Per: _____

Name:

Title:

We have authority to bind the corporation.

PCL

[REDACTED]

18(1)(c)(i)(ii)

Per: _____

Name:

Title:

I have authority to bind the corporation.

BNY TRUST COMPANY OF CANADA, acting in its
capacity as Account Trustee

Per: _____

Name:

Title:

Per: _____

Name:

Title:

We have authority to bind the corporation.