
CREDIT AGREEMENT

Among

CONIFEX POWER LIMITED PARTNERSHIP

(as Borrower)

and

CONIFEX POWER INC.

(as General Partner)

and

IAM INFRASTRUCTURE PRIVATE DEBT FUND LP

(as Agent for the Lenders)

and

IAM INFRASTRUCTURE PRIVATE DEBT FUND LP,

by its sole and general partner, INTEGRATED PRIVATE DEBT FUND GP INC.,

TELUS PENSIONS MASTER TRUST,

LA CAPITALE CIVIL SERVICE INSURER INC.,

and any other Fixed Rate Lenders from time to time party hereto

(as Fixed Rate Lenders)

as of October 30, 2018

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- Exhibit C-1 Form of Borrower's Closing Certificate
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- Exhibit D-1 Schedule of Applicable Permits
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Other

- Exhibit E Lenders/Lending Offices
Exhibit F Schedule of Fixed Rate Lender's Commitments

CREDIT AGREEMENT

This CREDIT AGREEMENT (this “**Agreement**”) dated October 30, 2018 among CONIFEX POWER LIMITED PARTNERSHIP, a limited partnership formed under the laws of the Province of British Columbia, by its general partner, CONIFEX POWER INC., a corporation incorporated under the laws of the Province of British Columbia, as Borrower, CONIFEX POWER INC., a corporation incorporated under the laws of the Province of British Columbia, on its own behalf, IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, by its sole and general partner, INTEGRATED PRIVATE DEBT FUND GP INC., as agent for the Fixed Rate Lenders, IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, by its sole and general partner, INTEGRATED PRIVATE DEBT FUND GP INC., TELUS PENSIONS MASTER TRUST, LA CAPITALE CIVIL SERVICE INSURER INC., as Fixed Rate Lenders and the other persons who become a party hereto as Fixed Rate Lenders.

In consideration of the agreements herein and in the other Financing Documents and in reliance upon the representations and warranties set forth herein and therein, the parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions

Except as otherwise expressly provided, capitalized terms used in this Agreement and its exhibits shall have the meanings given in Exhibit A-1.

1.2 Rules of Interpretation

Except as otherwise expressly provided, the rules of interpretation set forth in Exhibit A-1 shall apply to this Agreement and the other Financing Documents.

ARTICLE 2 TERM LOAN FACILITY

2.1 Fixed Rate Loan

Subject to the terms and conditions set forth in this Agreement, the Fixed Rate Lenders agree to make a single Advance to the Borrower on the Closing Date (such Advance and any other Advances made hereunder to the Borrower, the “**Fixed Rate Loan**”) pursuant to an irrevocable Drawdown Certificate given to the Agent a minimum of ten (10) Business Days prior to the Closing Date. Any amount not drawn down by the Borrower on such date shall be cancelled and shall be a permanent reduction of the Fixed Rate Loan Commitment.

2.2 Calculation of Interest Rates and Payment on the Fixed Rate Loan

- (a) **Interest on Fixed Rate Loan.** Prior to the occurrence of an Event of Default, Borrower will pay interest on the Fixed Rate Loan during the Interest Period applicable thereto in Canadian Dollars at a rate per annum equal to 6.10% (the “**Fixed Rate Loan Interest Rate**”). After the occurrence and during the

continuance of an Event of Default, to the extent permitted by Applicable Laws, Borrower will pay interest on the Fixed Rate Loan in Canadian Dollars at a rate per annum equal to the Default Rate. Agent shall calculate and accrue interest in respect of the Fixed Rate Loan on the basis of a day/365 day count convention without adjustment for payment dates.

(b) Principal and Interest Payments of Fixed Rate Loan.

- (i) On each Repayment Date commencing with the Initial Repayment Date until the Maturity Date, the Borrower shall pay to Agent for the account of the Fixed Rate Lenders (x) a payment of principal in an amount equal to the Scheduled Repayment Amount in respect of the Fixed Rate Loan corresponding to such Repayment Date, as set forth in the Loan Repayment Schedule calculated and finalized on the Closing Date (unless revised pursuant to Section 3.2(i) and in such case, such revised Loan Repayment Schedule shall apply) and (y) all accrued interest on the unpaid principal amount of the Fixed Rate Loan in arrears up to and including such Repayment Date; and
- (ii) Any remaining unpaid principal, interest, fees, costs and other obligations outstanding shall be due and payable on the Maturity Date.

- (c) Interest Account and Interest Computations on Fixed Rate Loan.** Borrower authorizes Agent to record in an account or accounts maintained by Agent on its books (1) the Fixed Rate Loan Interest Rate; (2) the date and amount of each principal and interest payment on the Fixed Rate Loan made by Borrower; and (3) such other information as Agent may determine is necessary for the computation of interest payable by Borrower hereunder consistent with the basis hereof. Borrower agrees that all computations by Agent of interest shall be conclusive in the absence of demonstrable error. Agent shall, at the request of Borrower, deliver to Borrower a written statement detailing such computations of interest.

2.3 Use of Fixed Rate Loan Proceeds.

Borrower shall use the proceeds of the Fixed Rate Loan solely for the purposes of refinancing the Existing Credit Facilities and funding directly-related transaction costs and for funding the Accounts as required to be funded hereunder.

**ARTICLE 3
GENERAL PROVISIONS RELATED TO FIXED RATE LOAN**

3.1 Optional Prepayments

- (a) **Optional Prepayments.** Borrower may, at its option and without penalty (but subject to payment of any Make Whole Amounts) upon 30 days' notice to Agent, prepay the Fixed Rate Loan in whole.

- (b) **Terms of all Optional Prepayments and Cancellations.** Upon the optional prepayment of the Fixed Rate Loan under Section 3.1(a), Borrower shall pay to the Fixed Rate Lenders all accrued interest on such amount prepaid, together with the Make Whole Amount, calculated by the Agent as of the Settlement Date. Borrower may not reborrow the principal amount of the Fixed Rate Loan which is prepaid under Section 3.1(a).

3.2 Mandatory Prepayments

- (a) **Mandatory Prepayments from Insurance Proceeds and Eminent Domain Proceeds.** Borrower shall prepay the Fixed Rate Loan in accordance with the terms hereof with Insurance Proceeds in accordance with the requirements of Section 10.11 and with Eminent Domain Proceeds in accordance with the requirements of Section 10.12.
- (b) **Mandatory Prepayments from Suspense Account.** If the Distribution Conditions have not been met for any period of four (4) consecutive Fiscal Quarters, the Borrower shall prepay the Fixed Rate Loans with the full amount then on deposit in the Suspense Account and thereafter, the Borrower shall prepay the Fixed Rate Loans by the amounts required to be deposited into the Suspense Account pursuant to Section 10.1(b)(viii) until the Distribution Conditions have been met for a period of two (2) consecutive Fiscal Quarters (such period, a “Suspense Account Release Blockage Period”).
- (c) **Cash Sweep and Sponsor Guarantee Reduction.** Borrower shall transfer 100% of Distributable Cash to the Fuel Supply Reserve Account until such time as the amount on deposit in such account is one million Dollars (\$1,000,000) (the “Cash Threshold”). If the Cash Threshold is achieved within twelve (12) months of the Closing Date or any extension of such twelve (12) month period provided for hereunder, then the Sponsor Guarantee shall be reduced to three million five hundred thousand (\$3,500,000) from four million five hundred thousand (\$4,500,000) and the parties hereto agree to promptly arrange for and execute any amendments to the Sponsor Guarantee to effect such reduction if the Cash Threshold is achieved within the required timeframe. If the Cash Threshold has not been achieved within the initial twelve (12) months following the Closing Date and, in the reasonable judgment of Agent, Borrower is and has been working diligently and in good faith to achieve the Cash Threshold, such twelve (12) month period shall be extended once by a further twelve (12) month period.
- (d) **Receipt of Lump Sum Payments.** Borrower shall, if it receives any Lump Sum Payments at any time (or shall cause the General Partner, if applicable, to), prepay the Fixed Rate Loans by the amount of such Lump Sum Payments. The amount of the prepayment required in this Section 3.2(d) shall be paid to Agent promptly (and in no event later than three (3) Business Days following receipt of such Lump Sum Payments by the Borrower or the General Partner, as applicable). The Borrower shall, upon receipt of any delay liquidated damages under a Material Project Document to which it or the General Partner is a party received as

compensation for a delay thereunder, apply such delay liquidated damages in the following order of priority: (i) to pay any liquidated damage charges required to be paid by the Borrower under the EPA Contract or the LDA as a result of such delay; (ii) to offset O&M Costs (as approved by the Independent Engineer and the Agent) in accordance with the terms hereof.

- (e) **Repayment to Conform to Base Case Projections.** If the Base Case Projections projects a DSCR profile for any period contemplated by such Base Case Projections that is less than the Minimum DSCR Profile, Borrower shall on the first Repayment Date prior to such period prepay such amount of the Fixed Rate Loans as may be required to ensure that the Minimum DSCR Profile will be achieved for each year taking into account adjusted Project Revenues.
- (f) **Receipt of Asset Sale Proceeds.** Promptly upon receipt of Asset Sale Proceeds (other than in each Fiscal Year, those Asset Sale Proceeds arising in connection with a single sale, lease, assignment, transfer or other disposition of property having a value of less than \$100,000 up to a total value for all such transactions in such Fiscal Year of \$250,000 in the aggregate) (such excluded proceeds, “**Excluded Asset Sale Proceeds**”) by the Borrower, and in any event no later than five (5) Business Days following the date of receipt thereof, the Borrower will prepay the Fixed Rate Loans in an amount equal to such Asset Sale Proceeds in accordance with Section 8.3.
- (g) **Terms of all Mandatory Prepayments.** All prepayments made under this Section 3.2 shall be made on a *pro rata* basis to the Fixed Rate Lenders on a *pro rata* basis, the amount of the Fixed Rate Loan being prepaid together with all accrued interest on such amount being prepaid together with the Make Whole Amount calculated by the Fixed Rate Lenders as of the Settlement Date. The Borrower may not reborrow any principal amount of any Fixed Rate Loan which is prepaid under Section 3.2.
- (h) **Order of Application.** Except as set forth in Section 3.2(b) above, each prepayment required to be made by the Borrower under Section 3.2 shall be applied against the remaining scheduled payments of the Fixed Rate Loans in inverse order of maturity or in such other manner as the Agent reasonably determines best restores the Minimum DSCR Profile.
- (i) **Loan Repayment Schedule.** The Loan Repayment Schedule will be calculated and attached hereto as Exhibit D-3 on the Closing Date for indicative purposes only. The Loan Repayment Schedule (as thereafter amended in accordance with the terms hereof) will be revised if any prepayment of Fixed Rate Loans has been made pursuant to Section 3.1 or Section 3.2. The Loan Repayment Schedule finalized on the Closing Date (as thereafter amended in accordance with the terms hereof) will be binding on the parties hereto absent manifest error. Following any prepayment of the Fixed Rate Loans pursuant to Section 3.1 or Section 3.2, the Loan Repayment Schedule will be revised by the Agent (in consultation with, and giving reasonable consideration to the comments of, the Borrower) to account for

the effect of such prepayment or cancellation, as applicable, to ensure that the Minimum DSCR Profile will be achieved for each year and reattached hereto as Exhibit D-3.

3.3 Fees

- (a) **Commitment Fee.** On the Closing Date, Borrower shall pay to Agent on behalf of each applicable Fixed Rate Lender, *pro rata*, based on each such Fixed Rate Lender's Proportionate Share of the Fixed Rate Loan, loan commitment fees (the "Commitment Fees") equal to * of the Commitments of the Fixed Rate Lenders to the Fixed Rate Loan, net of any application fees and any additional fees actually paid to Agent on execution of the committed term sheet providing for the Fixed Rate Loan to Borrower hereunder; provided that the allocation of fees set out immediately above shall be subject to any fee letters agreed between the Agent and any one or more of the Fixed Rate Lenders.

3.4 Other Payment Terms

*Redacted. Confidential Fee information.

- (a) **Place and Manner.** Borrower shall make all payments due to Agent hereunder in accordance with Exhibit A-2 or as Agent may direct from time to time in lawful money of Canada and in immediately available funds not later than 1:00 p.m. (Toronto time), on the date on which such payment is due. Any payment made after such time on any day shall be deemed received on the next Business Day after such payment is received.
- (b) **Date.** Whenever any payment due hereunder shall fall due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.
- (c) **Late Payments.** If any amounts required to be paid by Borrower under this Agreement or the other Financing Documents (including principal or interest payable on the Fixed Rate Loans, and any fees or other amounts otherwise payable to Agent or any Fixed Rate Lender) remain unpaid after such amounts are due, Borrower shall pay interest on the aggregate, outstanding balance of such amounts from the date due until those amounts are paid in full at a per annum rate equal to the Default Rate.
- (d) **Net of Taxes, Etc.**
- (i) **Taxes.** Any and all payments by or on account of any obligation of Borrower hereunder or under any other Financing Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if Borrower shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.4(d)) Agent or such Fixed Rate Lender (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrower shall make such deductions

- and (iii) Borrower shall pay the full amount deducted to the relevant Governmental Authority in accordance with Applicable Law.
- (ii) *Other Taxes.* Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.
 - (iii) *Indemnity.* Borrower shall indemnify Agent and each Fixed Rate Lender, within thirty (30) days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by Agent or such Fixed Rate Lender, as the case may be, on or with respect to any payment by or on account of any obligation of Borrower hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.4(d)) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided that Borrower shall not be obligated to indemnify Agent or any Fixed Rate Lender for any expenses relating to Taxes or Other Taxes arising from the indemnitee's gross negligence, wilful misconduct or unexcused breach of this Agreement (if the indemnitee is a party hereto) as determined by a final non-appealable judgment of a court of competent jurisdiction. Each of Agent and each Fixed Rate Lender agrees to use its reasonable efforts to give notice to Borrower of the assertion of any claim against Agent or such Fixed Rate Lender, as applicable, relating to such Taxes or Other Taxes reasonably promptly, and in no event shall Borrower be liable under this indemnity for Taxes or Other Taxes for which it receives notice later than one hundred twenty (120) days after the principal officer of Agent or such Fixed Rate Lender responsible for administering this Agreement has actual knowledge of such claim. A certificate as to the amount of such payment or liability delivered to Borrower by a Fixed Rate Lender, or by Agent on its own behalf or on behalf of a Fixed Rate Lender, shall be conclusive absent manifest error.
 - (iv) *Notice.* As soon as practicable after any payment of Indemnified Taxes or Other Taxes by Borrower to a Governmental Authority, Borrower shall deliver to Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, together with a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent. Borrower shall compensate Agent and each Fixed Rate Lender, as applicable, for all losses and expenses actually incurred by Agent or such Fixed Rate Lender, as the case may be, as a result of any failure by Borrower to so furnish the original or certified copy of such receipt.
 - (v) *Survival of Obligations.* The obligations of Borrower under this Section 3.4(d) shall survive the termination of this Agreement and the repayment of the Obligations.

- (e) **Application of Payments.** Unless otherwise expressly provided for in this Agreement, payments made under this Agreement and the other Financing Documents shall be applied first, to any fees, costs, charges or expenses payable to Agent hereunder or under the other Financing Documents, second, to any fees, costs, charges or expenses payable to the Fixed Rate Lenders hereunder or under the other Financing Documents, third, to any accrued but unpaid interest on the Fixed Rate Loans, and fourth, to outstanding principal of the Fixed Rate Loans.
- (f) **Refunds.** If Agent or a Fixed Rate Lender receives a refund of any Taxes or Other Taxes as to which it has been indemnified by Borrower or with respect to which Borrower has paid additional amounts pursuant to this Section 3.4, it shall, so long as no Event of Default or Inchoate Default has occurred and is continuing (unless the Fixed Rate Loans have been repaid in full), pay over such refund to Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by Borrower under this Section 3.4 with respect to the Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses of Agent or such Fixed Rate Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that Borrower, upon the request of Agent or such Fixed Rate Lender, agrees to repay the amount paid over to Borrower (plus any other charges imposed by the relevant Governmental Authority) to Agent or such Fixed Rate Lender in the event Agent or such Fixed Rate Lender is required to repay such refund to such Governmental Authority. This Section 3.4(f) shall not be construed to require Agent or any Fixed Rate Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to Borrower or to any other Person.

3.5 Pro Rata Treatment

- (a) **Advances, Commitment, Reductions, Etc.** Except as otherwise provided herein, each payment of principal of and interest on the Fixed Rate Loans shall be made or shared among the Fixed Rate Lenders *pro rata* according to the respective unpaid principal amounts of the Fixed Rate Loans held by such Fixed Rate Lenders and shall be applied to the Fixed Rate Loans *pro rata*.
- (b) **Sharing of Payments, Etc.** If any Fixed Rate Lender (a “**Benefited Lender**”) shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise), other than as a result of a Mandatory Prepayment pursuant to Section 3.6(a), on account of its Fixed Rate Loans (or interest thereon) in excess of its rateable share of payments on account of the Fixed Rate Loans obtained by all Fixed Rate Lenders entitled to such payments, such Fixed Rate Lender shall forthwith purchase from the other Fixed Rate Lenders such participations in their Fixed Rate Loans, as shall be necessary to cause such purchasing Fixed Rate Lender to share the excess payment rateably with each of them; and if after taking into account such participations the Benefited Lender continues to have access to additional funds of Borrower for application on account of its debt, then the Benefited Lender shall use such funds

to reduce indebtedness of Borrower held by it and share such payments with the other Fixed Rate Lenders; provided, however, that if all or any portion of such excess payment is thereafter recovered from such purchasing Fixed Rate Lender, such purchase by such Fixed Rate Lender shall be rescinded and each other Fixed Rate Lender shall repay to the purchasing Fixed Rate Lender the purchase price to the extent of such recovery together with an amount equal to such other Fixed Rate Lender's rateable share (according to the proportion of (i) the amount of such other Fixed Rate Lender's required repayment to (ii) the total amount so recovered from the purchasing Fixed Rate Lender) of any interest or other amount paid or payable by the purchasing Fixed Rate Lender in respect of the total amount so recovered. Borrower agrees that any Fixed Rate Lender so purchasing a participation from another Fixed Rate Lender pursuant to this Section 3.5(b) may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Fixed Rate Lender were the direct creditor of Borrower in the amount of such participation; provided that Borrower shall have no liability to the Fixed Rate Lenders hereunder arising from the failure of Agent to pay any amount Agent is required to pay to Fixed Rate Lenders hereunder to the extent that Agent has received from Borrower all payments required to be made by Borrower hereunder.

3.6 Change of Circumstances

- (a) **Illegality.** If, after the date of this Agreement, the adoption of any Governmental Rule, any change in any Governmental Rule or the application or requirements thereof (whether such change occurs in accordance with the terms of such Governmental Rule as enacted, as a result of amendment, or otherwise), any change in the interpretation or administration of any Governmental Rule by any Governmental Authority, or compliance by any Fixed Rate Lender or Borrower with any request or directive (whether or not having the force of law) of any Governmental Authority (a "**Change of Law**") shall make it unlawful or impossible for any Fixed Rate Lender to maintain any of its Fixed Rate Loans, such Fixed Rate Lender shall promptly notify in writing Agent and Borrower of such Change of Law. Upon receipt of such notice (i) such Fixed Rate Lender's obligations to continue such Fixed Rate Loan shall terminate, and (ii) Borrower shall, at the request of such Fixed Rate Lender, immediately repay such Fixed Rate Loan.
- (b) **Increased Costs.** If, after the date of this Agreement, any Change of Law shall:
 - (i) subject any Fixed Rate Lender to any tax, duty or other charge with respect to any of its Fixed Rate Loans, or shall change the basis of taxation of payments by Borrower to any Fixed Rate Lender on any of such Fixed Rate Lender's Loans (except for Taxes, Other Taxes or changes in the rate of taxation on the overall net income of any Fixed Rate Lender and capital taxes); or

- (ii) impose, modify or hold applicable any reserve, special deposit or similar requirement (without duplication of any reserve requirement included within any applicable interest rate through the definition of “**Reserve Requirement**”) against assets held by, deposits or other liabilities in or for the account of, advances or loans by, or any other acquisition of funds by any Fixed Rate Lender for any of its Fixed Rate Loans; or
- (iii) impose on any Fixed Rate Lender any other condition directly related to any of its Fixed Rate Loans; and as a result there is increased cost to such Fixed Rate Lender of making, issuing, creating, renewing, participating in or maintaining any such Fixed Rate Loan or to reduce any amount receivable by such Fixed Rate Lender hereunder,

then Borrower shall from time to time, upon written demand by such Fixed Rate Lender, pay to such Fixed Rate Lender additional amounts sufficient to reimburse such Fixed Rate Lender for such increased costs or to compensate such Fixed Rate Lender for such reduced amounts.

- (c) **Capital Requirements.** If any Fixed Rate Lender reasonably determines that (i) any Change of Law affects the amount of capital required or expected to be maintained by such Fixed Rate Lender or the Lending Office of such Fixed Rate Lender (a “**Capital Adequacy Requirement**”) and (ii) the amount of capital maintained by such Fixed Rate Lender or such Lending Office which is attributable to or based upon any of its Fixed Rate Loans or this Agreement must be increased as a result of such Capital Adequacy Requirement (taking into account such Fixed Rate Lender’s policies with respect to capital adequacy), Borrower shall pay to Agent on behalf of such Fixed Rate Lender, upon written demand of Agent on behalf of such Fixed Rate Lender, such amounts as are reasonably necessary to compensate such Fixed Rate Lender for the increased costs to such Fixed Rate Lender of such increased capital.
- (d) **Notice.** Each Fixed Rate Lender will notify Agent of any event occurring after the date of this Agreement that will entitle such Fixed Rate Lender to compensation pursuant to this Section 3.6, as promptly as is reasonable, and in no event later than 120 days after the occurrence of the event giving rise to the possible claim, and Agent shall promptly notify Borrower in writing of such event; provided that Borrower shall have no obligation to compensate any Fixed Rate Lender pursuant to this Section 3.6 with respect to any period prior to the date which is 120 days prior to the date the Fixed Rate Lender gives notice. Any Fixed Rate Lender seeking compensation under this Section 3.6 shall promptly deliver to Borrower (with a copy to Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Fixed Rate Lender under this Section 3.6 which statement shall be conclusive and binding upon all parties hereto absent demonstrable error.
- (e) **Change of Law.** Notwithstanding anything herein to the contrary, (i) all requests, rules, guidelines and directives promulgated by the Bank for International

Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or any regulatory authorities pursuant to Basel III or (ii) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, will be deemed to be a Change of Law, regardless of the date enacted, adopted or issued.

3.7 Minimization of Costs

Each Fixed Rate Lender shall use reasonable efforts to avoid or minimize any additional costs, taxes, expense or obligation which might otherwise be imposed on Borrower pursuant to Sections 3.6(b) or 3.6(c) or as a result of such Fixed Rate Lender being subject to a Reserve Requirement or to avoid the requirement that any of its Fixed Rate Loans be repaid pursuant to Section 3.6(a); provided, however, that such efforts shall not cause the imposition on any Fixed Rate Lender of any material additional costs or legal or regulatory burdens unless Borrower shall provide such Fixed Rate Lender with an indemnification for such additional costs in form and substance reasonably satisfactory to such Fixed Rate Lender.

ARTICLE 4 COLLATERAL DOCUMENTS

4.1 Security

The Obligations shall be secured by, and Borrower shall deliver or cause to be delivered to the Agent on the Closing Date, the following security documents (such security to be held for the rateable benefit of itself and each of the Fixed Rate Lenders):

- (a) the Real Property Security Documents;
- (b) a General Security Agreement from the Borrower;
- (c) a general collateral assignment of agreements from Borrower pursuant to which Borrower assigns all of its right, title, benefit and interest in and to the Material Project Documents to which it is a party, Applicable Permits and certain other agreements designated by Agent to the Agent (the “**Borrower Assignment of Material Project Documents**”);
- (d) an assignment of insurance from the Borrower to the Agent (the “**Assignment of Insurance**”);
- (e) a general collateral assignment of agreements from General Partner pursuant to which General Partner assigns all of its right, title, benefit and interest in and to the Material Project Documents to which it is a party, Applicable Permits issued in its name and certain other agreements designated by Agent (the “**GP Assignment of Material Project Documents**”);
- (f) a General Security Agreement from the General Partner;

- (g) a Limited Recourse Guarantee from each Pledgor (other than the General Partner);
- (h) the Securities Pledge Agreement from each Pledgor;
- (i) the Blocked Account Agreement;
- (j) the Sponsor Guarantee;
- (k) Consents in respect of each Material Project Document entered into on or prior to the Closing Date (other than the Partnership Agreement and the Bare Trust and Agency Agreement); and
- (l) such other documents, instruments and agreements as Agent may request to grant to the Agent Liens in all assets of Borrower and the General Partner, the ownership interests of the Partners in Borrower, the ownership interests of the General Partner Shareholders in the General Partner, the ownership interests of Mackenzie FP in the Site and all other assets of Borrower and General Partner reasonably necessary for the operation and maintenance of the Project.

4.2 Further Assurances

Borrower shall deliver or shall cause any Obligor to deliver to Agent each of the foregoing and such other instruments, agreements, certificates representing ownership interests, and documents as Agent may reasonably request to perfect and maintain the Liens granted to the Agent by the foregoing prior (other than in the case of certain Permitted Liens) to the Liens or other interests of any Person other than the Agent including the delivery to the Agent of any and all certificates representing ownership interests in any Material Party that have been pledged pursuant to a Securities Pledge Agreement within three (3) Business Days after the issuance of such ownership interest. In connection with any new security agreement, pledge agreement or other instrument, the Borrower shall cause each Obligor to cause its counsel to deliver a legal opinion with respect to such instruments, agreements, certificates and documents as the Agent may reasonably request (upon the advice of legal counsel) (in form and substance satisfactory to the Agent, acting reasonably). For certainty, any Limited Recourse Guarantee and Securities Pledge Agreement entered into after the Closing Date shall be substantially in the form of the Limited Recourse Guarantees and Securities Pledge Agreements delivered on the Closing Date. The Borrower shall fully cooperate with Agent and shall perform all additional acts reasonably requested by Agent to effect the purposes of the foregoing.

4.3 Form of Collateral Documents

The Collateral Documents shall be in form and substance satisfactory to Fixed Rate Lenders, acting reasonably.

ARTICLE 5
CONDITIONS PRECEDENT

5.1 Conditions Precedent to the Closing Date

The effectiveness of this Agreement and the obligation of the Fixed Rate Lenders to fund the Fixed Rate Loan is subject to the prior satisfaction of each of the following conditions (unless waived in writing by Agent on instructions from all of the Fixed Rate Lenders):

- (a) **Resolutions and Authorization.** Delivery to Agent of a copy of one or more resolutions or other authorizations of each Obligor and the Manager, certified by the appropriate officers of each such entity as being in full force and effect on the Closing Date, authorizing the execution, delivery and performance of this Agreement and the other Operative Documents and any instruments or agreements required hereunder or thereunder to which such Person is a party.
- (b) **Incumbency.** Delivery to Agent of a certificate reasonably satisfactory in form and substance to the Fixed Rate Lenders from each Obligor and the Manager, signed by the appropriate authorized officer or representative of each such entity and dated the Closing Date, as to the incumbency of the natural persons authorized to execute and deliver this Agreement and the other Operative Documents and any instruments or agreements required hereunder or thereunder to which such Person is a party.
- (c) **Certificates of Status and Organizational Documents.** Delivery to Agent of (i) a copy of the certificate of status (or equivalent) of each Obligor and the Manager, a copy of the Partnership Agreement and a copy of any related agreements or certificates filed in accordance with Applicable Law, (ii) copies of the Organizational Documents of each Obligor and the Manager, certified by the appropriate authorized officer or representative of such Person, and (iii) copies of the bylaws (or equivalent) of each Obligor and the Manager, certified by the appropriate authorized officer or representative of such Person.
- (d) **Partnership Agreement.** The units representing the equity interest of Borrower issued to each Partner shall be certificated and delivered to the Agent, together with transfer powers of attorney duly executed in blank.
- (e) **Shares of General Partner.** The shares representing the equity interest of the General Partner issued to each General Partner Shareholder thereof, as applicable, shall be certificated and delivered to the Agent pursuant to the applicable Securities Pledge Agreement, together with transfer powers of attorney duly executed in blank.
- (f) **Proceedings and Approvals.** All corporate, partnership, and legal proceedings and all instruments in connection with the transactions contemplated by this Agreement shall be reasonably satisfactory in form and substance to the Fixed Rate Lenders and shall be final, and Agent shall have received all information and copies of all documents, including records of corporate or partnership proceedings

and copies of any approval by any Governmental Authority required in connection with any transactions herein contemplated, which Agent may reasonably have requested in connection herewith, such documents where appropriate to be certified by proper corporate or partnership officers or representatives or Governmental Authorities.

- (g) **Borrower's Closing Certificate.** Agent shall have received a certificate, dated as of the Closing Date, signed by an authorized officer of Borrower, in substantially the form of Exhibit C-1 (the "**Borrower's Closing Certificate**").
- (h) **Financing Documents and Material Project Documents.** Delivery to Agent of executed originals of each Financing Document (including all Consents) and a certified list and true and correct copies of each Material Project Document entered into on or prior to the Closing Date (including for certainty the Sponsor Landfill Indemnity and the BC Hydro Assignment and Assumption Agreement), and any supplements or amendments thereto since the respective dates of their execution and delivery, all of which Financing Documents, Material Project Documents and supplements or amendments shall be reasonably satisfactory in form and substance to the Fixed Rate Lenders and shall have been duly authorized, executed and delivered by the parties thereto. The copies of all of such Material Project Documents shall be certified by an authorized officer or representative of General Partner as being true, complete and correct and in full force and effect on the Closing Date pursuant to the certificate delivered as provided in Section 5.1(g). An authorized officer or representative of General Partner shall also certify to the Fixed Rate Lenders that (i) neither Borrower nor, to its knowledge any other party to any Material Project Document is or, but for the passage of time or giving of notice or both will be, in breach of any material obligation thereunder and (ii) all Material Project Documents required to have been entered into by the Borrower or any other Obligor by the Closing Date in connection with the Project have been executed and delivered and are in full force and effect. The Collateral Documents relating to the Collateral and the financing statements or such other registrations as required by Applicable Law relating thereto have been duly filed, registered or recorded in each office and in each jurisdiction where required in order to create, perfect and maintain perfected the first priority Lien and security interest (subject to Permitted Liens).
- (i) **Opinions.** Delivery to Agent of the following opinions/reports each in form and scope reasonably satisfactory to the Fixed Rate Lenders of:
 - (i) Sangra Moller LLP, British Columbia counsel for each Obligor and the Manager with respect to the existence of such Obligor and the due authorization, execution and delivery and enforceability of the Financing Documents and the Material Project Documents governed by the laws of British Columbia entered into on or prior to the Closing Date.
- (j) **Insurance Consultant's Certificate.** Delivery to Agent of the Insurance Consultant's certificate, in substantially the form of Exhibit C-2 (the "**Insurance**

Consultant's Certificate"), with the Insurance Consultant's report, as to the reasonableness and consistency of the Project insurance with industry standards and confirming, among the other matters provided for therein, that the Agent has been added as a loss payee on all property insurance and the Agent and the Fixed Rate Lenders have each been added as an additional insured on all property insurance and on all other insurance policies, as applicable, in form and substance reasonably satisfactory to the Fixed Rate Lenders.

- (k) **Insurance.** Insurance complying with Section 7.22 shall be in full force and effect (as required under Section 7.22), all insurance premiums then due and payable shall have been paid and Agent shall have received certified copies of all policies evidencing such insurance (or a binder, commitment or certificates signed by the insurer or by the Borrower's Insurance Broker), all in form and substance reasonably satisfactory to the Fixed Rate Lenders.
- (l) **Independent Engineer's Certificate and Report.** Delivery to Agent of the Independent Engineer's certificate, in substantially the form of Exhibit C-3 (the "**Independent Engineer's Certificate**") with an Independent Engineer's report and letter, in form, scope and substance satisfactory to the Fixed Rate Lenders such report and letter collectively to include, without limitation a review of (i) the Base Case Projections and the Minimum DSCR Profile, (ii) a review of maintenance programs and projected operating costs and maintenance assumptions and any other aspects relating to the operation of the Project.
- (m) **Fuel Plan and Fuel Supply Report.** Borrower shall have delivered to Agent (i) the Fuel Plan for 2018 and Borrower shall have complied with all the requirements of the Fuel Plan required to be complied with on or prior to the Closing Date and (ii) a Fuel Supply Report by the Fuel Supply Consultant, in form and substance satisfactory to the Fixed Rate Lenders acting reasonably.
- (n) **Applicable Permits.** Delivery to Agent of copies of each Applicable Permit listed on Exhibit D-1, each in form and substance reasonably satisfactory to the Fixed Rate Lenders. All Applicable Permits with respect to the operation of the Project from any Governmental Authority have been issued and are in full force and effect and Borrower through its representations and warranties hereunder has confirmed that it has no reasonable belief that any such Permit will be suspended, cancelled, revoked or materially adversely modified. Borrower is in material compliance with all such Applicable Permits. Such Applicable Permits shall not be subject to any restriction, condition, limitation or other provision that in the judgment of the Agent, acting reasonably, may adversely affect the operation of the Project.
- (o) **Payment of Lender Fees and Other Amounts.** All amounts required to be paid to or deposited with Agent or any Fixed Rate Lender including pursuant to Section 3.3, and all material Taxes, fees (including any arrangement fees) and other costs payable in connection with the execution, delivery, recordation and filing of the documents and instruments required to be filed as a condition

precedent to the Closing Date, shall have been paid in full (or, with the consent of Agent and the Fixed Rate Lenders, shall be paid concurrently with the occurrence of the Closing Date).

- (p) **Payment of Independent Consultant and Counsel Fees.** Borrower will have paid in full all reasonable fees, costs and expenses, of Fixed Rate Lenders' counsel, the Independent Engineer, the Insurance Consultant and the Fuel Supply Consultant.
- (q) **Financial Statements.** Agent shall have received (i) the audited financial statements for the year ended December 31, 2017 for the Sponsor and (ii) the unaudited financial statements for the Fiscal Quarter ended June 30, 2018 for each of the Borrower, the Sponsor and Mackenzie FP, together in each case with a certificate from an appropriate Person acting in a financial management capacity on behalf of such entity, stating that no material adverse change in the assets, liabilities, operations or financial condition of such entity has occurred since the date of such financial statements.
- (r) **No Material Liabilities.** Agent shall have received a certificate from an appropriate Person acting in a financial management capacity of the General Partner on behalf of Borrower, certifying that Borrower does not have any material liabilities, except as have been disclosed in writing to Agent prior to the Closing Date.
- (s) **Accounts.** The establishment and full funding of each of the Accounts in accordance with the provisions hereof including, without limitation, Article 10 hereof.
- (t) **Search Reports and Priority of Liens.** Agent shall have received from counsel acceptable to the Fixed Rate Lenders and in form and scope satisfactory to the Fixed Rate Lenders (i) PPSA search reports dated no more than two (2) Business Days prior to the Closing Date and (ii) title sub-search reports dated no more than one (1) Business Day prior to the Closing Date (which, in each case, may be included in the opinion delivered pursuant to Section 5.1(i)(i)) for each of the jurisdictions in which the Collateral Documents or notice thereof are intended to be filed, showing the due filing or recordation of or that upon due filing or recordation (assuming such filing or recordation occurred on the date of such respective reports) of the applicable Collateral Documents, the security interests and Liens created under the Collateral Documents will rank prior to all other financing statements, fixture filings, mortgages or other security documents in respect of the Collateral (subject only to Permitted Liens other than those Liens of the nature described in clause (c)(z) of the definition of Permitted Liens which shall not exist on the Closing Date).
- (u) **Discharges.** Delivery to the Agent of releases, discharges and postponements (in registerable form where necessary) that are required by the Fixed Rate Lenders, acting reasonably, with respect to all Liens affecting the Collateral that are not

Permitted Liens including for greater certainty, those releases, discharges and postponements listed on Exhibit D-9 attached hereto.

- (v) **Base Case Projections.** Delivery to Agent of the Base Case Projections in substantially the form of Exhibit D-2 which shall demonstrate that the Project will achieve the Minimum DSCR Profile in form and substance satisfactory to the Fixed Rate Lenders, acting reasonably.
- (w) **Borrower Confirmation in Respect of the Base Case Projections.** Agent shall have received a written confirmation by the Borrower that the Base Case Projections delivered pursuant to Section 5.1(v) are (i) based on reasonable assumptions; (ii) made in good faith; and (iii) consistent with the terms of the Material Project Documents.
- (x) **Amortization Schedule.** Borrower shall have furnished to Agent the Loan Repayment Schedule on a fifteen and one-half (15.5) year amortization period structured to (i) comply with the Minimum DSCR Profile and (ii) ensure that no scheduled payments thereunder shall extend beyond the EPA Trigger Date and otherwise satisfactory to the Fixed Rate Lenders, acting reasonably.
- (y) **No Change in Base Case Projections, etc.** In the reasonable judgment of the Fixed Rate Lenders, there shall not have occurred any material adverse change in (i) the Base Case Projections, (ii) the economics or feasibility of operating the Project, or (iii) the financial condition, business, property, prospects or operations of Borrower or any Major Project Participant.
- (z) **No Liens.** There shall not have been filed with or served upon Borrower with respect to the Project or any part thereof notice of any Lien or claim of Lien, other than Permitted Liens (other than those Liens of the nature described in clause (c)(z) of the definition of Permitted Liens which shall not exist on the Closing Date).
- (aa) **No Material Action.** No action, suit, proceeding or investigation shall have been instituted or threatened in writing against the Borrower, the General Partner, Mackenzie FP or the Project.
- (bb) **Material Adverse Effect.** There is no fact known to the Borrower or Agent that would reasonably be expected to have (i) a Material Adverse Effect, or (ii) a material adverse effect on any other Obligor or on any other Major Project Participant.
- (cc) **Lender Due Diligence.** Completion by the Fixed Rate Lenders, to their satisfaction in their sole and absolute discretion acting reasonably, of due diligence with respect to the operation of Borrower and the Project. Such due diligence shall include, without limitation, all documentation relating to the Project (including, without limitation, the Material Project Documents) as well as such matters as real property interests, tax, insurance, accounting, environmental, permitting matters, First Nations matters, the legal structure of Borrower, the

business, property and assets of Borrower, the security constituted by the Collateral Documents, pro forma financial projections, the Borrower's decommissioning obligations, the financial capacity of each Major Project Participant to fulfill its obligations under the Material Project Documents to which it is a party, the supply of water required by the Project, waste management and the supply of Fuel required by the Project and such other matters as they consider necessary.

- (dd) **Representations and Warranties.** All representations and warranties set forth in the Financing Documents will be true and correct in all material respects as of the Closing Date.
- (ee) **No Default.** No Event of Default or Inchoate Default will have occurred and be continuing as of the Closing Date.
- (ff) **Organizational and Project Ownership Interest Chart.** The Borrower shall have delivered to the Agent an organizational chart of the Obligors setting out all Inter-Company Debt as "Nil" and the ownership interests in the Borrower, the General Partner and the owners of each other Obligor (other than the Sponsor) and the Project as at the Closing Date, in form and substance satisfactory to the Fixed Rate Lenders (the "**Organizational and Project Ownership Interest Chart**") and attached here as Exhibit D-7.
- (gg) **Title Insurance.** Delivery to the Agent of customary mortgagee's title insurance policy in an amount and in form and substance including, without limitation, contiguity special valuation and maximum actual loss endorsement satisfactory to the Fixed Rate Lenders, acting reasonably, and issued by Title Insurer or such other reputable and creditworthy insurers all accompanied by evidence of the payment in full of all premiums thereon in respect of the lands and premises forming the Site and that gap coverage is in effect on the Closing Date.
- (hh) **Site Survey.** Delivery to the Agent and the Fixed Rate Lenders of a survey for the Site prepared by a land surveyor qualified and licensed to practice in British Columbia (with the Collateral thereon) showing no encroachments of such Collateral on any portion of any premises outside of the Site, which drawings and survey shall be satisfactory in scope and content to the Fixed Rate Lenders, acting reasonably.
- (ii) **Real Property.** The Borrower shall have furnished evidence to the Agent that (i) Mackenzie FP, in its capacity as nominee, agent and bare trustee for and on behalf of the Borrower, has registered freehold title to the Project Lands and such interest therein is free and clear of all Liens, encumbrances or other exceptions to title except Permitted Liens, (ii) Mackenzie FP, in its capacity as nominee, agent and bare trustee for and on behalf of the Borrower, has entered into each Real Property Document and each Real Property Document is in full force and effect, (iii) the interests in land created by the Easements have been registered in the name of Mackenzie FP, in its capacity as nominee, agent and bare trustee for and

on behalf of the Borrower, in accordance with Applicable Law, and (iv) the Borrower has obtained all other real property rights, crossing agreements, rights of way and interests in land required to facilitate the construction, maintenance and operation of the Project.

- (jj) **Know-Your-Customer.** The Agent and the Fixed Rate Lenders will have received from each Obligor and the Sponsor such information and documents as may be necessary to allow them to comply with all Legal Requirements and all internal requirements relating to their "Know Your Customer" obligations.
- (kk) **Inter-Company Debt.** Delivery to the Agent and the Fixed Rate Lenders of evidence satisfactory to the Fixed Rate Lenders that on the Closing Date that there is no outstanding Inter-Company Debt.
- (ll) **Other Documents and Deliverables.** Such other documents and deliverables as the Fixed Rate Lenders shall reasonably request, in form and substance satisfactory to the Fixed Rate Lenders including, without limitation, any documents or deliverables set out on the most current version of the closing checklist (as of the date hereof) circulated by Agent's counsel to Borrower's counsel that are not specified herein.
- (mm) **Borrower's Advance Verification Certificate.** Agent will have received a Borrower's Advance Verification Certificate no later than nine (9) Business Days prior to the Closing Date, with each such Borrower's Advance Verification Certificate to: (A) certify that the Borrower is in compliance with its security obligations pursuant to each Material Project Document, as applicable, (B) certifying that the Project is free and clear of Liens that are not Permitted Liens (other than those Liens of the nature described in item (c)(z) of the definition of "Permitted Liens" which shall not exist on the Closing Date), and (C) certifying that, in the opinion of Borrower, there has not been any material technical development adversely affecting the Project.
- (nn) **CIBC Letter of Credit Documents.** Agent will have received certified copies of the executed CIBC Letter of Credit Documents and details of any related Lien filings, such documents and Lien filings to be in form and substance satisfactory to Agent, in its sole discretion.
- (oo) **EDC Documents & Bring-Down.** Agent will have received certified copies of the executed EDC Documents, such documents to be in form and substance satisfactory to Agent, in its sole discretion. To the extent that any EDC Documents have an execution date prior to the Closing Date, Borrower shall deliver to Agent a written confirmation from EDC addressed to Agent confirming that each of the EDC Documents is in full force and effect as of the Closing Date, unamended, and that no steps have been taken by EDC to terminate any of the EDC Documents.

- (pp) **Funding of CIBC Cash Collateral Account.** On or before the Closing Date, Borrower shall establish the CIBC Cash Collateral Account with CIBC and deposit *Redacted. therein and provide satisfactory evidence of same to Agent.
- (qq) **No Material Default.** There has not been any material event of default by the Borrower, the General Partner or Mackenzie FP, as applicable, or to the knowledge of Borrower, by any other Major Project Participant under any Material Project Document, Applicable Permit, insurance policy or any other similar approval or agreement since Commercial Operation has occurred.
- (rr) **As Built Plans.** The Agent will have received the As Built Plans, in form and substance satisfactory to the Agent and the Independent Engineer, acting reasonably.
- (ss) **Safe Operations:** The Agent shall have received evidence satisfactory to it that the Project has operated safely and continuously since the occurrence of Commercial Operation in compliance in all material respects with all material Legal Requirements and material Permits.

5.2 Conditions Precedent to Each Credit Event

The obligation of the Fixed Rate Lenders to effect or permit each Credit Event is subject to the further conditions that, on the date such Credit Event is to occur, the following shall be true and correct:

- (a) Each representation and warranty set forth in Article 6 and Section 9.2 is true and correct in all material respects as if made on such date (or if stated to have been made solely as of an earlier date, such representation and warranty shall be true and correct as of such earlier date); and
- (b) No Event of Default or Inchoate Default has occurred and is continuing or will result from such Credit Event.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

Borrower makes the following representations and warranties to and in favour of Agent and the Fixed Rate Lenders as of the date hereof and, except as otherwise provided, as of such date as such representations and warranties are required to be made pursuant to Section 6.2. All of these representations and warranties shall survive the Closing Date and the making of the Fixed Rate Loans:

6.1 Organization

- (a) Borrower (i) is a limited partnership duly constituted, validly existing and in good standing under the laws of the Province of British Columbia, (ii) is a Canadian partnership as defined under the *Income Tax Act* (Canada) and (iii) is duly qualified and authorized to do business in the Province of British Columbia and in

each other jurisdiction where the character of its properties or the nature of its activities makes such qualification necessary. Borrower has all requisite power and authority to own or hold under lease and operate the property it purports to own or hold under lease and to carry on its business as now being conducted and as proposed to be conducted under the Operative Documents in respect of the Project. The sole general partner of Borrower is the General Partner and all of the limited partners of Borrower are described in Exhibit D-7.

- (b) Each Pledgor (i) is duly organized and validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with all requisite organizational or other power and authority under the laws of such jurisdiction to enter into the Operative Documents to which it is a party and to perform its obligations thereunder and to consummate the transactions contemplated thereby; (ii) is duly qualified, authorized to do business and in good standing in each jurisdiction where the character of its properties or the nature of its activities makes such qualification necessary; (iii) has the power (A) to carry on its business as now being conducted and as proposed to be conducted by it, (B) to execute, deliver and perform its obligations under each Operative Document to which it is a party, in its individual capacity, (C) to take all action as may be necessary to consummate the transactions contemplated thereunder, and (D) grant the Liens and security interest provided for in the Financing Documents to which it is a party; and (iv) has the authority to execute, deliver and perform its obligations under each Operative Document to which it is a party.
- (c) The Organizational and Project Ownership Interest Chart attached hereto as Exhibit D-7 (as updated from time to time as required pursuant to Section 7.30) is true and correct and contains:
 - (i) a list of Borrower and all Pledgors and their direct shareholders or unitholders (other than the shareholders of the Sponsor), as applicable;
 - (ii) a complete and accurate list of (i) each such Obligor's full and correct name (including any French and English forms of name and, if applicable, any predecessor name) and the jurisdiction in which each such Obligor was formed and (ii) the full address of each such Obligor's chief executive office and chief place of business and, if the same is different, the address at which the books and records of such Obligor are located, the address at which senior management of such Obligor are located and conduct their deliberations and make their decisions with respect to the business of such Obligor and the address from which the invoices and accounts of such Obligor are issued; and sets out the ownership interests in the Project, including the authorized and issued capital of the Borrower and the General Partner and the registered (if applicable) and beneficial owners of such capital; and
 - (iii) confirmation of "Nil" Inter-Company Debt existing on the Closing Date.

No such Obligor listed on the Organizational and Project Ownership Interest Chart has any predecessor name other than set forth therein.

6.2 Authorization, No Conflict

Each Obligor has duly authorized, executed and delivered each Operative Document to which it is a party (or such Operative Documents have been duly and validly assigned to Borrower and Borrower has assumed the obligations thereunder), and no Obligor's execution and delivery thereof (nor its assumption of such obligations) nor its consummation of the transactions contemplated thereby nor its compliance with the terms thereof or performance of its obligation thereunder (a) does or will contravene (i) the Partnership Agreement, any other Material Project Document or any Applicable Permit or (ii) any other Legal Requirement applicable to or binding on such Obligor or any of its properties, except for any such immaterial contravention of a Legal Requirement, (b) does or will contravene or result in any material breach of or constitute any material default under, or result in or require the creation of any Lien (other than Liens in favour of Agent pursuant to the Financing Documents) upon any of its property under, any agreement or instrument to which it is a party or by which it or any of its properties may be bound or affected or (c) except for Applicable Permits (which are specifically provided for in Section 6.13), does or will require the consent or approval of any Person which has not already been obtained.

6.3 Laws, Regulations, Etc.

Borrower is conducting its business operations in compliance with (i) its constituting documents and (ii) all Legal Requirements applicable to or binding on Borrower or any of its properties (including any environmental laws, margin regulations, anti-terrorism laws and laws applicable to sanctioned persons) except to the extent that any failure to comply with any Legal Requirements would not be expected to have a Material Adverse Effect.

6.4 Enforceability

Each Operative Document to which each Material Party is a party is a legal, valid and binding obligation of such Material Party, enforceable against such Material Party in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and subject to general equitable principles.

6.5 Employees

Neither the Borrower nor the General Partner has any employees.

6.6 Taxes

Borrower has filed, or has caused to be filed, all federal, provincial and local tax returns that it is required to file, has paid or has caused to be paid all taxes it is required to pay to the extent due (other than those taxes that it is contesting in good faith and by appropriate proceedings, with if such would be required hereunder adequate, segregated reserves established for such taxes).

6.7 GST and PST

The Borrower (i) is registered under Part IX of the *Excise Tax Act* (Canada) with registration 81851 0901 RT0001 and (ii) is registered under *The Provincial Sales Tax Act* (British Columbia) with registration vendor number PST-1014-6487, and the Borrower has filed or caused to be filed all claims for tax input credits available to the Borrower with respect to GST or provincial sales tax pursuant to Applicable Law as of the date hereof.

6.8 Business, Debt, Contracts, Etc

Borrower has not conducted any business other than the Project and the activities contemplated under the Operative Documents, it has no outstanding Debt other than Permitted Debt and it is not a party to or bound by any material contract other than the Operative Documents to which it is a party and the Borrower is not in default under any agreement involving the borrowing of money or advance of credit or in default in the payment of any amount or performance of any Obligation which default would, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

6.9 Filings

Other than as listed on Exhibit D-4, no filing, recording, refiling or re-recording is necessary to perfect and maintain the perfection and priority of the interest, title or Liens referred to in Section 6.18, and on the Closing Date all such filings or recordings (other than those that are required to be made only at a later date, which are so indicated on Exhibit D-4) will have been made.

6.10 Financial Statements

The financial statements delivered in respect of Borrower pursuant to Section 7.5 fairly present in all material respects the financial condition of Borrower as of the date thereof. Such financial statements have been prepared in accordance with IFRS. Borrower does not have any material liabilities, direct or contingent, except as have been disclosed in such financial statements or otherwise disclosed in writing to Agent prior to the date hereof.

6.11 Partnerships and Joint Ventures

Borrower is not a general partner or a limited partner in any general or limited partnership or a joint venturer in any joint venture or a member in any limited liability company.

6.12 No Default

No Event of Default or Inchoate Default has occurred and is continuing.

6.13 Permits and Governmental Authority Approvals

Borrower or Conifex GP has obtained all Permits and Governmental Authority Approvals necessary to operate the Project in accordance with the Base Case projections and consistent with Prudent Industry Practice. A complete list of all Applicable Permits is set forth in Exhibit D-1.

Each Applicable Permit has been obtained by Borrower or Conifex GP on behalf of the Borrower and is issued in Borrower's name or in the name of Conifex GP, as applicable, and is in full force and effect. Borrower has no reasonable belief that any Applicable Permit, will be suspended, cancelled, revoked or materially adversely modified. Exhibit D-1 may be updated from time to time by Borrower such that the statements made in this Section 6.13 shall be true and correct in all material respects on the dates that such representation and warranty is made. Borrower is not in material violation of any Applicable Permit. To the knowledge of Borrower, no Major Project Participant is in material violation of any Applicable Permit.

6.14 Offices, Location of Collateral

- (a) Borrower's jurisdiction of formation is the Province of British Columbia, its domicile is the Province of British Columbia and its chief executive office and principal place of business (if different from its chief executive office) is located in the Province of British Columbia at the address referenced in Section 14.1. The address at which the books and records of Borrower are located and the address from which the invoices and accounts of Borrower are issued is located in the Province of British Columbia.
- (b) Except as notified to Agent pursuant to Section 8.14, each Pledgor's domicile, chief executive office and principal place of business (if different from its chief executive office) is the Province of British Columbia. The address at which the books and records of each Pledgor are located and the address from which the invoices and accounts of each Pledgor are issued is located in the Province of British Columbia.
- (c) Except as notified to Agent pursuant to Section 8.14, all of the Collateral that constitutes tangible personal property and all of the Collateral that constitutes real property is located at or on the Site or at the address set forth in Section 6.14(a).

6.15 No Material Adverse Effect

As at the Closing Date there has occurred no material adverse change in any of the Base Case Projections, in the economics or feasibility of operating the Project or in the financial condition of the Borrower, that could reasonably be expected to have a Material Adverse Effect or to Borrower's knowledge, there has occurred no material adverse change in the financial condition, business or property of any Major Project Participant.

6.16 Environmental Matters

- (a) (i) Neither Borrower nor General Partner is or has in the past been in violation of any Hazardous Substances Law which violation could result in a material liability to either of Borrower or the General Partner; (ii) Borrower has not, and to the knowledge of Borrower, no third party, has, used, Released, discharged, generated, manufactured, produced or stored in, on, at, under, adjacent, or about the Site, or transported thereto or therefrom, any Hazardous Substances in a manner that could reasonably be expected to subject Agent, the Fixed Rate Lenders, Borrower or any Partner to material liability under any Hazardous

Substances Law or pursuant to an Environmental Claim; (iii) there are no underground or above ground tanks, whether operative or temporarily or permanently closed, located on the Site except as set forth in Part I of Exhibit D-11; (iv) there are no Hazardous Substances used, stored or to the knowledge of Borrower present at, in, on, under or, near the Site, in each case in material violation of any Hazardous Substances Law which could reasonably be expected to subject Agent, the Fixed Rate Lenders, Borrower or any Partner to material liability under any Hazardous Substances Law or pursuant to an Environmental Claim, and (v) except as set forth in Part II of Exhibit D-11 there is or has been no condition, circumstance, action, activity or event that, to the knowledge of Borrower, could form the basis of any material violation of, or material liability to Agent, the Fixed Rate Lenders, Borrower or any Partner under, any Hazardous Substances Law or subject Agent, the Fixed Rate Lenders, Borrower or any Partner to an Environmental Claim.

- (b) To the knowledge of Borrower, there is no proceeding, investigation or inquiry by any Governmental Authority or any non-governmental third party with respect to the presence or Release of Hazardous Substances in, on, under, from or to the Site.
- (c) To the knowledge of Borrower, there are no material past or existing violations of any Hazardous Substance Laws by any Person relating to the Site, the Project or the Collateral.

6.17 Litigation

There are no pending or, to the Borrower's knowledge, threatened in writing material actions or proceedings of any kind, including actions or proceedings of or before any Governmental Authority, to which Borrower, the Project, the General Partner, Mackenzie FP or any other Partner is a party or is subject, or by which any of them or any of their properties or the Project are bound or, to Borrower's knowledge, any of the Major Project Participants, that could reasonably be expected to materially adversely affect such Major Project Participants' ability to perform its obligations under the Material Project Document to which it is a party.

6.18 Title and Liens

The Borrower has good and valid right to use and/or occupy the Site to the extent required to operate and maintain the Project by way of (i) good, valid and marketable registered freehold title (with title registered in the name of Mackenzie FP, in its capacity as nominee, agent and bare trustee for and on behalf of the Borrower) to the Project Lands and such interest (x) is free and clear of all Liens or other statutory exceptions to title other than Permitted Liens and (y) has been registered in accordance with Applicable Law and, (ii) good, valid and registered interest (with such interest registered in the name of Mackenzie FP, in its capacity as nominee, agent and bare trustee for and on behalf of the Borrower) in the lands encumbered by the Easements and such interest has been registered in accordance with Applicable Law. Part I of Exhibit D-6 contains a complete and accurate legal description of the Project Lands. Part II of Exhibit D-6 contains a complete and accurate list of each Easement. The only interests in real property

necessary for the operation and maintenance of the Project are those that have been obtained or will be obtained by the Borrower pursuant to the Real Property Documents and through the ownership of the Project Lands and no other interests in real property including, without limitation, easement rights, are required by the Borrower to construct, operate and maintain the Project.

6.19 Utilities

All utility services necessary for the operation of the Project for its intended purposes are available at the Site or will be so available as and when required upon commercially reasonable terms.

6.20 Roads/Feeder Lines

- (a) All roads necessary for the operation of the Project have been completed and the necessary rights of way therefor have been acquired.
- (b) All necessary easements, rights of way, agreements (including crossing agreements) and rights granted in favour of Borrower pursuant to the terms of the Real Property Documents and other rights which are necessary for the interconnection and utilization of the supply and distribution lines relating to the Project have been acquired and such easements, rights of way, agreements and rights are in full force and effect.

6.21 Sufficiency of Material Project Documents

- (a) The Project Lands, the Real Property Documents, the Applicable Permits and other rights granted pursuant to the Material Project Documents:
 - (i) comprise all of the property interests and other rights necessary for the operation and maintenance of the Project in accordance with all Legal Requirements, all without reference to any proprietary information not owned by Borrower or available to Borrower under the Material Project Documents;
 - (ii) are sufficient to enable the Project to be located, operated and maintained on the Site; and
 - (iii) provide adequate ingress and egress for any reasonable purpose in connection with the operation and maintenance of the Project under the Material Project Documents.
- (b) There are no material services, materials or rights required for the operation or maintenance of the Project in accordance with the Material Project Documents, the Plans and Specifications and the Base Case Projections other than those available under the Material Project Documents.

6.22 Material Project Documents

There are no defaults by the Borrower or, to Borrower's knowledge, any Major Project Participant under any Material Project Document that could reasonably be expected to result in a Material Adverse Effect.

6.23 Projections

Borrower has prepared the Base Case Projections and will prepare any Revised Base Case Projections and is responsible for developing the assumptions on which the Base Case Projections and any Revised Base Case Projections are based and all such Base Case Projections: (a) will as of the Closing Date, be based on reasonable assumptions as to all legal and factual matters material to the estimates set forth therein, and (b) as of the Closing Date, will be consistent with the provisions of the Material Project Documents. Any Revised Base Case Projections will, as of the date of their delivery hereunder, be consistent with the provisions of the Material Project Documents. With respect to the Base Case Projections and any Revised Base Case Projections, Agent and each Fixed Rate Lender acknowledges that (i) there are uncertainties inherent in attempting to make such projections and forecasts, (ii) they are familiar with such uncertainties, and (iii) they acknowledge and agree that the Base Case Projections and any Revised Base Case Projections, as applicable, are projections and the actual results will likely differ. Borrower has provided to the Independent Engineer all of the material information in its possession or to which it has access relating to the Project and the operation and maintenance thereof and Borrower has reviewed the report of the Independent Engineer delivered pursuant to Section 5.1(I) and such report, based on Borrower's review, (excluding any information with respect to any opinions contained therein), is not materially incorrect.

6.24 Completion of Project

To the Borrower's knowledge, all work done on the Project was done in a good and workmanlike manner and in accordance with the Material Project Documents, Prudent Industry Practices and all Legal Requirements. Borrower has made or caused to be made all contracts and has done or caused to be done all things which it believes necessary for the operation and maintenance of the Project, with or without advertising for bids, and the Project has been operated and maintained in all material respects in compliance with the Plans and Specifications and the Material Project Documents. Final Completion occurred on January 31, 2016 and Commercial Operation occurred on April 24, 2015.

6.25 Force Majeure

Except as disclosed in writing to Agent, neither the business nor the properties of Borrower or (to the knowledge of Borrower) any of the Major Project Participants have been materially adversely affected by any Force Majeure.

6.26 Disclosure

Neither this Agreement, nor any Financing Document nor any certificate furnished to Agent by Borrower or, to the knowledge of Borrower, on behalf of Borrower, in connection with the transactions contemplated by this Agreement, the other Material Project Documents or operation

of the Project, taking into account documentation furnished to Agent or to the Independent Engineer on or prior to the Closing Date (such information to be taken as a whole, including, without limitation, updated or supplemented information), contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading under the circumstances in which they were made at the time such statements were made. There is no fact known to Borrower which Borrower has not disclosed to Agent and the Fixed Rate Lenders in writing which could reasonably be expected to have a Material Adverse Effect. For greater certainty, it is understood and agreed that the Base Case Projections and any Revised Base Case Projections are not subject to this representation and warranty.

6.27 Collateral

The security interests granted to the Agent pursuant to the Collateral Documents in the Collateral (a) constitute as to personal property included in the Collateral and, with respect to subsequently acquired personal property included in the Collateral, will constitute, a perfected security interest and Lien under the PPSA, subject to registration requirements and (b) are, and, with respect to such subsequently acquired property, will be, as to Collateral perfected under the PPSA, subject to registration requirements, superior and prior to the rights of all third Persons now existing or hereafter arising whether by way of mortgage, Lien, security interests, encumbrance, assignment or otherwise, except Permitted Liens. Except to the extent possession of portions of the Collateral is required for perfection, Borrower has taken all such action as is necessary to establish and perfect the Agent's rights in and to, and the first priority Lien (subject to Permitted Liens) on, the Collateral, including any recording, filing, registration, giving of notice or other similar action. The Collateral Documents relating to the Collateral and the financing statements relating thereto have been or will be duly filed, registered or recorded in each office and in each jurisdiction where required in order to create, perfect and maintain perfected the first Lien and security interest described above (subject to Permitted Liens). Borrower has properly delivered or caused to be delivered to the Agent all Collateral that requires perfection of the Lien and security interest described above by possession. None of the Borrower, the General Partner or any Limited Partner has granted "control" (within the meaning of the PPSA) over any investment property (as such term is defined in the PPSA) forming part of the Collateral to any Person other than the Agent.

6.28 Fuel Plan

The Fuel Plan was prepared by Borrower in good faith using reasonable assumptions and comprises a complete plan in connection with the Fuel required by the Project. The Fuel Supply Agreement is sufficient for the procurement, transportation, storage and balancing of Fuel to operate the Project in compliance with the Collateral Documents, the Material Project Documents and the Base Case Projections and any Revised Base Case Projections. Borrower reasonably expects to be able to comply with the Fuel Plan.

6.29 Trademarks

Borrower owns or has the right to use all patents, trademarks, service marks, trade names, copyrights, licenses and other rights (collectively, "**Intellectual Property Rights**"), which are

necessary for the operation of its business. Borrower has received no written or actual notice that (a) any material product, process, method, substance, part or other material presently contemplated to be sold by or employed by Borrower in connection with its business, will infringe in any material manner any Intellectual Property Rights owned by any other Person; (b) there is pending or threatened in writing any claim or litigation against or affecting Borrower contesting its right to sell or use any such product, process, method, substance, part or other material.

6.30 Work Orders

The Borrower has not received any material work orders, material deficiency notices or material orders to comply from any Governmental Authority relating to the Project which the Borrower has not satisfied or complied or is in process of satisfying and complying.

6.31 Annual Operating Budget

Each Annual Operating Budget when delivered will be (a) based on reasonable assumptions as to all legal and factual matters to the estimates set forth therein; and (b) consistent with the provisions of the Material Project Documents.

6.32 Use of Real Property/Easements

All real property owned or leased by the Borrower may be used in all material respects by it pursuant to Applicable Law for the present use and operation of the material elements of the business conducted, or intended to be conducted by it in accordance with the Base Case Projections, on such real property by it except where non-compliance with any such Applicable Law could not constitute, or be reasonably be expected, individually or in the aggregate, to constitute, or cause, a Material Adverse Effect. The Borrower has obtained all Easements necessary for the use, operation and maintenance of the Project and all such Easements are in full force and effect.

6.33 Zoning and Expropriation

- (a) Neither the Borrower, the General Partner or Mackenzie FP has received notice in writing of any proposed rezoning of all or any part of the Site that could reasonably be expected to result in a Material Adverse Effect; and
- (b) Neither the Borrower, the General Partner or Mackenzie FP has received notice in writing of any expropriation of all or any part of the Site.

6.34 No Management Fees

The Borrower is not a party to or bound by any contract or commitment to pay any royalty, license fee or management fee in connection with the Project pursuant to any contract or agreement other than pursuant to the O&M Agreement.

6.35 Liens Under the BLA

The Borrower has not received notice of any Lien registered against the Site pursuant to the BLA.

6.36 Judgements

The Borrower is not subject to any judgment, order, writ, injunction, decree, or award or to any restriction, rule or regulation (other than customary or ordinary course restrictions, rules and regulations consistent or similar with those imposed on other Persons engaged in similar businesses) that has not been stayed or enforcement of which has not been suspended and that individually or in the aggregate constitutes or is reasonably likely to cause a Material Adverse Effect.

6.37 Fiscal Year End

Borrower's fiscal year end is December 31.

6.38 Solvency

On the Closing Date, no Obligor has committed an act of bankruptcy, is insolvent, has proposed a compromise or arrangement to its creditors generally, has had any petition for a receiving order in bankruptcy filed against it, has made a voluntary assignment in bankruptcy, has taken any proceeding

with respect to any compromise or arrangement, has taken any proceeding to have itself declared bankrupt or wound up, has taken any proceeding to have a receiver appointed for it or any part of its assets, has had any encumbrancer take possession of any of its property and has had an execution or distress become enforceable or become lien on any of its property.

6.39 No Change of Control

No Change of Control has occurred and no Transfer of any ownership interest in the Borrower has occurred other than as permitted in accordance with the terms hereof.

6.40 Use of Proceeds

The proceeds of the Fixed Rate Loans have been or will be used solely for the purposes provided for herein.

6.41 First Nations Claims

- (a) The Borrower is not aware of, and has not received any notice of, any First Nations Claims in relation to
 - (i) the Project or any property of the Borrower;
 - (ii) any right, title, benefit or interest in any real property comprising any part of the Project or held by the Borrower;

- (iii) any jurisdiction over any business of the Project or the Borrower or any interest in real property comprising any part of the Project by the Project or held by the Borrower;
- (iv) any right to be consulted with respect to any use, development or improvement of any interest in real property comprising any part of, or relating to, the Project or held by the Borrower; or
- (v) any actual or alleged interference by the Project or the Borrower with aboriginal rights or treaty rights, and

the Borrower is not aware of, and has not received, in relation to the Site, any notice of:

- (vi) the existence or potential existence of any aboriginal archaeological, burial, cultural or heritage sites; or
- (vii) any specific or comprehensive claims with respect to aboriginal rights or treaty rights,

that, in any of the above cases, could reasonably be expected to result in a Material Adverse Effect or is not of a general, non-specific nature or generally known to the public in the Province of British Columbia.

- (b) The Borrower has disclosed to the Fixed Rate Lenders any and all material communications and documentation of which the Borrower is aware as of the date hereof, including electronic or other form, from or in relation to any First Nations, that could reasonably be expected to result in a Material Adverse Effect.
- (c) No Material Party has (i) entered into any written or oral agreements with First Nations to provide benefits, pecuniary or otherwise, with respect to the Site or the Project, or (ii) engaged in discussions, negotiations or similar communications with any First Nations regarding the foregoing or otherwise in relation to the Site or the Project

Redacted. Confidential Business Information.

6.42 Warranties

All warranties in favour of Borrower or Conflix GP with respect to the products, services, equipment and other assets necessary for the operation and maintenance of the Project are contained in the Material Project Documents.

6.43 Insurance Compliance

The Borrower is in compliance with all insurance requirements under the Material Project Documents and this Agreement.

6.44 Fuel Repair Report/Site Survey/As Built Plans

To the best of the Borrower's knowledge, the Fuel Supply Report, Site Survey and As Built Plans delivered to the Agent pursuant to Sections 5.1(m), 5.1(hh) and 5.1(rr) hereunder are true, complete and accurate in all material respects as of the date hereof and are not misleading or inaccurate in any material respect.

6.45 CIBC Letter of Credit Documents

The CIBC Letter of Credit Documents are in full force and effect and there exists no default or event of default thereunder. Other than the CIBC Letter of Credit Documents, the Blocked Account Agreement and standard and customary account documents with respect to the Accounts and the CIBC Cash Collateral Account, neither the Borrower or Conifex GP have entered into or made any agreements of any type with CIBC whereby either of Borrower or Conifex GP is or may become liable to CIBC in any way.

6.46 EDC Documents

The EDC Documents are in full force and effect and there exists no default or event of default thereunder. Other than the EDC Indemnity Agreement, neither the Borrower or Conifex GP have entered into or made any agreements of any type with EDC whereby either of Borrower or Conifex GP is or may become liable to EDC in any way.

6.47 *

Redacted. Confidential financial information.

**ARTICLE 7
COVENANTS OF BORROWER**

Borrower covenants and agrees that so long as this Agreement is in effect or any Obligations remain outstanding, it will, unless the Required Lenders waive or, if so specified, Agent waives, compliance in writing:

7.1 Use of Proceeds and Project Revenues

- (a) **Proceeds of Fixed Rate Loan.** Unless otherwise applied by Agent pursuant to this Agreement, use the proceeds of the Fixed Rate Loan for application solely for the purposes and in the order and manner provided in Section 2.3.
- (b) **Revenues and Equity Contributions.** Unless otherwise applied by Agent or required pursuant to Article 10 and Article 11, the Borrower shall deposit (i) all Project Revenues into the Revenue Account for application solely for the purposes and in the order and manner provided in Section 10.1, (ii) each Voluntary Equity Contribution received by the Borrower into the Revenue Account, and (iii) each Voluntary Equity Contribution made for the purpose of

repair or restoration of the Project following the occurrence of a material casualty if, after taking into account the proposed application of such Voluntary Equity Contribution, the Repair Conditions can be satisfied (each such Voluntary Equity Contribution, a “**Repair Voluntary Equity Contribution**”) into the Revenue Account. Each Repair Voluntary Equity Contribution received by the Borrower shall be deposited by the Borrower into the Revenue Account for application as contemplated in Section 10.4.

- (c) **Lump Sum Payments.** Use the proceeds of all Lump Sum Payments as provided for in Section 3.2(c) and Article 10.

7.2 Payment

The Borrower shall pay all sums due under this Agreement and the other Financing Documents according to the terms hereof and thereof.

7.3 Notices

The Borrower shall, promptly, upon acquiring notice or giving notice, as the case may be, or obtaining knowledge thereof (and, in any case, by no later than five (5) Business Days following the occurrence of each such event), give written notice to Agent of:

- (a) Any litigation pending or, to the knowledge of Borrower, threatened in writing against Borrower involving claims against Borrower or the Project in excess of \$2,000,000 in the aggregate or involving any material injunctive, declaratory or other equitable relief, such notice to include copies of all material papers filed in such litigation and to be given monthly if any such papers have been filed since the last notice given;
- (b) Any dispute or disputes which may exist between Borrower and any Governmental Authority and which involve (i) claims against Borrower which individually or in the aggregate in any fiscal year of Borrower exceed \$2,000,000; (ii) injunctive or declaratory relief; (iii) failure to obtain when needed, revocation, material modification, suspension or the like of any Applicable Permit or imposition of additional material conditions with respect thereto; or (iv) any Liens for taxes in excess of \$200,000 due but not paid;
- (c) Any Event of Default or Inchoate Default;
- (d) The filing of any Lien that is not a Permitted Lien or receipt by the Borrower of any notice of Lien under the BLA;
- (e) All material notices, directives or written communication relating to the Project received by any Obligor from any Governmental Authority relating to the Project in respect of the applicable Site;
- (f) Any casualty, damage or loss, whether or not insured, through fire, theft, other hazard or casualty, or any act or omission of Borrower, its Partners, officers,

directors, employees, agents, contractors, consultants or representatives, or of any other Person if such casualty, damage or loss affects Borrower or the Project, in excess of \$1,000,000, whether for any one casualty or loss, or in aggregate;

- (g) Any cancellation or material change in the terms, coverages or amounts of any insurance described in Section 7.22;
- (h) Any matter which has or could reasonably be expected to have a Material Adverse Effect;
- (i) Initiation of any condemnation or expropriation proceedings involving the Project or any portion thereof;
- (j) Any act or agreement by Borrower to become a surety, guarantor, endorser or accommodation endorser for a third party other than endorsement of negotiable instruments for collection purposes;
- (k) Any termination, event of default or material default, Force Majeure, or any other material notifications under any Material Project Document, including, without limiting the foregoing, any material reports or notifications under the EPA Contract, the LDA or the Shared Facilities Agreement, as applicable;
- (l) Any known (i) fact, circumstance, condition or occurrence at, on, or arising from, the Site that results in material violation of any Hazardous Substances Law or any Release of Hazardous Substances on or from the Site, and (ii) material pending or, to Borrower's knowledge, threatened in writing, Environmental Claim against Borrower or to Borrower's knowledge any of its Affiliates, contractors, lessees or any other Persons, arising in connection with their occupying or conducting operations on or at the Project or the Site;
- (m) Any material labour dispute, strike or other work stoppage with respect to the Project or Mackenzie FP;
- (n) Any intentional withholding of material compensation to any Major Project Participant under any Material Project Document;
- (o) Any material dispute with respect to a Material Project Document, including without limitation, any arbitration proceedings occurring thereunder along with all material documentation relating to such arbitration proceedings;
- (p) Any damages or penalty assessed under the EPA Contract or the LDA;
- (q) (i) Any contractual obligation incurred by the Borrower exceeding \$500,000 in any Fiscal Year in the aggregate for the Borrower per contractual obligation or (ii) contractual obligations incurred by the Borrower which in the aggregate exceed \$2,000,000 in any Fiscal Year, in each case, not including any obligations incurred pursuant to the Operative Documents or any obligations contemplated in the applicable Annual Operating Budget; Any change known to Borrower to

Applicable Law affecting zoning, Hazardous Substances Laws or Applicable Permits that would reasonably be expected to have a Material Adverse Effect;

- (r) any notices from CIBC given to Borrower pursuant to the CIBC Letter of Credit Documents including, without limitation, notice of any drawing under a letter of credit and request for reimbursement and any Termination Notice (as defined in the CIBC Letter of Credit Documents) and if such notices are in writing or referred to in correspondence, provide copies of same to Agent;
- (s) any notices from EDC given to Borrower or Conifex GP pursuant to the EDC Documents and if such notices are in writing or referred to in correspondence, provide copies of same to Agent;
- (t) any default or event of default under the CIBC Letter of Credit Documents and, to the extent any documents or correspondence are received by Borrower related thereto, Borrower shall provide copies of same to Agent; and
- (u) any default or event of default under the EDC Documents and, to the extent any documents or correspondence are received by Borrower or Conifex GP related thereto, Borrower or Conifex GP shall provide copies of same to Agent.

7.4 Notices under Material Project Documents

- (a) If Borrower is provided with (i) any notice under the EPA Contract, the LDA or the Shared Facilities Agreement except as to administrative matters, or (ii) a notice of default with respect to any Material Project Document or (a “**Default Notice**”), Borrower shall provide as soon as reasonably possible thereafter (but by no later than five (5) Business Days thereafter), a copy of such Default Notice to Agent with a description of the applicable default or circumstance giving rise thereto and a report indicating the status of such default or circumstance and the steps taken and to be taken (as applicable) to cure such default or circumstance.
- (b) Borrower shall provide the Agent with a copy of each material document, notice or other form of written instrument required to be delivered by the Borrower to BC Hydro pursuant to the terms of the EPA Contract and the LDA, as applicable, concurrently with the delivery thereof to BC Hydro.

7.5 Financial Statements

- (a) Deliver to Agent (or cause to be delivered to Agent) with sufficient copies for the Fixed Rate Lenders, in form and detail reasonably satisfactory to Agent:
 - (i) As soon as available but no later than sixty (60) days after the close of each Fiscal Quarter (excluding the fourth Fiscal Quarter), quarterly (and year-to-date) unaudited financial statements of and prepared by Borrower, to include a statement of equity, a balance sheet as at the end of such Fiscal Quarter, an income and expense statement, a reconciliation of

capital accounts and a statement of cash flows all prepared in accordance with IFRS; and

- (ii) As soon as available but no later than 120 days after the close of each fiscal year, audited financial statements of Borrower, including a statement of equity, a balance sheet as of the close of such year, an income and expense statement, a reconciliation of capital accounts and a statement of cash flows, all prepared in accordance with IFRS. Each set of audited financial statements shall be accompanied by an unqualified audit opinion.
- (b) Each time that financial statements are delivered under Section 7.5(a)(i) or (ii), a certificate signed by a natural person who is a senior financial officer of the General Partner (for the purposes of this Section 7.5(b), the “**Applicable Person**”) shall be delivered along with such financial statements. Each such certificate shall certify that (i) each of the representations and warranties contained in Article 6 and Section 9.2 are true and correct in all material respects, (ii) the financial statement being delivered together therewith fairly present in all material respects the financial position of Borrower as of such date and for the applicable period then ended in accordance with IFRS, (iii) (A) such Applicable Person has made or caused to be made a review of the transactions and financial condition of Borrower during the relevant fiscal period and that such review has not, to the knowledge of such Applicable Person, disclosed the existence of any event or condition which constitutes an Event of Default or an Inchoate Default hereunder or under any Financing Document, or if any such event or condition existed or exists, the nature thereof and the corrective actions that Borrower has taken or proposes to take with respect thereto, and (B) no notice is required to be provided to Agent pursuant to Section 7.3, or, if notice is required pursuant to Section 7.3, written notice thereof shall accompany such certificate if such notice has not already been provided to Agent, and (iv) that Borrower is in compliance with Section 8.23(f) hereof. Such certificate shall also set forth the detailed calculation of the Debt Service Coverage Ratios for the prior twelve (12) month period as of the most recent quarterly or annual date.

7.6 Financial Statements of Certain Major Project Participants

- (a) Deliver to Agent (or cause to be delivered to Agent) with sufficient copies for the Fixed Rate Lenders, in form and detail reasonably satisfactory to Agent:
 - (i) As soon as available but no later than sixty (60) days after the close of each Fiscal Quarter (excluding the fourth quarter), quarterly unaudited financial statements of each of the Sponsor and Mackenzie FP, to include in each case a statement of equity, a balance sheet as at the end of such Fiscal Quarter, an income and expense statement, a reconciliation of capital accounts and a statement of cash flows all prepared in accordance with IFRS; and

- (ii) As soon as available but no later than 120 days after the close of each fiscal year, audited financial statements of the Sponsor and Mackenzie FP, to include a statement of equity, a balance sheet as at the end of such Fiscal Quarter, an income and expense statement, a reconciliation of capital accounts and a statement of cash flows all prepared in accordance with IFRS and accompanied by the audit opinion of a nationally recognized chartered accounting firm.

7.7 Reports

- (a) Deliver to Agent concurrently with the financial statements provided under Section 7.6(a) a quarterly operating report, which report shall include quarterly and year-to-date numerical and narrative assessment of (i) the Project's compliance with each material category in the Annual Operating Budget, (ii) electrical production and delivery, Project availability, including available hours for the STG and the Boiler, as applicable, scheduled and unscheduled maintenance of the STG and the Boiler, as applicable, and hours of operation of the STG and the Boiler, as applicable, since last overhaul and remaining hours of operation to the next scheduled overhaul of the STG and the Boiler, as applicable, (iv) cash receipts and disbursements and cash balances, including distributions to any Partner, debt service payments and balances in the Accounts, (v) material staffing changes, (vi) casualty losses of value in excess of \$500,000, (vii) replacement of equipment not contemplated by the then current Annual Operating Budget of value in excess of \$500,000, (viii) material disputes with contractors, materialmen, suppliers or others and any related claims against Borrower, (ix) a review of environmental compliance by Borrower and discussion of any notices of violation received by Borrower, (x) a review of any current or planned major maintenance on the plant or equipment of the Project (including a discussion of key indicators regarding preventative and predictive maintenance) and (xi) Fuel delivery, consumption and moisture content.
- (b) Deliver to Agent an annual operating report as soon as available but no later than 120 days after the close of each fiscal year which report shall include (i) a numerical and narrative assessment for such fiscal year of (A) the Project's compliance with each material category of the Base Case Projections for such period and the Annual Operating Budget, (B) electrical production and delivery for such fiscal year, (C) Project availability, including available hours for the STG and the Boiler, as applicable, and scheduled and unscheduled maintenance of the STG and the Boiler, as applicable, in such fiscal year, and (D) cash receipts and disbursements and cash balances, including (i) distributions to any Partner, debt service payments and balances in the Accounts in such fiscal year; (ii) statistical data for such fiscal year and reasonably detailed commentary thereon; (iii) a comparison of annual figures to corresponding figures for the prior fiscal year; (iv) a comparison of annual figures to corresponding figures provided in the Base Case Projections; and (v) a variance analysis from the Annual Operating Budget and the Base Case Projections.

- (c) Deliver to Agent on an annual basis concurrently with the renewal of any insurance policies, a report of the Borrower's Insurance Broker stating that all premiums then due and owing have been paid, that such insurance is in full force and effect and that such insurance complies with Section 7.22.
- (d) Deliver to Agent on a monthly basis (within seven (7) Business Days of the last calendar day of each calendar month) a report, in form and substance satisfactory to Agent, detailing each payment made to CIBC in such calendar month and providing full and complete details of each such payment including such details as the date of payment, the amount of payment, the Account payment was made from and the obligations to CIBC the payment was made in respect of.
- (e) Provide to Agent promptly upon request such reports, statements, lists of property, accounts, budgets, forecasts and other information concerning the Project and at such times as Agent shall reasonably require, including such reports and information as are reasonably required by the Independent Consultants at the request of Agent.

7.8 Annual Operating Budget

Borrower shall produce an operating plan and a budget, detailed by Fiscal Quarter, of anticipated revenues, debt service, proposed partner distributions, maintenance, repair and operation expenses (including reasonable allowance for contingencies and prudent cash and other working capital), maintenance reserves, and all other anticipated O&M Costs for the Project for each full fiscal year ("**Annual Operating Budget**") and shall re-assess the scheduling and probable cost of each item of maintenance of the Project and include a timetable and budget therefor in such Annual Operating Budget. Not less than thirty (30) days in advance of the beginning of each fiscal year, Borrower shall prepare a draft Annual Operating Budget for the ensuing fiscal year. Copies of the draft Annual Operating Budget for each year of operation shall be furnished to Agent for its review in consultation with the Independent Engineer. Any Annual Operating Budget and each Annual Operating Budget delivered in which the anticipated O&M Costs set forth therein exceeds 110% of the anticipated O&M Costs set forth in the immediately preceding Annual Operating Budget shall be subject to the approval of the Agent (in consultation with the Independent Engineer), acting reasonably.

7.9 Operation of Project and Compliance with Annual Operating Budget

Keep and operate the Project, or cause the same to be kept and operated, in good operating condition consistent (a) with Prudent Industry Practices, (b) in all material respects with (i) all Applicable Permits, (ii) all Legal Requirements, and (iii) all applicable requirements of the Operative Documents, including, without limitation, making all repairs (structural and non-structural, extraordinary or ordinary) necessary to keep and operate the Project in such condition.

7.10 Fuel Plan

- (a) Any replacement of the Fuel Supply Agreement required to be entered into after the Closing Date shall be in form and content satisfactory to Agent and the

Required Lenders (each such replacement, a “**Replacement Fuel Supply Agreement**”), acting reasonably.

- (b) At the time Borrower enters into any Replacement Fuel Supply Agreement for which any previously delivered Consent does not apply, after the Closing Date, Borrower will use commercially reasonable efforts to obtain from the counterparty thereto a Consent, in form and content satisfactory to Agent, acting reasonably, in respect of any such Fuel Supply Agreement.
- (c) Without limiting the generality of the obligations under Section 7.10(a) or Section 7.12, on or before the expiry of any currently in place Fuel Supply Agreement, Borrower will enter into a Replacement Fuel Supply Agreement to replace such currently in place Fuel Supply Agreement consistent with the Fuel Plan.
- (d) All obligations under any Fuel Supply Agreement will be incurred in Canadian Dollars.
- (e) Borrower will provide the Agent with the Fuel Plan on the Closing Date pursuant to Section 5.1(m) and commencing with the 2018 Fiscal Year and for each Fiscal year thereafter (and no later than thirty (30) days in advance of the beginning of such fiscal year), provide the Agent with an updated Fuel Plan and confirm to the Fixed Rate Lenders in writing that, in its view, such Fuel Plan (i) is reasonable for the operation of the Project in accordance with Prudent Industry Practices and (ii) is sufficient to allow the Project to operate in accordance with the Annual Operating Budget delivered by the Borrower for such fiscal year pursuant to Section 7.8. The Agent may request that the Independent Engineer review such updated Fuel Plan and advise the Fixed Rate Lenders if, in the view of the Independent Engineer, it is reasonable for the operation of the Project in accordance with Prudent Industry Practices and sufficient to allow the Project to achieve the Annual Operating Budget delivered by the Borrower for such fiscal year pursuant to Section 7.8.

7.11 Debt Service Coverage Ratios and Distribution Report

Borrower shall deliver to Agent three (3) Business Days prior to each Distribution Date a certificate in substantially the form of Exhibit C-6 (the “**Distributable Cash Certificate**”):

- (a) setting forth a calculation of Distributable Cash;
- (b) setting forth a good faith, detailed estimated calculation (as at the most recently completed Fiscal Quarter of Borrower) of Borrower’s Debt Service Coverage Ratio, calculated on a last twelve (12) month basis; and
- (c) certifying whether each of the Distribution Conditions has been met;

such certificate to be used in determining releases from and required contributions to the Debt Service Reserve Account and the Suspense Account and releases from the Suspense Account in accordance with Section 10.10.

7.12 Additional Material Project Documents; Additional Consents

- (a) Following approval thereof pursuant to Section 8.12(e), deliver to Agent promptly, but in any event within thirty (30) days after the receipt thereof by Borrower, copies of (a) all Additional Material Project Documents obtained or entered into by Borrower after the Closing Date; and (b) any material amendment, supplement or other modification to any Material Project Document received by Borrower after the Closing Date.
- (b) With respect to (i) any Additional Material Project Document that replaces a Material Project Document existing on the Closing Date in respect of which a Consent has been delivered to the Agent, Borrower to cause its counterparty thereto to execute and deliver to the Agent a Consent with respect to such Additional Material Project Document in form and substance satisfactory to the Agent, acting reasonably and (ii) any other Additional Material Project Document that does not replace a Material Project Document existing on the Closing Date, the Borrower will use commercially reasonable efforts to cause its counterparty thereto to execute and deliver to Agent a Consent with respect thereto in form and substance satisfactory to the Agent.

7.13 Cooperation

Perform, upon the reasonable request of Agent, such reasonable acts as may be necessary to comply with the terms of this Agreement and the other Financing Documents.

7.14 Existence, Conduct of Business, Properties, Etc.

Except as otherwise expressly permitted under this Agreement, (a) maintain and preserve its existence as a British Columbia limited partnership, (b) maintain and preserve all material rights, privileges and franchises necessary or desirable in the normal conduct of its business; (c) maintain and preserve all material Applicable Permits, with respect to its business and the Project; and (d) engage only in the business contemplated by the Operative Documents; except to the extent that, in the case of (b) or (c) above, the failure to so maintain, preserve or perform would not, in the sole determination of Agent, acting reasonably, have a Material Adverse Effect.

7.15 Obligations

Pay all material obligations, howsoever arising, as and when due and payable, except (a) such as may be contested in good faith or as to which a *bona fide* dispute may exist; provided that with respect to such disputes relating to amounts of more than \$500,000, provision is made to the satisfaction of Agent in its reasonable discretion for the posting of security for or the bonding of such obligations or the prompt payment thereof in the event that such obligation is payable and (b) Borrower's trade payables which shall be paid in the ordinary course of business.

7.16 Books, Records, Access

Maintain adequate books, accounts and records with respect to Borrower and the Project and prepare all financial statements required hereunder in accordance with IFRS and in compliance with the regulations of any Governmental Authority having jurisdiction thereof, and permit employees or agents of Agent and the Fixed Rate Lenders (including, without limitation, the Independent Consultants) at any reasonable times and no more frequently than quarterly, and upon reasonable prior notice and during business hours to inspect all of Borrower's properties, including the Site and, subject to third parties' or authorities rights and restrictions, to examine or audit all of Borrower's books, manuals (including all manuals for Project equipment, including the STG), accounts and records and make copies and memoranda thereof.

7.17 Operation of Project and Compliance with Annual Operating Budget

- (a) Keep and operate the Project, or cause the same to be kept and operated, in good operating condition consistent (i) with Prudent Industry Practices and (ii) in all material respects with (x) all Applicable Permits, (y) all Legal Requirements, and (z) all applicable requirements of the Operative Documents. In addition, the Borrower will also make or cause to be made all repairs (structural and non-structural, extraordinary or ordinary) necessary to keep and operate the Project in such condition and will actively and diligently protect and defend in all material respects by appropriate and timely proceedings any prosecution of suits threatening the development, construction or operation of the Project.
- (b) The Borrower shall operate and maintain the Project, or cause the Project to be operated and maintained, in all material respects, within each Annual Operating Budget; provided, however, that the Annual Operating Budget may be amended with the Agent's prior written consent, which shall not be unreasonably withheld or delayed, and in such event the Borrower shall operate and maintain the Project, or cause the Project to be operated and maintained, in all material respects, within the Annual Operating Budget as so amended.

7.18 Preservation of Rights; Further Assurances

- (a) From time to time as reasonably requested by Agent, execute, record, register, deliver and/or file all such notices, statements, instruments and other documents (including any memorandum of lease or other agreement, financing statement, continuation statement, fixture filing, or certificate of title), execute such acknowledgements relating to the Fixed Rate Loans and other Obligations of Borrower stating the interest and charges then due and any known defaults, and take such other steps as may be necessary to render fully valid and enforceable under all Applicable Laws the rights, Liens and priorities of the Agent and the Fixed Rate Lenders with respect to all Collateral and other security from time to time furnished under this Agreement and the other Financing Documents or intended to be so furnished, in each case in such form and at such times as shall be reasonably satisfactory to Agent, and pay all reasonable fees and expenses (including legal fees) incident to compliance with this Section 7.18(a).

- (b) If Borrower shall at any time acquire any real property or other interest in real property not covered by the Real Property Security Documents, promptly upon such acquisition, execute, deliver and record supplements to the Real Property Security Documents, if required, reasonably satisfactory in form and substance to Agent, subjecting such real property or leasehold, easement or other interests to the Lien and security interest created by the Real Property Security Documents.

7.19 Taxes, Other Government Charges and Utility Charges

- (a) Maintain its registration for GST and provincial sales tax purposes to the extent required by Applicable Law.
- (b) Prepare and file all claims for input tax credits available to the Borrower with respect to GST or provincial sales tax pursuant to Applicable Law.
- (c) Pay, or cause to be paid, as and when due and prior to delinquency, all Taxes, assessments and governmental charges of any kind that may at any time be lawfully assessed or levied against or with respect to Borrower or the Project, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, and all assessments and charges lawfully made by any Governmental Authority for public improvements that may be secured by a Lien on the Project. However, Borrower may contest in good faith any such Taxes, assessments and other charges and, in such event, may permit the Taxes, assessments or other charges so contested to remain unpaid during any period, including appeals, when Borrower is in good faith contesting the same, so long as, with respect to any dispute in an amount greater than \$1,000,000, (a) reserves reasonably satisfactory to Agent have been established in an amount sufficient to pay any such Taxes, assessments or other charges or other costs relating thereto, or other adequate provision for the payment thereof shall have been made; (b) enforcement of the contested Tax, assessment or other charge is effectively stayed for the entire duration of such contest; and (c) any Tax, assessment or other charge determined to be due is paid when due after resolution of such contest.

7.20 Compliance with Material Project Documents

Comply in all material respects with the terms and conditions of each of the Material Project Documents.

7.21 Compliance With Laws, Instruments, Etc.

At its expense, within such time as may be required by Legal Requirements (a) comply, or cause compliance in all material respects with all Legal Requirements (other than the BLA) and including Hazardous Substances Law; (b) comply or cause compliance with the BLA; and (c) procure, maintain and comply with, or cause to be procured, maintained and complied with, in all material respects, all Applicable Permits required for the Project or any part thereof, then being made or contemplated by the Operative Documents to the extent that failure to procure, maintain and comply would have a Material Adverse Effect, except that Borrower may, at its expense, contest by appropriate proceedings conducted in good faith the validity or application

of any such Legal Requirements, provided that (i) neither Agent, the Fixed Rate Lenders nor Borrower would be subject to any civil, statutory, penal or criminal liability for failure to comply therewith, (which, in the case of Borrower only, would be sufficient to cause an Event of Default hereunder), and (ii) all proceedings to enforce such Legal Requirements against Agent, the Fixed Rate Lenders, Borrower, or the Project or any part of any of them, shall have been duly and effectively stayed during the entire pendency of such contest.

7.22 Maintenance of Insurance

- (a) The Borrower shall, without cost to the Agent or the Fixed Rate Lenders, maintain or cause to be maintained in effect at all relevant times the types of insurance set forth in Exhibit D-8 and as required pursuant to the Material Project Documents; provided that if the Required Lenders shall determine (in consultation with the Insurance Consultant) that any insurance required to be maintained by the terms of this Agreement is not available on commercially reasonable terms, then the Borrower may obtain and maintain similar insurance to the extent available on commercially reasonable terms subject to the prior written approval of the Required Lenders (in consultation with the Insurance Consultant).
- (b) The Borrower shall provide BC Hydro with written notice of cancellation, non-renewal or any material change to the insurance required to be maintained by the Borrower hereunder and such written notice shall be delivered by the Borrower to BC Hydro at least 30 days prior to the cancellation of, non-renewal of or material change to such insurance.

7.23 Maintenance of Title

Borrower shall maintain a good title to all of its respective properties and rights (including without limitation assets real and intangible, present and future, wherever situated), subject to Permitted Liens. The Borrower shall take or cause to be taken all action necessary to maintain and preserve the Lien of the Collateral Documents and the first-ranking priority thereof in accordance with the terms of the Security documents, subject to any Permitted Liens.

7.24 Event of Eminent Domain

If an Event of Eminent Domain shall be threatened in writing or occur with respect to any Collateral, Borrower (a) shall promptly upon discovery or receipt of notice of any such threat or occurrence provide written notice of either to Agent; (b) shall diligently pursue all its rights to compensation against the relevant Governmental Authority in respect of such Event of Eminent Domain; shall not, without the prior written consent of the Required Lenders, which consent (prior to the occurrence and continuance of an Event of Default) shall not be unreasonably withheld, compromise or settle any claim against such Governmental Authority; and (d) shall pay or apply all Eminent Domain Proceeds in accordance with Section 10.12. Borrower consents to the participation of Agent in any proceedings resulting from an Event of Eminent Domain, and Borrower shall from time to time deliver to Agent all documents and instruments reasonably requested by it to permit such participation.

7.25 Indemnification

- (a) Without duplication of any other of Borrower's indemnification obligations hereunder (and excluding any items or events specifically excluded from Borrower's obligations thereunder), Borrower shall indemnify, defend and hold harmless Agent and each Fixed Rate Lender and in their capacities as such, their respective officers, directors, shareholders, controlling persons, employees, agents and servants (collectively, the "**Indemnitees**") from and against and reimburse the Indemnitees for:
- (i) any and all claims, obligations, liabilities, losses, damages, fines, injuries (to person, property, or the environment, including natural resources), penalties, stamp or other similar taxes, actions, proceedings, suits, judgments, reasonable costs and expenses (including reasonable attorney's and consultant's fees) of whatever kind or nature, whether or not well founded, meritorious or unmeritorious, demanded, asserted or claimed against any such Indemnitee arising out of or in connection with this Agreement, the other Operative Documents, or the Project, including Environmental Claims (collectively, "**Claims**");
 - (ii) any and all Claims arising in connection with (A) the Release or presence of any Hazardous Substances at, in, on, under or about the Site, or which has migrated from the Site, while Borrower had custody of same; and (B) the Release or presence of any Hazardous Substances at, in, on, under or about the Site, or which has migrated from the Site, caused or permitted by Borrower; whether foreseeable or unforeseeable, including all costs of removal and disposal of such Hazardous Substances required by Hazardous Substances Law, all reasonable costs required by Governmental Authorities or under any Legal Requirement to be incurred in (x) determining whether the Project is in compliance and (y) causing the Project to be in compliance, with all applicable Legal Requirements, and (z) carrying out any remediation or rehabilitation measure, including investigation and monitoring studies, all reasonable costs associated with claims for damages to persons, property or the environment, and reasonable attorneys' and consultants' fees and court costs; and
 - (iii) any and all Claims in any way relating to, or arising out of or in connection with any claims, suits, liabilities, obligations, penalties and actions against Borrower, any Partner or any of their Affiliates.
- (b) The foregoing indemnities shall not apply with respect to an Indemnitee, to the extent arising solely as a result of the gross negligence or wilful misconduct of such Indemnitee as determined by a final non-appealable judgment of a court of competent jurisdiction, but shall continue to apply to other Indemnitees.
- (c) The provisions of this Section 7.25 shall survive foreclosure of the Collateral Documents or any of them and satisfaction or discharge of Borrower's obligations

hereunder, and shall be in addition to any other rights and remedies of Agent and the Fixed Rate Lenders.

- (d) In case any Claim shall be brought against any Indemnitee, such Indemnitee shall promptly notify Borrower of the commencement thereof, and Borrower shall be entitled, at its expense, acting through counsel acceptable to such Indemnitee, acting reasonably, to participate in, and, to the extent that Borrower desires, to assume and control the defence thereof. Such Indemnitee shall be entitled, at its expense, to participate in any Claim the defence of which has been assumed by Borrower. Notwithstanding the foregoing, Borrower shall not be entitled to assume and control the defence of any such Claim if and to the extent that, in the reasonable opinion of such Indemnitee and its counsel, such Claim involves the potential imposition of criminal liability upon such Indemnitee or a potential or actual conflict of interest between such Indemnitee and Borrower, and in such event (other than with respect to disputes between such Indemnitee and another Indemnitee) Borrower shall pay the reasonable expenses of such Indemnitee in such defence; provided that Borrower shall not be required to pay any such expenses of more than one counsel, and provided, further, that Borrower shall be entitled, at its expense, to participate in any Claim the defence of which has been assumed by such Indemnitee.
- (e) Borrower shall report to such Indemnitee on the status of such Claim as developments shall occur and at least within sixty (60) days of the previous report. Borrower shall, unless prohibited by law or court order, deliver to such Indemnitee a copy of each document filed or served on any party in such Claim, and each material document which Borrower possesses relating to such Claim.
- (f) Notwithstanding Borrower's rights hereunder to control certain Claims, unless Borrower has provided Indemnitee such security as is adequate, in such Indemnitee's reasonable judgment, to cover any potential unfavourable determination of any such Claim, any Indemnitee against whom any Claim is made shall be entitled to compromise or settle any such Claim if such Indemnitee determines in its reasonable discretion that failure to compromise or settle such Claim could reasonably be expected to have a material adverse effect on such Indemnitee, the Project or such Indemnitee's interest in the Project. Any such compromise or settlement shall be binding upon Borrower for purposes of this Section 7.25.
- (g) Upon payment of any Claim by Borrower pursuant to this Section 7.25, Borrower, without any further action, shall be subrogated to any and all claims that such Indemnitee may have relating thereto, and such Indemnitee shall cooperate with Borrower and give such further assurances as are necessary or advisable to enable Borrower vigorously to pursue such claims.
- (h) Any amounts payable by Borrower pursuant to this Section 7.25 shall be regularly payable within thirty (30) days after Borrower receives an invoice for such

amounts from any applicable Indemnitee and, if not paid within such thirty (30)-day period, shall bear interest at the Default Rate.

7.26 Certification of Interests

Deliver or cause to be delivered to the Agent any and all certificates representing ownership interests in Borrower and the General Partner within three (3) Business Days after the date of issuance of such ownership interest.

7.27 As Built Drawings and Survey

- (a) Deliver to Agent an “as built” survey of the Collateral and the Site prepared by a qualified British Columbia land surveyor showing the boundaries of the Site and no encroachments of such Collateral on any portion of any premises outside the Site. Based on such surveys Borrower shall make all such further registrations, filings or recordings of the Collateral Documents in all offices where such registration, filing or recording is necessary or of advantage to the creation, perfection or preservation of Agent’s Liens in the Collateral, including, without limitation, registrations in respect of underground cables.
- (b) The Borrower shall deliver a copy of the “as built drawings” delivered to the Borrower by JVD Installations Inc.

7.28 Know Your Customer

The Borrower shall provide and shall cause each other Obligor to provide such documentation as is reasonably required for Agent and Fixed Rate Lenders to comply with “Know Your Customer” requirements, and maintain and update information as requested by Agent to satisfy related obligations, as they may change from time to time.

7.29 Environmental Audit

The Agent may at any time (but not more frequently than once in any twelve (12) month period) request an environmental audit from an environment consulting firm at Borrower’s cost, with respect to the Project and the Project Lands, provided that: (i) some event has occurred (or circumstance previously not known to the Agent has come to its attention), and as a result of which the Agent has a bona fide belief that such event or circumstance has resulted in, or could reasonably be expected to result in, a Material Adverse Effect or potential liability on the part of the Agent or any Fixed Rate Lender; or (ii) the Borrower, Conifex GP or Mackenzie FP has been requested to provide an environmental audit, an environmental site assessment or any other environmental study on the occurrence of any such event or circumstance and the Borrower, Conifex GP or Mackenzie FP has failed to do so within a reasonable period (as reasonably determined by the Agent), or such environmental audit, environmental site assessment or any other environmental study does not set out a remediation plan or other necessary mitigation measures. The Borrower shall permit employees or agents of such environmental consulting firm at any reasonable time and upon prior reasonable notice to inspect the Sites in order to conduct such environmental audit, provided that same shall not unduly interfere with the operation of the Project.

7.30 Ownership Structure

In connection with any Permitted Transfer in accordance with the terms hereof, Borrower shall deliver or shall cause to be delivered an updated Exhibit D-7 setting out the information specified in Section 6.1(c) promptly following such Permitted Transfer, and in form and substance satisfactory to the Agent, acting reasonably.

7.31 Funding of Accounts & CIBC Cash Collateral Account

The Borrower shall ensure that the Accounts and the CIBC Cash Collateral Account are funded at all times in accordance with the provisions hereof.

7.32 Completion and Performance Security

- (a) The Borrower shall ensure at all times that the Borrower complies with all completion and performance security requirements under each applicable Material Project Document in favour of the applicable Major Project Participant party thereto including the Interconnection Agreement Performance Security, the EPA Contract Performance Security Obligations and the LDA Performance Security (including for greater certainty, causing the Sponsor to provide and maintain all completion and performance security requirements under each Material Project Document in favour of the applicable Major Project Participant until the replacement thereof with an Approved Letter of Credit has been provided to such Major Project Participant until the obligation of the Borrower to provide such completion and performance expires pursuant to the terms of the applicable Material Project Document.
- (b) Following the Closing Date, the Borrower may arrange for CIBC to issue amendments to the LDA Letter of Credit (the "**LDA Letter of Credit Amendment**") reducing the then applicable face amount of the LDA Letter of Credit only upon receipt by the Agent and CIBC of a written confirmation from BC Hydro with such confirmation to be in the form set forth in the LDA Letter of Credit (the "**BC Hydro LDA Reduction Confirmation**"). Upon the receipt of each BC Hydro LDA Reduction Confirmation, the LDA Letter of Credit Amendment to be issued by CIBC Bank in connection with such BC Hydro LDA Reduction Confirmation shall reduce the then applicable face amount of the original LDA Letter of Credit by an amount equal to the amount specified in such BC Hydro LDA Reduction Confirmation.

7.33 Separateness Covenants

The Borrower will comply with the Separateness Covenants applicable to it.

7.34 Information Rights and Notices re EDC Documents, CIBC Letter of Credit Documents and Redacted.

Borrower shall provide the following to Agent:

- (a) such information and documentation as is requested by Agent, acting reasonably, in connection with the provisions of this Agreement related to the EDC Documents, the CIBC Letter of Credit Documents and the Redacted. within three (3) Business Days of such request including, without limitation, bank statements for the CIBC Cash Collateral Account;
- (b) notice of any demand or any enforcement action taken by CIBC or EDC under any of the CIBC Letter of Credit Documents or EDC Documents, respectively, along with copies of any related correspondence within one (1) Business Day of the taking of such action.

**ARTICLE 8
NEGATIVE COVENANTS OF BORROWER**

Borrower covenants and agrees that so long as this Agreement is in effect and any Obligations remain outstanding, it will not, without the prior written consent of the Required Lenders, or, if so specified, Agent:

8.1 Limitations on Liens

Create, assume or suffer to exist any Lien, securing a charge or obligation on the Project or on any of the Collateral, real or personal, whether now owned or hereafter acquired, except Permitted Liens and in the case of any Lien registered against the Project or the Site relating to the Project pursuant to the BLA cause such Lien to be vacated within twenty (20) Business Days of the date of such registration unless otherwise agreed to by the Agent in writing.

8.2 Indebtedness

Incur, create, assume or permit to exist any Debt, except Permitted Debt.

8.3 Sale or Lease of Assets

Sell, lease, assign, transfer or otherwise dispose of assets, whether now owned or hereafter acquired except: (a) for sales of power in the ordinary course of business under the EPA Contract or the LDA; (b) as expressly contemplated under the Shared Facilities Agreement or the Equipment Lease; (c) for the sale, lease, assignment, transfer or other disposition of obsolete, worn out or replaced property not used or useful in its business, (d) sales or dispositions of leases or subleases of real property not useful in the conduct of the business of the Borrower; (e) the use or transfer of money or cash equivalents in a manner that is specifically permitted by this Agreement and does not negatively impact the Collateral or the ability of the Agent to realize on the Collateral; (f) the lapse or abandonment of any registered patents, trademarks, copyrights and other intellectual property rights that are not necessary in the conduct of the business of the Borrower and do not, individually or in the aggregate, constitute a Material Adverse Effect, as

determined by the Agent in its sole discretion; (g) for the sale, lease, assignment, transfer or other disposition of property having a value of less than \$250,000 per transaction up to an aggregate value of \$500,000 in any Fiscal Year provided that such sale, lease, assignment, transfer or disposition of assets shall not materially adversely affect the operation of the Project as contemplated under the Operative Documents. The proceeds of each such sale, lease, assignment, transfer or disposition pursuant to clauses (b), (c), (d) and (g) of the foregoing (such proceeds, "Asset Sale Proceeds"), shall be applied in repayment of the Fixed Rate Loans pursuant to Section 3.2(f) other than Excluded Asset Sales Proceeds which shall be deposited into the Revenue Account for application pursuant to Section 10.1. Notwithstanding the foregoing, the Borrower may in the ordinary course of business dispose of Project assets for the purpose of replacing or upgrading such assets and the Asset Sale Proceeds shall constitute Excluded Asset Sales Proceeds if such disposal and replacement or upgrade, as applicable, will not have a negative impact on the operation of the Project or to Project Revenues and the replacement or upgrade of such assets is completed: (i) within 90 days of such disposal, if such assets are not material to the operation of the Project or to the generation of Project Revenues or (ii) concurrently with such disposal, if such assets are material to the operation of the Project or to the generation of Project Revenues.

8.4 Changes

Change the nature of its business or expand its business beyond the business contemplated in the Operative Documents or the Base Case Projections. Without limiting the generality of the foregoing, the Borrower shall not carry on, directly or indirectly, any business or engage in any other activity or otherwise purchase or acquire any business other than with respect to the Project.

8.5 Distributions

Directly or indirectly, make any transfer or deposit to the Distribution Account or make or declare any Distribution (in cash, property or obligation) on, or other payment on account of, any interest in Borrower, unless such transfer, such distribution or such payment is made from Distributable Cash on a Distribution Date and the Distribution Conditions have then been met.

8.6 Acquisitions and Investments

Make or permit to remain outstanding any advances or loans or extensions of credit to, or purchase or own any stock, bonds, notes, debentures or other securities of any Person, except Permitted Investments held in the Accounts or acquire all or a substantial part of, whether by way of asset purchase or otherwise, the assets of any other Person.

8.7 Transactions With Affiliates

Except for (a) the O&M Agreement, the Fuel Supply Agreement, the Equipment Lease, Easements (and transfer instruments related thereto), the Shared Facilities Agreement, and Equity Contribution and Voluntary Equity Contribution permitted hereunder and (b) transactions in the ordinary course of business at prices and on terms and conditions not less favourable to Borrower than could be obtained on an arm's length basis from unrelated third parties, directly or indirectly enter into any transaction or series of transactions with or for the benefit of an Affiliate

without the prior written consent of Required Lenders, such consent not to be unreasonably withheld. Borrower shall provide to Agent a certified copy of any agreement relating to any such transaction or series of transactions as soon as possible following the execution and delivery thereof.

8.8 Loans and Financial Assistance

Lend, guarantee or indemnify or give any other financial assistance in respect of any Debt or any other obligations or liabilities of any Person at any time except as contemplated under the Operative Documents to which the Borrower is a party.

8.9 Project Revenues

Unless otherwise required pursuant to Article 10, use, pay, transfer, distribute or dispose of any Fixed Rate Loan proceeds in any manner or for any purposes except as provided for in Sections 7.1 and 10.1, any Project Revenues in any manner or for any purposes except as provided in Sections 7.1 and 10.1, any Lump Sum Payments and any amounts on deposit in any Account except as provided hereunder.

8.10 Partnerships

Become a general or limited partner in any partnership, a joint venturer in any joint venture or a member in any limited liability company.

8.11 Dissolution, Merger, etc.

Liquidate or dissolve, or sell or lease or otherwise transfer or dispose of all or (except as permitted herein) any substantial part of its property, assets or business, or combine, merge, amalgamate, consolidate or enter into sale-leaseback transactions with or into any other entity.

8.12 Amendments, Additional Material Project Documents and Lump Sum Payment Settlements

- (a) Subject to the other subsections of this Section 8.12, cause, consent to, or permit any termination, amendment, modification, variance or waiver of timely compliance with any material terms or conditions of, or issue a notice not to extend any term of, any Material Project Document or any Applicable Permit without the prior written consent of Agent and the Required Lenders (including for certainty any amendment to the Seasonal Firm Energy Amount, Seasonal LDA Amounts or Annual LDA Amount (as such terms are defined in the EPA Contract)), acting reasonably, other than (x) any amendments or modifications to cure any defective provisions contained therein or to permit other minor deviations from the terms thereof, and (y) those amendments, modifications or waivers that are in the best interest of the Project and are immaterial (in each case as determined by Agent, acting reasonably, in consultation with the Independent Engineer), as applicable, so long as a copy of any such amendment, modification or waiver is delivered to Agent not less than ten (10) Business Days prior to the execution thereof.

- (b) Unless compliance hereof is waived in writing by the Required Lenders, direct or consent to any change order under and Material Project Document if such change order:
 - (i) could reasonably be expected to permit or result in any material adverse modification of, or impair the enforceability of any warranty under any Material Project Document;
 - (ii) could reasonably be expected to materially impair or reduce the ability of the Project to meet the Base Case Projections;
 - (iii) is not permitted by any other Material Project Document or could reasonably be expected to diminish the obligation of any other Major Project Participant under any other Material Project Document;
 - (iv) could reasonably be expected to present a significant risk of the revocation, suspension, cancellation or material adverse modification of any Applicable Permit; or
 - (v) could reasonably be expected to cause the Project not to comply or lessen the Project's ability to comply with Legal Requirements in any material respect.
- (c) Subject to Section 8.12(d) below, permit or consent to the assignment by any Major Project Participant or other counterparty to a Material Project Document of its rights or obligations under the Material Project Document to which it is a party without the prior written consent of the Required Lenders, acting reasonably;
- (d) Permit or consent to the assignment (i) by BC Hydro of its rights and obligations under the EPA Contract or the LDA, or (ii) by Mackenzie FP of its rights and obligations under the Shared Facilities Agreement or the Equipment Lease, in each case without the prior written consent of the Fixed Rate Lenders;
- (e) Enter into any Additional Material Project Document without the prior written consent of the Required Lenders, which consent shall not be unreasonably withheld or delayed. Without limiting the generality of the foregoing or of Section 8.12(a), the Required Lenders will be entitled to confirm the relevant experience and expertise of any replacement for the Manager in determining whether or not to provide their consent hereunder; and
- (f) Unless compliance hereof is waived in writing by Agent, agree to any Lump Sum Payment if such Lump Sum Payment is by itself in excess of \$1,000,000 but less than \$2,000,000, and, (y) unless compliance hereof is waived in writing by the Required Lenders, agree to any Lump Sum Payment if such Lump Sum Payment is:
 - (i) \$2,000,000 or more, or

- (ii) together with all other Lump Sum Payments in the aggregate in any fiscal year of Borrower, \$3,000,000 or more.

8.13 Compliance With Operative Documents

Do or permit (to the extent within its control and permitted by the Operative Documents) to be done any act under or in respect of the Operative Documents, or omit or refrain (to the extent within its control and permitted by the Operative Documents) from any act under the Operative Documents where such act done or permitted to be done, or such omission of or refraining from action would have a Material Adverse Effect.

8.14 Name and Location; Fiscal Year

Change its name or the location (including the address referenced in Section 14.1) of its domicile and chief executive office and principal place of business (as such terms are used in the PPSA from time to time) without written notice to Agent at least thirty (30) days prior to such change and providing immediately thereafter evidence of compliance with Section 7.18, or change its fiscal year without the prior written consent of Agent such consent not to be unreasonably withheld, delayed or conditioned.

8.15 Use of Project Site and Easements

- (a) Use or permit to be used, the Site for any purpose other than for the operation and maintenance of the Project as contemplated by the Operative Documents, without the prior written consent of Agent, or locate any portion of the Project on a site other than the Site.
- (b) Transfer, surrender, assign or otherwise dispose of any portion of the Site except with the prior written consent of Agent, acting reasonably.

8.16 Assignment

Assign its rights hereunder or under any of the Operative Documents to any Person without the consent of the Fixed Rate Lenders acting reasonably.

8.17 Ownership and Transfer of Interests

- (a) Except for a Qualified Transfer, cause, make, suffer, permit or consent to any Transfer of any ownership interest in Borrower.
- (b) Except for a Qualified Transfer, the Borrower shall ensure at all times that the Sponsor Controls the Borrower.
- (c) Except for a Qualified Transfer, cause, make, suffer, permit or consent to any Transfer of any ownership interest in Borrower unless (i) the Borrower continues to be Controlled by the Sponsor and (ii) the Required Lenders have consented to such Transfer. It shall be considered reasonable for the Required Lenders to withhold such consent if: (i) any Event of Default or Inchoate Default shall have

occurred and be continuing or could reasonably be expected to occur as a result of any such Transfer; (ii) such Transfer fails to comply with the terms, conditions and requirements of the Applicable Permits for the Project; (iii) such Transfer fails to comply with the terms, conditions and requirements of the Material Project Documents; and (iv) such Transfer fails to comply with all Applicable Laws and, if such consent is provided, the Agent shall receive the following: (i) the intended transferee or holder shall have executed and delivered to Agent a Securities Pledge Agreement constituting a valid and subsisting first priority security interest in such partnership interest; (ii) opinions of counsel to the proposed transferee or holder (in form and substance acceptable to Agent acting reasonably) as to the due existence of such entities, the enforceability of their contractual obligations to Agent and the Fixed Rate Lenders, and the creation and perfection of the security interests of Agent and the Fixed Rate Lender; (iii) the Agent and the Fixed Rate Lenders will have received from the intended transferee or holder such information and documents as may be reasonably necessary and shall have been requested by the Agent and the Fixed Rate Lenders to allow them to comply with all requirements of Applicable Law and all internal requirements relating to their "Know Your Customer" obligations; (iv) the Agent has been provided with an updated Organizational and Project Ownership Interest Chart pursuant to Section 5.1(ff)) and (v) such other information and documents as are required by the Agent and Fixed Rate Lenders, acting reasonably. For greater certainty, any Transfer of any ownership interests in the Borrower without the consent of the Required Lenders that results in the Sponsor ceasing to Control the Borrower shall result in an Event of Default pursuant to Section 11.3.

8.18 Hazardous Substances

Release into the environment any Hazardous Substances in material violation of any Hazardous Substances Laws, Legal Requirements or Applicable Permits.

8.19 Hedge Arrangements

Enter into or permit to be outstanding at any time any Hedge Arrangement.

8.20 Accounts

Open or maintain any bank or other account other than the Accounts or the CIBC Cash Collateral Account or withdraw, give instructions with respect to or otherwise deal with funds from any of the Accounts or the CIBC Cash Collateral Account other than as provided for in this Agreement, the other Financing Documents and the CIBC Estoppel and Intercreditor Agreement. Notwithstanding anything else in this Agreement, any payment by Borrower directly or indirectly to CIBC that results in receipt, directly or indirectly, by CIBC of funds from an Account not in accordance with the waterfall provisions of Section 10.1 hereof or of payments of fees and chargebacks not permitted under the Blocked Account Agreement shall be an Event of Default.

8.21 Employees

Directly employ any Persons.

8.22 Redacted.

Redacted. Confidential financial information.

8.23 CIBC Letter of Credit Documents

The Borrower and Conifex GP shall not, without the prior written consent of the Agent (which consent can be withheld arbitrarily or unreasonably with respect to items (a), (b), (d) and (g) below), do any of the following under or in connection with or pursuant to the CIBC Letter of Credit Documents:

- (a) request any additional letters of credit other than the EPA Letter of Credit and the LDA Letter of Credit;
- (b) other than Liens in the Cash Collateral securing LC Facility Obligations (as defined in the CIBC Estoppel and Intercreditor Agreement) or customary banker's liens in connection with its role as cash management bank for the Borrower with respect to the Accounts, grant any Liens to CIBC or any successor to secure any obligations owing to CIBC;
- (c) amend, modify, supplement or restate or agree to amend, modify, supplement or restate any of the CIBC Letter of Credit Documents or enter into or grant any additional documents or agreements with or in favour of CIBC, except for rollovers of the LDA Letter of Credit and the EPA Letter of Credit made in the ordinary course;
- (d) deposit any funds into the CIBC Cash Collateral Account that are not Distributable Cash;
- (e) use the CIBC Cash Collateral for any purpose except repayment of the obligations owing to CIBC under and pursuant to the CIBC Letter of Credit Documents;
- (f) modify in any way the definition of "Distribution Account" as defined under the CIBC Estoppel and Intercreditor Agreement (whether by way of amendment to the CIBC Estoppel and Intercreditor Agreement, written notice to CIBC or

otherwise) to any account other than the "Distribution Account" as defined hereunder; and

- (g) following an Event of Default, deposit any funds in the CIBC Cash Collateral Account or make any payments to CIBC or any successor to satisfy any obligations owing under any of the CIBC Letter of Credit Documents except with funds that have previously been deposited into the CIBC Cash Collateral Account.

8.24 EDC Documents

The Borrower and Conifex GP shall not, without the prior written consent of the Agent (which consent can be withheld arbitrarily or unreasonably), do any of the following under or in connection with or pursuant to the EDC Documents:

- (a) grant any Liens to EDC or any successor to secure any present or future obligations owing to EDC;
- (b) amend, modify, supplement or restate or agree to amend, modify, supplement or restate any of the EDC Documents or enter into or grant any additional documents or agreements with or in favour of EDC, except for any such amendments or additional documents that are necessary to facilitate rollovers of the LDA Letter of Credit and the EPA Letter of Credit made in the ordinary course and to maintain the status of such letters of credit under the EDC Documents as being guaranteed by EDC; and
- (c) following an Event of Default, make any payments to EDC or any successor to satisfy any obligations owing under any of the EDC Documents.

ARTICLE 9 GENERAL PARTNERS' OBLIGATIONS

9.1 General Partner's Covenant

General Partner hereby covenants and agrees with Agent and the Fixed Rate Lenders that the covenants, agreements and obligations of Borrower herein are and shall be deemed to be the joint and several covenants, agreements and obligations of General Partner and Borrower including, without limitation, the payment of or performance of all of the Obligations. Furthermore, General Partner shall be held liable as a co-obligors for all representations and warranties of Borrower contained herein.

9.2 Representations and Warranties of General Partner

General Partner (acting in its personal capacity and not as general partner of Borrower) makes the following representations and warranties to and in favour of Agent and the Fixed Rate Lenders as of the date hereof and, except as otherwise provided, as of such date as such representations and warranties are required to be made pursuant to Section 5.2(a). All of these representations and warranties shall survive the Closing Date and the making of the Fixed Rate Loans:

- (a) **Organization.** General Partner (i) is duly incorporated and validly existing under the laws of the Province of British Columbia and has all corporate power under the laws of the Province of British Columbia to enter into the Operative Documents to which it is a party and to perform its obligations thereunder and to consummate the transactions contemplated thereby; (ii) is duly qualified, authorized to do business and in good standing in each jurisdiction where the character of its properties or the nature of its activities makes such qualification necessary; (iii) has the power (A) to carry on its business as now being conducted and as proposed to be conducted by it; to execute, deliver and perform its obligations under each Operative Document to which it is a party, in its individual capacity; (C) to take all action as may be necessary to consummate the transactions contemplated thereunder; and (D) grant the Liens provided for in the Financing Documents to which it is a party; and (iv) has the authority to execute, deliver and perform its obligations under each Operative Document to which it is a party.
- (b) **Authorization, No Conflict.** General Partner has duly authorized, executed and delivered each Operative Document to which General Partner is a party in either its individual capacity or in its capacity as general partner of the Borrower, as applicable, and neither General Partner's execution and delivery thereof nor its consummation of the transactions contemplated thereby nor its compliance with the terms thereof or performance of its obligation thereunder: (a) does or will contravene (i) the Partnership Agreement, its Organizational Documents or any other Material Project Document or any Applicable Permit to which it is a party in either its individual capacity or in its capacity as general partner of the Borrower, as applicable, or (ii) any other Legal Requirement applicable to or binding on General Partner or any of its properties, except for such immaterial contravention of a Legal Requirement (b) does or will contravene or result in any material breach of or constitute any material default under, or result in or require the creation of any Lien (other than Liens in favour of Agent pursuant to the Financing Documents) upon any of its property under, any agreement or instrument to which it is a party or by which it or any of its properties may be bound or affected; or (c) does or will require the consent or approval of any Person which has not already been obtained.
- (c) **Enforceability.** Each Operative Document to which General Partner is a party is a legal, valid and binding obligation of General Partner, enforceable against General Partner in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally and subject to general equitable principles.
- (d) **Validity of Documents.** All documents, instruments, certificates, agreements, contracts and notices, executed by General Partner as a general partner of Borrower in connection with the Project have been validly executed on behalf of Borrower.

- (e) **Single Purpose Nature.** General Partner has not conducted any business other than the Project prior to the formation of the Borrower on May 10, 2012 and thereafter being the general partner of Borrower, it has no assets (other than owning the general partner interest in Borrower and certain Project assets) and it has no outstanding Debt or other material liabilities and is not a party to or bound by any material contract other than the Operative Documents to which it is a party.
- (f) **Offices, Location of Collateral.** General Partner's chief executive office and principal place of business (if different from its chief executive office) is the Province of British Columbia. The address at which the books and records of General Partner are located and the address from which the invoices and accounts of each General Partner are issued is located in the Province of British Columbia.

9.3 Covenants of General Partner

General Partner (acting in its personal capacity and not as general partner of Borrower) covenants and agrees that so long as this Agreement is in effect or any Obligations remain outstanding:

- (a) **Separateness Covenants.** The General Partner will comply with each Separateness Covenant applicable to it.
- (b) **Organizational Documents of General Partner.** The General Partner shall ensure that, at all times, its Organizational Documents require the appointment of an independent director and that the consent of such independent director is required in order for the General Partner to (i) make any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous law, file a petition or proposal to take advantage of any act of insolvency, consent to or acquiesce in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequester or other Person with similar powers of itself or of all or any substantial portion of its assets, or file a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition and (ii) liquidate or dissolve or sell or lease or otherwise transfer or dispose of all or any substantial part of its property, assets or business or amalgamate, combine, merge or consolidate with any other entity.
- (c) **Existence, Conduct of Business, Etc.** Except as permitted under this Agreement, it will (a) maintain and preserve its respective existence as a corporation incorporated under the laws of the Province of British Columbia; (b) maintain and preserve all material rights, privileges and franchises necessary or desirable in the

normal conduct of its business; (c) perform in all material respects all of its contractual obligations under the Partnership Agreement; and (d) engage only in the business of being a general partner of Borrower; except to the extent that, in the case of (b) above only, the failure to maintain, preserve or perform would not, in the sole determination of the Agent, acting reasonably, have a Material Adverse Effect.

- (d) **Taxes and Other Governmental Charges.** It will pay, or cause to be paid, as and when due and prior to delinquency, all Taxes, assessments and governmental charges of any kind that may at any time be lawfully assessed or levied against it. However, General Partner may contest in good faith any such Taxes, assessments and other charges and, in such event, may permit the Taxes, assessments or other charges so contested to remain unpaid during any period, including appeals, when General Partner is in good faith contesting the same, so long as, with respect to any dispute in an amount greater than \$1,000,000: (a) reserves satisfactory to Agent, acting reasonably, have been established in an amount sufficient to pay any such Taxes, assessments or other charges or costs relating thereto, or other adequate provision for the payment thereof shall have been made; (b) enforcement of the contested Tax, assessment or other charge (or the unpaid portion thereof) is effectively stayed for the entire duration of such contest; and (c) any Tax, assessment or other charge determined to be due, is paid when due after resolution of such contest.
- (e) **Compliance with Laws, Instruments, Etc.** It will comply with all Legal Requirements in all material respects.
- (f) **Limitations on Encumbrances.** It will not create, assume or suffer to exist any Lien, securing a charge or obligation on any of the Collateral, except Permitted Liens.
- (g) **Indebtedness.** It will not incur, create, assume or permit to exist any Debt other than normal-course payables or other similar indebtedness incurred in the ordinary course of its business under the Partnership Agreement which is not more than 90 days past due (other than those normal-course payables being contested in good faith which do not exceed \$1,000,000 in the aggregate).
- (h) **Investments.** It will not make or permit to remain outstanding any advances or loans or extensions of credit to, or purchase or own any shares, bonds, notes, debentures or other securities of any Person, except for the general partnership interests it holds in Borrower.
- (i) **Dissolution.** It will not liquidate or dissolve, or sell or lease or otherwise transfer or dispose of all or any substantial part of its property, assets or business, or amalgamate, combine, merge or consolidate with or into any other entity, except pursuant to a Permitted Transfer.

- (j) **Control by the Sponsor.** The General Partner shall ensure at all times that the Sponsor Controls the General Partner.
- (k) **Transfer of Interests.** It will not sell, assign or transfer any ownership interest in Borrower in which it holds a general partnership interest or cause, make, suffer, permit or consent to any creation, sale, assignment or transfer of any ownership interest in General Partner, except as permitted under the Financing Documents.
- (l) **Name and Location.** It will not change its respective name or the location of its chief executive office and principal place of business (as such terms are used in the PPSA from time to time) without written notice to the Agent at least thirty (30) days prior to such change.

9.4 Authority of General Partner

Agent and Fixed Rate Lenders shall be entitled to rely on any certificate, notice or other document, or other advice, statement, direction or instruction provided to them by General Partner and shall be entitled to deal with General Partner with respect to matters under this Agreement and the other Financing Documents without any obligation whatsoever to satisfy themselves as to the authority of General Partner to act on behalf of Borrower and without any liability whatsoever to the other partners of Borrower for so doing, notwithstanding any lack of authority by General Partner to provide same.

ARTICLE 10

ACCOUNTS; APPLICATION OF FUNDS; CIBC CASH COLLATERAL ACCOUNT

10.1 Revenue Account

Redacted. Confidential Flow of Funds Information.

Redacted. Confidential Flow of Funds Information.

10.2 Operating Account

Redacted. Confidential Flow of Funds Information.

10.3 Debt Service Reserve Account

Redacted. Confidential Flow of Funds Information.

Redacted. Confidential Flow of Funds Information.

10.4 Major Maintenance Reserve Account

Redacted. Confidential Flow of Funds Information.

Redacted. Confidential Flow of Funds Information.

Redacted. Confidential Flow of Funds Information.

10.5 [Reserved]

10.6 [Reserved]

10.7 Distribution Account

Redacted. Confidential Flow of Funds Information.

10.8 Loss Proceeds Account

Redacted. Confidential Flow of Funds Information.

10.9 Fuel Supply Reserve Account

Redacted. Confidential Flow of Funds Information.

Redacted. Confidential Flow of Funds Information.

10.10 Suspense Account

Redacted. Confidential Flow of Funds Information.

10.11 Application of Insurance Proceeds

Redacted. Confidential Flow of Funds Information.

10.12 Application of Eminent Domain Proceeds

All amounts and proceeds (including instruments) received in respect of any Event of Eminent Domain (“**Eminent Domain Proceeds**”) shall be subject to the same treatment as Insurance Proceeds as provided in Section 10.11, provided, however, that if the Fixed Rate Lenders determine that the Project should be restored, but no or insufficient replacement property is available for such restoration, then such Eminent Domain Proceeds shall be applied to the prepayment of Fixed Rate Loans.

10.13 Permitted Investments

All amounts held by Borrower and/or Agent in the Accounts or as Insurance Proceeds or Eminent Domain Proceeds shall only be invested in Permitted Investments.

10.14 Power of Attorney Over Accounts

During an Event of Default which has occurred and is continuing, Agent may make direct distribution of funds from any Account to any Person entitled thereto and Borrower hereby constitutes and appoints Agent its true and lawful attorney in fact to direct the Account Bank to make such direct payments and this power of attorney shall be deemed to be a coupled with an interest and shall be irrevocable.

10.15 Disbursement to Borrower

Upon repayment of all amounts due under this Agreement and satisfaction of all Obligations under this Agreement and the other the Financing Documents, Agent shall disburse or cause to be disbursed any amounts on deposit in the Accounts to the Distribution Account.

10.16 Funding of CIBC Cash Collateral Account

Redacted. Confidential Flow of Funds Information.

Redacted. Confidential Flow of Funds Information.

ARTICLE 11 EVENTS OF DEFAULT; REMEDIES

The occurrence of any of the following events shall constitute an event of default (individually, an “**Event of Default**”, and collectively, “**Events of Default**”) hereunder:

11.1 Failure to Make Payments

Borrower shall fail to pay, in accordance with the terms of this Agreement, (a) any principal on any Fixed Rate Loan within one (1) Business Day of the date that such sum is due; or (b) any interest, fee, cost, charge or other sum, due under this Agreement or any other Financing Document within three (3) Business Days after receipt of written notification that such sum is due.

11.2 Misstatements

If any financial statement, representation, warranty or certificate made or prepared by, under the control of or on behalf of Borrower or General Partner and furnished to Agent or any Fixed Rate Lender pursuant to this Agreement or any other Financing Document shall contain, in any material respect, an untrue or misleading statement of a material fact as of the date made; provided however that no Event of Default shall occur pursuant hereto if, within thirty (30) days of the date on which Borrower receives notice (from any source) that such untrue or misleading statement has occurred, Borrower eliminates, mitigates or otherwise addresses to the reasonable satisfaction of Agent, any material and adverse effect on Borrower or the Project resulting from such untrue or misleading statement (unless such untrue or misleading statement of a material fact cannot be eliminated, mitigated or otherwise addressed in the reasonable judgment of the Agent) and, in the case of a Distribution having been made on the basis of any such misstatement, the full amount of such Distribution is refunded to Borrower within such thirty (30) day period and in the case of insufficient amounts being retained in any Account as a result of such misstatement, such Account is funded in full within such thirty (30) day period; provided that if, in the reasonable judgment of Agent, Borrower is working diligently and in good faith to eliminate, mitigate or otherwise address to the reasonable satisfaction of Agent such untrue or

misleading statement, such thirty (30) day period shall be extended for a further thirty (30) day period.

11.3 Breach of Terms of Agreement

- (a) Borrower shall fail to perform or observe any of the covenants set forth in Sections 7.1, 7.14(a), 9.3(b), 9.3(c) or in Article 8, provided that if the failure of Borrower to perform or observe any of the covenants set forth in Article 8 occurs through inadvertence or mistake and if such breach is remediable, Borrower shall: (i) in the case of Section 8.20, have a period of five (5) Business Days and (ii) in the case of any other breach of Article 8 have a period of thirty (30) days, in each case to remedy such breach upon its becoming aware thereof;
- (b) Borrower shall fail to perform or observe any of the covenants set forth in Section 7.31 or Section 7.22, provided that if the failure of the Borrower to perform or observe such covenant occurs through inadvertence or mistake and if such breach is remediable, the Borrower shall have a period of five (5) Business Days to remedy such breach upon its becoming aware thereof;
- (c) Borrower shall have failed to pursue its material rights and remedies under the EPA Contract, the LDA, the Shared Facilities Agreement, the Fuel Supply Agreement, the O&M Agreement or the Equipment Lease with the Major Project Participants party thereto, as applicable, upon a breach by such Major Project Participant of the terms thereof (subject to any notice and cure provided for therein), including without limitation with regard to any failure by such Major Project Participant to pay liquidated damages or perform its warranty obligations in the manner described therein (excluding circumstances in which the amount reasonably expected to be recovered exceeds the expected costs of the action in the reasonable judgment of the Agent), and such failure by the Borrower shall continue for a period of thirty (30) days after Borrower receives notice thereof from Agent (provided that notwithstanding the foregoing, Borrower shall, in the case of any failure by any Affiliate to pay liquidated damages or warranty payments, seek from the Affiliate recovery of such liquidated damages or warranty payments from, at a minimum, the date Agent provides notice hereunder);
- (d) Borrower shall have failed to reasonably pursue its material rights and remedies under any Material Project Document (other than as specifically referred to in Section 11.3(c)) with any other party thereto upon a breach by such other party (after taking into account the reasonable costs of such action, the relative merits of the claim and the likelihood of recovery and the amount reasonably expected to be recovered), of the terms thereof, including without limitation with regard to any failure by such other party, to pay liquidated damages or perform its warranty obligations in the manner described therein, and such failure by Borrower shall continue unremedied for a period of thirty (30) days after Borrower receives written notice thereof from Agent (provided that notwithstanding the foregoing, Borrower shall, in the case of any failure by any Affiliate to pay liquidated

damages or warranty payments, seek from such Affiliate recovery of such liquidated damages or warranty payments from, at a minimum, the date Agent provides notice hereunder); or

- (e) Borrower shall fail to perform or observe any other covenant to be performed or observed by it hereunder or under any Financing Document and not otherwise specifically provided for elsewhere in this Article 11, and such failure shall continue unremedied for a period of thirty (30) days after Borrower becomes aware thereof or receives written notice thereof from Agent; provided that if, in the reasonable judgment of Agent, Borrower is working diligently and in good faith to remedy such failure to perform or observe such covenant to the reasonable satisfaction of Agent, such thirty (30) day period shall be extended for a further thirty (30) day period.

11.4 Cross Default

Borrower shall default for a period beyond any applicable grace period (a) in the payment of any principal, interest or other amount due under any agreement (other than the Financing Documents) involving the borrowing of money or the advance of credit and the outstanding amount or amounts payable under all such agreements equals or exceeds \$1,000,000 in the aggregate, or (b) in the payment of any amount or performance of any obligation due under any guarantee or other agreement (other than the Financing Documents) if, in either case, the indebtedness evidenced thereby equals or exceeds \$1,000,000.

11.5 Bankruptcy; Insolvency

If in respect of any of the Borrower, the General Partner, Mackenzie FP and BC Hydro (each a "Subject Person") any of the following shall occur:

- (a) a decree or order of a court of competent jurisdiction is entered adjudging a Subject Person a bankrupt or insolvent or approving as properly filed a petition seeking the winding-up of a Subject Person under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against any substantial part of the assets of a Subject Person or ordering the winding up or liquidation of its affairs; or
- (b) any Subject Person becomes insolvent, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequester or other Person with similar powers of itself or of all or any substantial portion of its

assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition; or

- (c) any proceeding or filing will be instituted or made against any Subject Person seeking to have an order for relief entered against such Subject Person as debtor or to adjudicate it bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition under any law relating to bankruptcy, insolvency, reorganization or relief or debtors (including, without limitation, the *Bankruptcy and Insolvency Act* (Canada), the *Companies Creditors Arrangement Act* (Canada) and the *Winding-Up and Restructuring Act* (Canada)), or seeking appointment of a receiver, trustee, custodian or other similar official for such Subject Person or for any substantial part of its properties or assets unless the same is being contested actively and diligently in good faith by appropriate and timely proceedings and is dismissed, vacated or permanently stayed within sixty (60) days of institution.

11.6 Breach of Material Project Documents

If in respect of any Material Project Document the following shall occur:

- (a) if Borrower or the General Partner defaults under any Material Project Document to which it is a party which breach could reasonably be expected to result in a Material Adverse Effect and such breach is not remedied or fully mitigated within the Cure Period; provided that, for the purposes of the foregoing, any cure by Agent or any Fixed Rate Lender on Borrower's or the General Partner's behalf, as applicable, with respect to a breach or default by Borrower or General Partner, as applicable, under a Material Project Document following the occurrence of any Event of Default hereunder in accordance with Section 11.25 shall not be considered a remedy under this Agreement for any such breach or default of such Material Project Document;
- (b) if BC Hydro breaches or defaults under the EPA Contract and such breach is not remedied or fully mitigated within the cure period provided for therein, as applicable and could reasonably be expected to have a Material Adverse Effect;
- (c) if BC Hydro breaches or defaults under the LDA and such breach is not remedied or fully mitigated within the cure period provided for therein, as applicable and could reasonably be expected to have a Material Adverse Effect;
- (d) if Mackenzie FP breaches or defaults under the Shared Facilities Agreement and such breach is not remedied or fully mitigated within the cure period provided for therein;
- (e) if Mackenzie FP breaches or defaults under the LDA and such breach is not remedied or fully mitigated within the cure period provided for therein; provided that, with respect to this Section 11.6(e) only, Agent, may consent to an extension

of up to thirty (30) days (as determined by the Agent) of the applicable cure period provided for therein as is reasonably necessary to cure such breach or default if remedial action is reasonably likely to result in cure, was promptly instituted within the applicable cure period, and is diligently pursued until the breach or default is corrected; provided that if, in the reasonable judgment of Agent, Mackenzie FP or Borrower is working diligently and in good faith to cure such breach or default during such thirty (30) day extension period and no Material Adverse Effect shall have occurred during such period, such thirty (30) day period shall be extended for a period of up to sixty (60) days (as determined by the Agent);

- (f) if any Major Project Participant (other than Borrower, the General Partner, BC Hydro or Mackenzie FP in the case of the LDA and the Shared Facilities Agreement) breaches or defaults under any term of any Material Project Document to which it is a party and such breach is not remedied or fully mitigated within the applicable cure period provided for therein; provided that, with respect to this Section 11.6(f) only, Agent, may consent to an extension of not more than an additional thirty (30) day period of the applicable cure period provided for therein as is reasonably necessary to either (x) cure such breach or default if remedial action is reasonably likely to result in cure, was promptly instituted within the applicable cure period, and is diligently pursued until the breach or default is corrected; or (y) obtain a Replacement Obligor if Borrower is reasonably likely to obtain a Replacement Obligor and is diligently pursuing obtaining such Replacement Obligor; provided that if, in the reasonable judgment of Agent, Borrower is working diligently and in good faith to either cure such breach or default, or to obtain a Replacement Obligor during such thirty (30) day period and no Material Adverse Effect shall have occurred during such period, such thirty (30) day period shall be extended for a further sixty (60) day period.

11.7 Loss of Material Project Document

If (other than as a result of the bankruptcy or insolvency of a Subject Person which is specifically provided for in Section 11.5):

- (a) the EPA Contract or the Shared Facilities Agreement is repudiated or shall cease for any reason to be in full force and effect;
- (b) any Material Project Document (other than the EPA Contract, the LDA or the Shared Facilities Agreement) is repudiated or shall cease for any reason to be in full force and effect, and in each such case, Borrower shall, within ninety (90) days after such Material Project Document referred to in this Section 11.7(b) ceasing to be in effect, fail to replace such Material Project Document with an Additional Material Project Document containing substantially the same terms as such other Material Project Document and acceptable to Agent in its reasonable discretion; provided that if, in the reasonable judgment of Agent, Borrower is working diligently and in good faith to replace such Material Project Document during such ninety (90) day period and no Material Adverse Effect shall have

occurred during such period, such ninety (90) day period may be extended for a further thirty (30) day period.

- (c) the LDA is repudiated or shall cease for any reason to be in full force and effect unless: (i) either (x) Borrower is selling the energy previously designated for delivery pursuant to the LDA to BC Hydro pursuant to the EPA Contract or (y) Agent consents to an extension of not more than an additional thirty (30) day period following the loss of the LDA as is reasonably necessary for Borrower to commence selling the energy previously designated for delivery pursuant to the LDA to BC Hydro pursuant to the EPA Contract if Borrower is reasonably likely to commence such sales and is diligently pursuing such commencement; (ii) Borrower has repaid or has sufficient funds available to repay any LDA Incentive Repayments which Borrower is required to repay pursuant to the LDA; and (iii) any Revised Base Case Projections prepared by the Borrower after the LDA ceasing to be in effect (contemplating the repayment in full of any LDA Incentive Repayments which Borrower is required to repay pursuant to the LDA and commencing the Fiscal Quarter subsequent to the repayment in full thereof) demonstrate that the Project will be able to maintain the Minimum DSCR Profile commencing the Fiscal Quarter subsequent to the Fiscal Quarter during which the repayment in full of such LDA Incentive Repayment is made to BC Hydro; provided further that in the case of (i)(y) that if, in the reasonable judgment of Agent, Borrower is working diligently and in good faith to commence such sales during such thirty (30) day period and no Material Adverse Effect shall have occurred during such period, such thirty (30) day period shall be extended for a period of up to sixty (60) days (as determined by the Agent).

11.8 Loss of Applicable Permits

Any Applicable Permit of a material nature that is then necessary for the operation of the Project shall be modified in a manner that could reasonably be expected to have a Material Adverse Effect or shall be suspended, revoked or cancelled by the issuing agency or other Governmental Authority having jurisdiction, provided, however, that the foregoing shall not result in an Event of Default under this Section 11.8 if Borrower diligently pursues and obtains a replacement of such Applicable Permit within thirty (30) days after its modification, suspension, revocation or cancellation; provided that if, in the reasonable judgment of Agent, Borrower is working diligently and in good faith to replace such Applicable Permit during such thirty (30) day period and no Material Adverse Effect shall have occurred during such period, such thirty (30) day period shall be extended for a further thirty (30) day period.

11.9 Loss of Governmental Approval

The Borrower fails to maintain or comply with all Governmental Authority approvals necessary for performance of any of the Operative Documents if such failure would result in a Material Adverse Effect.

11.10 Judgments

A final non-appealable judgment or judgments shall be entered against Borrower in the aggregate amount of \$2,000,000 or more (net of any Insurance Proceeds acceptable to Agent, acting reasonably) other than (a) a judgment which is covered by insurance or satisfied in full or discharged within thirty (30) days after its entry, or (b) a judgment, the execution of which is effectively stayed within thirty (30) days after its entry (but only for thirty (30) days after the date on which such stay is terminated or expires) or (c) a judgment which could not reasonably be expected to impair the financial viability of the Project or result in a Material Adverse Effect.

11.11 Loss of Collateral

Any portion of the Collateral is seized or appropriated without fair value being paid therefor such as to allow replacement of such Collateral and/or prepayment in full of all Obligations then outstanding and/or to allow Borrower in Agent's reasonable judgment to continue satisfying its obligations hereunder and under the other Operative Documents (after considering any Voluntary Equity Contributions that have been received by the Borrower for such purpose) or there is a loss of all or substantially all of the assets of the Project and the Project ceases to operate for a period of thirty (30) consecutive days unless the Repair Conditions can be satisfied and the Insurance Proceeds received in connection with such loss are sufficient for the full repair or restoration of the Project and are applied to repair or restore the Project by the sixtieth (60th) day following receipt thereof (plus any Voluntary Equity Contributions that have been received by the Borrower on account of such loss).

11.12 Security

Any of the Collateral Documents, once executed and delivered, shall, except as the result solely of the acts or omissions of Agent or the Fixed Rate Lenders, in any material respect fail to provide the Fixed Rate Lenders the Liens, security interest, rights, titles, interest, remedies, powers or privileges intended to be created thereby or cease to be in full force and effect, or the validity thereof or the applicability thereof to the Fixed Rate Loans or any other obligations purported to be secured or guaranteed thereby or any part thereof shall be disaffirmed by or on behalf of Borrower or any other party thereto; provided that, other than in the case of any disaffirmation by Borrower for which there will be no cure period, so long as, in the reasonable judgment of the Agent, the foregoing circumstances have not resulted in a Material Adverse Effect, and remedial action could result in a cure of the foregoing circumstances, Agent may consent to a thirty (30) day period for Borrower to undertake such remedial action as may cure the foregoing circumstances and further provided that, if in the reasonable judgment of Agent, Borrower is working diligently and in good faith to remedy the foregoing circumstances during such thirty (30) day period and no Material Adverse Effect shall have occurred during such period, such thirty (30) day period may be extended for a further thirty (30) day period once.

11.13 Change of Control

- (a) If any Transfer of any partnership interest in the Borrower occurs other than in accordance with Section 8.17;

- (b) If, at any time, the General Partner ceases to be a special purpose entity solely in the business of acting as sole general partner of the Borrower; or
- (c) If, at any time, the Borrower is not Controlled by the Sponsor.

11.14 Change of Control of Mackenzie FP

If, at any time, Mackenzie FP is not Controlled by the Sponsor without the consent of the Required Lenders.

11.15 Denial of Obligations

If any Obligor denies, to any material extent, its obligations under any Financing Document or claims any of the Financing Documents to be invalid or withdrawn in whole or in part.

11.16 Seizure

If all or any property of any Material Party or Mackenzie FP or the capital of any Material Party pledged pursuant to a Securities Pledge Agreement becomes subject to any writ of execution or distress warrant or any sheriff or other Governmental Authority becomes lawfully entitled to otherwise seize, garnish or exercise any right of seizure upon all or any part of property of such Material Party or Mackenzie FP or such capital and such seizure, enforcement, execution, attachment, garnishment, restraint or other seizure right continues in effect and is for an amount exceeding \$2,000,000 and is not released, discharged or stayed within thirty (30) days and during such time such event has not had, does not have, and could not reasonably be expected to have a Material Adverse Effect, provided however if, in the reasonable judgment of the Agent, the applicable Material Party or Mackenzie FP, as applicable, is working diligently and in good faith to have such seizure, enforcement, execution, attachment, garnishment, restraint or other seizure right released, discharged or stayed during such thirty (30) day period and no Material Adverse Effect shall have occurred during such period, such thirty (30) day period shall be extended for a further sixty (60) day period.

11.17 EPA Contract and LDA

If the EPA Contract or the LDA is transferred, assigned or otherwise conveyed by BC Hydro to any Person and the Borrower consents to such transfer, assignment or conveyance and releases BC Hydro from its obligations thereunder without the consent of the Fixed Rate Lenders or if such assignment or conveyance occurs without the consent of the Borrower and by operation of law, BC Hydro is released from its obligations thereunder.

11.18 Abandonment

If the Borrower shall wilfully and voluntarily cease all or substantially all activities in the operation and maintenance of the Borrower's Project for fifteen (15) consecutive days following the Commercial Operation Date, other than as a result of Force Majeure.

11.19 EDC Documents; EDC Demand; EDC Enforcement

If any of the EDC Documents are terminated prior to the full funding of the CIBC Letter of Credit Reserve Amount or any of the EDC Documents are modified after the date hereof in a manner that is materially adverse to the position of the Agent and the Lenders. If a default occurs under any of the EDC Documents or EDC makes any demand to Borrower or Conifex GP or takes any enforcement steps against either of Borrower or Conifex GP with respect to the EDC Documents.

11.20 CIBC Letter of Credit Documents; CIBC Enforcement

If a default or event of default shall occur under any of the CIBC Letter of Credit Documents or if CIBC takes any steps to enforce against the CIBC Cash Collateral.

11.21 Prohibited Payments to CIBC

Any payment by Borrower directly or indirectly to CIBC that results in receipt by CIBC, directly or indirectly, of funds held in a Blocked Account in respect of LC Facility Obligations (as defined in the CIBC Estoppel and Intercreditor Agreement) if such payment or receipt does not comply with the terms of the Blocked Account Agreement provided that if such payment occurs through inadvertence or mistake and if such breach is remediable, Borrower shall have five (5) Business Days from the date it becomes aware of a breach of this Section 11.21 to remedy same .

Remedies

11.22 Exercise of Remedies

Upon the occurrence and during the continuation of an Event of Default, Agent shall at the direction of the Required Lenders, without further notice of default, presentment or demand for payment, protest or notice of non-payment or dishonour, or other notices or demands of any kind, all such notices and demands being waived, exercise any or all of the rights and remedies set forth in Sections 11.24 through 11.29 in any combination or order that the Required Lenders may elect, in addition to such other rights or remedies as Agent and the Fixed Rate Lenders may have hereunder, including the right to draw on any Approved Letter of Credit or the DSR LC or the Major Maintenance Reserve Letter of Credit issued to the Agent as beneficiary delivered in accordance with the terms of this Agreement or by and through the Agent under the Collateral Documents or at law or in equity or withdraw funds from the Fuel Supply Reserve Account; provided that to the extent that such rights and remedies include the realization of any Collateral Documents, such rights and remedies shall be exercised by the Agent in accordance with the terms of the Financing Documents. Any waiver of an Event of Default shall be obtained in accordance with Section 14.3.

11.23 [Reserved]

11.24 No Payments from Accounts

The Fixed Rate Lenders shall not be obligated to make any payments from any Account or any Proceeds or other funds held by Agent or the Account Bank under the Financing Documents or on behalf of Borrower.

11.25 Cure by Agent

Without any obligation to do so, make disbursements or Fixed Rate Loans to or on behalf of Borrower to cure any Event of Default hereunder and to cure any default and render any performance under any Material Project Documents as the Required Lenders, in their sole discretion may consider necessary or appropriate, whether to preserve and protect the Collateral or the Fixed Rate Lenders' interests therein or for any other reason, and all sums so expended, together with interest on such total amount at the Default Rate (but in no event shall the rate exceed the maximum lawful rate), shall be repaid by Borrower to Agent on demand and shall be secured by the Financing Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the aggregate amount of the Fixed Rate Loans.

11.26 Acceleration

Declare and make all sums of accrued and outstanding principal and accrued but unpaid interest remaining under this Agreement together with all unpaid fees, costs (including the applicable Make Whole Amount calculated by the Fixed Rate Lender as of the Settlement Date), charges and other amounts due hereunder or under any other Financing Document, immediately due and payable, provided that in the event of an Event of Default occurring under Section 11.5, all such amounts shall become immediately due and payable without further act of Agent or the Fixed Rate Lenders or any other Person.

11.27 Cash Collateral

Apply or execute upon any amounts on deposit in any Account or any Proceeds or any other moneys of Borrower on deposit with Agent or any Fixed Rate Lender.

11.28 Possession of Project

Enter into possession of the Project and perform any and all work and labour necessary to operate and maintain the Project, and all sums expended by Agent in so doing, together with interest on such total amount at the Default Rate, shall be repaid by Borrower to Agent upon demand and shall be secured by the Financing Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the amount of the Fixed Rate Loan Commitment.

11.29 Remedies Under Financing Documents

Instruct the Agent to exercise any and all remedies under the Financing Documents to which it is a party, and to the extent that such rights and remedies are not exercisable by the Agent in

accordance with the terms of the Financing Documents, exercise any and all rights and remedies available to it under any of the Financing Documents, including judicial or non-judicial foreclosure or public or private sale of any of the Collateral pursuant to the Collateral Documents.

11.30 Conduct of Proceedings

Following the initial direction by the Required Lenders to Agent to exercise all remedies under this Agreement, the Collateral Documents or otherwise available at law, in exercising its remedies hereunder and in instructing the Agent respecting the remedies to be taken under the Collateral Documents, Agent shall take direction from the Required Lenders. In giving such instructions, the Required Lenders shall act in good faith and shall not act to delay or frustrate such exercise of remedies.

11.31 Application of Proceeds of Realization

Following the occurrence of an Event of Default, all Cash Proceeds of Realization thereafter received by the Agent or Fixed Rate Lenders in respect of the Obligations, from any source whatsoever, shall be paid over to the Agent and applied in accordance with the priority of payments set forth below. All Cash Proceeds of Realization received by the Agent shall be applied as follows:

- (a) *First:* To payment of any fees and other amounts then owing to Agent or any Fixed Rate Lenders in its capacity as such hereunder;
- (b) *Second:* To Agent or Fixed Rate Lenders on account of Protective Advances made by any Agent or any Fixed Rate Lender, *pro rata* to each such Agent or any Fixed Rate Lender in accordance with such amounts owing to it as a percentage of all such amounts;
- (c) *Third:* To the payment of all costs and expenses (including legal or other professional fees) incurred by Agent or Fixed Rate Lenders, *pro rata* in accordance with the respective amounts thereof, in connection with any Realization Proceedings in respect of the Collateral or any Enforcement Proceedings taken in respect of any Financing Document (in each case to the extent permitted hereunder);
- (d) *Fourth:* To the payment of all accrued but unpaid interest on the Obligations, all fees, letter of credit fees, all stamping fees and all unused line fees accrued at a time when Borrower can satisfy all conditions to additional borrowings at such time under a Financing Document, without any waiver or other action from Agent or any Fixed Rate Lender party thereto but excluding all Make Whole Amounts; *pro rata* to each Fixed Rate Lender in accordance with the amount of such interest and fees owing to it as a percentage of all such interest and fees;
- (e) *Fifth:* To the payment of all unpaid principal of the Obligations including Make Whole Amounts *pro rata* to each Fixed Rate Lender in accordance with the

amount in respect thereof owing to each Fixed Rate Lender as a percentage of all such amounts;

- (f) *Sixth*: To the payment of all other amounts owing in respect of the Obligations (including Make Whole Amounts) not hereinbefore referred to, *pro rata* to each Fixed Rate Lender in accordance with the amount in respect thereof owing to each Fixed Rate Lender as a percentage of all such amounts; and
- (g) *Seventh*: After indefeasible payment in full of all Obligations to the payment to or upon the order of Borrower, or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct, of any surplus then remaining from such amounts.

ARTICLE 12 AGENT; SUBSTITUTION

12.1 Appointment, Powers and Immunities

- (a) Each Fixed Rate Lender hereby appoints and authorizes Agent to act as its agent hereunder and under the other Financing Documents with such powers as are expressly delegated to Agent by the terms of this Agreement and the other Financing Documents, together with such other powers as are reasonably incidental thereto. Agent shall act in good faith and in the best interests of each of the Fixed Rate Lenders and exercise the care of a reasonably prudent agent but otherwise shall not have any duties or responsibilities except those expressly set forth in this Agreement or in any other Financing Document, and shall not be a trustee for, or fiduciary of, any Fixed Rate Lender. Notwithstanding anything to the contrary contained herein Agent shall not be required to take any action which is contrary to this Agreement or any other Financing Documents or any Legal Requirement or exposes Agent to any liability. Each of Agent, the Fixed Rate Lenders and any of their respective Affiliates shall not be responsible to any other Fixed Rate Lender for any recitals, statements, representations or warranties made by Borrower, any Affiliate of Borrower or any Partner contained in this Agreement or any other Financing Document or in any certificate or other document referred to or provided for in, or received by Agent, or any Fixed Rate Lender under this Agreement or any other Financing Document, for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement, any other Financing Document or any other document referred to or provided for herein or for any failure by Borrower, any Affiliate of Borrower or any Partner to perform their respective obligations hereunder or thereunder. Agent may employ agents and attorneys in fact.
- (b) Except as outlined above in Section 12.1(a), Agent and its respective directors, officers, employees or agents shall not be responsible for any action taken or omitted to be taken by it or them hereunder or under any other Financing Document or in connection herewith or therewith, except for its or their own gross negligence, wilful misconduct or unexcused breach of a Financing Document as

determined by a final non-appealable judgment of a court of competent jurisdiction. Without limiting the generality of the foregoing, Agent (i) may treat the payee of any Fixed Rate Loan as the holder thereof until Agent receives written notice of the assignment or transfer thereof signed by such payee and in form and substance satisfactory to Agent; (ii) may consult with legal counsel (including counsel for Borrower), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by them in accordance with the advice of such counsel, accountants or experts; (iii) makes no warranty or representation to any Fixed Rate Lender for any statements, warranties or representations made in or in connection with any Material Project Document or Financing Document; (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of any Operative Document on the part of any party thereto or to inspect the property (including the books and records) of Borrower or any other Person; and (v) shall not be responsible to any Fixed Rate Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of any Operative Document or any other instrument or document furnished pursuant hereto or thereto. Except as otherwise provided under this Agreement, Agent shall take such action with respect to the Financing Documents as shall be directed by the Required Lenders.

12.2 Reliance by Agent

Agent shall be entitled to rely upon any certificate, notice or other document (including any cable, telegram, teletype pdf or other electronic format) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by Agent. As to any other matters not expressly provided for by this Agreement, Agent shall not be required to take any action or exercise any discretion, but shall be required to act or to refrain from acting upon instructions of the Required Lenders (except that Agent shall not be required to take any action which exposes Agent to personal liability or which is contrary to this Agreement, any other Financing Document or any Legal Requirement) and shall in all cases be fully protected in acting, or in refraining from acting, hereunder or under any other Financing Document in accordance with the instructions of the Required Lenders, and such instructions of the Required Lenders and any action taken or failure to act pursuant thereto shall be binding on all of the Fixed Rate Lenders.

12.3 Non-Reliance

Each Fixed Rate Lender represents that it has, independently and without reliance on Agent or any other Fixed Rate Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of the financial condition and affairs of Borrower and decision to enter into this Agreement and agrees that it will, independently and without reliance upon Agent, or any other Fixed Rate Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own appraisals and decisions in taking or not taking action under this Agreement. Each of Agent and any Fixed Rate Lender shall not be required to keep informed as to the performance or observance by Borrower, its Affiliates or its

Partners under this Agreement or any other document referred to or provided for herein or to make inquiry of, or to inspect the properties or books of Borrower, its Affiliates or its Partners.

12.4 Defaults

Agent (acting in its capacity as Agent and not in any other capacity) shall not be deemed to have knowledge or notice of the occurrence of any Inchoate Default or Event of Default unless Agent has received a written notice from a Fixed Rate Lender or the Borrower, referring to this Agreement, describing such Inchoate Default or Event of Default and indicating that such notice is a "notice of default." If Agent receives such a notice of the occurrence of an Inchoate Default or Event of Default, Agent shall give notice thereof to the Fixed Rate Lenders. Agent shall take such action with respect to such Inchoate Default or Event of Default as is provided in Article 11 or if not provided for in Article 11, as Agent shall be reasonably directed by the Required Lenders; provided however, that unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Inchoate Default or Event of Default as it shall deem advisable in the best interest of the Fixed Rate Lenders.

12.5 Indemnification

Without limiting the obligations of Borrower hereunder, each Fixed Rate Lender agrees to indemnify Agent, rateably in accordance with its Proportionate Share for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against Agent in any way relating to or arising out of this Agreement, the other Financing Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or the enforcement of any of the terms hereof or thereof or of any such other documents; provided, however, that no Fixed Rate Lender shall be liable for any of the foregoing to the extent they arise solely from Agent's gross negligence, wilful misconduct or unexcused breach of a Financing Document as determined by a final non-appealable judgment of a court of competent jurisdiction. Agent shall be fully justified in refusing to take or to continue to take any action hereunder unless it shall first be indemnified to its satisfaction by the Fixed Rate Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Without limitation of the foregoing, each Fixed Rate Lender agrees to reimburse Agent promptly upon demand for its rateable share of any out-of-pocket expenses (including counsel fees) incurred by Agent in connection with the preparation, execution, administration or enforcement of, or legal advice in respect of rights or responsibilities under, the Operative Documents, to the extent that Agent is not reimbursed promptly for such expenses by Borrower.

12.6 Successor Agent

- (a) Agent may at any time give notice of its resignation to the Fixed Rate Lenders and Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of Borrower (unless an Event of Default shall have occurred and be continuing), which consent shall not be unreasonably withheld, to appoint a successor, which shall be a Fixed Rate

Lender having a Commitment or an Affiliate of any such Fixed Rate Lender and, if at such time, there are no Fixed Rate Lenders that can act in such capacity, then a company established under the *Trust and Loan Companies Act* (Canada) (the "TLCA") that has the capacity to act as successor Agent. Agent may also be removed at any time by the Required Lenders upon thirty (30) days' notice to Agent and Borrower as long as the Required Lenders, with the consent of Borrower (unless an Event of Default shall have occurred and be continuing), which consent shall not be unreasonably withheld, appoint and obtain the acceptance of a successor within such thirty (30) days, which shall be a Fixed Rate Lender having a Commitment and having an office in Toronto, or an Affiliate of any such Fixed Rate Lender with an office in Toronto and if at such time, there are no Fixed Rate Lenders that can act in such capacity, then a company established under the TLCA that has the capacity to act as successor Agent.

- (b) If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Fixed Rate Lenders, with the consent of Borrower (unless an Event of Default shall have occurred and be continuing), which consent shall not be unreasonably withheld, appoint a successor Agent meeting the qualifications specified in Section 12.6(a) (including the appointment of a trust company established under the TLCA), provided that no consent of the Borrower shall be required to appoint a company established under the TLCA if no Fixed Rate Lender having a Commitment and having an office in Toronto or an Affiliate of any such Fixed Rate Lender with an office in Toronto has accepted such appointment and the Borrower constitutes and appoints the retiring Agent its true and lawful attorney-in-fact to execute and deliver all documents and make all necessary acts of assignment and transfer in order to effect such appointment and this power of attorney shall be deemed to be coupled with an interest and shall be irrevocable.
- (c) Notwithstanding the provisions of Sections 12.6(a) and 12.6(b), if at any time the Agent is no longer a Fixed Rate Lender hereunder, the Agent may resign at any time by giving written notice thereof to the Fixed Rate Lenders and the Borrower thirty (30) days prior to the date of its proposed resignation, such resignation to be effective upon the proposed date of resignation as specified in such notice. If the Required Lenders have not appointed a successor Agent and no successor Agent has accepted such appointment by the date of resignation specified in the written notice provided by the Agent to the Fixed Rate Lenders and the Borrower, the Fixed Rate Lender then holding the largest Proportionate Share of Fixed Rate Loans outstanding shall be deemed to be appointed as successor Agent (and if such Fixed Rate Lender cannot act in such capacity, then the Agent shall be entitled to appoint a company established under the TLCA that has the capacity to act as successor Agent) and to have accepted such appointment upon such date of resignation without any further action by the retiring Agent and each of the Required Lenders and the Borrower hereby constitutes and appoints the retiring Agent its true and lawful attorney-in-fact to execute and deliver all documents and

make all necessary acts of assignment and transfer in order to effect such appointment and this power of attorney shall be deemed to be coupled with an interest and shall be irrevocable.

- (d) Upon a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the former Agent, and the former Agent shall be discharged from all of its duties and obligations hereunder or under the other Operative Documents (if not already discharged therefrom as provided in the preceding paragraph). The fees payable by Borrower to a successor Agent shall be the same as those payable to its predecessor unless (i) otherwise agreed between Borrower and such successor or unless (ii) a company established under the TLCA is appointed as successor agent pursuant to Section 12.6(a), Section 12.6(b) or Section 12.6(c), as applicable, in which case the fees payable by the Borrower to such company shall be those set forth in the agency agreement pursuant to which such company is appointed as successor Agent hereunder. After the termination of the service of the former Agent, the provisions of this Article 12 shall continue in effect for the benefit of such former Agent, its sub-agents and their respective Affiliates in respect of any actions taken or omitted to be taken by any of them while the former Agent was acting as Agent.

12.7 Authorization

Agent is hereby authorized by the Fixed Rate Lenders to execute, deliver and perform each of the Financing Documents to which Agent is or is intended to be a party and each Fixed Rate Lender agrees to be bound by all of the agreements of Agent contained in the Financing Documents.

12.8 Agent's Clawback

- (a) **Funding by Lenders; Presumption by Agent.** Unless Agent shall have received notice from a Fixed Rate Lender prior to the Closing Date that such Fixed Rate Lender will not make available to Agent such Fixed Rate Lender's Proportionate Share of such Advance, Agent may assume that such Fixed Rate Lender has made such Proportionate Share available on the Closing Date in accordance with the provisions of this Agreement concerning funding by Fixed Rate Lenders and may, in reliance upon such assumption, make available to Borrower a corresponding amount. In such event, if a Fixed Rate Lender has not in fact made its share of the applicable Advance available to Agent, then the applicable Fixed Rate Lender shall pay to Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to Borrower to but excluding the date of payment to Agent, at a rate determined by Agent in accordance with prevailing banking industry practice on interbank compensation. If such Fixed Rate Lender pays such amount to Agent, then such amount shall constitute such Fixed Rate Lender's Fixed Rate Loan included in such Advance. If the Fixed Rate Lender does not do so forthwith, Borrower shall pay to Agent forthwith on demand such corresponding amount with interest

thereon at the interest rate applicable to the Advance in question. Any payment by Borrower shall be without prejudice to any claim Borrower may have against Fixed Rate Lender that has failed to make such payment to Agent.

- (b) **Payments by Borrower; Presumptions by Agent.** Unless Agent shall have received notice from Borrower prior to any Repayment Date hereunder that Borrower will not make a payment due to Agent for the account of any Fixed Rate Lender, Agent may assume that Borrower has made such payment on such Repayment Date in accordance herewith and may, in reliance upon such assumption, distribute the amount due to the Fixed Rate Lenders. In such event, if Borrower has not in fact made such payment, then each of the Fixed Rate Lenders severally agrees to repay to Agent forthwith on demand the amount so distributed to such Fixed Rate Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Agent, at a rate determined by Agent in accordance with prevailing banking industry practice on interbank compensation.

12.9 Other Rights and Powers of Agent

With respect to its Fixed Rate Loans made by it, Agent shall have the same rights and powers under the Operative Documents as any other Fixed Rate Lender and may exercise the same as though it were not Agent. The term “**Fixed Rate Lender**”, “**Fixed Rate Lenders**”, “**Lender**” or “**Lenders**” shall, unless otherwise expressly indicated, include Agent in its individual capacity. Agent and its Affiliates may accept deposits from, lend money to, act as trustee under indentures of, and generally engage in any kind of business with Borrower or any other Person, without any duty to account therefor to the Fixed Rate Lenders.

12.10 Amendments

- (a) Subject to the provisions of this Section 12.10(a), the Required Lenders (or Agent with the consent in writing of the Required Lenders but excluding any Non-Funding Lenders at the time such consent is required) and Borrower may enter into agreements supplemental hereto for the purpose of adding or modifying any provisions to the Financing Documents or changing in any manner the rights of the Fixed Rate Lenders or Borrower hereunder; provided, however, that no such supplemental agreement shall, without the consent of all of the Fixed Rate Lenders:
- (i) Extend the maturity of any of the Fixed Rate Loans or reduce the principal amount thereof, or reduce the rate or change the time of payment of interest due on any of the Fixed Rate Loans, including, for certainty, any amendment to the Loan Repayment Schedule except as otherwise provided for or contemplated herein; or
 - (ii) Extend the Maturity Date; or

- (iii) Increase any Fixed Rate Lender's Commitment or subject any Fixed Rate Lender to any additional obligations hereunder or under the Financing Documents; or
 - (iv) Reduce the amount of or extend the payment date for any amount due under Article 2 or Article 3; or
 - (v) Reduce or change the time or amount of payment of any fee due or payable hereunder or under any Financing Document; or
 - (vi) Reduce the percentage specified in the definitions of Required Lenders or reduce the numbers of Fixed Rate Lenders specified in the definition of Required Lenders; or
 - (vii) Permit Borrower to assign its rights under this Agreement, or
 - (viii) Amend the requirement for or the terms of the Equity Contributions; or
 - (ix) Release Collateral from the Lien of any of the Collateral Documents, release any guarantees under any of the Collateral Documents or allow release of any funds from any Account, in each case, otherwise than in accordance with the terms hereof and the other Financing Documents; or
 - (x) Amend Section 11.26, 11.29, 11.31 or this Section 12.10.
- (b) Notwithstanding Section 12.10(a), Borrower, Agent and the Fixed Rate Lenders hereby agree that they may not enter into agreements supplemental hereto for the purpose of adding or modifying any provisions to the Financing Documents or changing in any manner the rights of the Fixed Rate Lenders or Borrower hereunder, in a manner that by its terms adversely affects the rights of any Fixed Rate Lender differently from the rights of any other Fixed Rate Lender, without the prior written consent of the Required Lenders.
- (c) No amendment of any provision of this Agreement relating to Agent shall be effective without the prior written consent of Agent.
- (d) No amendment of Section 3.2 or any provision hereof that provides for the calculation of a Make Whole Amount (including for certainty any terms that are defined in Exhibit A-1 attached hereto relevant to such calculation) or any provision hereof that requires the Borrower to pay a Make Whole Amount to the Fixed Rate Lenders (including the timing of such payment) shall be effective without the prior written consent of the Fixed Rate Lenders.

12.11 General Provisions as to Payments

Agent shall promptly distribute to each Fixed Rate Lender its *pro rata* share of each payment of principal and interest payable to the Fixed Rate Lenders on the Fixed Rate Loans or fees hereunder received by Agent for the account of the Fixed Rate Lenders and of any other amounts

owing under the Fixed Rate Loans. The payments made for the account of each Fixed Rate Lender shall be made, and distributed to it, for the account of its domestic or foreign Lending Office, as each Fixed Rate Lender may designate in writing to Agent. The Fixed Rate Lenders shall have the right to alter designated Lending Offices upon written notice to Agent and Borrower.

12.12 Substitution or Buyout of Lenders

Should (i) Borrower be required to pay any additional amount to Agent, any Fixed Rate Lender or any Governmental Authority for the account of any Fixed Rate Lender pursuant to Section 3.4(d) or Section 3.6, (ii) any Fixed Rate Lender delivers a notice described in Section 3.6(a), or (iii) any Fixed Rate Lender refuses to consent to any amendment, waiver or other modification of any Financing Document requested by Borrower which requires the consent of all of the Fixed Rate Lenders (each such Fixed Rate Lender) (a “**Substitutable Lender**”), Borrower may, in its sole discretion, upon not less than thirty-five (35) days’ notice to Agent and such Substitutable Lender, either (a) repurchase and cancel such Substitutable Lender’s Fixed Rate Loan by paying in full all principal and interest owing to such Substitutable Lender under such Fixed Rate Loan (including, as applicable, any Make Whole Amount) under such Fixed Rate Loan, or (b) replace such Substitutable Lender, in which case Agent shall, at Borrower’s request, cooperate with Borrower or any other Fixed Rate Lender to find another Person (which Person may be another Fixed Rate Lender) that shall be acceptable to Agent and Borrower and that shall be willing to assume the Substitutable Lender’s obligations under this Agreement, if any. Such Person shall be substituted for the Substitutable Lender hereunder upon (x) execution and delivery by such Person to Agent and Borrower of an agreement reasonably acceptable to Agent, Borrower and Substitutable Lender assuming the Substitutable Lender’s obligations under this Agreement, if any, (y) payment to the Substitutable Lender by such Person of an amount equal to the aggregate of the outstanding principal of and accrued interest on the Fixed Rate Loans to be so assumed, and (z) payment by Borrower to the Substitutable Lender of the applicable Make Whole Amount, as applicable, and all principal, interest and fees which would otherwise be payable to the Substitutable Lender shall thereafter be payable to such Person. Upon such buyout or substitution, as the case may be, the Substitutable Lender shall no longer be a Fixed Rate Lender under this Agreement or any other Financing Document. Notwithstanding the foregoing, upon receipt by a Substitutable Lender of a notice of repayment or substitution pursuant to this Section 12.12 given as a result of the operation of Section 3.4(d) or Section 3.6, the Substitutable Lender, may, within thirty (30) days of receipt of such notice, elect by notice in writing to Borrower and Agent to waive its right to payment of additional amounts or notice delivered pursuant to Section 3.4(d) or Section 3.6, as applicable.

12.13 Participations

Nothing herein provided shall prevent any Fixed Rate Lender from selling a participation in its Fixed Rate Loans; provided that (a) no such sale of a participation shall alter such Fixed Rate Lender’s obligations hereunder and (b) any agreement pursuant to which any Fixed Rate Lender may grant a participation in its rights with respect to its Fixed Rate Loans shall provide that, with respect to such Fixed Rate Loans, such Fixed Rate Lender shall retain the sole right and responsibility to exercise the rights of such Fixed Rate Lender, and enforce the obligations of Borrower relating to such Fixed Rate Loans, including the right to approve any amendment,

modification or waiver of any provision of this Agreement or any other Financing Document and the right to take action to have the Fixed Rate Loans declared due and payable pursuant to Article 11. No recipient of a participation in any Fixed Rate Loans of any Fixed Rate Lender shall have any rights under this Agreement.

12.14 Transfer of Fixed Rate Loans

Notwithstanding anything else herein to the contrary, any Fixed Rate Lender (subject, if no Event of Default has then occurred, to the reasonable consent of Borrower), may from time to time, at its option, sell, assign, transfer, negotiate or otherwise dispose of a portion of its Fixed Rate Loans (including the Fixed Rate Lender's interest in this Agreement and the other Financing Documents) to any Eligible Assignee which in such assigning Fixed Rate Lender's reasonable judgment is reasonably capable of performing the obligations of a Fixed Rate Lender hereunder (but for greater certainty, following the occurrence of an Event of Default, such assignee is not required to be an Eligible Assignee); provided, however, that (a) no Fixed Rate Lender (including any assignee of any Fixed Rate Lender) may assign any portion of its Fixed Rate Loans of less than \$5,000,000 in original principal amount (unless to another Fixed Rate Lender) or which leaves the assigning Fixed Rate Lender with Fixed Rate Loans of less than \$5,000,000 in original principal amount after giving effect to such assignment and all previous assignments (except that a Fixed Rate Lender may be left with no Fixed Rate Loans if it assigns its entire Fixed Rate Loans); (b) no Fixed Rate Lender (including any assignee of any Fixed Rate Lender) may assign any portion of its Fixed Rate Loans to any Partner or to any Affiliate of any Partner; (c) it shall be considered reasonable for the Borrower to withhold its consent to such sale, assignment, transfer, negotiation or disposal (which shall be binding on the applicable Fixed Rate Lender(s)) if, as a result thereof, the Borrower will be required to pay such Eligible Assignee any increased costs pursuant to Section 3.6 or any increased amounts pursuant to Section 3.4(d) or if the proposed sale, assignment, transfer or disposal is to a competitor of Conifex Timber Inc.; provided that this restriction shall not apply following an Event of Default. In the event of any such assignment, (i) the applicable transferring Fixed Rate Lender will pay to Agent a processing and recordation fee of \$3,500, and (ii) the parties to such assignment shall execute and deliver to Borrower an appropriate agreement evidencing such sale, assignment, transfer or other disposition (the "**Assignment Agreement**"). Thereafter, such new Fixed Rate Lender shall be deemed a Fixed Rate Lender and shall have all the rights and duties of a Fixed Rate Lender (except as otherwise provided in this Article 12), in accordance with its Commitment, under each of the Financing Documents. Borrower shall maintain at one of its offices a copy of all Assignment Agreements delivered to it. Borrower shall also maintain a register for the recordation of the names and addresses of the Fixed Rate Lenders and the amount of their Fixed Rate Loans pursuant to the terms hereof (the "**Register**") such that all Fixed Rate Loans are registered to both principal and any stated interest. The Register shall reflect the Fixed Rate Lenders listed on Exhibit F as the initial Fixed Rate Lenders and upon receipt of the documentation described in the previous sentence, shall reflect each new Fixed Rate Lender as a Fixed Rate Lender in accordance with such Fixed Rate Lender's Proportionate Share of the Commitments. The entries in the Register shall be conclusive, and Borrower, Agent, and the Fixed Rate Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Fixed Rate Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Agent

and any Fixed Rate Lender, at any reasonable time and from time to time upon reasonable prior notice.

12.15 Response to Borrower Requests

Agent and each Fixed Rate Lender shall endeavour to act as diligently as practicable in the review of documents, the making of determinations or the consideration of requests for consents, approvals, waivers or amendments required to be reviewed, made or considered by Agent or the Fixed Rate Lenders, as the case may be, as contemplated by and in accordance with the provisions of this Agreement and the other Material Project Documents. Borrower shall provide Agent with reasonable advance written notice of the expected occurrence of any such requirements and, at the reasonable request of Borrower and to the extent required by this Agreement, Agent shall so advise the Fixed Rate Lenders. Borrower shall provide such documents and information to any Fixed Rate Lender (through Agent) as Agent may reasonably consider necessary or advisable, and shall otherwise cooperate with Agent and the Fixed Rate Lenders to permit Agent and the Fixed Rate Lenders effectively to review such documents, make such determinations or consider such requests for consents, approvals, waivers or amendments. For certainty, authorizations by the Agent that are necessary for withdrawals from the Debt Service Reserve Account, the Major Maintenance Reserve Account, the Loss Proceeds Account and the Suspense Account shall not be unreasonably withheld or delayed provided that the conditions for any such withdrawal by the Borrower have been satisfied in accordance with the terms hereof.

12.16 Non-Funding Lenders

- (a) Each Non-Funding Lender shall be required to provide to the Agent cash or Cash Equivalents in an amount, as shall be determined from time to time by the Agent in its discretion, equal to all other obligations of such Non-Funding Lender to the Agent that are owing or may become owing pursuant to this Agreement, including, without limitation, such Non-Funding Lender's obligation to pay its Proportionate Share of any indemnification or expense reimbursement amounts not paid by the Borrower. Such cash or Cash Equivalents shall be held by Agent in one or more cash collateral accounts which accounts shall be in the name of the Agent and shall not be required to be interest bearing. The Agent shall be entitled to apply the foregoing cash and Cash Equivalents in accordance with this Agreement.
- (b) Neither the Agent nor any of its Affiliates nor any of their respective officers, directors, employees, agents or representatives shall be liable to any Fixed Rate Lender (including, without limitation, a Non-Funding Lender) for any action taken or omitted to be taken by it in connection with amounts payable by the Borrower to a Non-Funding Lender and received and deposited by the Agent in a cash collateral account and applied in accordance with the provisions of this Agreement save and except for the gross negligence or wilful misconduct of the Agent as determined by a final non-appealable judgment of a court of competent jurisdiction.

- (c) The Agent shall be entitled to set off any Non-Funding Lender's Proportionate Share of all payments received from the Borrower against such Non-Funding Lender's obligations to fund payments and Advances required to be made by it and to purchase participations required to be purchased by it in each case under this Agreement and the other Financing Documents. The Agent shall be entitled to withhold and deposit in one or more non-interest bearing cash collateral accounts in the name of the Agent all amounts (whether principal, interest, fees or otherwise) received by the Agent and due to a Non-Funding Lender pursuant to this Agreement which amounts shall be used by the Agent (A) first, to reimburse the Agent for any amounts owing to it by the Non-Funding Lender pursuant to any Financing Document, (B) second, to repay any Advances made by a Fixed Rate Lender in order to fund a shortfall created by a Non-Funding Lender which repayment shall be in the form of an assignment by each such Fixed Rate Lender of such Advance to the Non-Funding Lender, (C) third, to cash collateralize all other obligations of such Non-Funding Lender to the Agent owing pursuant to this Agreement in such amount as shall be determined from time to time by the Agent in its discretion including, without limitation, such Non-Funding Lender's obligation to pay its Proportionate Share of any indemnification or expense reimbursement amounts not paid by the Borrower and (D) fourth, at the Agent's discretion, to fund from time to time the Non-Funding Lender's Proportionate Share of Advances under the Fixed Rate Loan.
- (d) For certainty, a Non-Funding Lender shall have no voting or consent rights with respect to matters under this Agreement or other Financing Documents. Accordingly, the Commitments and the aggregate unpaid principal amount of the Advances owing to any Non-Funding Lender shall be disregarded in determining Required Lenders and all Fixed Rate Lenders or all affected Fixed Rate Lenders. Notwithstanding the foregoing, should a Non-Funding Lender (i) fund all outstanding Advances that it previously failed to fund and pay all other amounts owing to the Agent, and (ii) confirm in writing to the Agent that there is no reasonable likelihood that it will subsequently again become a Non-Funding Lender, then such Fixed Rate Lender shall thereafter be entitled to vote and shall have consent rights in the same manner and fashion as if it were not a Non-Funding Lender.

ARTICLE 13 INDEPENDENT CONSULTANTS

13.1 Removal and Fees

Agent, in its reasonable discretion, may remove from time to time, any one or more of the Independent Consultants and appoint replacements reasonably acceptable to Borrower. Notice of any replacement Independent Consultant shall be given by Agent to Borrower, the Fixed Rate Lenders and to the Independent Consultant being replaced. All reasonable fees and expenses of the Independent Consultants (whether the original Independent Consultants or replacements) shall be paid by Borrower in accordance with the terms of their respective engagement; provided, however, that unless an Event of Default shall have occurred and be continuing, Agent

shall request that each such Independent Consultant provide Borrower with its proposed scope of work and proposed budget therefor prior to the commencement of work (or agree to a reasonable “fee cap” if required by Borrower), and Agent shall consult with Borrower with regard to the matters contained therein.

13.2 Duties

Each Independent Consultant shall be contractually obligated to Agent to carry out the activities required of it in this Agreement and as otherwise requested by Agent and shall be responsible solely to Agent. Borrower acknowledges that it will not have any cause of action or claim against any Independent Consultant resulting from any decision made or not made, any action taken or not taken or any advice given by such Independent Consultant in the due performance in good faith of its duties to Agent hereunder other than as a result of the gross negligence or wilful misconduct of such Independent Consultant.

13.3 Independent Consultants’ Certificates

Borrower shall provide such documents and information to the Independent Consultants as they may reasonably consider necessary in order for the Independent Consultants to deliver to Agent such other information and certification as Agent may reasonably require from time to time.

13.4 Certification of Dates

Borrower shall provide the Independent Consultants with reasonable notice of the expected occurrence of any such dates or events that would require any certificates of Independent Consultants hereunder.

ARTICLE 14 MISCELLANEOUS

14.1 Addresses

- (a) Any communications between the parties hereto or notices provided herein to be given may be given to the following addresses:

If to Agent:

IAM Infrastructure Private Debt Fund LP

Redacted.

Attention:
Facsimile:

Redacted.

If to the Fixed Rate Lenders:

IAM Infrastructure Private Debt Fund LP

Redacted.

Attention:

Redacted.

Facsimile:

and to:

La Capitale Civil Service Insurer Inc.

Redacted.

Attention:

Facsimile: _____ and to:

TELUS Pensions Master Trust

Redacted.

Attention:

Facsimile: _____

If to Borrower:

Conifex Power Limited Partnership
c/o Conifex Power Inc.
980-700 West Georgia Street
PO Box 10070
Vancouver, British Columbia
V7Y 1B6

Attention:

Redacted.

Facsimile:

With a copy to:

Conifex Power Limited Partnership
980-700 West Georgia Street
PO Box 10070
Vancouver, British Columbia
V7Y 1B6

Attention:

Redacted.

Facsimile:

And with a copy to (which shall not constitute notice):

Sangra Moller LLP
1000 Cathedral Place
1000-925 West Georgia Street
Vancouver, British Columbia
V6C 3L2

Attention: H.S. Sangra
Facsimile: (604) 669-8803

If to General Partner:

Conifex Power Inc.
980-700 West Georgia Street
PO Box 10070
Vancouver, British Columbia
V7Y 1B6

Attention: Redacted.
Facsimile:

With a copy to:

Conifex Power Inc.
980-700 West Georgia Street
PO Box 10070
Vancouver, British Columbia
V7Y 1B6

Attention: Redacted.
Facsimile:

And with a copy to (which shall not constitute notice):

Sangra Moller LLP
1000 Cathedral Place
1000-925 West Georgia Street
Vancouver, British Columbia
V6C 3L2

Attention: H.S. Sangra
Facsimile: (604) 669-8803

- (b) Except as provided in Section 14.1(c), all notices or other communications required or permitted to be given hereunder shall be in writing and shall be considered as properly given (a) if delivered in person, (b) if sent by overnight delivery service, (c) in the event overnight delivery services are not readily

available, if mailed by first class mail, postage prepaid, registered or certified with return receipt requested or (d) if sent by facsimile, confirmed by telephone. Notice so given shall be effective upon receipt by the addressee, except that communication or notice so transmitted by facsimile shall be deemed to have been validly and effectively given on the day (if a Business Day and, if not, on the next following Business Day) on which it is transmitted if transmitted before 4 p.m., recipient's time, and if transmitted after that time, on the next following Business Day; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. Any party shall have the right to change its address for notice hereunder to any other location within Canada by giving of thirty (30) days' written notice to the other parties in the manner set forth herein above.

- (c) Notices and other communications to the Fixed Rate Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Fixed Rate Lender if such Fixed Rate Lender has notified the Agent that it is incapable of receiving notices by electronic communication. The Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

14.2 Additional Security, Right to Set-Off

- (a) Any deposits or other sums at any time credited or due from Fixed Rate Lenders and any Project Revenues, securities or other property of Borrower in the possession of the Agent may at all times be treated as collateral security for the payment of the Fixed Rate Loans and all other obligations of Borrower to the Fixed Rate Lenders under this Agreement and the other Financing Documents. Regardless of the adequacy of any other collateral, the Agent and only the Agent, may execute or realize on the Agent's and Fixed Rate Lenders' security interest in any such deposits or other sums credited by or due from the Fixed Rate Lenders to Borrower, and may apply any such deposits or other sums to or set them off against Borrower's obligations to Agent and the Fixed Rate Lenders under this

Agreement and the other Financing Documents at any time after the occurrence and during the continuance of any Event of Default. This Section 14.2(a) shall in no way derogate or be interpreted to conflict with the power of attorney granted to Agent under Section 10.14.

- (b) If an Event of Default has occurred and is continuing, Agent and each Fixed Rate Lender is hereby authorized at any time and from time to time, without notice to Borrower or any other Person, to set-off and apply any and all deposits (general or special, time or demand, matured or unmatured, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by the Fixed Rate Lenders or any of them to or for the credit or the account of Borrower against any and all of the Obligations, irrespective of whether or not Agent has made any demand under this Agreement and although such Obligations may be contingent or unmatured or are owed to a branch or office of Agent or applicable Fixed Rate Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Agent and the Fixed Rate Lenders under this Section 14.2(b) are in addition to other rights and remedies (including other rights of set-off, consolidation of accounts and bankers' lien) that Agent or the Fixed Rate Lenders may have. Agent or applicable Fixed Rate Lender agrees to promptly notify Borrower after any such set-off and application, but the failure to give such notice will not affect the validity of such set-off and application. If at the time of the exercise by Agent or any Fixed Rate Lender of such right of set-off the Agent is realizing on the Security, the amounts so set-off will constitute Cash Proceeds of Realization in accordance with the terms of the Financing Documents.

14.3 Delay and Waiver

- (a) No delay or omission to exercise any right, power or remedy accruing to Agent or the Fixed Rate Lenders upon the occurrence of any Event of Default or Inchoate Default or any breach or default of Borrower under this Agreement or any other Financing Document shall impair any such right, power or remedy of Agent or the Fixed Rate Lenders, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single Event of Default, Inchoate Default or other breach or default be deemed a waiver of any other Event of Default, Inchoate Default or other breach or default theretofore or thereafter occurring. Any waiver, indulgence, permit, consent or approval of any kind or character on the part of Agent and/or the Fixed Rate Lenders of any Event of Default, Inchoate Default or other breach or default under this Agreement or any other Financing Document, or any waiver on the part of Agent and/or the Fixed Rate Lenders of any provision or condition of this Agreement or any other Financing Document, must be in a writing expressly referencing this Agreement and shall be effective only to the extent in such writing specifically set forth. All remedies, either under this Agreement or any other Financing Document or by law or otherwise afforded to Agent and the Fixed Rate Lenders, shall be cumulative and not alternative.

- (b) Any waiver of an Event of Default or Inchoate Default (other than an Event of Default occurring under Section 11.1, Section 11.5 and Section 11.7(a)) shall require the consent of the Required Lenders and any waiver of an Event of Default under Section 11.1, Section 11.5 and Section 11.7(a) shall require the consent of all of the Fixed Rate Lenders.

14.4 Costs, Expenses and Attorneys' Fees, Syndication

- (a) Borrower will pay to Agent all of its reasonable and documented costs and expenses in connection with the preparation, negotiation, closing and costs of administering this Agreement and the documents contemplated hereby and undertaking a legal due diligence review in connection therewith, including the reasonable and documented fees, expenses and disbursements of Goodmans LLP and other counsel retained by Agent in connection with the preparation of such documents and any amendments hereof or thereof, or the negotiation, closing or administration of this Agreement, and the reasonable and documented fees, expenses and disbursements of the Independent Consultants and any other engineering, insurance, environmental and construction consultants to Agent incurred in connection with this Agreement or the Fixed Rate Loans, and the travel and out-of-pocket costs incurred by Agent, whether or not the transactions contemplated by this Agreement proceed; provided, however, that Agent shall endeavour to provide Borrower, upon Borrower's reasonable request, with fee estimates of the Independent Consultants and shall consult in good faith with Borrower regarding Agent's reasonable and documented costs hereunder (provided that the foregoing shall not be deemed to modify or impair Borrower's payment obligations hereunder). Borrower will reimburse Agent and the Fixed Rate Lenders for all reasonable and documented costs and expenses, including reasonable legal fees, expended or incurred by Agent and each Fixed Rate Lender in enforcing this Agreement or the other Financing Documents in connection with an Event of Default or Inchoate Default, in actions for declaratory relief in any way related to this Agreement, in collecting any sum which becomes due to Agent or any Fixed Rate Lender under this Agreement or the other Financing Documents, or in connection with the participation by Agent, any Fixed Rate Lender or the Independent Engineer in any arbitration proceedings under any Material Project Document.
- (b) In connection with any future syndication of the Fixed Rate Loans, an information package containing certain relevant information concerning Borrower, each Partner, the Project and the other Project participants may be provided from time to time to potential Fixed Rate Lenders and participants; provided that such delivery shall comply with the provisions of Section 14.16. Borrower agrees to cooperate and to cause each Partner and each Affiliate of Borrower to cooperate in the syndication of the Fixed Rate Loans in all respects reasonably requested by Agent, including participation in a reasonable number of lender meetings held in connection with such syndication, and to provide, for inclusion in such package, all information which Agent may request from it or which Agent or Borrower

may consider material to a lender or participant, or necessary or appropriate for accurate and complete disclosure.

14.5 Attorney-In-Fact

- (a) Solely for the purpose of allowing Agent to exercise its rights and remedies provided in Article 11 following the occurrence and during the continuation of an Event of Default, Borrower hereby constitutes and appoints Agent its true and lawful attorney-in-fact, with full power of substitution, to complete any or all of the Project in the name of Borrower, and hereby empowers such attorney or attorneys as follows:
- (i) to employ such contractors, subcontractors, agents, architects and inspectors as reasonably shall be required for such purposes;
 - (ii) to pay, settle or compromise all bills and claims which are or can be reasonably expected to become Liens or security interests against any or all of the Project or the Collateral, or any part thereof, unless a bond or other security satisfactory to Agent has been provided;
 - (iii) to execute applications and certificates in the name of Borrower which reasonably may be required by the Financing Documents or any other agreement or instrument executed by or on behalf of Borrower in connection with any or all of the Project;
 - (iv) to prosecute and defend all actions or proceedings in connection with any or all of the Project or the Collateral or any part thereof and to take such action and require such performance as such attorney reasonably deems necessary under any performance and payment bond and the Financing Documents;
 - (v) to do any and every act which Borrower might do on its behalf with respect to the Collateral or any part thereof or any or all of the Project and to exercise any or all of Borrower's rights and remedies under any or all of the Material Project Documents; and
 - (vi) to use any funds contained in any Account, including without limitation the Debt Service Reserve Account, to pay interest and principal on the Fixed Rate Loans as accrued from time to time or to pay O&M Costs.
- (b) This power of attorney shall be deemed to be a power coupled with an interest and shall be irrevocable.

14.6 Entire Agreement

This Agreement and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict

between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument, the terms, conditions and provisions of this Agreement shall prevail. This Agreement and the other Financing Documents may only be amended or modified by an instrument in writing signed by Borrower, Agent and any other parties hereto and thereto and in accordance with the terms of this Agreement.

14.7 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, without prejudice to or limitation of any other rights or remedies available to Agent or the Fixed Rate Lenders (but not Borrower) under the laws of any jurisdiction where property or assets of Borrower may be found.

14.8 Severability

- (a) In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision.
- (b) If any provision of this Agreement shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Agreement.

14.9 Headings

Paragraph headings and a table of contents have been inserted in this Agreement as a matter of convenience for reference only and it is agreed that such paragraph headings are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement.

14.10 Accounting Terms

All accounting terms not specifically defined herein shall be construed in accordance with IFRS and practices consistent with those applied in the preparation of the financial statements submitted by Borrower to Agent, and (unless otherwise indicated) all financial data submitted pursuant to this Agreement shall be prepared in accordance with such principles and practices.

14.11 No Partnership, Etc.

Agent, Fixed Rate Lenders and Borrower intend that the relationship between them shall be solely that of creditor and debtor. Nothing contained in this Agreement or in any of the other Financing Documents shall be deemed or construed to create a partnership, tenancy-in-common, joint tenancy, joint venture or co-ownership by, between or among Agent, the Fixed Rate Lenders and Borrower or any other Person. Neither Agent nor the Fixed Rate Lenders shall be in any way responsible or liable for the debts, losses, obligations or duties of Borrower or any other Person with respect to the Project or otherwise. All obligations to pay real property or other

taxes, assessments, insurance premiums, and all other fees and charges arising from the ownership, operation or occupancy of the Project and to perform all obligations under the Real Property Documents and other agreements and contracts relating to the Project shall be the sole responsibility of Borrower.

14.12 Limitation on Liability

- (a) NO CLAIM SHALL BE MADE BY ANY PARTY HERETO OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS AGAINST ANY OTHER PARTY HERETO OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (WHETHER OR NOT THE CLAIM THEREFOR IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE), IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE OTHER OPERATIVE DOCUMENTS OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND EACH PARTY HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY SUCH CLAIM FOR ANY SUCH SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOUR.
- (b) The sole recourse of the Agent and the Fixed Rate Lenders for satisfaction of the Obligations shall be against the Borrower, the General Partner and the Collateral and not against any other Person; provided, however, that (i) nothing in this Section 14.12(b) shall limit or otherwise prejudice in any way the right of the Agent or the Fixed Rate Lenders to proceed against any Person with respect to the enforcement of such Person's obligations (or the enforcement of the Fixed Rate Lenders' rights) under any Financing Document to which it is a party or to exercise any rights and remedies with respect to the Collateral, and (ii) recourse against a Person for such Person's fraud or intentional misrepresentation shall not be limited by this Section 14.12(b).

14.13 Consent to Jurisdiction

- (a) Borrower irrevocably submits to the exclusive jurisdiction of the courts of the Province of British Columbia and irrevocably agrees that, at Agent's discretion, any claims, actions or proceedings in respect of the Financing Documents will be heard and determined in such courts. Borrower hereby waives, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of any such action or proceeding. The foregoing is without prejudice to the rights of Agent and the Fixed Rate Lenders to, in their discretion, bring claims, actions or proceedings in respect of the Financing Documents before any other court of competent jurisdiction.

- (b) Borrower hereby irrevocably consents to the service of any and all process in such action or proceeding by the delivery of such process to Borrower at its address provided in accordance with Section 14.1.

14.14 Interest Payments and Calculations

- (a) All interest payments to be made under this Agreement will be paid without allowance or deduction for deemed re-investment or otherwise, both before and after maturity and before and after default and/or judgment, if any, until payment of the amount on which such interest is accruing, and interest will accrue on overdue interest, if any.
- (b) Unless otherwise stated, wherever in this Agreement reference is made to a rate of interest or rate of fees "*per annum*" or a similar expression is used, such interest or fees will be calculated on the basis of a calendar year of 365 days or 366 days, as the case may be, and using the nominal rate method of calculation, and will not be calculated using the effective rate method of calculation or on any other basis that gives effect to the principle of deemed re-investment of interest.
- (c) For the purposes of the *Interest Act* (Canada) and disclosure under such act, whenever interest to be paid under this Agreement is to be calculated on the basis of a year of 365 days or 360 days or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate determined pursuant to such calculation is equivalent is the rate so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by either 365, 360 or such other period of time, as the case may be.
- (d) In calculating interest or fees payable under this Agreement for any period, unless otherwise specifically stated, the first day but not the last day of such period will be included.
- (e) Notwithstanding anything herein to the contrary, in no event will any interest rate or rates referred to herein (together with other fees payable hereunder which are construed by a court of competent jurisdiction to be interest or in the nature of interest) exceed the maximum interest rate permitted by Applicable Law. If such maximum interest rate would be exceeded by the terms hereof, the rates of interest payable hereunder will be reduced to the extent necessary so that such rates (together with other fees which are construed by a court of competent jurisdiction to be interest or in the nature of interest) equal the maximum interest rate permitted by Applicable Law, and any overpayment of interest received by Agent or the Fixed Rate Lenders theretofore will be applied, forthwith after determination of such overpayment, to pay all then outstanding interest, and thereafter to pay outstanding principal, as if the same were a prepayment of principal and treated accordingly hereunder.

14.15 Successors and Assigns

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Borrower may not assign or otherwise transfer any of its rights under this Agreement. No Fixed Rate Lender may assign, sell participations, or otherwise transfer any of its rights under this Agreement except in accordance with the terms hereof.

14.16 Confidentiality

Agent and the Fixed Rate Lenders agree to maintain the confidential nature of, and shall not use or disclose Borrower's or any of Borrower's Affiliates' financial information or confidential information identified in writing by Borrower as such without first obtaining Borrower's prior written consent; provided, that nothing in this Section 14.16 shall require Agent or any Fixed Rate Lender to obtain any consent of Borrower in connection with (and Borrower hereby authorizes Agent and each Fixed Rate Lender, acting reasonably, to freely disclose any financial information or confidential information with respect to Borrower, the Project, any Material Project Document or any Financing Document or the parties thereto without any consent of Borrower in connection with) (a) exercising any of their respective rights under the Financing Documents, including those exercisable upon the occurrence of an Event of Default; (b) providing information about Borrower, the Project, any Material Project Document or any Financing Document or the parties thereto to any other Fixed Rate Lender or prospective Fixed Rate Lender or any Person acquiring, or potentially acquiring, any interest of the Fixed Rate Lenders under this Agreement and any such Person's directors, officers, employees, agents and consultants in connection with their credit evaluation of Borrower or otherwise (if, in the case of any such Person potentially acquiring such an interest from any Fixed Rate Lender, such Person agrees to be bound by the terms of a confidentiality agreement substantially similar to this Section 14.16)); (c) any situation in which Agent or any Fixed Rate Lender is required by law or required by any Governmental Authority to disclose information but only to the extent so requested; (d) providing information to counsel to Agent or any Fixed Rate Lender in connection with the transactions contemplated by any of the Financing Documents; (e) providing information to independent auditors or other expert consultants retained by Agent or any Fixed Rate Lenders; (f) any information that is demonstrably in or becomes part of the public domain otherwise than through a wrongful act of Agent or any Fixed Rate Lender or any representatives, employees or agents thereof; (g) any information that is in the possession of Agent or any Fixed Rate Lender prior to receipt thereof from Borrower or any other Person known to Agent or the Fixed Rate Lenders to be acting on behalf of Borrower; (h) any information that is demonstrably independently developed by Agent or any Fixed Rate Lender; and (i) any information that is disclosed to Agent or any Fixed Rate Lender by a third party that has no obligation of confidentiality with respect to the information disclosed.

14.17 Counterparts

This Agreement may be executed in one or more duplicate counterparts and by facsimile, pdf or other electronic format and when signed by all of the parties listed below shall constitute a single binding agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their officers thereunto duly authorized as of the day and year first above written.

**CONFIFEX POWER LIMITED
PARTNERSHIP**, a British Columbia Limited
Partnership, by its General Partner, **CONFIFEX
POWER INC.**

Per: /s/ Yuri Lewis
Name: Yuri Lewis
Title: Corporate Secretary

Per: _____
Name:
Title:

CONFIFEX POWER INC., as General Partner

Per: /s/ Yuri Lewis
Name: Yuri Lewis
Title: Corporate Secretary

Per: _____
Name:
Title:

**IAM INFRASTRUCTURE PRIVATE DEBT
FUND LP, by its sole and general partner,
INTEGRATED PRIVATE DEBT FUND GP
INC., as Fixed Rate Lender**

Per: /s/ A. Shannon

Name: A. Shannon

Title: A.S.O.

Per: /s/ T. Shull

Name: T. Shull

Title: A.S.O.

**LA CAPITALE CIVIL SERVICE INSURER
INC., as Fixed Rate Lender**

Per: /s/ Louis Rodrique

Name: Louis Rodrique

Title: Directeur des placements privés
et des projets spéciaux

Per: /s/ Luc Meunier

Name: Luc Meunier

Title: Vice-President aux placements

**TELUS PENSIONS MASTER TRUST, acting
through its trustee CIBC Mellon Trust Company**

Per: /s/ Angela Pearce Kisinger

Name: Angela Pearce Kisinger

Title: Authorized Signatory

Per: /s/ Hilary Grimmatt

Name: Hilary Grimmatt

Title: Authorized Signatory

**IAM INFRASTRUCTURE PRIVATE DEBT
FUND LP**, by its sole and general partner,
**INTEGRATED PRIVATE DEBT FUND GP
INC.**, as Agent for the Fixed Rate Lenders

Per: /s/ A. Shannon
Name: A. Shannon
Title: A.S.O.

Per: /s/ P. S. Dobson
Name: P.S. Dobson
Title: A.S.O.

EXHIBIT A-1

DEFINITIONS

“**Account Bank**” means CIBC or another Canadian bank named in Schedule I to the *Bank Act* (Canada).

“**Accounts**” means the Revenue Account, the Loss Proceeds Account, the Operating Account, the Debt Service Reserve Account, the Fuel Supply Reserve Account, the Major Maintenance Reserve Account, the Suspense Account and the Distribution Account including any sub-accounts within such accounts.

“**Additional Material Project Documents**” means each Replacement Fuel Supply Agreement, if any, and each other agreement related to the maintenance, repair, operation or use of the Project entered into by Borrower and any other Person subsequent to the Closing Date that either (a) replaces or substitutes for an existing Material Project Document, or (b) involves the payment of contractual obligations thereunder in excess of \$250,000 in a Fiscal Year or exceed \$1,000,000 over the entire term of such agreement.

“**Advance**” means the advance of the Fixed Rate Loan to the Borrower on the Closing Date to be used in accordance with the terms hereof.

“**Affiliate**” of a specified Person means any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common Control with the Person specified, or who holds or beneficially owns twenty-five percent (25%) or more of the equity interest in the Person specified or twenty-five percent (25%) or more of any class of voting securities of the Person specified. When used with respect to Borrower, “Affiliate” shall include any Partner, and any Affiliate of any of the foregoing.

“**Agent**” means IAM Infrastructure Private Debt Fund LP, by its general partner, Integrated Private Debt Fund GP Inc., acting in its capacity as agent for the Fixed Rate Lenders hereunder, or its successor appointed pursuant to the terms hereof.

“**Agreement**” means this agreement, the schedules and all amendments made hereto in accordance with the provisions hereof as amended, revised, replaced, supplemented or restated from time to time in writing.

“**Annual Operating Budget**” has the meaning given in Section 7.8.

“**Applicable Law**” means, in respect of any Person, property, transaction, event or other matter, as applicable, all laws, rules, statutes, regulations, by-laws, treaties, ordinances, orders, judgments and decrees and all official directives, rules, guidelines, orders, decisions, policies and other requirements of any Governmental Authority, including the BLA, and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation, in each case having the force of law (collectively the “**Law**”) relating or applicable to such Person, property, transaction, event or other matter.

“**Applicable Permit**” means any Permit (including the BCUC Approval) that is necessary under Applicable Law to operate, maintain, repair, own or use the Project as contemplated by the Operative Documents, to sell electricity therefrom, to enter into any Operative Document or to consummate any transaction contemplated thereby including, without limitation, the Applicable Permits listed on Exhibit D-1 hereto.

“**Approved Letter of Credit**” means an unconditional, irrevocable, direct pay letter of credit issued to Agent (to be held by Agent so long as there are any Obligations hereunder) by any of the five largest (by assets) banks listed in Schedule I to the *Bank Act* (Canada); naming Agent on behalf of the Fixed Rate Lenders as the beneficiary and containing terms and provisions satisfactory to Agent in its sole discretion, including that such letter of credit may only be drawn upon by the holder thereof. Each such letter of credit shall be for a term of not less than 364 days, shall not require reimbursement by Borrower of any draw thereunder or payment of any fee or expense related thereto. If no agreement for the renewal or replacement of such letter of credit has been made thirty (30) days prior to the expiration thereof, Agent may draw on such letter of credit and deposit such drawing into the applicable Account.

“**As Built Plans**” means plans prepared by [REDACTED] * indicating the property lines for the Site, all other improvements on the Site, all power collection and transmission lines and all measurements necessary in order to reasonably confirm compliance with the land use requirements of any Governmental Authority. [REDACTED] * **Redacted. Confidential supplier name.**

“**Asset Sale Proceeds**” has the meaning given in Section 8.3.

“**Assignment Agreement**” has the meaning given in Section 12.14.

“**Assignment of Insurance**” has the meaning given in Section 4.1(d).

“**Average Life**” means, with respect to any Advance, the number of years (calculated to the nearest one-twelfth year) obtained by dividing (i) such Advance into (ii) the sum of the products obtained by multiplying (a) the principal component of each scheduled payment with respect to such Advance by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between the date of such Advance and the scheduled due date of such applicable scheduled payment.

“**Bare Trust and Agency Agreement**” means the bare trust and agency agreement dated May 30, 2012 between the Borrower and Mackenzie FP pursuant to which Mackenzie FP was appointed as the Borrower’s nominee, agent and bare trustee to hold legal title to the Project Lands, together with any assets or interests acquired by Mackenzie FP that become affixed to the Project Lands, for the sole benefit and account of the Borrower as principal and beneficial owner.

“**Base Case Projections**” means the projections of cash flow for the Project delivered by Borrower and approved by the Fixed Rate Lenders (in consultation with the Independent Engineer) on the Closing Date for a period ending no sooner than the date on which EPA Contract expires in accordance with the terms thereof showing at a minimum Borrower’s reasonable good faith estimates of plant performance, revenue, operating expense assumptions

and projections (including Plant Maintenance Costs), Debt Service and Debt Service Coverage Ratios over the forecast period, which projections are attached as Part I of Exhibit D-2.

“**BC Hydro**” means British Columbia Hydro and Power Authority.

“**BC Hydro Assignment and Assumption Agreement**” means the assignment and assumption agreement dated as of May 31, 2012 between the Borrower and Conifex GP pursuant to which Conifex GP assigned all of its rights and obligations under each of the EPA Contract, the LDA and the [redacted] * to the Borrower and the Borrower assumed such rights and obligations.

*Redacted. Confidential supplier agreement.

Definition redacted. Confidential supplier agreement.

“**BCUC**” means the British Columbia Utilities Commission.

“**BCUC Approval**” means BCUC order number G-40-12 dated March 29, 2012 pursuant to which BCUC ordered that the EPA Contract is in the public interest and accepted the EPA Contract for filing pursuant to Section 71 of the *Utilities Commission Act* (British Columbia).

“**BLA**” means the *Builders Lien Act* (British Columbia).

“**Blocked Account Agreement**” means that certain blocked account agreement between Borrower, Agent and the Account Bank, respecting each Account, in form and substance satisfactory to Agent and the Fixed Rate Lenders.

“**Blocked Accounts**” means the “Blocked Accounts” as defined in the Blocked Account Agreement.

“**Boiler**” means the boiler installed on the Site, together with all associated ancillary equipment and all upgrades thereto.

“**Borrower**” means Conifex Power Limited Partnership, a limited partnership formed under the laws of the Province of British Columbia.

“**Borrower Assignment of Material Project Documents**” has the meaning given in Section 4.1(c).

“**Borrower’s Advance Verification Certificate**” means a certificate of Borrower delivered to Agent and the Independent Engineer substantially in the form of Exhibit C-4.

“**Borrower’s Insurance Broker**” means Marsh Canada Limited or such other reputable insurance broker chosen by Borrower (and identified to Agent) to replace the then-current insurance broker.

“**Business Day**” means any day other than a Saturday or Sunday or other day on which banks are authorized to be closed for business in Vancouver, British Columbia, Toronto, Ontario or Montreal, Québec.

“**Called Principal**” means, for purposes of determining the Make Whole Amount, the principal amount of the Fixed Rate Loan that is to be reduced, cancelled or prepaid or that has become or is declared to be immediately due and payable before its due date. The Called Principal for a prepayment contemplated under Section 3.2 will be the principal amount of the Fixed Rate Loans to be prepaid.

“**Canadian Dollars**” and “**\$**” means Canadian dollars or such coin or currency of Canada as at the time of payment shall be legal tender for the payment of public and private debts in Canada.

“**Canadian Resident Lender**” means, in respect of a particular Fixed Rate Loan, (i) a Fixed Rate Lender which holds such Fixed Rate Loan and which is resident in Canada for the purposes of the *Income Tax Act* (Canada), and (ii) a Fixed Rate Lender which is an “authorized foreign bank”, as defined in Section 2 of the *Bank Act* (Canada) and in Section 248(1) of the *Income Tax Act* (Canada), which holds the Fixed Rate Loan as part of its “Canadian banking business”, as defined in subsection 248(1) of the *Income Tax Act* (Canada).

“**Capital Adequacy Requirement**” has the meaning given in Section 3.6(c).

“**Capital Lease**” means a lease which is required to be treated as a capital lease under IFRS.

“**Cash Equivalents**” means:

- (a) marketable direct obligations issued by, or unconditionally guaranteed by, the government of Canada or the government of the United States or any agency or instrumentality of either of them, and backed by the full faith and credit of Canada or the United States, as the case may be, in each case maturing within one year from the date of acquisition;
- (b) demand deposits, term deposits, certificates of deposit or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any commercial bank organized under the laws of Canada or the United States or any state thereof whose long term debt is rated at least A or the equivalent thereof by S&P or at least A2 or the equivalent thereof by Moody's; and
- (c) commercial paper of an issuer rated at least A-1+ or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's or at least R-1 (High) or the equivalent thereof by DBRS, and in each case maturing within six months from the date of acquisition.

“**Cash Proceeds of Realization**” means the aggregate of (i) any cash obtained by way of set off by the Agent or any Fixed Rate Lender (ii) all Proceeds of Realization in the form of cash and (iii) all cash proceeds of the sale or disposition of non-cash Proceeds of Realization.

“**Change of Control**” means the consummation of any transaction or series of related transactions (including, without limitation, any merger or consolidation) the result of which is that the Sponsor ceases to Control the Borrower.

“**Change of Law**” has the meaning given in Section 3.6(a).

“**CIBC**” means Canadian Imperial Bank of Commerce.

“**CIBC Cash Collateral Account**” means the “Cash Collateral Account” as defined in the CIBC Letter of Credit Reimbursement and Security Agreement.

“**CIBC Cash Collateral**” means the “Account Collateral” as defined in the CIBC Letter of Credit Reimbursement and Security Agreement on the date hereof.

“**CIBC Estoppel and Intercreditor Agreement**” means the estoppel and intercreditor agreement dated the date hereof among Agent, CIBC and Borrower.

“**CIBC Letter of Credit Documents**” means the CIBC Letter of Credit Reimbursement and Security Agreement and the CIBC Estoppel and Intercreditor Agreement.

“**CIBC Letter of Credit Reserve Amount**” means, at any time, 105% of the sum of the face amounts of each of the EPA Letter of Credit, the LDA Letter of Credit and any other letter of credit permitted to be issued by Agent under the CIBC Letter of Credit Reimbursement and Security Agreement at such time.

“**CIBC Letter of Credit Reserve Amount Shortfall**” means, at any time, an amount greater than zero equal to the CIBC Letter of Credit Reserve Amount less any amounts held in the CIBC Cash Collateral Account, at such time.

“**CIBC Letter of Credit Reimbursement and Security Agreement**” means the letter of credit reimbursement agreement dated the date hereof between CIBC, as agent and Borrower.

“**Closing Date**” means the date when each of the conditions precedent listed in Section 5.1 has been satisfied (or waived in writing by Agent on instruction of all of the Fixed Rate Lenders).

Definition Redacted. Confidential supplier agreement.

“**Collateral**” means all real and personal property (and the rents, Insurance Proceeds, issues, profits, proceeds and products of the foregoing) which are subject, or are intended or required to become subject, to the security interests or Liens granted under any of the Collateral Documents.

“**Collateral Documents**” means the General Security Agreements, the Real Property Security Documents, the Limited Recourse Guarantees, the Sponsor Guarantee, the Securities Pledge Agreements, the Blocked Account Agreement, the Borrower Assignment of Material Project Documents, the GP Assignment of Material Project Documents, the Assignment of Insurance, the Consents, any Approved Letter of Credit delivered hereunder and any other mortgage,

security document, financing statement and the like filed or recorded in connection with the foregoing.

“**Commercial Operation**” has the meaning given in the EPA Contract.

“**Commercial Operation Date**” has the meaning given in the EPA Contract.

“**Commitment**” means, in respect of each Fixed Rate Lender with respect to a the Fixed Rate Loan, the amount specified with respect to such Fixed Rate Lender in Exhibit F.

“**Commitment Fees**” has the meaning given in Section 3.3(a).

“**Conifex GP**” means Conifex Power Inc., a corporation incorporated under the laws of British Columbia.

“**Consents**” means, collectively, (i) the consent and acknowledgement agreements by and among Borrower, Agent and each Major Project Participant, in a form and in substance satisfactory to the Fixed Rate Lenders (or the Required Lenders in respect of any Material Project Document entered into after the Closing Date), acting reasonably, granting the Agent rights in respect of each Material Project Document (other than the Partnership Agreement) and (ii) the consent and acknowledgement agreements by and among the Borrower, the Agent and each third party to a Real Property Document (other than the Bare Trust and Agency Agreement) in a form and substance satisfactory to the Fixed Rate Lenders (or the Required Lenders in respect of any Real Property Document entered into after the Closing Date), acting reasonably granting the Agent rights in respect of each Real Property Document.

“**Control**” means the power, directly or indirectly to (a) vote 50% or more of securities having ordinary voting power for the election of directors (or persons performing similar functions) of a Person or, and to be entitled to more than 50% of the distributions from such Person, and (b) direct or cause the direction of the management and policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms “Controlling”, “Controlled by”, and “under common Control with” have meanings correlative thereto.

“**Credit Event**” means the Closing Date and any other advance of funds hereunder by Agent or the Fixed Rate Lenders, including, without limitation, any Protective Advances.

“**Cure Period**” means either:

- (a) if a Consent has been obtained in respect of a Material Project Document and such Consent provides the Agent with a cure period in respect of such Material Project Document in excess of the cure period provided to Borrower under the terms of such Material Project Document, the cure period provided to the Borrower under such Material Project Document, as such cure period provided to Borrower under such Material Project Document may be extended from time to time only if the terms of such Consent provide that the cure period made available to the Agent under such Consent commences following the expiry of any extended cure period granted to the Borrower under such Material Project Document; or

- (b) (x) if no Consent has been obtained in respect of a Material Project Document, one-half of the cure period provided to the Borrower under such Material Project Document or (y) if a Consent has been obtained in respect of a Material Project Document but the cure period provided to the Agent under such Consent is not in excess of the cure period provided to Borrower under the terms of such Material Project Document, one-half of the cure period provided to the Borrower under such Material Project Document, as such cure period provided to Borrower under such Material Project Document may be extended from time to time, only if the terms of such Consent provide that the cure period made available to the Agent under such Consent commences following the expiry of such extended cure period granted to the Borrower under any Material Project Document, provided that in case of either (x) or (y) of this subsection (b) and to the reasonable satisfaction of the Agent, (i) the Borrower is working diligently and in good faith to remedy the event giving rise to the default under such Material Project Document and (ii) such default could reasonably be expected to be cured by the Borrower prior to the expiry of cure period provided to the Borrower under Material Project Document, then for the purposes of such Material Project Document, the cure period shall be the full cure period provided to the Borrower under such Material Project Document.

“**DBRS**” means DBRS Limited and its successors and assigns.

“**Debentures**” means (i) the debenture of Borrower to be granted by the General Partner to the Agent in the principal amount of \$175,000,000 and (ii) the debenture of Mackenzie FP to be granted by Mackenzie FP to the Agent in the principal amount of \$175,000,000, in each case, in form and substance satisfactory to Agent and the Fixed Rate Lenders.

“**Debt**” of any Person at any date means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person under Capital Leases (e) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property), (f) all deferred obligations of such Person to reimburse any bank or other Person in respect of amounts paid or advanced under a letter of credit or other similar instrument, (g) all debt of others secured by a Lien on any asset of such Person, whether or not such debt is assumed by such Person, and (h) all debt of others guaranteed directly or indirectly by such person or as to which such person has an obligation substantially the economic equivalent of a guarantee.

“**Debt Service**” means for Borrower and for any period, all obligations for principal, interest payments and any periodic fees, expenses or other charges due in respect of all Senior Debt payable by Borrower in such period (for greater certainty, including up-front fees on the Fixed Rate Loans and fees paid with respect to letters of credit) and shall also include any assumed principal payments beyond the term of the Fixed Rate Loan.

“**Debt Service Coverage Ratio**” or “**DSCR**” means for any consecutive twelve month period specified herein the ratio of Operating Income for such period to Debt Service for such period.

For greater certainty, the calculation of the Debt Service Coverage Ratio at any time shall exclude all Equity Contributions and all Voluntary Equity Contributions.

“**Debt Service Reserve Account**” has the meaning given in Section 10.3(a).

“**Debt Service Reserve Requirement**” means, at any time, an amount equal to the next six-month’s forecasted interest and principal payments on the Fixed Rate Loans.

“**Default Notice**” has the meaning given in Section 7.4.

*Redacted. Confidential interest

“**Default Rate**” means the Fixed Rate Loan Interest Rate * per annum.

“**Development Variance Permit**” means the development variance permit issued to the Sponsor on August 31, 2013 by the District of MacKenzie.

“**Distribution**” means in respect of any Person, (a) any dividend, return of capital or other distribution on capital stock of such Person, (b) the purchase, redemption or retirement amount of any capital stock of the Person redeemed or purchased by the Person, (c) any payment made on, under or in respect of any Debt of the Person, including interest, sinking fund or any like payment, and (d) any payment made in respect of any management, consulting or similar fee or any bonus payment or comparable payment, or gift or other gratuity, to any Affiliate of such Person or to any director or officer of such Person or Affiliate of such Person, or to any Person not dealing at arm’s length with such first Person or Affiliate, director or officer including without limitation the distributions contemplated by Section 10.7 hereof.

“**Distribution Account**” has the meaning given in Section 10.7.

“**Distributable Cash**” means the amount, determined on a Distribution Date, of cash in the Revenue Account in excess of the amounts applied pursuant to Section 10.1(b)(i) through Section 10.1(b)(viii) hereof.

“**Distributable Cash Certificate**” has the meaning given in Section 7.11.

“**Distribution Conditions**” means the following:

- (i) the certificate delivered pursuant to Section 7.5(b) shall demonstrate to the satisfaction of Agent acting reasonably, that Borrower achieved (as at the most recently completed Fiscal Quarter) at least a 1.20:1 historic annual and quarterly Debt Service Coverage Ratio over the immediately preceding twelve (12) month period;
- (ii) full funding of each Account required in accordance with the terms hereof including the Debt Service Reserve Account, the Major Maintenance Reserve Account and the Fuel Supply Reserve Account;
- (iii) an Inchoate Default or Event of Default has not occurred and is continuing or would not result from a distribution;

- (iv) all representations and warranties in Article 6 of the Credit Agreement are true and correct in all material respects as of the proposed Distribution Date;
- (v) the Fuel Supply Reserve Account has been fully funded with the Fuel Supply Reserve Amount; and
- (vi) the CIBC Cash Collateral Account has been fully funded with the CIBC Letter of Credit Reserve Amount.

“**Distribution Date**” means the four dates per year occurring within thirty (30) days after each Repayment Date.

“**Drawdown Certificate**” means a drawdown certificate in the form attached hereto as Exhibit B-1.

“**DSR LC**” means an Approved Letter of Credit in the amount of up to \$3,507,289 (or such lesser amount as agreed to in writing by Agent and the Fixed Rate Lenders) for the purpose of securing the funding of the Debt Service Reserve Account in accordance with Section 10.3 hereof.

“**Easements**” means the agreements, deeds and instruments creating privileges, interests, rights of way, easements and rights in the nature of easements granted to Borrower for purposes, related to, *inter alia*, the development, maintenance or operation of the Project, including, without limitation, the agreements, deeds and instruments described on Part II of Exhibit D-6.

“**EDC**” means Export Development Canada.

“**EDC Certificate of Cover**” means the account performance security guarantee (account PSG) certificate of cover issued October 12, 2018 referencing Account PSG No. 69187 in the maximum amount of \$7,300,000 for the Account PSG Validity Period (as defined in the EDC General Terms and Conditions) from October 12, 2018 to October 31, 2019 naming Borrower as the “Customer” therein, subject to the EDC General Terms and Conditions executed by EDC.

“**EDC Confirmation**” means a “Confirmation” (as defined in the EDC General Terms and Conditions) issued by EDC with respect to Account

*	*Redacted. Confidential financial information.
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“**EDC Documents**” means the EDC Certificate of Cover, the EDC General Terms and Conditions, any EDC Request for Cover, any EDC Confirmation, the EDC Indemnity Agreement and the EDC Letter of Offer.

“**EDC General Terms and Conditions**” means the General Terms and Conditions Form No.

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 of EDC’s account performance security guarantee, attached to the EDC Letter of Offer.

*Redacted. Confidential financial information.
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“**EDC Guarantee**” means the account performance security guarantee of EDC to CIBC made pursuant to the EDC Guarantee Documents in respect of draws made on confirmed letters of credit including, as of the Closing Date, the EPA Letter of Credit and the LDA Letter of Credit.

“EDC Indemnity Agreement” means the bonding products declaration and indemnity agreement dated September 20, 2018 executed by Borrower and Conifex GP in favour of EDC.

“EDC Letter of Offer” means the letter of offer dated October 12, 2018 with respect to Account [Redacted] * [Redacted] pertaining to Borrower as “Customer” executed by EDC and accepted by CIBC on [Redacted], 2018. [Redacted] *Redacted. Confidential financial information.

“EDC Request for Cover” means a “Request for Cover” (as defined in the EDC General Terms and Conditions) made by CIBC with respect to EDC Account [Redacted] * [Redacted] *Redacted. Confidential financial information.

“Eligible Assignee” means (a) another Fixed Rate Lender, (b) with respect to any Fixed Rate Lender, any Affiliate of that Fixed Rate Lender, or (c) any commercial bank, trust company, savings bank, savings and loan association or similar financial institution, insurance company or other financial institution (including a mutual fund or other fund) which, in any case (A) has senior, unsecured, non-credit enhanced, long term debt rated at least A3, A- or A-Low by at least two of Moody’s, S&P and DBRS, respectively, (B) is an “accredited investor” (as such term is defined in National Instrument 45-106-Prospectus and Registration Exemptions), and (C) is engaged in the business of lending money and extending credit under credit facilities substantially similar to those extended under this Agreement; provided in each case the Fixed Rate Lender satisfies the eligibility requirements as a Canadian Resident Lender.

“EMA” means *Environmental Management Act* (British Columbia).

“Eminent Domain Proceeds” has the meaning given in Section 10.12.

“Enforcement Proceedings” means either (a) any actions by a Person to enforce or otherwise exercise any rights or remedies provided for in any Financing Document (other than the Collateral Documents) or (b) any actions by a Person to obtain a judgment, execution, writ of seizure and sale, sequestration or decree for the payment of money due.

“Environmental Claim” means any and all administrative, regulatory, judicial or other actions, suits, demands, decrees, claims, Liens, judgments, warning notices, directions, notices of non-compliance or violation, investigations, proceedings, removal or remedial actions or orders, whether actual or contingent, relating in any way to any Hazardous Substances Law, any Release of, or exposure to, Hazardous Substances or any Permit issued under any such Hazardous Substances Law (including any liability for damages, fines, penalties or indemnities) (hereafter in this definition **“Claims”**), including (a) any and all Claims by Governmental Authorities for enforcement, clean-up, removal, response, remedial or other actions or damages pursuant to any applicable Hazardous Substances Law, and (b) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief relating to Hazardous Substances or arising from alleged injury or threat of injury to health, safety or the environment.

“EPA Contract” means the electricity purchase agreement dated as of June 10, 2011 between BC Hydro and Conifex GP, as amended by amendment agreement No. 1 dated as of October 5, 2011, as amended by a letter agreement dated January 6, 2012, [Redacted] *Redacted. [Redacted] and as assigned to the Borrower by Conifex GP pursuant to the BC Hydro [Redacted] *Redacted.

[Redacted] *Redacted. Confidential supplier agreement.

Assignment and Assumption Agreement, as such agreement may be further amended, restated, modified or supplemented pursuant to the terms hereof.

“EPA Contract Performance Security” means collectively (i) the performance security required to be provided to BC Hydro pursuant to Section 14.1 of the EPA Contract, and (ii) such other security required to be delivered in favour of BC Hydro in accordance with the provisions of the EPA Contract.

“EPA Contract Performance Security Obligations” means the obligation of the Borrower to provide the EPA Contract Performance Security.

“EPA Letter of Credit” means the letter of credit Redacted. with BC Hydro named as the beneficiary, in the face amount of Redacted. delivered to BC Hydro by Borrower pursuant to the EPA Contract to support the obligations of the Borrower to provide the EPA Contract Performance Security, as amended from time to time pursuant to the terms of the EPA Contract and the terms hereof.

“EPA Trigger Date” means the date that is the eighteenth anniversary of the Commercial Operation Date.

“Equipment Lease” means the equipment lease agreement between the Borrower and Mackenzie FP dated August 29, 2013, as amended by an amending agreement dated as of November 25, 2013, as such agreement may be further amended, restated, modified or supplemented in accordance with the terms hereof.

“Equity Contribution” means the capital contributions made by the Sponsor or any Partner to the Borrower from time to time by way of equity, including any Voluntary Equity Contributions.

“Event of Default” and **“Events of Default”** have the meanings given in Article 11.

“Event of Eminent Domain” means any compulsory transfer or taking by condemnation, expropriation, eminent domain or exercise of a similar power, or transfer under threat of such compulsory transfer or taking, of any part of the Collateral, by any agency, department, authority, commission, board, instrumentality or political subdivision of the Province of British Columbia or Canada or another Governmental Authority having jurisdiction.

“Excluded Asset Sale Proceeds” has the meaning given in Section 3.2(f).

“Excluded Taxes” means any Taxes now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including by Canada or any political subdivision of Canada or by the jurisdiction under the laws of which the recipient is organized or in which its principal office is located or in which its applicable lending office is located, on Agent or any Fixed Rate Lender as a result of Agent or such Fixed Rate Lender (i) carrying on or having carried on a trade or business in Canada or such other applicable jurisdiction, or being or having been deemed to do so, or having a permanent establishment in Canada or such other applicable jurisdiction; (ii) being or having been organized under the laws of Canada or any political subdivision of Canada or such other applicable jurisdiction; (iii) being or having been resident or deemed to be resident in Canada or such other applicable jurisdiction for income tax purposes; or

(iv) not dealing at Arm's Length with Borrower or any other Fixed Rate Lender; but does not include any sales, goods or services tax payable under the laws of Canada or any political subdivision of Canada with respect to any goods or services made available by a Fixed Rate Lender to Borrower under this Agreement.

"Existing Credit Facilities" means the credit facilities made available to Borrower under the Credit Agreement among, *inter alios*, Borrower, General Partner, CIBC, as Agent and Fixed Rate Lender, Export Development Canada and Business Development Bank of Canada, as Fixed Rate Lenders and Integrated Private Debt Fund IV, L.P., by its general partner, Integrated Private Debt Fund GP Inc. as of November 27, 2013.

"Final Completion" means, with respect to the Project, that "Final Completion" as defined under the amended and restated construction services agreement dated July 9, 2013 between JVD Installations Inc. and the Borrower, as further amended by two change orders each dated November 4, 2013.

"Financing Documents" means this Agreement, the Collateral Documents and any other documents, agreements or instruments entered into in connection with any of the foregoing, but for certainty excluding the Material Project Documents.

"Fiscal Quarter" means each fiscal quarter of the Borrower or the General Partner, as applicable, ending on September 30, December 31, March 31 and June 30.

"Fiscal Year" means each fiscal year of the Borrower or the General Partner, as applicable, ending on December 31 of each year.

"First Nations" means any Indian or Indian Band (as those terms are defined in the *Indian Act* (Canada)), First Nation person or people, Inuit person or people, Métis person or people, aboriginal person or people, native person or people, indigenous person or people, any person or group asserting or otherwise claiming an Aboriginal or treaty right, including Aboriginal title, or any other Aboriginal interest, and any person or group representing, or purporting to represent, any of the foregoing.

"First Nations Claims" means any actual or threatened civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim, assertion or demand resulting therefrom or any other claim arising under Applicable Law or demand of whatever nature or kind, whether proven or unproven, made by any First Nations.

"Fixed Rate Lenders" means IAM Infrastructure Private Debt Fund LP, each other Fixed Rate Lender from time to time party to this Agreement and each of their respective successors or permitted assigns.

"Fixed Rate Loan" has the meaning given in Section 2.1. References to the "Fixed Rate Loan" with respect to any one Fixed Rate Lender shall mean such Fixed Rate Lender's Proportionate Share of the Fixed Rate Loan.

"Fixed Rate Loan Commitment" means an amount equal to \$70,000,000.

“**Fixed Rate Loan Interest Rate**” has the meaning given in Section 2.2.

“**Force Majeure**” means any act of God, strike, walkout or other industrial disturbance, act of public enemies, act or threat of terrorism, war, blockade, insurrection, riot, epidemic, land slide, lightning, earthquake, fire, explosion, mechanical failure, storm, flood, washout, nuclear and radiation activity, inability to obtain materials, order, restraint, or prohibition by any Governmental Authority within whose jurisdiction construction of the Project is to be performed, Applicable Laws, orders, injunctions, prohibitions or directions of any court of competent jurisdiction, and without limitation, any arrest and restraint of rulers and people, civil disturbance, including environmental protests, explosions, and any other causes (except financial) not within the control of Borrower, so far as it is affected by such cause and by the exercise of due diligence, Borrower was not able to avoid or overcome and shall include any other event of force majeure under the Material Projects Documents.

“**Fuel**” has the meaning given to such term in the Fuel Supply Agreement.

“**Fuel Plan**” means the plan for the delivery of Fuel pursuant to the Fuel Supply Agreement as described therein, all as set forth in Exhibit D-5, as such plan may be amended from time to time.

“**Fuel Supply Agreement**” means (i) as at the Closing Date, the fuel supply agreement dated August 14, 2013 between Mackenzie FP and the Borrower, as amended by an amending agreement dated as of November 25, 2013 as such agreement may be amended, restated, modified or supplemented in accordance with the terms hereof, and (ii) if applicable, following the Closing Date, each Replacement Fuel Supply Agreement.

“**Fuel Supply Agreement Guarantee**” means the guarantee provided by the Sponsor dated as of October 17, 2013 in favour of the Borrower in respect of the obligations of Mackenzie FP under the Fuel Supply Agreement.

“**Fuel Supply Consultant**” means Redacted. Confidential Supplier name. or its successor appointed pursuant to Section 13.1.

“**Fuel Supply Payment**” means a payment by Borrower or Agent to purchase Fuel necessary for the operation of the Project in excess of the amounts payable by Borrower under the Fuel Supply Agreement.

“**Fuel Supply Report**” means the report prepared and delivered by the Fuel Supply Consultant on the Closing Date with respect to the availability of Fuel to the Project, in form and substance satisfactory to the Fixed Rate Lenders.

“**Fuel Supply Reserve Account**” has the meaning given to it in Section 10.9(a).

“**Fuel Supply Reserve Amount**” means Redacted.

“**General Partner**” means Conifex GP and any subsequent transferee pursuant to a Permitted Transfer.

“General Partner Shareholders” means the Sponsor and any Person which, from time to time, becomes a shareholder of the General Partner pursuant to a Permitted Transfer and **“General Partner Shareholder”** means each such Person.

“General Security Agreements” means collectively, the general security agreement to be made by each of the Borrower and the General Partner in favour of the Agent pursuant to which each such Person, as applicable, shall, *inter alia*, grant a security interest in substantially all of its present and after-acquired property and each a **“General Security Agreement”**, with each such agreement in form and substance satisfactory to the Fixed Rate Lenders.

“Governmental Authority” means any federal, provincial, regional, municipal or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including any zoning authority, any central bank or any comparable authority), or any arbitrator with authority to bind a party at law.

“Government of Canada Bond Yield” means, on the date of calculation, the yield to maturity, calculated on such date (on a compounded quarterly equivalent basis), which a non-callable Government of Canada bond would earn if issued on such date in Canadian dollars in Canada at 100% of its principal amount with a term to maturity approximately equal to Average Life to maturity of the Fixed Rate Loan.

“Governmental Rule” means any law, rule, regulation, ordinance, order, code interpretation, determination, judgment, decree, directive, policy or similar form of decision of any Governmental Authority including for greater certainty Basel III and Dodd-Frank Wall Street Reform and Consumer Protection Act.

“GP Assignment of Material Project Documents” has the meaning in Section 4.1(e).

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

“Hazardous Substance” means any substance, matter, pollutant or contaminant, as defined or regulated under any Hazardous Substances Law, the Release of which could cause harm or damage to or impairment of the environment or risk human health or safety or property including, but not limited to, noise, hazardous materials, vibrations, radiation, petroleum products, asbestos, polychlorinated biphenyls and radioactive materials.

“Hazardous Substances Law” means Applicable Laws, Applicable Permits and Legal Requirements relating to environmental or occupational health and safety matters and the assets and undertaking of Borrower and the intended uses thereof in connection with such matters, including but not limited to, all such requirements relating to: (a) the protection, preservation or remediation of the environment (including all components of the earth, air, all layers of the atmosphere, property, soils, water, ground water, organic and inorganic matters, living species and organisms or any combination of any of the above or the general environment); (b) generation, handling, treatment, storage, disposal or transportation of Hazardous Substances; (c) occupational or public safety and health; and (d) Hazardous Substances.

“Hedge Arrangement” means, with respect to Borrower, any arrangement or transaction between Borrower and any other Person that is a rate swap transaction, basis swap, forward rate transaction, commodity swap, interest rate option, forward foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap, transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of such transactions or arrangements) designed to protect or mitigate against risks in interest, currency exchange or commodity price fluctuations.

“IFRS” means International Financial Reporting Standards adopted by the International Accounting Standards Board, as in effect from time to time.

“Inchoate Default” means any occurrence, circumstance or event, or any combination thereof, which, with the lapse of time, the giving of notice or both, would constitute an Event of Default.

“Indemnified Taxes” means Taxes payable by Agent or any Fixed Rate Lender other than Excluded Taxes.

“Indemnitees” has the meaning given in Section 7.25(a).

“Independent Consultants” means, collectively, the Insurance Consultant, the Independent Engineer, the Fuel Supply Consultant and any of their successors appointed pursuant to Section 13.1.

“Independent Engineer” means Redacted. Confidential Supplier name. or its successor appointed pursuant to Section 13.1.

“Initial Repayment Date” means December 15, 2018.

“Insolvency Law” means any of the Companies Creditors Arrangement Act (Canada), the Bankruptcy and Insolvency Act (Canada) or the Winding-Up and Restructuring Act (Canada), any applicable federal or provincial law affecting creditors’ rights generally or any arrangement provisions under applicable federal or provincial corporate legislation.

“Insurance Consultant” means Redacted. Confidential Supplier name. or its successor appointed pursuant to Section 13.1.

“Insurance Proceeds” has the meaning given in Section 10.11.

“Inter-Company Debt” means Debt of an Obligor provided by another Obligor (or any Affiliate thereof).

“Interconnection Agreement” means the standard generator interconnection agreement dated as of July 3, 2012 between BC Hydro and the Borrower, as amended by an amending agreement dated as of July 3, 2012, as such agreement may be further amended, restated, modified or supplemented in accordance with the terms hereof.

“Interconnection Agreement Performance Security” means collectively, (i) the performance security required to be provided to BC Hydro pursuant to Section 8.5 of the Interconnection

Agreement and (ii) such other security required to be delivered to BC Hydro in accordance with the provisions of the Interconnection Agreement.

“Interest Differential” means [redacted] *
*
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***Redacted. Confidential interest rate calculation.**

“Interest Period” means with respect to the Fixed Rate Loan, the period commencing on the Closing Date and terminating on the earlier of (x) the date on which such Fixed Rate Loan is repaid in full in accordance with the terms hereof and (y) the Maturity Date; provided that in any case the last day of each Interest Period will be also the first day of the next Interest Period and further provided that the last day of each Interest Period will be a Business Day. If the last day of an Interest Period selected by Borrower is not a Business Day, Borrower will be deemed to have selected an Interest Period the last day of which is the Business Day next following the last day of the Interest Period otherwise selected unless such next following Business Day falls in the next calendar month in which event Borrower will be deemed to have selected an Interest Period the last day of which is the Business Day next preceding the last day of the Interest Period otherwise selected and further provided that the last Interest Period will expire on or prior to the Maturity Date.

“LDA” means the load displacement agreement dated as of June 10, 2011 among BC Hydro, Mackenzie FP, the Sponsor and Conifex GP, as assigned to the Borrower pursuant to the BC Hydro Assignment and Assumption Agreement as amended by the [redacted] * and as such agreement may be further amended, restated, modified or supplemented pursuant to the terms hereof. ***Redacted. Confidential Supplier Agreements.**

“LDA Incentive Payment” [redacted] *
***Redacted. Confidential financial information.**

“LDA Incentive Repayment” means any repayment required to be made by the Borrower to BC Hydro of any amount of the LDA Incentive Payments pursuant to Section 10 of the LDA.

“LDA Letter of Credit” means the letter of credit [redacted] * with BC Hydro named as beneficiary, in the original face amount of [redacted] * delivered to BC Hydro by Borrower pursuant to the LDA to support the obligations of the Borrower to provide the LDA Performance Security, as amended from time to time pursuant to the terms of the LDA and the terms hereof.

***Redacted. Confidential financial information.**

“LDA Performance Security” means collectively (i) the performance security required to be provided to BC Hydro pursuant to Section 3.1(d) of the LDA and (ii) such other security required to be delivered in favour of BC Hydro in accordance with the provisions of the LDA.

“Legal Requirements” means, as to any Person, the articles of incorporation, bylaws or other organizational or governing documents of such Person, and any Applicable Laws, any requirement under a Permit, and any Governmental Rule in each case applicable to or binding

upon such Person or any of its properties or to which such Person or any of its property is subject.

“**Lender**” or “**Lenders**” means the Fixed Rate Lender or the Fixed Rate Lenders for the purposes of this Agreement and the other Financing Documents.

“**Lender-Related Distress Event**” means, with respect to any Fixed Rate Lender or any Person that directly or indirectly controls such Fixed Rate Lender (each, a “**Distressed Person**”), a voluntary or involuntary case with respect to such Distressed Person under any Insolvency Laws or a custodian, conservator, receiver or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person’s assets, or such Distressed Person is subject to a forced liquidation, merger, sale or other change of control supported in whole or in part by guaranties or other support (including, without limitation, the nationalization or assumption of ownership or operating control by the government of Canada, the United States or other Governmental Authority), or such Distressed Person makes a general assignment for the benefit of its creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Person or its assets to be, insolvent, bankrupt, or deficient in meeting any capital adequacy or liquidity standard of any such governmental authority.

“**Lending Office**” means with respect to any Fixed Rate Lender, the office designated as such beneath the name of such Fixed Rate Lender on Exhibit E or such other office of such Fixed Rate Lender as such Fixed Rate Lender may specify in writing from time to time to Agent and Borrower.

“**Lien**” on any asset means any mortgage, deed of trust, hypothec, lien, pledge, charge, security interest, restrictive covenant or easement or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected or effective under Applicable Law, or any preference, priority or preferential arrangement of any kind or nature whatsoever intended as security including the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

“**Limited Partners**” means each limited partner of the Borrower from time to time including on the date hereof Mackenzie FP, Sponsor and Conifex GP and any subsequent transferee pursuant to a Permitted Transfer.

“**Limited Recourse Guarantee**” means a guarantee of the obligations of Borrower in favour of the Agent given by Mackenzie FP and the General Partner Shareholder, recourse in respect of which is limited to Collateral by it charged pursuant to the Collateral Documents to which it is a party, in form and substance satisfactory to the Fixed Rate Lenders.

“**Loan Repayment Schedule**” means the schedule attached hereto from time to time pursuant to Section 3.2(i) as Exhibit D-3 showing the projected amortization of the Fixed Rate Loan from the Initial Repayment Date to the Maturity Date (based on a 15.5 year amortization schedule designed to achieve the Minimum DSCR Profile; provided that no scheduled principal payment shall extend beyond the EPA Trigger Date).

“**Loans**” means the Fixed Rate Loans.

“**Loss Proceeds Account**” has the meaning given in Section 10.8.

“**Lump Sum Payments**” means any payment received by Borrower or the General Partner under a Material Project Document or otherwise, the application of which is not specifically dealt with in this Agreement, which constitutes a lump sum in the nature of performance in respect of capacity and buy- down liquidated damages.

“**Mackenzie FP**” means Conifex Mackenzie Forest Products Inc., a corporation incorporated under the laws of the Province of British Columbia.

“**Major Maintenance**” means periodic major maintenance and services performed or required to be performed on the plant and equipment of the Project excluding ordinary or routine servicing and maintenance.

“**Major Maintenance Reserve Account**” has the meaning given in Section 10.4(a).

“**Major Maintenance Reserve Letter of Credit**” has the meaning given in Section 10.4(c).

“**Major Maintenance Reserve Requirement**” means * [redacted] on the Closing Date, increasing by * [redacted] on each subsequent anniversary date thereof to a maximum of * [redacted] subject to redetermination from time to time by the Agent in consultation with the Independent Engineer. *Redacted. Confidential financial information.

“**Major Project Participants**” means each Partner and Person (other than Borrower) party to a Material Project Document which has material obligations in respect of the Project.

“**Make Whole Amount**” means, * [redacted]
* [redacted]
* [redacted] *Redacted. Confidential financial information.

“**Manager**” means Conifex Operating Inc., a corporation incorporated under the laws of the Province of British Columbia.

“**Mandatory Prepayment**” means a prepayment of Fixed Rate Loans required of Borrower as a result of application of Section 3.2.

“**Material Adverse Effect**” means any event, development or circumstance that has had a material adverse effect or change on (a) the assets, properties, operations, condition (financial condition or otherwise) or results of operations or prospects of the Borrower or the Project, or (b) (i) the ability (financial or otherwise) of the Borrower or any other Person to perform its material covenants or obligations under the Operative Documents to which it is a party, (ii) the validity, perfection and enforceability of the security interests in and Liens granted under the Collateral Documents, and (iii) the ability of any of the Agent or the Fixed Rate Lenders to enforce any material obligations under, or any material rights and remedies under, any of the Financing Documents.

“**Material Parties**” means collectively, the Borrower and each Partner and each, a “**Material Party**”.

“**Material Project Documents**” means collectively, the EPA Contract, the LDA, the Equipment Lease, the Interconnection Agreement, the Fuel Supply Agreement, the Fuel Supply Agreement Guarantee, the Shared Facilities Agreement, the O&M Agreement, the Partnership Agreement, the Real Property Documents, the [*], the [*], the Sponsor Landfill Indemnity, the BC Hydro Assignment and Assumption Agreement and each Additional Material Project Document. [*Redacted. Confidential supplier agreements.]

“**Maturity Date**” means the earlier of (i) the date that is the fifteen and one-half (15.5) year anniversary of the Closing Date and (ii) the date on which the entire outstanding principal balance of the Fixed Rate Loans, together with all unpaid interest, fees, charges and costs become due and payable hereunder.

“**Mill**” means the sawmill complex adjacent to the Site operated by Mackenzie FP.

“**Minimum DSCR Profile**” means a profile of the Debt Service Coverage Ratios that indicate a minimum Debt Service Coverage Ratio of no less than 1.40:1 in each year of the fifteen and one-half (15.5) year period following the Closing Date determined by the Base Case Projections.

“**MOE**” means Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Ministry of the Environment.

“**Moody’s**” means Moody’s Investors Service, Inc.

“**Non-Funding Lender**” means any Fixed Rate Lender (i) that has failed to fund any payment or Advance required to be made by it hereunder or to purchase all participations required to be purchased by it hereunder and under the Financing Documents, or (ii) that has given verbal or written notice to the Borrower, the Agent or any Fixed Rate Lender or has otherwise publicly announced that it believes that it will be unable to fund advances under credit arrangements to which it is a party, or (iii) with respect to which one or more Lender-Related Distress Events has occurred, or (iv) with respect to which the Agent has knowledge that such Fixed Rate Lender has defaulted in fulfilling its obligations (whether as an agent, lender or letter of credit issuer) under one or more other syndicated credit facilities, or (v) with respect to which the Agent has concluded, acting reasonably, and has advised the Fixed Rate Lenders in writing that it is of the view that, there is a reasonable chance that such Fixed Rate Lender shall become a “**Non-Funding Lender**” pursuant to any of (i), (ii) or (iii) above and that such Fixed Rate Lender has been deemed a “**Non-Funding Lender**”.

“**O&M Agreement**” means the management and operating services agreement dated as of August 9, 2013 between Borrower and the Manager, as amended by an amending agreement dated as of November 25, 2013, as such agreement may be amended, modified, restated or supplemented in accordance with the terms hereof.

“**O&M Costs**” means all actual cash maintenance and operation costs incurred and paid for or in relation to the Project, including federal, provincial and local taxes (including capital taxes and property taxes), insurance, consumables, payments under any lease, payments pursuant to the agreements for the management, operation and maintenance of the Project (including pursuant to the O&M Agreement), legal fees, Plant Maintenance Costs and maintenance capital expenditures (but not growth capital expenditures), costs and expenses paid by Borrower in connection with

the management, maintenance or operation of the Project, fees paid in connection with obtaining, transferring, maintaining or amending any Applicable Permits, Independent Engineer's fees, reasonable general and administrative expenses, amounts payable under the EPA Contract and all other expenses included as O&M Costs in the Base Case Projections, as applicable, or the Annual Operating Budget, as applicable, but exclusive of all non-cash charges, including depreciation or obsolescence charges or reserves therefor, amortization of intangibles or other bookkeeping entries of a similar nature, and also exclusive of all interest charges and charges for the payment or amortization of principal of indebtedness of the Borrower.

"Obligations" means and includes, with respect to Borrower, all loans, advances, debts, liabilities and obligations of performance, howsoever arising, owed by Borrower to Agent or the Lenders of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms of this Agreement, and any of the other Financing Documents, including all principal, interest, fees, charges, expenses, Make Whole Amounts, legal fees and Independent Consultant's fees chargeable to Borrower in connection with its dealings with Borrower and payable by Borrower under this Agreement or any of the other Financing Documents.

"Obligors" means, collectively, the Borrower, the General Partner, Mackenzie FP and each other Limited Partner, each General Partner Shareholder and the Sponsor.

"Operating Account" has the meaning given in Section 10.2.

"Operating Income" means, for any period, Project Revenues of Borrower for the period, plus any funds transferred from the Major Maintenance Reserve Account into the Operating Account for application under Section 10.1 only to the extent used entirely for their designated purposes in such period, less O& M Costs and any funds required to be transferred into the Major Maintenance Reserve Account pursuant to Section 10.4(b) in such period.

"Operative Documents" means the Financing Documents and the Material Project Documents and each an **"Operative Document"**.

"Organizational and Project Ownership Chart" has the meaning given in Section 5.1(ff).

"Organizational Documents" means, with respect to any Person, such Person's articles, memorandum or other charter documents, partnership agreement, joint venture agreement, declaration of trust, trust agreement, by-laws, unanimous shareholder agreement, or any and all other similar agreements, documents and instruments pursuant to which such Person is constituted, organized or governed.

"Other Taxes" means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Financing Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Financing Document but, for greater certainty, excluding Excluded Taxes.

“**Partner**” means any General Partner or Limited Partner of Borrower from time to time and “**Partners**” means each such Person.

“**Partnership Agreement**” means the limited partnership agreement dated as of May 10, 2012 between the General Partner and the Limited Partners, as amended by an amending agreement dated November 27, 2013.

“**Parts**” means any part, appliance, instrument, appurtenance, accessory or other personal property of any nature necessary or useful to the operation, maintenance, service or repair of the Project.

“**Permit**” means any action, certificate, certificate of authorization, registration, notice, decree, filing, approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right or license of or from a Governmental Authority or the giving of notice to any Governmental Authority.

“**Permitted Debt**” means: (a) the Fixed Rate Loans and the other Obligations, (b) trade or other similar indebtedness (but not for borrowed money) incurred in the ordinary course of business under the Material Project Documents in accordance with the applicable Annual Operating Budget and not more than ninety (90) days past due (unless being contested in good faith and with appropriate proceedings with an adequate reserve therefor established to the satisfaction of Agent and retained in working capital having been placed on Borrower’s books and records), (c) taxes and governmental charges on salaries, related employee payments and trade payables, (d) contingent liabilities relating to the endorsement of negotiable instruments received in the normal course of business or incurred with respect to any Permit, Material Project Document or this Agreement, (e) Debt in respect of Purchase Money Security Interests and Capital Leases provided that the aggregate outstanding amount of Debt in respect thereof does not exceed \$1,000,000 at any time (f) non-cash accounting liabilities or commitments; (g) indebtedness incurred in the ordinary course of business with respect to trade payables consistent with past practise (h) indebtedness owing to CIBC in connection with the issuance of the EPA Letter of Credit and the LDA Letter of Credit and any further letters of credit issued under the CIBC Letter of Credit Documents that are approved by Agent in writing in advance and (i) indebtedness owing to EDC in connection with the EDC Documents.

“**Permitted Investments**” means book based securities, negotiable instruments, investments or securities which evidence: (i) obligations issued or fully guaranteed by the Government of Canada or any Province of Canada; (ii) demand deposits of depository institutions, term deposits of depository institutions or certificates of deposit of depository institutions, in each case where any such depository institution is either (A) one of the five largest (by assets) banks listed in Schedule I to the *Bank Act* (Canada) or (B) has a short term debt rating of “R 1 (mid)” or better by DBRS or “A 1+” or better by S&P; (iii) deposits with and notes or bankers’ acceptances issued or accepted by any depository institution described in (ii) above; (iv) term deposits with an entity, the commercial paper of which has a rating of “R 1 (mid)” or better by DBRS or “A 1 +” by S&P; and (v) any other investments approved in writing by Agent; provided that no Permitted Investments of the type described in subsections (ii) through (vii), inclusive, will be made if, after giving effect thereto, more than the greater of \$10,000,000 or 50% of the aggregate principal balance of all Permitted Investments (excluding the deposits described under (ii)(A)

above) of the applicable investor would consist of securities of or guaranteed by the same issuer or Person.

“Permitted Liens” means, collectively, (a) the rights and interests of, the Agent, and the Fixed Rate Lenders as provided in the Operative Documents; (b) Liens imposed by any Governmental Authority for Taxes or Other Taxes, either secured by a bond reasonably acceptable to Agent or not yet due or delinquent or being contested in good faith and by appropriate proceedings and, in respect of which appropriate reserves have been established to the satisfaction of Agent and retained in working capital, so long as such proceedings shall not involve any danger of the sale, forfeiture or loss of the Project or the Site, as the case may be, title thereto or any interest therein and shall not interfere in any material respect with the use or disposition of the Project or the Site; (c) materialmen’s, mechanics’, workers’, repairmen’s, employees’ or other like Liens arising in the ordinary course of business, either (x) for amounts not yet due, (y) which at the time have not yet been registered in accordance with Applicable Law against the Site or part thereof, or (z) for amounts being contested in good faith and by appropriate proceedings so long as such proceedings shall not involve any danger of the sale, forfeiture or loss of any part of the Project or the Site, as the case may be, title thereto or any interest therein and shall not interfere with the use or disposition of the Project or the Site provided that, unless otherwise agreed to in writing by Agent, any Liens registered against the Site pursuant to the BLA shall be vacated within twenty (20) Business Days of the date of such registration; (d) Liens incurred in the ordinary course of business in connection with worker’s compensation, unemployment insurance, social security and other Governmental Rules and that do not in the aggregate materially impair the use of the property or assets of Borrower or the value of such property or assets for the purposes of such business; (e) Liens arising out of judgments or awards so long as an appeal or proceeding for review is being prosecuted in good faith and for the payment of which adequate reserves established to the satisfaction of Agent and retained in working capital, bonds or other security acceptable to Agent in its sole discretion have been provided or are fully covered by insurance; (f) easements, rights-of-way, restrictions, minor defects and other similar encumbrances incurred in the ordinary course of business and encumbrances consisting of zoning restrictions, licenses, restrictions on the use of property or minor imperfections in title, which do not materially impair the property affected thereby for the purpose for which title was acquired or interfere with the operation of the Project as contemplated by the Operative Documents and any other Lien set forth in the title insurance policy delivered pursuant to Section 5.1(gg); (g) reservations in any original grants from the Crown of any land or interest therein, statutory exceptions to title and reservations of mineral rights in any grants from the Crown or from any other predecessors in title; (h) Liens, deposits or pledges to secure statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature in the ordinary course of its business; (i) involuntary Liens (including a Lien of an attachment, judgment or execution) securing a charge or obligation, on any of Borrower’s property, either real or personal, whether now or hereafter owned in the aggregate sum of less than \$2,000,000; (j) Liens of trade vendors created in connection with Debt allowed under Section 8.2; (k) Liens securing Purchase Money Security Interests and Capital Leases in connection with Debt allowed under Section 8.2 and (l) liens in favour of CIBC to secure the CIBC Cash Collateral.

“Permitted Transfer” means a Transfer by any Partner of a Borrower of its ownership interest in the Borrower or creation of any ownership interest in the Borrower that has been consented to by the Required Lenders pursuant to Section 8.17 hereof.

“Person” means any natural person, corporation, limited liability company, partnership, firm, association, Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

“Plans and Specifications” means the plans and specifications for the construction and design of the Project, including all work drawings, engineering and construction schedules, project schedules, project monitoring systems, specifications status lists, material and procurement ledgers, drawings and drawing lists, manpower allocation documents, management and project procedures documents and project design criteria.

“Plant Maintenance Costs” means, the amounts, calculated as the aggregate of (i) Major Maintenance costs for the Project; and (ii) operating and capital costs for the maintenance of property, plant and equipment for the Project . Such costs to be calculated from the Closing Date until the Maturity Date, and to be based on actual contracted costs, where available or otherwise based on Borrower’s good faith estimate (as verified by Agent acting reasonably and on the advice of the Independent Engineer).

“Pledgors” means, collectively, the General Partner, each Limited Partner, each General Partner Shareholder and each other Person from time to time a counterparty to a Securities Pledge Agreement.

***Definition redacted. Confidential financial information.**

***Definition redacted. Confidential financial information.**

“PPSA” means the *Personal Property Security Act* (British Columbia).

“Proceeds” means, collectively, Insurance Proceeds and Eminent Domain Proceeds.

“Proceeds of Realization” means all proceeds realized and received by Agent or the Fixed Rate Lenders on the sale or disposition of all or any part of the Collateral.

“Project” means the approximately 36 megawatt wood-fired biomass plant situated in Mackenzie, British Columbia directly adjacent to Mackenzie FP’s Mill, together with all buildings, structures or improvements erected on the Site, including, without limitation, the STG and the Boiler, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all Parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, all owned real property related thereto (whether directly or beneficially), all easement rights derived under the Real Property Documents and all other real and tangible and intangible personal property leased

or owned by Borrower and the General Partner and placed upon or used in connection with the generation of electricity upon the Site.

“Project Lands” means the lands more particularly described in Part I of Exhibit D-6.

“Project Revenues” means all income derived from the EPA Contract, the LDA, the Shared Facilities Agreement, the Equipment Lease and all other amounts whether received under any other Material Project Document (excluding any LDA Incentive Payments) or that otherwise compensate Borrower for lost revenues under the EPA Contract and the LDA, including proceeds of any business interruption or delay in start-up insurance, penalties and liquidated damages, provided (A) (i) that all Equity Contributions are excluded in such calculation and (ii) that any Lump Sum Payments shall be applied in accordance with Section 3.2(c) and any Insurance Proceeds and Eminent Domain Proceeds applied in accordance with Section 3.2(a) shall not be included in Project Revenues and (B) for the purposes of any projection required to be calculated hereunder (including the Base Case Projections), Project Revenues will only include revenue from contracted cash flow under the EPA Contract, the Shared Facilities Agreement and the Equipment Lease for a fifteen and one-half (15.5) year period from the Closing Date and shall exclude any merchant revenue.

“Proportionate Share” means with respect to each Fixed Rate Lender the percentage of the total Commitments represented by such Fixed Rate Lender’s Commitments specified in Exhibit F. If the Commitments have been terminated or expired or the Fixed Rate Loans have been fully advanced, the Proportionate Share shall be the percentage of the total outstanding Fixed Rate Loans represented by such Fixed Rate Lender’s outstanding Fixed Rate Loans.

“Protective Advances” means expenditures made directly by Agent or a Fixed Rate Lender or advances made by any of them to a receiver, a manager, a receiver and manager, an interim receiver under the *Bankruptcy and Insolvency Act* (Canada), whether privately appointed or appointed by court order, a trustee in bankruptcy, a liquidator or a debtor-in-possession (each a **“Receiver”**) of Borrower, in each case for the purpose of maintaining, preserving or protecting the Collateral or for carrying on all or part of the business of Borrower, but, for greater certainty, does not include fees, costs and expenses incurred by any of Agent or a Fixed Rate Lender (including a Receiver, legal or accounting fees, costs and expenses) in connection with the exercise of their respective powers, rights or remedies under the Financing Documents.

“Prudent Industry Practices” means the practices, methods, and acts (including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the independent electric industry) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, codes, standards, equipment manufacturer’s recommendations, reliability, safety, environmental protection, economy, and expedition. With respect to the Project, Prudent Industry Practices include, but are not limited to, taking reasonable steps to ensure that:

- (a) equipment, materials, resources, and supplies are available to meet the Project’s needs;

- (b) the equipment will function properly under both normal and emergency conditions at the Site;
- (c) appropriate monitoring and testing are performed to ensure equipment is functioning as designed; and
- (d) equipment is not operated in a negligent manner, or in a manner unsafe to workers, the general public, or contrary to environmental laws or regulations or without regard to defined limitations such as flood conditions, safety inspection requirements, operating voltage, current, volt-ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and/or control system limits.

In no event shall Prudent Industry Practices be less than what is required under the terms of the EPA Contract or any other Material Project Document in respect of the terms similar to the term **"Prudent Industry Practices"** used therein, and the most stringent definitions of such terms shall control.

"Purchase Money Security Interest" means a Lien created or assumed by Borrower securing Debt incurred to finance the unpaid acquisition price (including any installation costs or costs of construction) of property provided that (a) such Lien is created substantially concurrently with the acquisition of such property, (b) such Lien does not at any time encumber any property other than the property and the proceeds thereof financed or refinanced (to the extent the principal amount is not increased) by such Debt, (c) the amount of Debt secured thereby is not increased subsequent to such acquisition, and (d) the principal amount of Debt secured by any such Lien at no time exceeds 100% of the original purchase price of such property at the time it was acquired, and any Lien replacing any such Lien.

"Qualified Transfer" means a transfer of the direct ownership in the Borrower and the General Partner, where (i) no Event of Default exists or will result from such transfer, (ii) such transfer or assignment is permitted under the EPA and LDA; (iii) the transferee executes such documents as the Agent considers reasonably necessary to comply with the "Know Your Customer" requirements and to provide the Lender with a first priority security interest in its ownership interest in the Borrower and the General Partner and the proposed transfer does not breach Applicable Law, (iv) such person is of institutional quality acceptable to the Fixed Rate Lenders, (v) the Borrower has confirmed to the Agent that the Security provided by the Borrower continues to be enforceable against the Borrower and procures the delivery of an opinion of counsel, in form and substance reasonably satisfactory to the Agent, in respect of such acknowledgement, and (vi) either (A) the Sponsor continues to manage and operate the Project consistent with the O&M Agreement or otherwise pursuant to a management and operation agreement in form and substance satisfactory to the Agent (acting reasonably) or (B) such transferee must, at the time of the transfer, have owned or operated for a period of at least 2 years, and at such time, continues to own and operate, thermal generation facilities with an aggregate electricity output of at least 25 megawatts.

"Real Property Documents" means the Bare Trust and Agency Agreement and the Easements.

“Real Property Security Documents” means, collectively, all documents creating a Lien in favour of the Agent securing or intending to secure repayment of the Obligations including without limitation, the Debentures, charging, mortgaging, assigning, transferring and creating a security interest in all of the applicable Obligor’s right, title, interest, claim, privilege, benefit and entitlement in and to the Project Lands and the Real Property Documents, including the interests in land created thereunder, and the Project Lands.

“Realization Proceedings” means any enforcement, sale, collection, realization (including judicial or non-judicial sale or foreclosure) or similar proceeding with respect to the Collateral.

“Register” has the meaning given in Section 12.14.

“Regulatory Change” means any change after the date hereof in Applicable Laws, Legal Requirements or requirements under Applicable Permits, or the adoption or making after such date of any written interpretations, directives or requests of or under any Applicable Laws, Legal Requirements or requirements under Applicable Permits (whether or not having the force of law) by any Governmental Authority charged with the interpretation or administration thereof.

“Release” means disposing, depositing, discharging, injecting, spilling, leaking, leaching, dumping, pumping, pouring, emitting, escaping, emptying, seeping, flowing, leaching, placing and any similar method of release, into or upon any land or water or air, or otherwise entering into or migrating into the environment and **“Released”** shall have a corresponding meaning.

“Repair Conditions” means, in respect of any event giving rise to Insurance Proceeds:

- (i) no Event of Default or Inchoate Default has occurred and is continuing other than the Event of Default or an Inchoate Default giving rise to such Insurance Proceeds and after giving effect to any proposed repair and restoration, such damage or destruction or proposed repair and restoration will not result in an Event of Default or an Inchoate Default;
- (ii) Borrower certifies, and the Required Lenders (on the advice of the Independent Engineer) determine in their reasonable judgment, that repair or restoration of the Project is technically and economically feasible within a twelve (12) month period and that a sufficient amount of funds is or will be available to Borrower to make such repairs and restorations (after taking into account any Voluntary Equity Contribution received by the Borrower for such purpose);
- (iii) the Required Lenders in their reasonable judgment determine that after repair and restoration the Project will be able to repay the Fixed Rate Loans and other amounts due Agent and the Fixed Rate Lenders as and when due;
- (iv) no material federal, provincial, local or other governmental license, registration, recording, filing, consent, permit, order, authorization, certificate, approval, exemption or declaration is necessary to proceed with the repair and restoration and no material amendment to this Agreement or any of the Financing Documents and no other instrument, is necessary for the purpose of effecting the repairs or restorations or subjecting the repairs or restorations to the Liens of the Collateral Documents or, if any

such license, registration, recording, filing, consent, permit, order, authorization, certificate, approval, exemption, declaration, amendment or instrument is necessary, Borrower will be able to obtain such as and when required; and

- (v) Agent shall have received such builders' lien, waivers, instruments, registrations or other matters as it may reasonably request as necessary or appropriate in connection with such repairs or restorations or necessary to preserve or protect the interests of the Agent and the Fixed Rate Lenders hereunder and in the Collateral as applicable.

"Repair Voluntary Equity Contribution" has the meaning given in Section 7.1(b).

"Repayment Dates" means the Initial Repayment Date and each March 15, June 15, September 15 and December 15, from and after the Initial Repayment Date up to and including the Maturity Date.

"Replacement Fuel Supply Agreement" has the meaning given in Section 7.10(a).

"Replacement Obligor" means, with respect to any Person (other than Borrower) party to a Material Project Document, any other Person reasonably satisfactory to the Required Lenders who, pursuant to any definitive agreement reasonably satisfactory to the Required Lenders, assumes the obligation of providing the services and/or products on terms and conditions no less favourable, in any material respect, to Borrower than those which such first mentioned Person being replaced is obligated to provide pursuant to the applicable Material Project Document.

"Required Lenders" means, prior to the exercise by the Agent of any of the remedies under Article 12, Fixed Rate Lenders having Proportionate Shares of Commitments under the Fixed Rate Loans which in the aggregate exceeds 66.7% and thereafter means Fixed Rate Lenders having Proportionate Shares of the Fixed Rate Loans which in the aggregate exceeds 66.7% thereof.

"Reserve Requirement" means, with respect to any Fixed Rate Lender, the maximum rate (expressed as a percentage) at which reserves (including any marginal, supplemental or emergency reserves) are required to be maintained during the Term by such Fixed Rate Lender in accordance with Applicable Law or as required by any Governmental Authority. Without limiting the effect of the foregoing, the Reserve Requirement shall reflect any other reserves required to be maintained by such Fixed Rate Lender by reason of any Regulatory Change against any category of liabilities or extensions of credit or other assets which include the Fixed Rate Loan.

"Revenue Account" has the meaning set out in Section 10.1(a).

"Revised Base Case Projections" means Base Case Projections as revised from time to time (i) on each date on which a Lump Sum Payment is received by Agent and approved by the Agent on the advice of the Independent Engineer and (ii) following the date the LDA is repudiated or ceases to be in full force and effect and approved by Agent on the advice of the Independent Engineer. For greater certainty, the Revised Base Case Projections shall only include revenue from contracted cash flow including revenue related to imputed dispatch under the EPA

Contract, the Shared Facilities Agreement and the Equipment Lease for a twenty (20) year period from the Commercial Operation Date.

“**S&P**” means Standard & Poor’s Rating Group, a division of The McGraw-Hill Companies, Inc.

“**Scheduled Repayment Amount**” means in connection with the Fixed Rate Loan, the repayment amounts corresponding to each Repayment Date, as identified in the Loan Repayment Schedule.

“**Security**” means the documents creating a Lien in favour of, or any Collateral held from time to time by, the Fixed Rate Lenders or on behalf of the Fixed Rate Lenders, by the Agent securing or intending to secure repayment of the Obligations including the Collateral Documents.

“**Securities Pledge Agreement**” means (i) a securities pledge agreement to be made by the General Partner pursuant to which all of the capital of Borrower held by it will be pledged to the Agent for the benefit of Fixed Rate Lenders; (ii) a securities pledge agreement to be made by each Limited Partner pursuant to which all of the capital of the Borrower held by it will be pledged to the Agent for the benefit of the Fixed Rate Lenders; and (iii) a securities pledge agreement to be made by each General Partner Shareholder pursuant to which all of the capital of the General Partner held by it will be pledged to the Agent for the benefit of the Fixed Rate Lenders.

“**Senior Debt**” means all Debt incurred under this Agreement, and any other Debt ranking *pari passu* with Debt incurred under this Agreement, including Debt under Capital Leases.

“**Separateness Covenants**” means the following covenants:

- (i) each of the Borrower (together with the General Partner on its behalf) and the Sponsor will conduct its business solely in its name and in a manner separate from each other Person so as not to mislead others with whom it is dealing;
- (ii) the Borrower and the General Partner will maintain office space that will be conspicuously identified as the office space of the Borrower so that they can be easily located and identified by outsiders;
- (iii) each of the Borrower (together with the General Partner on its behalf) and the Sponsor will maintain its own cheques and stationery, separate and apart from each other and any other person;
- (iv) each of the Borrower (together with the General Partner on its behalf) and the Sponsor will maintain its own books of account and business records separate from those of any other person, including separate financial statements;
- (v) each of the Borrower (together with the General Partner on its behalf) and the Sponsor will maintain its own bank accounts, separate from each other and from any other person;
- (vi) any allocations of direct, indirect or overhead expenses for items shared between the Borrower (together with the General Partner on its behalf) and the Sponsor will be made

to the extent practical on the basis of actual use or value of services rendered and otherwise on a basis reasonably related to actual use or the value of services rendered;

- (vii) each of the Borrower (together with the General Partner on its behalf) and the Sponsor will pay its own operating expenses and liabilities from its own funds, provided that this shall in no way limit any Equity Contribution or Voluntary Equity Contribution or any other amount permitted to be transferred between Borrower and Sponsor hereunder;
- (viii) Sponsor will not encourage its creditors to look for payment from Borrower and General Partner;
- (ix) each of Borrower and General Partner will maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or otherwise identify its individual assets from or against those of Sponsor or any other person;
- (x) each of Borrower and General Partner will not commingle or pool its assets, funds, liabilities or business functions with those of Sponsor or any other person;
- (xi) each of Borrower and General Partner will not hold itself out to be responsible for the obligations of Sponsor. Each of Borrower, General Partner and Sponsor will correct any misunderstanding about these matters known to it;
- (xii) each of Borrower, General Partner and Sponsor will not remove or conceal from its creditors or any other interested party any of its assets and will not participate in removing or concealing the assets of others; and
- (xiii) each of Borrower, General Partner and Sponsor will observe all partnership and corporate procedures and formalities, including without limitation, the holding of meetings, the recording and maintenance of minutes of such meetings and the recording of and maintenance of resolutions adopted at such meetings.

“**Service**” means a nationally recognized service for furnishing interest rates such as the Dow Jones Market Service (Telerate) or Reuters.

“**Settlement Date**” means, with respect to the Called Principal of the Fixed Rate Loan, the date on which such Called Principal is to be prepaid pursuant hereto, has become or is declared to be immediately due and payable or was not borrowed or the date on which the Fixed Rate Loan Commitment was cancelled or reduced.

“**Shared Facilities Agreement**” means the shared facilities agreement dated August 29, 2013 between Mackenzie FP and the Borrower, as amended by an amending agreement dated as of November 25, 2013, as such agreement may be further amended, restated, modified or supplemented in accordance with the terms hereof.

“**Site**” means collectively, the Project Lands and any other real property in which the Borrower has obtained rights, title, benefits, claims, privileges, entitlements, rights-of-way and easements pursuant to the Real Property Documents and the Shared Facilities Agreement, as more particularly described in the Debentures, upon which the Project is or will be located.

“**Sponsor**” means Conifex Timber Inc., a corporation incorporated under the laws of Canada.

“**Sponsor Guarantee**” means an irrevocable guarantee in the maximum amount of \$4,500,000 (as reduced from time to time in accordance with the terms hereof) executed by Sponsor guaranteeing the obligations of Mackenzie FP under the Fuel Supply Agreement Guarantee.

“**Sponsor Landfill Indemnity**” means the indemnity agreement between the Sponsor and the Borrower dated November 27, 2013 pursuant to which the Sponsor has agreed to indemnify, defend and hold harmless the Borrower from and against and reimburse such Persons from any and all environmental liabilities arising at the Site under the EMA with an aggregate cap of \$500,000, in form and substance satisfactory to the Agent and the Fixed Rate Lenders.

“**Subject Person**” has the meaning given in Section 11.5.

“**Subsidiary**” means, with respect to any Person, (i) any corporation more than fifty percent (50%) of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation is at the time owned by such Person and/or one or more Subsidiaries of such Person; and (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has an equity or income interest greater than fifty percent (50%) of all equity or income interests and which is controlled by such Person.

“**Suspense Account**” has the meaning given in Section 10.10.

“**Suspense Account Release Blockage Period**” has the meaning given in Section 3.2(b).

“**Taxes**” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority, together with any interest or penalties arising thereon.

“**Term**” means the entire period during which there is any outstanding Obligation.

“**Title Insurer**” means Fidelity National Title.

“**TLCA**” has the meaning given in Section 12.6.

“**Transfer**” means any transaction whereby an ownership interest in any equity of the Borrower, whether legal or beneficial, is sold, granted, set over, conveyed, leased, assigned, exchanged, transferred, disposed of, given, devised, bequeathed or otherwise similarly dealt with, voluntarily or involuntarily, directly or indirectly by operation of law or otherwise, including vesting by way of merger, consolidation or amalgamation or any transfer or assignment of any right, title or interest in such property by operation of Insolvency Law or creditor remedies including vesting by way of any judicial order, judgment or decree made pursuant to Insolvency Law.

“**Voluntary Equity Contribution**” means an Equity Contribution that is not required to be contributed to the Borrower pursuant to the terms of this Agreement but which is made to the Borrower at the election of the Sponsor.

A-1:31

RULES OF INTERPRETATION

1. The singular includes the plural and the plural includes the singular.
2. The word “or” is not exclusive.
3. A reference to a Governmental Rule includes any amendment or modification to such Governmental Rule, and all regulations, rulings and other Governmental Rules promulgated under such Governmental Rule.
4. A reference to a Person includes its successors and permitted assigns.
5. Accounting terms have the meanings assigned to them by IFRS, as applied by the accounting entity to which they refer, provided, however that, whenever such accounting terms are used for the purposes of determining compliance with financial covenants in this Agreement, such accounting terms shall be defined in accordance with IFRS as applied in preparation of the audited financial statements of the Sponsor for the fiscal year ended December 31, 2017. If there occurs after the Closing Date any change in IFRS that affects in any respect the calculation of any covenant contained in this Agreement or the definition of any term defined under IFRS used in such calculations, Agent, Fixed Rate Lenders and Borrower shall negotiate in good faith to amend the provisions of this Agreement that relate to the calculation of such covenants with the intent of having the respective positions of Agent, Fixed Rate Lenders, Borrower and Conifex GP after such change in IFRS conform as nearly as possible to their respective positions as of the Closing Date, provided, that, until any such amendments have been agreed upon, the covenants in this Agreement shall be calculated as if no such change in IFRS had occurred.
6. The words “include,” “includes” and “including” are not limiting.
7. A reference in a document to an Article, Section, Exhibit, Schedule, Annex or Appendix is to the Article, Section, Exhibit, Schedule, Annex or Appendix of such document unless otherwise indicated. Exhibits, Schedules, Annexes or Appendices to any document shall be deemed incorporated by reference in such document.
8. References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time
9. The words “hereof,” “herein” and “hereunder” and words of similar import when used in any document shall refer to such document as a whole and not to any particular provision of such document.
10. References to “days” shall mean calendar days, unless the term “Business Days” shall be used. References to a time of day shall mean such time in Vancouver, British Columbia, unless otherwise specified.

11. The Financing Documents are the result of negotiations between, and have been reviewed by Borrower, Agent, each Fixed Rate Lender and their respective counsel. Accordingly, the Financing Documents shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favour of or against Borrower, Agent or any Fixed Rate Lender.
12. The inclusion of reference to Permitted Liens in any Financing Document is not intended to subordinate and will not subordinate any Lien created by any of the Financing Documents to any Permitted Liens.
13. Unless otherwise specified in any Financing Document, all references to currency (without further description) are to lawful money of Canada.

EXHIBIT A-2

PAYMENT INSTRUCTIONS

Canadian \$ Payment Instructions:

As advised in writing by the Agent from time to time.

EXHIBIT B-1

FORM OF DRAWDOWN CERTIFICATE

10 Day Drawdown Certificate

To: Andrew Shannon
IAM Infrastructure Private Debt Fund LP
70 University Ave.
Suite 1200
Toronto, Ontario
M5J 2M4

We refer to Section 2.1 of the Credit Agreement to be dated as of [] (the “**Credit Agreement**”) between Conifex Power Limited Partnership as borrower (the “**Borrower**”), and IAM Infrastructure Private Debt Fund LP, by its general partner Integrated Private Debt GP Inc., as Lender (the “**Agent**”). All capitalized terms used in this certificate and defined in the Credit Agreement have the meanings defined in the Credit Agreement.

1. The undersigned hereby irrevocably requests for the Fixed Rate Loan to be made on [TBD] (the “**Advance**”).
2. The undersigned hereby confirms as follows:
 - (a) The representations and warranties to be made in Article 6 – Representations and Warranties of the Credit Agreement are true on and as of the date hereof;
 - (b) No Default has occurred and is continuing on the date hereof or will result from the Advance;
 - (c) After reasonable inquiry, the Borrower has no reason to believe that it will not be in compliance with the covenants contained in Article 7 – Covenants of the Credit Agreement at [TBD];
 - (d) The Borrower will immediately notify the Agent if it becomes aware of the occurrence of any event which would result in the statements in the immediately preceding items (a), (b), and (c) would not be true if made on the date of Advanced;
 - (e) The rate of interest applicable to the Fixed Rate Loan will be as set out in the Credit Agreement;
 - (f) The acceptance of this request by the Lender is not an acknowledgement by the Lender that the conditions precedent to the Advance being made have been satisfied, satisfaction will be confirmed only at the Advance;

- (g) All conditions precedent to the Advance being made must be satisfied before an Advance is made; and
- (h) If conditions precedent to the Advance being made are not satisfied on [] so that the Advance cannot be made on that date, the Borrower will be responsible to compensate the Fixed Rate Lenders for the Fixed Rate Lenders' cost of having funds available to make an Advance by paying on demand from time to time, a fee equal to the rate set out in Section 2.2 of the Credit Agreement, calculated as if the Advance had been made on [] until the Advance is made, less such amount and the Lender customarily offers on comparable short term deposits or is able to recover from short term investment of the funds.

Dated this ____ day of _____, 2018

**CONIFEX POWER LIMITED
PARTNERSHIP**, a British Columbia Limited
Partnership, by its General Partner, **CONIFEX
POWER INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT C-1

FORM OF BORROWER'S CLOSING CERTIFICATE

CONIFEX POWER INC.,
for itself and as general partner of
CONIFEX POWER LIMITED PARTNERSHIP

CLOSING CERTIFICATE

_____, 2018

To: IAM Infrastructure Private Debt Fund LP, as Agent and a Fixed Rate Lender

TELUS Pensions Master Trust, as a Fixed Rate Lender

La Capitale Civil Service Insurer Inc., as a Fixed Rate Lender

Sangra Moller LLP

The other persons who, from time to time, become Lenders under the Credit Agreement.

This certificate is delivered pursuant to Section 5.1 of that certain Credit Agreement, dated as of the date hereof (as amended, restated, amended and restated, or as otherwise modified from time to time, the "**Credit Agreement**"), by and among Conifex Power Limited Partnership, by its general partner, Conifex Power Inc., as borrower (the "**Borrower**"), Conifex Power Inc. (the "**General Partner**"), IAM Infrastructure Private Debt Fund LP, as Agent and Fixed Rate Lender, TELUS Pensions Master Trust, as a Fixed Rate Lender, La Capitale Civil Service Insurer Inc., as a Fixed Rate Lender, and the other financial institutions party thereto as lenders, from time to time (collectively, the "**Lenders**"). All capitalized terms used herein shall have the respective meanings specified in the Credit Agreement unless otherwise defined herein or unless the context requires otherwise.

The undersigned hereby certifies, on behalf of the General Partner, in its individual capacity and as general partner of the Borrower, and not in his/her personal capacity, to the addressees hereof, as of the date hereof, that he/she is a duly elected, qualified and acting authorized officer of the General Partner and that, as such, he/she is authorized to execute and deliver this certificate on behalf of the General Partner, in its individual capacity and as general partner of the Borrower. The undersigned further certifies:

1. Attached hereto as Exhibit A is a certified list of each Material Project Document entered into on or prior to the date hereof, including all supplements or amendments thereto. The copies of all of such Material Project Documents provided to Agent are true, complete, correct and in full force and effect on the date hereof. Neither the General Partner, the Borrower nor, to its actual knowledge any other party to any Material Project Document is or, but for the passage of time or giving of notice or both will be, in breach of any material obligation thereunder.

2. Attached hereto as Exhibit B is a certified list of each Applicable Permit listed on Exhibit D-1 to the Credit Agreement. The copies of all of such Applicable Permits provided to Agent are true, complete and correct and in full force and effect on the date hereof.
3. There is no fact known to the Borrower that would reasonably be expected to have (i) a Material Adverse Effect, or (ii) a material adverse effect on any other Obligor or on any other Major Project Participant.
4. No material action, suit, proceeding or investigation has been instituted or threatened in writing against the Borrower, the General Partner or the Project.
5. Each representation and warranty set forth in the Financing Documents is true and correct in all material respects as of the date hereof.
6. No Event of Default or Inchoate Default has occurred and is continuing as of the date hereof after giving effect to the use of proceeds of the Obligations.
7. Attached hereto as Exhibit C are certified copies of corporate or partnership proceedings and copies of any approval by any Governmental Authority required in connection with any transactions herein contemplated, which Agent may reasonably have requested in connection herewith.

[Signature Page Follows]

C-1:3

IN WITNESS WHEREOF, the General Partner has caused this certificate to be executed on its behalf by the undersigned as of the date first set forth above.

CONIFEX POWER INC.

Per: _____

Name:

Title:

C-1:4

EXHIBIT A

Please see attached.

C-1:5

EXHIBIT B

Please see attached.

C-1:6

EXHIBIT C

Please see attached.

C-1:7

EXHIBIT D

Please see attached.

EXHIBIT C-2
FORM OF INSURANCE CONSULTANT'S CERTIFICATE

Redacted. Confidential supplier name.

(Delivered pursuant to the Credit Agreement)

TO: IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, as Agent for the Fixed Rate Lenders
70 University Avenue, Suite 1200
Toronto, ON M5J 2M4

AND TO: The Lenders

DATE: ●, 2018

Re: CONIFEX POWER LIMITED PARTNERSHIP

This Insurance Consultant's Certificate (the "Certificate") is delivered to you pursuant to the credit agreement dated as of ●, 2018 (as amended, restated, supplemented, replaced or otherwise modified from time to time, the "Credit Agreement") by and among Conifex Power Limited Partnership, a British Columbia limited partnership (the "Borrower"), Conifex Power Inc., as general partner, IAM Infrastructure Private Debt Fund LP and the other Fixed Rate Lenders from time to time party thereto as lenders (the "Lenders") and IAM Infrastructure Private Debt Fund LP, as agent (the "Agent") for and on behalf of the Fixed Rate Lenders. All defined terms set forth in this Certificate shall have the respective meanings set forth in the Credit Agreement, unless otherwise defined herein.

Insurance Consultant acknowledges that the Agent and each of the Fixed Rate Lenders will be relying on this Certificate and the Insurance Consultant's report. Insurance Consultant has reviewed Section 7.22 and Exhibit D-8 of the Credit Agreement and is familiar with the insurance requirements stated therein. It is the Insurance Consultant's opinion that the types and amounts of insurance required by Section 7.22 and Exhibit D-8 of the Credit Agreement are reasonable and consistent with industry standard insurance programs for a project of the size and scope of the Project.

Attached hereto as Schedule A is a letter that includes, among other things, a statement of compliance with Section 7.22 and Exhibit D-8 of the Credit Agreement, including confirmation that all premiums due in connection with the Project have either been paid or are not in arrears, and certificates of insurance provided by the Borrower's authorized insurance representative evidencing the types and amounts of insurance coverage which have been obtained in connection with the Project. In our opinion the certificates of insurance and broker's letter attached as Exhibit A hereto constitute satisfactory evidence that the Borrower is in compliance with the provisions of Section 7.22 of the Credit Agreement and, in particular, we confirm that the Agent has been added as a loss payee on all property insurance of Borrower and as an additional insured on any liability insurance policy of Borrower.

C-2:2

Attached hereto as Schedule B is a true and complete copy of the Insurance Consultant's report in respect of the Project.

Respectfully submitted,

Redacted. Confidential supplier name.

Per:

Name:

Title:

SCHEDULE A

List of Insurance Coverages and Certificates of Insurance

Redacted. Insurance Policy Details.

[Certificates of Insurance are attached]

C-2:4

SCHEDULE B

INSURANCE CONSULTANT REPORT

Redacted.

Redacted.

C-2:6

Redacted.

C-2:7

Redacted.

C-2:8

Redacted.

C-2:9

Redacted.

Redacted.

C-2:11

Redacted.

EXHIBIT C-3

FORM OF INDEPENDENT ENGINEER'S CLOSING CERTIFICATE

Redacted. Confidential supplier name.

(Delivered pursuant to the Credit Agreement)

TO: IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, as Agent for the Fixed Rate Lenders
70 University Avenue, Suite 1200
Toronto, ON M5J 2M4

AND TO: The Lenders

DATE: ●, 2018

Re: CONIFEX POWER LIMITED PARTNERSHIP

Ladies and Gentlemen:

This Independent Engineer's Closing Certificate (the "Certificate") is delivered to you pursuant to the credit agreement dated as of ●, 2018 (as amended, restated, supplemented, replaced or otherwise modified from time to time, the "Credit Agreement") by and among Conifex Power Limited Partnership, a British Columbia limited partnership (the "Borrower"), Conifex Power Inc., as general partner, IAM Infrastructure Private Debt Fund LP and the other Fixed Rate Lenders from time to time party thereto as lenders (the "Lenders") and IAM Infrastructure Private Debt Fund LP as agent (the "Agent") for and on behalf of the Fixed Rate Lenders. All defined terms set forth in this Certificate shall have the respective meanings set forth in the Credit Agreement unless otherwise defined herein.

Independent Engineer certifies that attached hereto as Exhibit A is a true, correct and complete copy of the Independent Engineer's report (the "Report"), and the Report (i) represents the Independent Engineer's professional opinion as of the date thereof, and (ii) the Report addresses all of the matters the Report is required to address pursuant to Section 5.1(l) of the Credit Agreement. The Independent Engineer confirms that since the date of the Report, nothing has come to our attention which would cause us to change the Report.

Redacted. Confidential supplier name.

Per: _____

Name:

Title:

C-3:2

EXHIBIT A

INDEPENDENT ENGINEER'S REPORT

Redacted.

ed.

Redacted. Confidential supplier information.

Redacted.

Redacted.

**EXHIBIT C-4
FORM OF BORROWER'S
ADVANCE VERIFICATION CERTIFICATE**

[Letterhead of Borrower]

(Delivered pursuant to the Credit Agreement)

TO: IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, as Agent for the Fixed
Rate Lenders
70 University Avenue, Suite 1200
Toronto, ON M5J 2M4

AND TO: The Lenders

DATE: ●, 2018

Re: CONIFEX POWER LIMITED PARTNERSHIP

Ladies and Gentlemen:

This Borrower's Advance Verification Certificate (the "Certificate") is delivered to you pursuant to the credit agreement dated as of ●, 2018 (as amended, restated, supplemented, replaced or otherwise modified from time to time, the "Credit Agreement") by and among Conifex Power Limited Partnership, a British Columbia limited partnership (the "Borrower"), Conifex Power Inc., as general partner, IAM Infrastructure Private Debt Fund LP and the other Fixed Rate Lenders from time to time party thereto as lenders (the "Lenders") and IAM Infrastructure Private Debt Fund LP as agent (the "Agent") for and on behalf of the Fixed Rate Lenders. All defined terms set forth in this Certificate shall have the respective meanings set forth in the Credit Agreement unless otherwise defined herein.

We have read the provisions of the Credit Agreement which are relevant to the furnishing of this Certificate. To the extent that this Certificate evidences, attests or confirms compliance with any covenants or conditions precedent provided for in the Credit Agreement, we have made such examination or investigation as was, in our opinion, necessary to enable us to express an informed opinion as to whether such covenants or conditions have been complied with.

We confirm that as of the date hereof:

1. we are in compliance with our performance security obligations and other obligations under each Material Project Document;
2. the Project is free and clear of Liens that are not Permitted Liens (other than those Liens of the nature described in item (c)(z) of the definition of "Permitted Liens" in the Credit Agreement which shall not exist on any Funding Date);
3. in th opinion of the Borrower, there has not been any material technical development adversely affecting the Project;

4. we are not aware of any pending or proposed changes in any codes or regulations affecting the operation, use or maintenance of the Project which would affect the operation, use or maintenance of the Project by Borrower.

The information contained herein is for the benefit of the Agent and the Lenders and may be relied upon by them.

**CONIFEX POWER LIMITED
PARTNERSHIP, by its general partner,
CONIFEX POWER INC.**

Per: _____

Name:

Title:

EXHIBIT C-5

**FORM OF INDEPENDENT ENGINEER'S
CERTIFICATE RE RELEASE OF INSURANCE PROCEEDS**

Redacted. Confidential supplier name.

(Delivered pursuant to the Credit Agreement)

TO: IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, as Agent for the Fixed
Rate Lenders
70 University Avenue, Suite 1200
Toronto, ON M5J 2M4

AND TO: The Lenders

DATE: ●, 2018

Re: CONIFEX POWER LIMITED PARTNERSHIP

This Independent Engineer's Certificate Re Release of Insurance Proceeds (the "Certificate") is delivered to you pursuant to the credit agreement dated as of ●, 2018 (as amended, restated, supplemented, replaced or otherwise modified from time to time, the "Credit Agreement") by and among Conifex Power Limited Partnership, a British Columbia limited partnership (the "Borrower"), Conifex Power Inc., as general partner, IAM Infrastructure Private Debt Fund LP and the other Fixed Rate Lenders from time to time party thereto as lenders (the "Lenders") and IAM Infrastructure Private Debt Fund LP as agent (the "Agent") for and on behalf of the Fixed Rate Lenders. All defined terms set forth in this Certificate shall have the respective meanings set forth in the Credit Agreement unless otherwise defined herein.

The Independent Engineer's review is based on the understanding and assumption that we have been provided true and accurate information, which is satisfactory in form and scope to us, from other parties, including the certificate of Borrower delivered pursuant to Section 10.11(d)(ii)(B). Notwithstanding the foregoing, our review and observations were performed with the standards of care normally practiced by engineers and consultants performing the same or similar services on like projects, including such observations and review as we, in our professional capacity, deemed necessary under the circumstances. Based on our review, the Independent Engineer hereby makes the following statements with respect to the Project as of this date:

1. In conjunction with the Borrower's certificate made pursuant to Section 10.11(d)(ii)(B) of the Credit Agreement attached as Exhibit A hereto (the "Borrower's Certificate"), we have inspected the Project and the Site (including the damage thereto with respect to which such Insurance Proceeds have been paid) and have reviewed all reports, certificates, tests results and data and such other information as necessary to render this Certificate complete.

2. On the basis of this information, it is our opinion that the repair of the Project contemplated in the Borrower's Certificate is technically and economically feasible within a twelve (12) month period and that a sufficient amount of funds is or will be available to Borrower to make such repairs and restorations (after taking into account any Voluntary Equity Contribution received by the Borrower for such purpose).

The undersigned acknowledges that pursuant to the Credit Agreement, the Agent and the Fixed Rate Lenders will be relying on this Certificate.

Redacted. Confidential supplier name.

Per: _____

Name:

Title:

C-5:3

EXHIBIT A
BORROWER'S CERTIFICATE

EXHIBIT C-6

**FORM OF
DISTRIBUTABLE CASH CERTIFICATE**

Redacted.

Redacted.

EXHIBIT D-1

SCHEDULE OF APPLICABLE PERMITS

Redacted.

EXHIBIT D-2
BASE CASE PROJECTIONS

Redacted.

Redacted.

Redacted.

Redacted.

Redacted.

**EXHIBIT D-3
LOAN REPAYMENT SCHEDULE**

Redacted.

**EXHIBIT D-4
LOCATION OF FILINGS**

Redacted.

EXHIBIT D-5

FORM OF FUEL PLAN

Redacted.

EXHIBIT D-6
PROJECT LANDS
PART I

Redacted.

EXHIBIT D-7

ORGANIZATIONAL AND PROJECT OWNERSHIP INTEREST CHART

Redacted.

D-7:2

Redacted.

D-7:3

Redacted.

EXHIBIT D-8

INSURANCE REQUIREMENTS

Redacted.

Redacted.

Redacted.

D-8:4

Redacted.

D-8:5

Redacted.

D-8:6

Redacted.

D-8:7

Redacted.

D-8:8

Redacted.

EXHIBIT D-9

RELEASES, DISCHARGES AND POSTPONEMENTS

Redacted.

D-9:2

Redacted.

EXHIBIT D-10

[RESERVED]

EXHIBIT D-11

ENVIRONMENTAL MATTERS

Redacted.

PART II - ENVIRONMENTAL MATTERS

Redacted.

PART III - REGULATED CHEMICALS

Redacted.

EXHIBIT D-12
[RESERVED]

EXHIBIT E
LENDERS/LENDING OFFICES

Redacted.

EXHIBIT F
SCHEDULE OF FIXED RATE LENDER'S COMMITMENTS

Redacted.