

POLARIS MINE CLOSURE

CONTRACT 2071-C.01
Demolition and Site Reclamation

SAMPLE AGREEMENT

Agreement made as of the ____ day of _____, 2001 For Demolition and Site Reclamation Contract (the "Agreement" or "Contract")

By and Between

COMINCO MINING PARTNERSHIP AND TECK COMINCO LIMITED, as tenants in common, of the Polaris Mine Business, in their respective capacities as participants in a Venture relating to the Polaris Mine, having an office at #600 - 200 Burrard Street, Vancouver, B.C.V1A 3E1

(herein and in other Contract Documents called the "Polaris JV" or the "Owner")

And

(Name of Company)

(Address)

(herein and in the other Contract Documents called the "Contractor")

WITNESSETH that in consideration of the covenants and agreements set forth in this Agreement and of other good and valuable consideration, the parties hereby covenant, agree and declare as follows:

ARTICLE 1

The Contractor shall:

- (a) Provide all necessary materials, labour, supervision and equipment and perform all Work described in, required by or inferred from this Contract, in a neat and workmanlike manner, and fulfill everything as set forth and in strict compliance with the Contract Documents, which Contract is for the project entitled:
 - Polaris Mine Closure
 - Contract Number: 2071-C.01
 - Title: "Demolition and Site Reclamation"and located at Little Cornwallis Island, Nunavut.
- (b) Proceed with the Work as specified in the Contract Documents, commence the Work on or before _____, attain Substantial Performance as certified by the Owner's Project

Manager in accordance with SC 2 of the Special Conditions on or before _____, and complete all Work under the Contract on or before _____.

ARTICLE 2

The Owner shall pay to the Contractor as full compensation for the performance and fulfillment of the Contract, in the manner and at the times specified in the Contract Documents and subject to such additions or deductions as may properly be made under the terms of the Contract, in Canadian funds:

- (a) the stipulated lump sum of _____ dollars (\$_____), covering all of the specific items of work and administration items and functions and other items as described in Item 1 of Appendix 1 - Schedule 2 of the Tender Form; and
- (b) a cost-reimbursable amount, covering the value of all cost reimbursable items of work as described and defined in Item 2 of Appendix 1 - Schedule 2 of the Tender Form, and which amount as of the date of the Contract is estimated to be _____ dollars (\$_____).

ARTICLE 3

The following documents are annexed hereto and form part of this Agreement as fully and to all intents and purposes as though recited in full in this Agreement between the Owner and Contractor, and the whole shall constitute the contract between the parties and it shall enure to the benefit of and be binding upon them and their respective successors, executors, administrators, and permitted assigns, if any:

- Notice of Award
- Executed Tender Form (as completed and modified as agreed upon between the parties at the time of award of the Contract)
- Addenda numbers ___ to ___ inclusive
- Invitation To Tender
- Instructions To Bidders
- General Conditions
- Special Conditions
- The Scope of Work, including Appendices thereto.
- The Drawings listed in the Drawing Lists - Scope of Work, Appendix SW7.

ARTICLE 4

No implied contract of any kind whatsoever by or on behalf of the Owner, shall arise or be implied from anything contained in the Contract or from any position or situation of the parties at any time, it being understood and agreed that the express contracts, covenants, and agreements contained in the Contract and made by the parties hereto are and shall be the only contracts, covenants, and agreements on which any rights against the Owner may be founded.

ARTICLE 5

Except to the extent this Contract expressly provides for notice to be given to the Owner's Representative or to the Contractor's Representative, all notices under the Contract shall be in writing and shall be sufficient in all respects if hand-delivered or sent by mail or by fax to the parties at their respective addresses as they appear below, or to any substitute address of which the party sending notice has had notice in writing as provided in this Article.

The Contractor at:

Attention: _____

The Owner at: Teck Cominco Metals Ltd.

600 – 200 Burrard Street
Vancouver, B.C. V1A 3E1

Attention: Vice President, General Counsel

with a copy to:

Teck Cominco Metals Ltd.
600 – 200 Burrard Street
Vancouver, B.C. V1A 3E1

Attention: Bruce Donald, Reclamation Manager

Any notice, direction or other instrument shall be deemed to have been received on the following dates:

- (a) if sent by fax during the recipient's normal business hours and received by the recipient before 4:00 p.m, local time at the location of receipt, on the day of transmission; or
- (b) if personally delivered during the recipient's normal business hours, on the day of hand delivery; or
- (c) if sent by fax or personally delivered not during the recipient's normal business hours as aforesaid, on the first business day following the sending of the fax or the hand-delivery, or
- (d) if mailed, within ninety-six hours after the mailing thereof in any Government Post Office, provided that if there is at the time of mailing, or within ninety-six hours thereafter, a mail strike, slowdown, lockout or other labour dispute which might affect the delivery by mail, at the time of actual delivery, although the parties may then give such notice, direction or other instrument by fax or personal delivery.

ARTICLE 6

- (a) The Contract shall be construed and interpreted in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- (b) The Contract is drawn in English at the request of the parties. La présente est rédigée en anglais à la demande des parties.
- (c) The Contractor hereby represents and warrants that the Contractor is incorporated in the Territory of Nunavut or, if incorporated in another jurisdiction, is registered and is in good standing as an extra-territorial corporation under the provisions of the *Business Corporations Act* of the Territory of Nunavut.
- (d) If the Contractor is a joint venture, each member of the joint venture and each member of the joint venture executing the Contract hereby represents and agrees that it shall, in respect to the Owner, be jointly and severally liable to the Owner to fulfil all obligations and liabilities of the Contractor to the same extent and for the same purposes as if that member had alone executed the Contract as the sole Contractor. The foregoing shall not limit any rights the joint venture member may subsequently have to claim contribution and indemnity under the terms of the joint venture agreement from other members of the joint venture.

IN WITNESS WHEREOF the parties hereto have executed this Agreement in duplicate effective the _____ day of _____, 200__.

CONTRACTOR:

The Corporate Seal of

_____ was hereto affixed in the presence of:

C/S

Authorized signing officer and position

Authorized signing officer and position

OWNER:

The Polaris Joint Venture

By: Teck Comico Limited

The Corporate Seal of Teck Cominco Limited
was hereto affixed in the presence of:

C/S

Authorized signing officer and position

Authorized signing officer and position

.....(Continued on next page)

By: Cominco Mining Partnership

The Corporate Seal of Teck Cominco Metals Limited
was hereto affixed in the presence of:

C/S

Authorized signing officer and position

Authorized signing officer and position

The Corporate Seal of Cominco Nova Scotia Limited
was hereto affixed in the presence of:

C/S

Authorized signing officer and position

Authorized signing officer and position

POLARIS MINE CLOSURE

CONTRACT 2071-C.01
Demolition and Site Reclamation

GENERAL CONDITIONS

POLARIS MINE CLOSURE

GENERAL CONDITIONS

INDEX

GC. 1	DEFINITIONS.....	1
GC. 2	CONTRACT DOCUMENTS.....	4
GC. 3	INTERPRETATION.....	6
GC. 4	POWERS OF THE PROJECT MANAGER	8
GC. 5	CONTRACTOR - INDEPENDENT AND RESPONSIBLE	9
GC. 6	CONTRACTOR'S SUPERINTENDENT AND WORKING FORCE	10
GC. 7	INSURANCE	10
GC. 8	WORKERS COMPENSATION ACT, SAFETY AND FIRST AID	13
GC. 9	INDEMNITY AND HOLD HARMLESS.....	13
GC. 10	BONDS - PERFORMANCE, LABOUR AND MATERIAL.....	13
GC. 11	WARRANTY AND GUARANTEE.....	14
GC. 12	LAWS, PERMITS AND LICENSES	14
GC. 13	ROYALTIES AND PATENTS.....	15
GC. 14	TAXES AND CUSTOMS DUTIES	15
GC. 15	TAX REFUNDS	16
GC. 16	SUBCONTRACTS.....	16
GC. 17	OTHER CONTRACTORS	16
GC. 18	CHANGES IN THE WORK.....	17
GC. 19	VALUATION OF CHANGES IN THE WORK	19
GC. 20	CASH ALLOWANCES OR PROVISIONAL SUMS.....	21
GC. 21	SCHEDULE OF VALUES.....	22
GC. 22	APPLICATION FOR PAYMENT & VALUATION OF WORK FOR PROGRESS PAYMENTS	22
GC. 23	PAYMENT BY THE OWNER.....	25
GC. 24	PAYMENTS WITHHELD.....	25
GC. 25	PAYMENTS BY THE CONTRACTOR AND LIENS	26

POLARIS MINE CLOSURE

GENERAL CONDITIONS

INDEX

GC. 26	CONSTRUCTION SCHEDULE, METHODS AND EQUIPMENT.....	26
GC. 27	PREVAILING WAGES.....	27
GC. 28	LABOUR RELATIONS.....	27
GC. 29	DELAYS.....	28
GC. 30	ACCELERATION OF THE WORK.....	29
GC. 31	EMERGENCIES.....	29
GC. 32	CONTRACTOR FAMILIAR WITH SITE.....	29
GC. 33	SUBSURFACE CONDITIONS.....	30
GC. 34	SURVEYS, LINES AND LEVELS.....	30
GC. 35	CONTRACT DOCUMENTS ISSUED FOR CONSTRUCTION.....	30
GC. 36	REVISIONS OF DRAWINGS AND SPECIFICATIONS.....	31
GC. 37	INSPECTION AND TESTS.....	31
GC. 38	REJECTED MATERIAL AND WORK.....	32
GC. 39	RESPONSIBILITY FOR DEFECTIVE WORK AFTER FINAL PAYMENT.....	32
GC. 40	USE OF COMPLETED PORTIONS BY THE OWNER.....	32
GC. 41	OWNER'S RIGHT TO DO WORK.....	32
GC. 42	TERMINATION OF THE CONTRACT.....	33
GC. 43	CANCELLATION.....	34
GC. 44	ASSERTION OF RIGHTS.....	35
GC. 45	ASSIGNMENT AND BANKRUPTCY.....	35
GC. 46	ARBITRATION.....	35
GC. 47	GENERAL.....	36

GC. 1 DEFINITIONS

In the Contract Documents (as hereinafter defined) the following definitions shall apply:

- 1.1 “Agreement” means the part of the Contract Documents identified and entitled as the “Agreement” and which is executed by the Owner and Contractor, and which incorporates by reference all the rest of the Contract Documents;
- 1.2 “Applicable Law” means any and all applicable domestic, federal, provincial, territorial, regional, municipal or local or other statutes, laws, by-laws, rules, regulations, codes (including design and building codes), ordinances, orders, directives, permits, approvals, licenses, judgments, decrees, writs, administrative interpretations, injunctions, orders, directives or the like, and all written requirements or directions of each Authority Having Jurisdiction, and the interpretations thereof;
- 1.3 “Authority Having Jurisdiction” means any and all federal, provincial, territorial, regional, municipal, local and other bodies, boards, agencies, tribunals or authorities having jurisdiction over any and all aspects of a Party, the performance of the Work or the Site, including licensing, regulation, permits, certificates, occupational health and safety, workers compensation, Environment, pollution, traffic, noise, employment standards, hours of work and conditions of work;
- 1.4 “Change” means an addition, deletion, variation, substitution, cancellation or omission of part or all of the Work required to be performed or provided under the Contract, provided that it is specifically authorized in advance by a formal written Change Order or Change Directive signed by the Owner in accordance with GC. 18 (Changes in the Work) of the General Conditions;
- 1.5 “Change Directive” means a written direction signed by the Owner, on the Owner’s standard form specifically identified and entitled as a “Change Directive” form, directing the Contractor to proceed and perform in accordance with the requirements set out in the Change Directive in circumstances where the Owner determines it is necessary to make a Change prior to finalizing a Change Order; or requires the Contractor to proceed or perform in accordance with the requirements set out in the Change Directive in circumstances where the Contractor has refused to do so and alleged it is entitled to a Change Order before so proceeding and performing even though the Owner has taken the position there is no Change in the Work. In either event, the Contractor shall comply with the Change Directive, provided however that in doing so the Contractor shall not be deemed to have waived its right to claim such Change Directive constitutes a Change for which the Contractor is entitled to a Change Order under the Contract;
- 1.6 “Change Order” means the written authorization signed by the Owner, on the Owner’s standard form specifically identified and entitled as a “Change Order” form, authorizing and confirming a Change in the Work;
- 1.7 “Completion” means when the entire Work, including the correction, rectification and completion, as applicable, of all known outstanding deficiencies, has been completed to the satisfaction of and has been formally accepted by the Owner, as evidenced by a written certificate of Completion issued by the Project Manager, and excludes only outstanding obligations which are for warranty items first observed after completion of all outstanding deficiencies, and is subject to all indemnities and other obligations of the Contractor under the Contract which are intended to survive the completion or termination of the Contract;

- 1.8 “Completion Date” means the date specified in the Contract Documents for the Completion of the Work;
- 1.9 “Construction Drawings” means the drawings issued for the Work, including for construction, demolition or reclamation purposes, and marked with “issued for construction” or other similar notation, all as amended or supplemented from time to time by the Owner;
- 1.10 “Construction Schedule” means the schedule prepared pursuant to GC. 26 (Construction Schedule, Methods and Equipment);
- 1.11 “Contract” means the executed Agreement entered into by the Owner and the Contractor, including all documents expressly identified and incorporated by reference therein, including the Contract Documents; unless the Agreement is unexecuted, in which case, unless otherwise defined in the Notice of Award, the “Contract” shall mean the Tender Documents, the Contractor’s executed Form of Tender, the Notice of Award and all documents expressly identified and incorporated by reference therein, including all modifications and amendments thereto that have been expressly agreed to by the Owner prior to the Notice of Award;
- 1.12 “Contract Documents” means the Agreement and all documents expressly identified and incorporated by reference therein;
- 1.13 “Contract Drawings” means the drawings that are listed in the Contract Documents and all other drawings bound in the Contract Documents, whether as part of the Specifications, the Scope of Work or otherwise;
- 1.14 “Contract Price” means:
- a) if the Contract is a lump sum contract, the lump sum price identified as the Contract Price in the Agreement, as executed, together with any adjustments properly made in accordance with the provisions of the Contract;
 - b) if the Contract is a unit price contract, the final sum of the products of the actual quantities that are incorporated in, or made necessary by, the Work, as confirmed by the Project Manager’s count and measurement, and the appropriate Contract unit prices specified in the Contract, all as determined in accordance with the Contract Documents;
 - c) if the Contract is a cost-reimbursable contract, the final sum of all cost-reimbursable items, all as determined in accordance with the Contract Documents;
 - d) if the Contract is combination of any or all of a lump sum contract, a unit price contract and a cost-reimbursable contract, the aggregate of the lump sum price, the final sum of the products of the actual quantities and the final sum of cost-reimbursable items, all as calculated pursuant to GC 1.14a), 1.14b) and 1.14c);
- 1.15 “Contractor” means, jointly and severally, the person(s), firm(s) or corporation(s) named as such in the Agreement;
- 1.16 “Deficiency Holdback” has the meaning given to it in GC 22.9;
- 1.17 “Deficiency List” has the meaning given to it in GC 22.9;
- 1.18 “Drawings” means the Construction Drawings or, until released, the Contract Drawings, all as amended or supplemented from time to time by the Owner;

- 1.19 “Engineer” means such qualified person or firm as the Owner may designate from time to time to perform the role and functions of the Engineer as such role and functions are described in the Contract Documents;
- 1.20 “Environment” and “Environmental”, whether capitalized or not, for the purposes of the Contract Documents include but are not limited to the physical, chemical, biological, ecological and social environments (such as air, water, climate, land, birds, fish, fowl, reptiles, insects, mammals, humans, plants, heritage sites, historic sites, archaeological matters, anthropological matters and cultural matters, and in addition all habitat, requirements and health related matters associated with the foregoing), and both on and off the Site;
- 1.21 “Extra Work” means the furnishing of additional labour, supervision, materials, tools, construction equipment, supplies and other items which are the subject of and specifically authorized by a Change Order or Change Directive from the Owner as a Change under the Contract, in that the furnishing of same is additional to that which the Contractor is otherwise required to do by the Contract;
- 1.22 “Force Account”, and references to “Force Account Work”, whether capitalized or not, means the provision of Extra Work for which the Contractor will be paid on a time and materials basis in accordance with the provisions of GC. 19 (Valuation of Changes in the Work);
- 1.23 “GST” means the tax which is payable by the Owner and imposed pursuant to Part IX of the Excise Tax Act (Canada), as amended, and any successor tax thereto which may be proclaimed in force after the date of the Contract to replace this tax or its successor;
- 1.24 “Hazardous Substances” means any toxic, dangerous or hazardous substance or material as defined or identified as such pursuant to any Applicable Law or Authority Having Jurisdiction relating to the Environment, occupational health and safety, or transportation, and if the foregoing are present in soil in concentrations in excess of that allowable by Applicable Law for the location or zoning in which the soil is located then soil containing such substances shall also be deemed for the purposes of the Contract to be Hazardous Substances;
- 1.25 “Notice of Award” means the Owner’s written notification to the Contractor advising the Contractor that it is the successful tenderer to whom the Contract is awarded and authorizing the Contractor to proceed with the Work in accordance the terms of the Notice of Award and other Contract Documents;
- 1.26 “Other Contractors” means any person, firm or corporation, including consultants and suppliers, employed by or having a Contract directly or indirectly with the Owner, for work other than the Work under the Contract to be performed by or through the Contractor;
- 1.27 “Owner” means the person, firm or corporation named as such in the Agreement;
- 1.28 “Party” means the Owner or Contractor.
- 1.29 “Project” means the whole of the construction and other work contemplated by the Owner in connection with the Work, and of which the Work may be the whole or a part;
- 1.30 “Project Manager” means such person or firm as the Owner may designate from time to time to act as the Owner’s representative to administer the Contract and to perform the role and functions of the Project Manager as such role and functions are described in the Contract Documents;

- 1.31 "Scope of Work" means the specific part of the Contract Documents expressly identified and entitled as the "Scope of Work" and including all documents expressly identified and incorporated by reference therein;
- 1.32 "Site" means the entire area of land owned or controlled by the Owner on which the Work is to be performed, including access roads and all other areas in the immediate vicinity thereof used by the Contractor for the performance of the Work;
- 1.33 "Site of the Work" means the particular location or locations on the Site where the Work is to be performed;
- 1.34 "Specifications" means the specifications identified or referred to in the part of the Contract Documents identified by and entitled as the "Specifications", including all specifications, appendices, codes and other requirements incorporated by reference therein and all specifications and requirements contained on the Drawings, all as supplemented or added to by the Owner during the performance of the Work;
- 1.35 "Subcontractor" means any person, firm or corporation, of whatever tier, having a Contract directly or indirectly with the Contractor for the provision of any part of the Work, including the furnishing of material called for under the Contract and worked specifically to a design shown on the Drawings or described in the Specifications, but shall not include suppliers of materials not so worked;
- 1.36 "Substantial Performance" and "Substantial Completion" mean when the whole of the Work, including all phases, subsections and other portions of the Work, has been certified by the Project Manager to be substantially complete in the opinion of the Project Manager, free of any defects or deficiencies which would prevent or interfere with the safe and uninterrupted use of the completed Work for its intended purpose, and shall not be achieved until after all requirements under the applicable lien legislation for substantial performance, substantial completion or similar terms, as applicable, for the whole of the Work have been met to the satisfaction of the Project Manager;
- 1.37 "Supplier" means any person, firm or corporation, of whatever tier, having a Contract directly or indirectly with the Contractor for the furnishing of material called for under the Contract, other than material worked specifically to a design shown on the Drawings or described in the Specifications;
- 1.38 "Tender Form" means the part of the Contract Documents identified and entitled as the "Tender Form" and including all documents expressly identified and incorporated by reference therein;
- 1.39 "Tender Price" means the estimated price for the Work as provided in the executed Tender Form (and any subsequent modifications thereto which may be agreed upon between the Parties at the time of award of the Contract); and
- 1.40 "Work" means everything expressly or implicitly required to be done or furnished by the Contractor under the Contract as shown, required by or described in any of the Contract Documents, including the Scope of Work, and includes all Changes and Extra Work authorized pursuant to a Change Order or Change Directive.

GC. 2 CONTRACT DOCUMENTS

- 2.1 The Contract Documents shall be interpreted as a whole, and the intent of the whole, rather than the interpretation of any part, shall govern.

- 2.2 The Contract Documents are complementary, and what is called for in any one shall be as binding as if called for by all.
- 2.3 The Contract Documents do not indicate every part or detail of the Work. However, it is the intent of the Contract that, save and except only those specific items which are expressly made obligations of the Owner or Project Manager by clear, unequivocal and express terms of the Contract, the Contractor shall provide and perform everything necessary for the proper and complete execution and completion of the Work, including all materials, labour, supervision, and equipment that is described in, required by or inferred from this Contract, and that all materials and workmanship shall be of the best quality and that the Contractor shall complete the Work in every detail. Any omissions in the Contract or in any part thereof shall not relieve the Contractor of its responsibility to perform all Work reasonably required to complete the Project in a good and workmanlike manner, pursuant to generally accepted construction practice governing the type of Work being performed.
- 2.4 Should an error, discrepancy, ambiguity, conflict or inconsistency appear in the Contract Documents, the Contractor, before proceeding with the Work, shall in writing bring it to the attention of the Project Manager who will decide the intent of the Contract and arrange for any correction(s) that may be required. If the Contractor fails to adhere to the foregoing requirements and fails to obtain written confirmation from the Project Manager of the intent and any correction(s) that may be required before proceeding with the Work, the Contractor proceeds at his sole risk, cost and expense and the Contractor shall not be entitled to any compensation or payment for any part of the Work performed which was not required to be performed, or which is subsequently required to correct or modify Work which was performed prior to the Project Manager confirming the intent and any correction(s) that may be required.
- 2.5 In the event of any discrepancy, conflict or inconsistency between any part of the Contract Documents and the requirements of any Applicable Law or any specified reference, national or industry standards and specifications incorporated by reference into the Contract Documents, the provisions that are the most stringent resulting in the highest quality, the highest safety and the highest standards shall apply, and the Contractor shall be deemed to have estimated on and included such in the Tender Price and Contract Price.
- 2.6 In the event of any discrepancy, ambiguity, conflict or inconsistency between or among the Contract Documents which is not resolved by the application of GC 2.5, the following shall apply:
- a) the individual documents comprising the Contract shall be construed, interpreted and applied so as to give effect to their express terms in the following order of precedence so that the first mentioned document shall prevail notwithstanding any term or aspect of a later mentioned document:
 - (i) Agreement;
 - (ii) Special Conditions;
 - (iii) General Conditions;
 - (iv) Addenda (if any);
 - (v) Scope of Work;
 - (vi) Specifications (including appendices and attachments thereto incorporated by reference therein);
 - (vii) Construction Drawings;
 - (viii) Contract Drawings;
 - (ix) Tender Form (including appendices, schedules and attachments expressly incorporated by reference therein which are also bound with the Contract);
 - (x) Instructions to Bidders; and

- (xi) Invitation to Tender.
 - b) figured dimensions shown on a Drawing shall govern even though they may differ from dimensions scaled on the same Drawing;
 - c) Drawings of larger scale shall govern over those of smaller scale of the same date;
 - d) Specifications shall govern over Drawings; and
 - e) documents of a later date shall always govern over similar type documents of an earlier date.
- 2.7 Notwithstanding GC 2.6a), to the extent that any Addenda by specific reference by number to a particular clause of the Agreement, General Conditions or Special Conditions deletes, adds to or modifies that particular clause, the Addenda shall take precedence over that particular clause; but not otherwise.
- 2.8 Following execution of the Agreement, two complete sets of all the Contract Documents will be issued to the Contractor. The Contractor shall keep one copy of the current Contract Documents at the Site of the Work.
- 2.9 Unless otherwise expressly permitted by the Contract Documents, the Contract may be amended only by written instrument duly executed by both the Contractor and the Owner.

GC.3 INTERPRETATION

- 3.1 The Project Manager is in the first instance the interpreter of the Contract and the judge of its performance and may exercise all powers hereunder in relation thereto. If there is any dispute between the Parties concerning the meaning and intent of any provision of the Contract and the Parties are unable to resolve the dispute after making reasonable efforts to do so, then the Project Manager's interpretation shall prevail.
- 3.2 In the Contract Documents, whenever the context so requires, words in the singular, plural, neuter, masculine, feminine or body corporate shall include a reference to all of the foregoing as the context may require.
- 3.3 Words and abbreviations which have a well known or recognized technical or trade meaning shall be deemed to have such meaning.
- 3.4 Unless otherwise expressly specified in the Contract, all units of measurement in the Contract are expressed in accordance with the SI system of units. The Contractor is responsible for coordination of any and all metric and imperial dimensions shown on the Drawings or specified in the Contract.
- 3.5 The language of the Contract, including the Scope of Work and Specifications, is in many cases written in the imperative for brevity. Clauses containing instructions or directions are directed to the Contractor and, in the case of conflicts, such sentences shall be construed and interpreted as if the words "the Contractor shall as part of the Work" immediately preceded the instructions or directions.
- 3.6 Unless a contrary meaning is required by the context, the Contract Documents will be interpreted and construed in accordance with the following:
- a) "acceptable" and "satisfactory", and terms of similar import, whether capitalized or not, refer to acceptable or satisfactory, as the case may be, to the Owner;

- b) “approved”, “directed”, “required”, “permitted”, “ordered”, “designated”, “prescribed”, “determined”, and terms of similar import, whether capitalized or not, refer to approved, directed, required, permitted, ordered, designated, prescribed, determined, as the case may be, by the Owner;
 - c) “hercof”, “herein”, “hereto”, “hereinafter” and similar expressions of like import shall not be limited in applicability to the specific provision within which such references are set forth but instead shall be deemed to refer to this Contract taken as a whole;
 - d) “include”, “including”, “including but not limited to”, “including without limitation” and similar expressions of like import shall not be limited in applicability or by the specific enumeration of any items but instead shall be deemed and construed to be “including without limitation”;
 - e) “will” and “shall” are synonymous with each other and both shall be deemed and construed to mean “shall” and to designate a mandatory requirement or obligation, as applicable.
- 3.7 In the Contract Documents, “Section”, “GC”, (GC.), (SC) and “SC.” followed by a number means and refers to the corresponding provision of the Contract Document, General Condition or Special Condition, as applicable, including all articles, sections, clauses, paragraphs and sub-divisions thereof containing that same number as a prefix. Further, for convenience of reference the term “section”, whether capitalized or not, is synonymous and used interchangeably with “part”, “article”, “section”, “clause”, “paragraph” and other divisions thereof.
- 3.8 The Contract Documents form the entire agreement between the Owner and the Contractor and supersede all communications, negotiations, representations, correspondence, understandings and agreements, either written or oral, that were made prior to the date of the Notice of Award.
- 3.9 In the Contract Documents where headings, tables of contents or indexes are included, they are provided for convenience only, do not form part of the Contract, and shall not affect the construction or interpretation of the Contract.
- 3.10 If any one Party to the Contract consists of more than one person, firm or corporation, including as members of a joint venture if the Contractor is a joint venture, each such person, firm, corporation and member of the joint venture shall be jointly and severally liable to the Owner to fulfil all obligations and liabilities of the Contractor, and to the same extent and for the same purposes as if that person, firm, corporation or member had alone executed the Contract as the Contractor. The foregoing shall not limit any rights such person, firm, corporation or member of a joint venture may subsequently have to claim contribution and indemnity from another person, firm, corporation or member also jointly and severally liable to the Owner hereunder.
- 3.11 If any term, condition or provision of the Contract is held to be illegal, invalid or unenforceable, the same shall be considered severable and the remainder of the Contract shall remain in force and be binding upon the Parties as if such illegal, invalid or unenforceable term, condition or provision had never been included therein, in which case that illegal, invalid or unenforceable term, condition or provision shall be replaced with a valid, legal and enforceable term, condition or provision as close as reasonably possible to the intent of the original term, condition or provision.
- 3.12 The Contract shall be construed in accordance with and governed by the laws of British Columbia.

GC. 4 POWERS OF THE PROJECT MANAGER

- 4.1 The Project Manager shall, without hereby limiting any other powers stipulated in or implied by the Contract, have the power to:
- a) interpret the Contract and to define its intent and meaning;
 - b) make decisions on all matters relating to the execution and the progress of the Work;
 - c) coordinate the work of the Contractor with the work of Other Contractors;
 - d) stop the Work whenever, in his opinion, such stoppage may be necessary to ensure the proper execution thereof;
 - e) order the temporary discontinuance of any work which, in his opinion, may be injuriously affected by weather conditions;
 - f) determine the amount payable to the Contractor for Work done under the Contract;
 - g) determine amounts for deductions and Extra Work, and the time to be allowed for Extra Work;
 - h) make decisions on all controversies arising out of the Contract or the refusal of either Party to perform the whole or any part thereof, the whole subject to arbitration as provided in GC. 46 (Arbitration).
- 4.2 The Project Manager may delegate any or all of his powers to the Engineer upon written notice to the Contractor.
- 4.3 If the Contractor considers that any decision or instruction of the Project Manager, the Engineer, or the Owner is at variance with the Contract Documents or is given in error, he shall notify the Owner and the Project Manager in writing before proceeding to carry out such instructions. If the Owner and the Contractor fail to agree as to such variance or error and the Owner decides to carry out such disputed work, the Owner may issue a Change Directive and the Contractor shall thereafter proceed in accordance with such decision and Change Directive. The Contractor shall not be entitled to additional compensation or an extension of time unless there has been a Change that would entitle the Contractor to additional compensation or an extension of time. Any dispute as to whether the Change Directive constitutes a Change for which a Change Order should have been issued, including any increased cost to the Contractor resulting therefrom, shall be decided in the manner hereinafter provided in GC. 46 (Arbitration).
- 4.4 The Contractor shall not make any alterations or variations in, or deviations or omissions from the Work without the written authority of the Project Manager. If any alteration, variation, deviation or omission is required to comply with local conditions, Applicable Law or the requirements of any Authority Having Jurisdiction, the exigencies of the Work or of the Site of the Work, or for any other reason, the Contractor shall immediately inform the Project Manager of such circumstances and obtain and comply with his written instructions thereon before proceeding with the part of the Work effected thereby. Notwithstanding the foregoing, the Contractor acknowledges and agrees that the Project Manager is not authorized to issue amendments to the Contract or Change Orders or Change Directives unless expressly so authorized in the Contract Documents.

GC. 5 CONTRACTOR - INDEPENDENT AND RESPONSIBLE

- 5.1 The Contractor shall be an independent contractor in all respects and, except as explicitly provided in the Contract, shall be free of controls and supervision by the Project Manager or the Owner as to the means and methods of performing the Work, and shall have complete control of his organization, and shall exercise direct supervision of the work being carried out by his forces.
- 5.2 Notwithstanding any other provision of the Contract or rule of law to the contrary, the Contractor acknowledges and agrees that nothing contained in the Contract, or in the relationship between the Contractor and any one or more of the Owner, Project Manager, Engineer or any other consultant, agent or employee of the Owner arising from the subject matter of the Contract, shall give rise to any contractual relationship between the Contractor and anyone other than the Owner, or give rise to any duty of care owed to the Contractor by the Project Manager, Engineer or any other consultant, agent or employee of the Owner. Further, the Contractor's sole remedies arising out of the subject matter of the Contract are against the Owner and no misrepresentation or any other action or failure to act by the Project Manager, Engineer or any consultant, agent or employee of the Owner shall give any right of action by the Contractor against the Project Manager, Engineer or any consultant, agent or employee of the Owner.
- 5.3 Unless otherwise explicitly stipulated in the Contract Documents, the Contractor shall perform all obligations under the Contract necessary for the performance of the Work which, without limiting the generality of the foregoing, shall include permits, inspection fees, materials, supplies, labour, supervision, transportation charges for materials, equipment and personnel, cost of living allowances and camp accommodation for personnel, falsework, tools, plant, equipment, temporary buildings and facilities, water, light, fuel, power, overhead, insurance, taxes, customs duties and government levies of any Authority Having Jurisdiction, including federal, territorial, provincial, regional and municipal.
- 5.4 Subject to GC. 31 (Emergencies), the Contractor shall be solely responsible for the performance and completion of the Work in all respects and shall not plead any acts, requirements or directions of the Owner, the Project Manager, or any other person whatsoever as authority for any departure from the terms of the Contract.
- 5.5 The Contract Price shall include all costs of every kind, and including, but not by way of limitation, all office charges, supervision, and the provision, maintenance, use and efficient repair of all equipment and temporary works of every description, and the performance of all services that may be required for the proper execution and completion of the work, in accordance with the Contract Documents.
- 5.6 Any materials except those listed as being "supplied by Owner", which are required to complete the installation, as defined on the Drawings and in the Specifications shall be supplied by the Contractor.
- 5.7 All parts of the Work, including all systems and equipment, shall be required to successfully complete an operational test, which test shall be performed as described in the Contract Documents or, if not described, as may be required by the Owner. It shall be the duty of the Contractor to supply all necessary test equipment and ensure that all equipment functions as per the intent of all relevant Drawings and Specifications. In this respect, he will also provide assistance to and accept directions from any equipment, manufacturer or supplier specialists or consultants engaged by the Owner or the Contractor, to verify the integrity of all parts of the Work, including all systems and equipment and their installation and operation.

- 5.8 The Contractor shall keep a separate set of accounting records relating solely to the Contract and also a separate set of accounting records relating solely to Change Orders and Change Directives. The Project Manager has the right at any time and from time to time to examine such records and to make any copies.
- 5.9 The Owner reserves the right to audit at any time and from time to time the Contractor's and any Subcontractor's accounts for any unit price or cost-reimbursable items under the Contract or under any Change Order or Change Directive. The Contractor shall cooperate fully with such audit and make all records and documents in its possession or control, including electronic records, available to the Owner for purposes of such audit.
- 5.10 If the Contract or a Change Order or Change Directive provides that payment to the Contractor is to be based in whole or in part on the cost of the Work, the Contractor shall avail himself of all discounts to which it is entitled in the purchasing of any materials, supplies, tools, services, equipment, and/or any other requirement of the Work and the Contractor shall credit the Owner's account with the amount of any such discount. If the Contractor fails to obtain any such discount for any reason, or fails to so credit the Owner, the Contractor shall reimburse the Owner with the discount, or the Owner may deduct it from any payment due the Contractor.

GC. 6 CONTRACTOR'S SUPERINTENDENT AND WORKING FORCE

- 6.1 The Contractor shall keep on the Work, throughout its progress, a competent Superintendent and the necessary assistants, qualified to properly coordinate and supervise the trades involved in the Work. The Superintendent or any of his principal assistants shall not be changed except with the consent of the Owner unless they cease to be in the Contractor's employ. The Superintendent shall represent the Contractor in his absence and directions given to him shall be as binding as if given to the Contractor. The Contractor shall enforce proper discipline and good order among his employees and all Subcontractors' employees.
- 6.2 Only competent and qualified workers shall be employed to do work under this Contract. Should the Project Manager or the Owner deem anyone employed on the Work to be incompetent, unqualified, careless or unfit for his duties, the Contractor shall remove him immediately and he shall not be employed again on the Work, without the Owner's permission.
- 6.3 Subject to the foregoing, the Contractor shall have complete control of his organization.

GC. 7 INSURANCE

7.1 Contractor Provided Insurance

The Contractor shall provide, maintain and pay for the insurance coverage described in this GC 7.1 and shall deliver to the Owner before commencement of the Work, and thereafter from time to time as reasonably required by the Owner, insurance certificates or other similar evidence satisfactory to the Owner confirming the insurance required by the Contract is in force.

- a) Comprehensive General Liability Insurance - having a limit of not less than \$5 (five) million inclusive for any one occurrence, and insuring against claims for personal injury, including death, and for property damage arising out of the operations of the Contractor under this Contract, and including:
- (i) liability for premises and operations;
 - (ii) owners and contractors protective;

- (iii) liability arising out of products (either manufactured or supplied) and 24 months completed operations;
 - (iv) broad form property damage, including completed operations;
 - (v) blanket written contractual liability;
 - (vi) extended bodily injury and property damage definition;
 - (vii) unlicensed mobile equipment;
 - (viii) a cross liability or severability of interest clause;
 - (ix) operation and use of machinery attached to licensed vehicles;
 - (x) non-owned automobile liability insurance;
 - (xi) contingent employers liability;
 - (xii) blasting and use of explosives;
 - (xiii) liability for loss of or damage to property of others in the care, custody and control of the insured while being lifted and/or lowered by cranes or hoists or other lifting equipment.
- b) Automobile Liability Insurance - having a limit of not less than \$2 million inclusive for any one occurrence, and insuring against claims for bodily injury, including death, and for property damage arising out of the use of any licensed motor vehicle by the Contractor in the performance of the Contract.
- c) Aircraft Liability Insurance - if the Contractor uses owned or non-owned aircraft in the performance of this Contract, including for the air transport of workers or equipment other than by regular commercial airline, having a limit of not less than \$10 (ten) million inclusive of any one occurrence, and insuring against claims for bodily injury, including death and for property damage, covering owned or non-owned fixed-wing or rotary-wing aircraft. The Contractor also hereby relieves and releases the Owner of and from all responsibility for loss or damage, including loss of use, sustained to any aircraft during the term of the Contract.
- d) Watercraft/Hull Insurance - if the Contractor uses owned or non-owned watercraft in the performance of this Contract, having a limit of not less than \$5 (five) million inclusive of any one occurrence, and providing as a minimum (1) Protection and Indemnity Insurance subject to SP.23 insuring conditions or equivalent including Pollution Liability and (2) Hull and Machinery Insurance subject to Canadian Hulls (Pacific) Clauses 1991 or equivalent, on all owned or non-owned watercraft used by the Contractor.
- e) Workers Compensation and Employer's liability - insurance in compliance with the laws of Canada, the Territory of Nunavut and all other Applicable Law pertaining to the compensation of injured employees assigned to the Work.
- f) All Risks Physical Damage Insurance - insuring equipment owned, leased or rented by the Contractor for the purpose of fulfilling its obligations under this Agreement. This insurance shall have limits of coverage sufficient to permit the Contractor to fulfil its obligations under the Agreement, and shall have a deductible satisfactory to the Owner.
- g) Professional Errors and Omissions Insurance - if the Work includes professional engineering services, having a limit of not less than \$1 million, inclusive of any one occurrence.

7.2 The policies for the insurance coverage described in GC 7.1 shall be endorsed as follows:

- a) Additional Insured: Comprehensive General Liability Insurance, GC 7.1a); and Aircraft Liability Insurance, GC 7.1c); and Watercraft/Hull Insurance, GC 7.1d), shall

define "additional insured" as "., the Owner, the Cominco Mining Partnership, Teck Cominco Limited, Teck Cominco Metals Ltd. and Cominco Nova Scotia Company, the Project Manager, and their respective directors, officers, employees and agents, all as their interests may appear but only with respect to the operations of the Contractor under the Contract".

- b) Waiver of Subrogation: Each policy with the exception of Automobile Liability and Workers Compensation Insurance shall include an endorsement under which the insurer waives any right of subrogation it may have against the Owner, the Cominco Mining Partnership, Teck Cominco Limited, Teck Cominco Metals Ltd. and Cominco Nova Scotia Company, the Project Manager and their respective directors, officers and agents. In addition the property insurance policy referred to in 7.1f) shall waive any right of subrogation against any other contractor or subcontractor with respect to the Contract.
 - c) Notice of Cancellation or Modification: Each policy shall include an endorsement in substantially the following form:

"Unless the Owner has expressly waived this provision in writing, the coverage provided by these insurance policies will not be cancelled, materially changed or amended in any way, until 30 days after written notice of that cancellation, change or amendment has been given to the Manager, Corporate Risk & Insurance, Teck Cominco Metals Ltd., #600-200 Burrard Street, Vancouver, B.C., V6C 3L9."
 - d) Primary Coverage: Each policy shall expressly state that it provides primary coverage.
 - e) Cross-Liability: Each policy that provides any form of third-party liability coverage shall include a provision in substantially the following form:

"The insurance afforded by this policy shall apply to any action brought against any of the named insured by any other insured in the same manner as though separate policies were issued to each."
 - f) The Contractor shall absorb and be liable for the deductible or self-insured amounts applicable under any policy provided by the Contractor.
- 7.3 The Contractor agrees that it shall place all insurance required with insurers that are satisfactory to the Owner and that are licensed in the Territory of Nunavut and in any other place in which the Work is performed.
- 7.4 The requirements for insurance coverage of the kinds and with the limits stated shall not be construed as a representation or agreement by the Owner that this insurance coverage is adequate or limits the Contractor's liability to the Owner or others. The Contractor may obtain insurance having greater limits and providing other forms of coverage as the Contractor deems prudent to protect itself and the Owner under the Contract.
- 7.5 If the Contractor engages any Subcontractor to perform or provide any part of the Work, the Contractor shall ensure that the Subcontractor is covered by the insurance procured by the Contractor pursuant to this GC. 7 (Insurance), and that the Subcontractor shall be bound by and comply with the terms and conditions of the Contractor under the Contract.
- 7.6 In the event of loss, the Contractor shall immediately notify the Owner and the Project Manager with full details of the incident. The Contractor shall act in the best interests of the

Owner and any adjustment of the loss with insurers, and repairs, shall be carried out in accordance with the instructions of the Owner.

GC. 8 WORKERS COMPENSATION ACT, SAFETY AND FIRST AID

- 8.1 The Contractor shall register under, abide by and comply with all provisions of the Workers Compensation Act of the Territory of Nunavut, all other Applicable Law, and the requirements of any other Authority Having Jurisdiction in all locations in which the Work is being performed, including all regulations and orders passed thereunder, and any other Applicable Law or requirements of Authority Having Jurisdiction relating to workers compensation and occupational health and safety of or applicable to said Territory, and shall report wages of workers as required for assessment, and shall carry workers compensation insurance, insuring against any claim or liability which may arise under the provision of said laws and requirements.
- 8.2 The Contractor shall deliver to the Owner before the Work is started evidence and certification satisfactory and acceptable to the Owner showing compliance by the Contractor with the requirements of GC 8.1.
- 8.3 The Contractor unconditionally warrants and guarantees to the Owner full compliance with the requirements of GC 8.1, including said provisions, regulations and laws, by all Subcontractors and other persons employed by the Contractor, or with whom the Contractor may make any contract for the performance of any part of the Work.

GC. 9 INDEMNITY AND HOLD HARMLESS

- 9.1 The Contractor shall indemnify and hold harmless the Owner, the Cominco Mining Partnership, Teck Cominco Limited, Teck Cominco Metals Ltd., Cominco Nova Scotia Company, the Engineer, the Project Manager and their respective officers, directors, agents and employees from and against any and all claims, demands, losses, costs (including actual legal fees and disbursements expended), damages, awards, judgments, actions, suits, proceedings or other liabilities of whatsoever nature directly or indirectly brought against them, arising out of or alleged to arise out of or resulting from any fault, act or omission of the Contractor or any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including for breach of any requirement of the Contract, regardless of whether or not it is caused in part by a person indemnified hereunder.

GC. 10 BONDS - PERFORMANCE, LABOUR AND MATERIAL

- 10.1 The Owner shall have the right at any time to require the Contractor to furnish bonds in such forms and amounts as the Owner may consider adequate and with such surety as the Owner may approve guaranteeing the faithful performance of the provisions of the Contract and the payment of the Contractor's creditors, both those directly connected with the execution of the Contract and those arising out of the responsibility of the Contractor.
- 10.2 If such bonds are required by written instructions given prior to the receipt of bids, the premiums shall be paid by the Contractor unless stipulated otherwise in the Contract Documents; if they are required subsequent thereto, the premiums shall be paid by the Owner at the lesser of any rates therefor specified in the Tender Form and the actual direct cost to the Contractor for the bonds as invoiced by the surety and paid by the Contractor to the surety.
- 10.3 Without limiting any other rights of the Owner, if the Contractor fails to provide the required bonds in accordance the Contract within the time periods specified in the Contract

Documents, or if not specified within 14 calendar days of demand by the Owner, the Contractor shall be in material default of its obligations under the Contract and the Project Manager may order the Contractor to stop work until after the required bonds have been provided to the Owner, and the Owner may in its sole and absolute discretion declare the Contractor to be in default of the Contract and terminate the Contractor for such default. If the Project Manager orders the Contractor to stop work in accordance with the foregoing, no extension of time or extra compensation will be granted to the Contractor and the Contractor shall be liable to the Owner for all damages the Owner may incur.

GC. 11 WARRANTY AND GUARANTEE

- 11.1 The Contractor warrants and guarantees the Work shall be fit for the purpose intended; in conformance with all requirements of the Contract; in a condition satisfactory to the Owner and Project Manager in all respects; in good working order and where materials are provided by the Contractor using all new materials in good condition; and at the time of Completion and for a warranty period of one year from Completion, or for such longer period as may be stipulated elsewhere in the Contract Documents free from all defects in material or workmanship. The Contractor shall at his own expense remedy such defects that appear within such warranty period promptly and shall indemnify the Owner for any damage resulting therefrom which appears within such a period.
- 11.2 The Contractor shall secure and obtain from his Subcontractors and Suppliers, in an assignable form, written warranties and guarantees for not less than warranty periods specified in the Contract Documents, and shall transmit same to the Owner prior to presentation of Contractor's claim for final payment, and shall assign same to the Owner when required by the Owner, provided however that such warranties and guarantees, and any assignment of any warranties and guarantees, shall not limit the Owner's remedies against the Contractor hereunder.
- 11.3 The Owner shall give notice of observed defects with reasonable promptness. Neither inspection nor approval of any samples or any part of the Work, nor final acceptance or Completion of the Work, nor any payment by the Owner shall relieve the Contractor of responsibility for incomplete work or defects in materials or workmanship.
- 11.4 Nothing herein contained shall diminish any more extended liability for defective or faulty materials or workmanship which is created by any Applicable Law, including Applicable Law in the jurisdiction in which the Site is located.
- 11.5 The Contractor acknowledges and agrees that all replacement, repair and remedial work performed during the warranty period shall be warranted for a further period equal to the length of the original warranty period, computed from the date the replacement, repair or remedial work has been satisfactorily performed and accepted by the Project Manager.

GC. 12 LAWS, PERMITS AND LICENSES

- 12.1 The Contractor will comply with all Applicable Law and all requirements of any Authority Having Jurisdiction and, upon request of the Owner or Project Manager, provide to the Owner and Project Manager certificates of compliance therewith as may be required by such Applicable Law or Authority Having Jurisdiction.
- 12.2 The Contractor, by entering into the Contract, represents and warrants it is familiar with the requirements of any Authority Having Jurisdiction, including all Applicable Law which relate to the Work, and that the unit prices, separate lump sum prices, and cost-reimbursable prices and the Contract Price include all costs of observing and complying with same. The Contractor shall ensure that all permits, permissions, approvals and consents required to be

obtained from any Authority Having Jurisdiction have been obtained prior to performing any part of the Work for which such permits, permissions, approvals and consents are required and shall comply strictly with all permits, permissions, approvals, consents and requirements of any Authority Having Jurisdiction. The Contractor shall indemnify and hold harmless the Owner, the Cominco Mining Partnership, Teck Cominco Limited, Teck Cominco Metals Ltd. and Cominco Nova Scotia Company, Project Manager, Engineer and their respective directors, officers, servants, consultants, agents, employees, successors and assigns from and against any and all liability, including penalties, fines and assessments, and legal costs and disbursements, which the Owner may incur arising out of the performance by the Contractor of the Contract not in accordance with Applicable Law or the requirements of any Authority Having Jurisdiction. The aforesaid indemnity is in addition to and not in substitution for any other indemnities under the Contract.

12.3 The Contractor will:

- a) without reimbursement from the Owner, pay for and obtain all licences, approvals and permits from any Authority Having Jurisdiction and in accordance with Applicable Law, including business licenses, which are necessary for the Contractor to conduct business and perform the Work in the jurisdictions in which the Site is located or where any part of the Work is performed; and
- b) on a cost-reimbursable basis, unless otherwise provided in the Contract Documents, pay for and obtain all easements, grants, permits (except building permits), certificates, approvals and licences, and issue all legal notices required by Applicable Law or the Authority Having Jurisdiction, necessary to carry out the Contract, save and except those specifically and expressly required by the Contract to be obtained by the Owner.

GC. 13 ROYALTIES AND PATENTS

- 13.1 The Contractor shall indemnify the Owner against claims, demands, losses, costs (including actual legal fees and disbursements expended), damages, actions, suits and proceedings for the infringement or use of any patent arising out of or related to the use of any invention protected by such patent in carrying out the Contract, and for royalties or other payments resulting therefrom which may be payable in connection with the Contract; provided, however, that in respect of the Contract only, the Owner shall indemnify the Contractor against all such claims, demands, losses, costs (including actual legal fees and disbursements expended), damages actions, suits or proceedings in respect of anything for which the model, plan or design shall have been supplied to the Contractor by or on behalf of the Owner.
- 13.2 The Party required hereunder to indemnify the other Party shall be entitled to conduct the defence of such claims, actions, suits or proceedings, so long as such defence is diligently conducted, and each Party shall keep the other Party promptly and fully informed of the bringing of such claims, actions, suits or proceedings, and of the steps taken or which ought to be taken in the prosecution or defence thereof.

GC. 14 TAXES AND CUSTOMS DUTIES

- 14.1 Unless otherwise stipulated in the Contract Documents and save and except only GST and any taxes levied on material or equipment, if any, supplied free of charge to the Contractor by the Owner, the Contractor shall pay all taxes and duties incurred by or chargeable to or by the Contractor relative to the Work, including all federal, provincial, territorial, regional, municipal and other taxes and duties.

GC. 15 TAX REFUNDS

- 15.1 At the Owner's request, the Contractor shall co-operate with the Owner and the appropriate authorities in endeavouring to obtain, and where available in obtaining, any tax refunds to which the Owner might be entitled. The Contractor agrees upon reasonable notice to permit the Owner to examine and make copies of relevant invoices from the Contractor's Subcontractors and Suppliers.

GC. 16 SUBCONTRACTS

- 16.1 The Contractor shall not subcontract any portion of the Work unless, before signing of the Contract, he has notified the Owner in writing of the names of the Subcontractors proposed for any principal part of the Work and the Owner has given its written consent, or the Owner has given its written consent subsequent to the signing of the Contract. If any Subcontractors or Suppliers are expressly identified in the Tender Form for any part of the Work, the Contractor shall use those Subcontractors and Suppliers unless the Owner consents in writing to a substitution, which consent may be subject to such conditions as the Owner may in its discretion require.
- 16.2 In subcontracting for any part of the Work, the Contractor shall make a contract with the Subcontractor wherein the latter shall expressly agree to be bound by the terms of this Contract.
- 16.3 The Contractor alone shall be fully responsible to the Owner for the acts and omissions of Subcontractors, and of persons employed by or through them, in the same manner, to the same extent and to the same effect as if no Subcontractors were used and the whole of the Work was performed solely by the Contractor and its own forces. Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the Owner.
- 16.4 The Owner reserves the right, at any time during the construction period, to require the Contractor remove from the job and the Site any Subcontractor whose work does not meet with the Owner's approval.
- 16.5 The Contractor hereby assigns to the Owner all rights and benefits of all contracts with a Supplier or Subcontractor, and the Contractor further covenants to take such other steps as may be reasonably required to enable the Owner to register a security interest in any services, equipment, materials or supplies to be provided by a Supplier or Subcontractor. No such assignment has the effect of making the Owner responsible for the collection of any monies or for the performance of any covenants, terms or conditions under any of the assigned contracts or otherwise relieve the Contractor of any obligations under the Contract or under any of its contracts with Subcontractors or Suppliers.

GC. 17 OTHER CONTRACTORS

- 17.1 The Owner reserves the right to perform work with his own forces and to let other contracts in connection with the Project of which the Work is a part. The Contractor shall afford the Owner and any such Other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work. The Contractor shall work in conjunction with the Owner and these Other Contractors to coordinate and connect properly the several parts of the Work. The Contractor shall not commit or permit any act which will interfere with the performance of the work of the Owner or Other Contractors.

- 17.2 Where the Contractor's Work adjoins the work of the Owner or Other Contractors, the Owner shall confer with them as required and so arrange his Work that there shall be no discrepancies when the whole work for the Project is completed.
- 17.3 If the Contractor fails to cooperate with or coordinate the Work with the work of the Owner or Other Contractors, he shall not make any claims founded on delays or costs which have resulted from such failure and he shall save the Owner harmless from all claims made by Other Contractors, which are founded on delays caused by such failure.
- 17.4 If any part of the Work depends for its proper execution or result upon the work of Other Contractors, the Contractor shall inspect such work prior to commencing the portion of the Contractor's Work that depends on the work of Other Contractors and report promptly in writing to the Project Manager any defects in the work of such Other Contractors that interfere with the proper execution of the Work.
- 17.5 Should the Contractor fail to so inspect and report, the Contractor shall have no claim against the Owner by reason of defective or unfinished work of any Other Contractor except as to latent defects not reasonably observable at the time of the commencement of the Contractor's Work.
- 17.6 Copies of Drawings and Specifications relating to another contract and reasonably required by the Contractor will be furnished to the Contractor on request, for his information in carrying out the above provisions.

GC. 18 CHANGES IN THE WORK

- 18.1 The Owner or the Project Manager may make Changes, including by altering, adding to or deducting from the Work, without invalidating the Contract.
- 18.2 However, except as provided in GC. 31 (Emergencies), no change shall be made to the Work, and the Contractor shall not undertake or make any changes including performing any Extra Work, unless pursuant to a Change Order or Change Directive specifically authorizing the Change, and the Contractor shall comply with such Change Order or Change Directive. No claim for a Change to the Construction Schedule or to the Completion Date or for an addition to the Contract Price will be considered or allowed unless the Contractor first obtains a Change Order or Change Directive.
- 18.3 Any Changes shall be carried out under the terms and conditions of the Contract and the applicable Change Order or Change Directive, and the adjustments, if any, that thereby result to the Contract Price, the Construction Schedule and the Completion Date for the Work shall be made as set forth in this GC. 18 (Changes in the Work).
- 18.4 The Contractor shall be compensated for Changes, including Extra Work, only in accordance with GC. 19 (Valuation of Changes in the Work).
- 18.5 Any claim for an extension of time in regard to the Construction Schedule or the Completion Date shall be dealt with pursuant to GC. 29 (Delays) at the time Changes are authorized by Change Order or Change Directive. Unless an extension of time is specifically granted by the Project Manager in a Change Order or Change Directive, any adjustment to the Contract Price authorized by the Change Order or Change Directive shall be deemed to be full compensation for the Change and there shall be no extension of time, including in regard to the Construction Schedule or the Completion Date on account of the Change Order.
- 18.6 If the Project Manager decides that a Change in the Work will shorten the period required for completion of the Work, he shall so notify the Contractor and state the number of days by

which such period is to be shortened, and the Construction Schedule or the Completion Date, or both, shall be amended accordingly by the Project Manager in the Change Order or Change Directive which confirms the number of days by which such period is to be shortened.

- 18.7 In all cases where the Contractor is entitled to receive any additional compensation or extensions of time under the Contract, the Contractor shall use all reasonable commercial efforts to mitigate and reduce to the greatest extent reasonably possible the amount of additional compensation and extensions of time to which the Contractor is entitled under the Contract. Any compensation and extensions of time otherwise due to the Contractor shall be reduced by the amount, if any, that the Project Manager determines could have been avoided by the Contractor through the exercise by the Contractor of due diligence and reasonable commercial efforts to mitigate the costs and delays.
- 18.8 If a Change, or any other circumstance arising during the course of the Work, except those provided for in GC. 29 (Delays), GC. 31 (Emergencies) and GC. 40 (Use of Completed Portions by the Owner), justifies, in the opinion of the Contractor, a claim for an addition to the Contract Price, the Contractor shall present its claim in writing to the Owner prior to starting work or obtaining material upon which the claim is based. If the claim is not presented to the Owner prior to starting such work or obtaining such material, the Contractor shall not be entitled to compensation from the Owner. Upon receipt of such a claim the Project Manager will decide whether the claim is valid and the basis and amount of payment, if any, pursuant to GC. 19 (Valuation of Changes in the Work).
- 18.9 If the Contractor disputes a decision of the Project Manager as to whether a Change will result in an addition to the Contract Price, the Contractor shall nonetheless perform the Work and the performance of the Work shall not prejudice any remedies that the Contractor may have, provided the Contractor gives the Owner, before commencing the Work, a further written notice that he is performing the disputed Work under protest.
- 18.10 If the Project Manager decides that a Change results in a decrease in the cost to the Contractor of carrying out the Work, the Project Manager shall decide the amount that is to be deducted from the Contract Price, calculating the reduction in the manner as provided for Extra Work as if the work had been added to the scope of the Contract rather than deleted, with the amount of the credit applied as a reduction in the Contract Price otherwise due to the Contractor. In such event the Contractor shall not be entitled to any compensation for loss of anticipated profits.
- 18.11 All claims resulting from Changes submitted by the Contractor shall be accompanied by a list of the Changes and a detailed estimate of the cost of each Change, together with references to the Drawings or other documents involved.
- 18.12 If a Change Order can not be promptly agreed upon between the Parties, including in respect of the method of valuation, measurement, change in Contract Price and adjustment in time for a proposed Change, and if the Owner nevertheless wishes to proceed with the Change:
- a) the Owner may issue a Change Directive to the Contractor directing the Contractor to proceed with the Change, in which case the value of the Change shall be determined in accordance with GC. 19 (Valuation of Changes in the Work) and the adjustment in the time, if any, shall be determined pursuant to GC. 29 (Delays);
 - b) pending a final determination pursuant to GC. 19 (Valuation of Changes in the Work) of the appropriate adjustment in the Contract Price for the Change, and a final determination of any adjustment to the time for the Change, the Project Manager

acting reasonably shall determine the method of valuation, measurement and change in the Contract Price and adjustments in time which shall apply; and

- c) the Owner and the Contractor shall use reasonable efforts to agree upon and execute a Change Order within a reasonable time thereafter.

18.13 If the Owner and the Contractor disagree about whether a Change or Change Order is required for the Contractor to proceed with the Work as required by the Owner, the Project Manager may issue a Change Directive and the Contractor shall perform the Work as specified in the Change Directive. If the Contractor believes that the Work specified in the Change Directive constitutes a Change, then it shall within five (5) working days of receipt of the Change Directive give notice of intention to claim for alleged Changes but shall not be relieved of its obligation to perform the Work as specified in the Change Directive. If notice is not given within the aforesaid five (5) working day period, the Contractor shall be deemed to accept that no Change in the Work has occurred and no additional time or compensation is due to the Contractor. Any disagreement as to whether a Change Directive constitutes a Change for which a Change Order is required shall be resolved by the provisions of GC. 46. (Arbitration)

GC. 19 VALUATION OF CHANGES IN THE WORK

19.1 If, in the opinion of the Project Manager, a Change pursuant to GC. 18 (Changes in the Work) results in a valid claim for an addition to the Contract Price, such addition shall be valued as follows:

- a) on a lump sum basis as mutually agreed upon by the Parties, or
- b) if such lump sum basis cannot be mutually agreed upon, the valuation shall be determined by the unit prices, if any, shown in the Contract Documents where, in the opinion of the Project Manager, they are applicable, or where these unit prices are not deemed applicable by the Project Manager, by such other unit prices as may be mutually agreed upon by the Parties, or
- c) if neither a lump sum nor a unit price basis for payment can be agreed upon, the Change shall be carried out on a Force Account basis, in which case the Contractor shall be reimbursed its costs calculated as follows, but only to the extent that the Contractor can establish to the satisfaction of the Project Manager that the costs are incremental additional costs clearly and solely attributable to the performance of the Work which is the subject of the Change Order or Change Directive for which compensation is being sought and which additional costs otherwise would not have been incurred by the Contractor:
 - (i) For labourers, tradesmen and working foremen wholly engaged on the Change, the Contractor shall receive the labour rates which are expressly included in the Contract Documents in a separate schedule or table of labour rates for Extra Work. Overtime will be subject to prior written approval of the Project Manager.

If there is no schedule or table of labour rates in the Contract, or if a labour rate is not applicable to a worker, the Contractor shall be reimbursed for that labour at the direct payroll cost to the Contractor, including fringe benefits, compulsory government charges (excluding personal income taxes), insurance and travel expenses actually paid to or on behalf of the worker. The onus shall be on the Contractor to prove, to the reasonable satisfaction of the Project

Manager, the actual payroll costs incurred by the Contractor in accordance with the foregoing.

There shall be no charges whatsoever for time for technicians, supervisory but non-working foremen, engineers, assistant superintendents, superintendents, office personnel, timekeepers and maintenance mechanics, whether listed or not on the schedule or table of labour rates for Extra Work.

- (ii) For materials purchased by the Contractor and actually used in the Change, the Contractor shall receive the actual cost of such materials including transportation charges, as shown by invoices or other records of payment satisfactory to the Owner.
- (iii) For that part of the Change performed by Subcontractors, the Contractor shall receive the lesser of the actual of such Subcontractors, as established by invoices and other records of payment satisfactory to the Owner, and the amount which the Contractor would have received if the Contractor had performed that Change using its own labour and equipment.
- (iv) To the labour, material and subcontract costs as specified above, shall be added the percentages for labour, material and sub-contracted work respectively, set forth in the Contract Documents to cover profit, general supervision, overhead, tools and all other general expenses, provided however that if such percentages are not set forth in the Contract Documents they shall not exceed 10% in the aggregate.
- (v) For living allowances and cost of board and lodging for employees wholly engaged on the Change, and other costs not included above which form part of such employees' terms of employment, the Contractor shall receive that portion of the actual cost of such items as is attributable, on a pro rata basis, to the amount of time such employees are engaged on the Change. No percentage markup for profit, general supervision, overhead, tools or any general expenses shall be added to this sum.
- (vi) For any construction equipment (other than small tools), as approved by the Owner, required for the Change, the Contractor shall be paid such rental rate as may be agreed upon between the Owner and Contractor in writing before the Contractor proceeds with the Change. Failing agreement on a rate, the rate shall not exceed the lowest rate of the most comparable equipment already on Site, or if no comparable equipment is on Site then the lowest rate available competitively for the period used.
- (vii) Small tools shall include all tools and items of equipment which have individual replacement values under \$1,000.00, and shall be deemed to be included in the labour rates. Construction Equipment shall include all items of equipment and tools having an individual replacement value of \$1,000.00 or more.
- (viii) Other than as specifically provided in this GC 19.1c), no other allowance shall be made for profit, general supervision or for overhead or the use of Tools.

19.2 Where the Contractor is to be paid under GC 19.1c) on a Force Account basis, at the end of each day the Contractor shall prepare and submit to the Project Manager for approval and verification appropriate daily timesheets and daily records, in such number of copies as the Project Manager may require and in a format and with content acceptable to the Project

Manager, recording among other things for each worker and piece of construction equipment the hours, types of work and location of work performed, and for each piece of material the type, quantity and location installed, as well as such other information as the Project Manager may reasonably require, expended on the Change or Extra Work and for which the Contractor seeks payment. The aforesaid timesheets and daily records shall be submitted daily prior to 9:00 A.M. on the working day following the day on which the work was performed or materials used for which the Contractor seeks payment. The Project Manager will verify the hours and quantities indicated thereon by initialling same and returning one copy to the Contractor. Rate extensions shall be performed by the Contractor for billing. The Contractor acknowledges and agrees that the Owner will be materially prejudiced and unable to verify or mitigate the costs of the Changes or Extra Work if the Contractor fails to comply with the foregoing and, accordingly, the Contractor agrees that no payment whatsoever shall be made, due or owing for any labour, construction equipment, materials, costs for Subcontractors or anything else related to any Change or Extra Work not expressly included on the aforesaid timesheets and daily records at the time they are first required to be submitted to the Project Manager in accordance with the foregoing, and for which the Project Manager has had the opportunity to review, verify and initial the timesheets and daily records within one day of the date upon which the labour, construction equipment, materials or other work or services were provided. Evidence of such daily verification by the Project Manager shall be submitted with the Contractor's application for payment.

- 19.3 The Contractor further acknowledges and agrees that in respect of any Change or Extra Work the Contractor shall not be paid for any labour or construction equipment, including that provided by Subcontractors, except for when that labour or construction equipment is actually and diligently engaged in the proper, productive, efficient and effective performance of the Work, and shall not be paid for any materials not incorporated into the Work. The Contractor shall not be paid for any non-productive time or for any portion of any inefficiencies which could reasonably have been avoided by the exercise of due diligence, or for any portion of any time which is attributable to any inefficiencies, errors, mistakes or fault by or attributable to the Contractor, or for correcting any deficient or faulty Work of the Contractor, whether arising out of the Extra Work or otherwise, or for any Materials which are damaged, wasted, destroyed or not used.

GC. 20 CASH ALLOWANCES OR PROVISIONAL SUMS

- 20.1 Where a sum is stipulated in the Contract as a cash allowance or a provisional sum for a specific purpose, the Contract Price includes such cash allowance and provisional sum and the Contractor shall set aside the amount of such cash allowance and provisional sum, which shall be expended at the Owner's discretion and the Contractor shall pay and expend this amount at such time and in such amounts and in favour of such persons as the Owner may, in writing, direct.
- 20.2 The Contract Price, and not the cash allowance or provisional sum, includes all profit, administration, mark-up, supervision, and overhead associated with Work to be carried out under any cash allowance or provisional sum included in the Contract. In determining cost of work carried out within a cash allowance or provisional sum, only the direct cost to the Contractor shall be applied against the cash allowance or provisional sum and no mark-up for overhead or profit will be allowed. Any monies remaining in the cash allowance or provisional sum at the completion of the Contract shall be credited to the Owner.

GC. 21 SCHEDULE OF VALUES

- 21.1 Before making the first application for payment under the Contract, the Contractor shall submit for the Owner's approval a schedule of values of the various parts of the Work and totalling the full amount of the Contract Price. This schedule, when approved by the Owner,

shall be used as the basis for applications for payment, subject to such adjustments required by the Owner from time to time to reflect adjustments, or anticipated adjustments, in the final Contract Price.

**GC. 22 APPLICATION FOR PAYMENT & VALUATION OF WORK FOR PROGRESS
PAYMENTS**

- 22.1 On or before the 5th day of each month following a month in which Work has been performed by the Contractor, the Contractor shall submit to the Project Manager for review and approval an application for payment, on forms provided by the Project Manager, for the value of the amount of the Work and Changes in the Work performed during the preceding month, as such value is determined in accordance with this GC. 22 (Application for Payment & Valuation of Work for Progress Payments).
- 22.2 When the Work, or a Change in the Work is being performed on a lump sum basis, the value of the amount of the Work performed shall be based on the percentage of the Work performed by the Contractor and, unless otherwise stipulated in the Contract Documents, shall include the value of materials delivered to the Site but not yet incorporated into the Work, subject to the following limitations;
- a) For the first claim, the amount of material so claimed shall not, in the opinion of the Project Manager, be unreasonably large in relation to the amount of work scheduled for the next succeeding month.
 - b) For the second and subsequent claims, the value of material delivered to the Site but not incorporated in the Work shall not be included in the claim unless ninety percent (90%) or more of the material so claimed in the previous claim has been paid for by the Contractor and the Contractor provides evidence of same acceptable to the Project Manager.
- 22.3 When the Work or a Change to the Work is being performed on a unit price basis, the value of the amount of Work performed shall be the number of fully completed units of the Work measured as described in the Contract Documents and, unless otherwise stated in the Contract Documents, the value of the amount of Work shall not include materials delivered to the Site but not yet incorporated into the Work.
- 22.4 When a Change in the Work is being performed on a cost-reimbursable basis or a cost plus a percentage basis or on a cost plus a fixed fee basis, the value of the Work performed pertaining to such Change in the Work shall be based on payments that the Contractor has made as substantiated by invoices, payrolls, or other records, including evidence of payment by the Contractor satisfactory to the Owner, plus any applicable percentages or plus a proportion of any applicable fixed fee equivalent to the proportion of such Change in the Work as has been completed.
- 22.5 If the Project Manager approves the value of the amount of Work and Change in the Work set forth in the Contractor's application for payment and the amount calculated by the Contractor to be due and payable for such Work, the Project Manager shall certify to the Owner that such application for payment is approved. If the Project Manager does not approve the application for payment, he shall determine the value of Work and Changes in the Work performed by the Contractor during the preceding month and shall certify such value to the Owner and will advise the Contractor in writing as to why the account is amended or not approved. The certification of value shall be issued by the Project Manager within a period of not more than five working days after he receives the Contractor's application for payment.

22.6 If required by the Owner, the Contractor shall also submit with each application:

- a) a statutory declaration, in a form and with content satisfactory to the Owner, stating among other things that all amounts owed in respect to the Work, including for wages, services, Workers Compensation assessments, materials or otherwise have been paid by the Contractor, or if not paid stating the amount that the Contractor estimates that the Contractor will have to pay in respect of such items, and what claims or may exist, including in respect of which a lien could attach upon any property of the Owner; and
- b) evidence of compliance in good standing with the Workers Compensation Board of Nunavut and all other jurisdictions in which the Work is performed;

22.7 When making an application for the final payment, in addition to the requirements of GC 22.6 the Contractor shall submit with the application all of the following:

- a) A statutory declaration, in a form and with content satisfactory to the Owner, stating that the Work and the Site are free and clear of liens and claims for wages, services, workers compensation assessments, materials or otherwise, that all amounts owed in respect to the Work, including for wages, services, workers compensation assessments, materials or otherwise have been paid by the Contractor, and that the time for filing of liens has expired. The Contractor shall also obtain and submit with the application for final payment a statutory declaration, in a form and with content satisfactory to the Owner, from each of its Subcontractors stating that as far as its applicable subcontract is concerned the Work and the Site are free and clear of liens and claims for wages, services, workers compensation assessments, materials, or otherwise, the Subcontractor has been paid all amounts owing to it, and the Subcontractor has paid all amounts owed in respect to the Work, including for wages, services, Workers Compensation assessments, materials or otherwise.
- b) A general release of all claims and liens against the Owner, the Project Manager, the Engineer and their respective officers, directors, agents and employees, save and except the Contractor's claim for the amount of the final payment and any specific claims which are clearly identified and excluded in the general release and which were made in writing in accordance with the requirements of the Contract Documents and are still unsettled.

22.8 At the time of Substantial Performance of the Work, the Contractor or the Owner may request that the Work be deemed to be complete subject to downward adjustment of the Contract Price by the appropriate amount to compensate the Owner for such deficiencies in the Work as may exist at that time.

If such request is agreed to by the Contractor and the Owner, the Project Manager shall prepare a list of such deficiencies, including any remaining cleaning up operations, with an estimate of the value of each, for approval or negotiation by the Owner and the Contractor.

Upon agreement between the Owner and the Contractor as to the identity of the deficiencies and the total value of same, the Contract Price shall be reduced by the agreed amount and the Contractor shall make application for final payment, which application shall be subject to all provisions of this Contract in relation to an application for final payment.

Nothing in this GC 22.8 shall be deemed to affect any other provision of the Contract Documents, including the Owner's right to remove work from the scope of the Work by Change Directive or Change Order.

- 22.9 At the time of Substantial Performance of the Work, the Project Manager after consultation with the Owner and Contractor will finalize a list of known outstanding deficiencies and incomplete work (the "Deficiency List"). Deficiencies and any incomplete work listed on the Deficiency List shall be assessed by the Project Manager, based on the estimated cost to rectify the defective work and to finish any incomplete work and double that amount shall be withheld from the Contract Price pending total completion of the Work (the "Deficiency Holdback"). Unless the Owner otherwise agrees, there will be no partial release of the Deficiency Holdback and the entire amount of the Deficiency Holdback, subject to deductions as may be agreed for deficiencies not corrected and incomplete work remaining or, failing agreement, subject to deductions at twice the estimated value by the Project Manager for correcting such deficiencies and completing such incomplete work, will be released with the final payment. This provision applies even if the cost of correcting the deficiencies exceeds the value to be gained by correcting those deficiencies.
- 22.10 Notwithstanding the issuance of the Deficiency List, the Contractor will be responsible for the correction of all defects, deficiencies and warranty items which appear prior to the expiry of the applicable warranty periods for such items and for which notice was provided to the Contractor prior to the expiry of the applicable warranty period, even if the defect, deficiency or warranty item existed prior the issuance of the Deficiency List and was not included on the Deficiency List.
- 22.11 All applicable taxes, including sales taxes, customs duties and excise taxes, paid by the Contractor shall be identified with each application for payment.
- 22.12 The Contractor will clearly show on each application for payment, GST paid for material, equipment, and fixtures, in accordance with GST guidelines and requirements of any Authority Having Jurisdiction. The Contractor will also clearly show its GST Registration Number on each application for payment.
- 22.13 Notwithstanding any other provision of the Contract to the contrary, where any part of the Work is performed on a cost-reimbursable basis the Contractor shall ensure that all such Work is performed in a proper, productive, cost efficient and effective manner, using competent, qualified and experienced labour and using construction equipment in good working order suitable for the application. If the Project Manager considers in his discretion that any worker or equipment is not performing in accordance with the foregoing, the Contractor at its own cost and without reimbursement from the Owner shall promptly replace such worker or equipment with new workers or equipment acceptable to the Project Manager. Further, the Contractor shall not be paid for any labour or construction equipment, including that provided by Subcontractors, except for when that labour or construction equipment is actually and diligently engaged in the proper, productive, efficient and effective performance of the Work. The Contractor shall not be paid for any non-productive time or for any portion of any inefficiencies which could reasonably have been avoided by the exercise of due diligence by the Contractor, or for any portion of any time which is attributable to any inefficiencies, errors, mistakes or fault by or attributable to the Contractor, or for correcting any deficient or faulty Work of the Contractor, whether arising out of the Extra Work or otherwise, or for any Materials which are damaged, wasted, destroyed or not used through neglect or default of the Contractor.

GC. 23 PAYMENT BY THE OWNER

- 23.1 Within thirty (30) days of receipt of the Project Manager's certificate stating the value of the amount of Work and Changes in the Work completed by the Contractor and the amount of money due and owing in respect of such completed Work, the Owner shall pay to the Contractor a percentage, as stipulated in the Contract Documents, of the amount so stated, less any moneys that may be due or owing by the Contractor to the Owner, provided that the

Owner shall have the right to deduct therefrom such amount as will cover any debts owed by the Contractor in respect of the Work which have caused or could give rise to a lien.

Subject to lien legislation or requirements of Applicable Law or any Authority Having Jurisdiction, forty-five (45) clear days after the Completion, or at such later times as may be required by the Contract Documents or such lien legislation or requirements, the Owner shall pay to the Contractor the balance of the amount then due in accordance with the Contract Documents, less the amount of any liens, charges, or encumbrances attaching to or that may attach to the Work.

- 23.2 Without limiting any right of set-off or deduction given or implied by law or elsewhere in the Contract, any sums payable by the Contractor to the Owner under the Contract or any sums otherwise owing by the Contractor to the Owner, may be deducted by the Owner from any payments otherwise due or accruing to the Contractor.
- 23.3 Neither any certificates issued by the Project Manager nor any payment made to the Contractor, nor any partial or entire use or occupancy of the Work by the Owner, shall be construed as an acceptance of any Work, including material, not in accordance with the Contract Documents.
- 23.4 Without limiting the general release to be provided pursuant to GC 22.7, the issuance by the Project Manager of the final certificate of payment and the acceptance by the Contractor of the amount or amounts certified for payment thereunder, shall constitute a waiver and release by the Contractor under the Contract, except only those claims, if any, stipulated in the final certificate as being outstanding.

GC. 24 PAYMENTS WITHHELD

- 24.1 The Project Manager may withhold his approval of, or on account of subsequently discovered evidence, nullify the whole or a part of any certificate for payment, to such extent as may, in the Project Manager's opinion, be necessary to protect the Owner from loss, including on account of:
- a) Defective or damaged work not remedied.
 - b) Claims or liens filed or reasonable evidence indicating probable filing of a claim or lien.
 - c) Damage to Other Contractors, the Owner, the Cominco Mining Partnership, Teck Cominco Limited, Teck Cominco Metals Ltd., Cominco Nova Scotia Company, the Project Manager, the Engineer, or third parties to whom any of them may be liable.
 - d) Failure of the Contractor to make payments properly to Subcontractors or for material, equipment or labour.
 - e) Evidence of financial difficulty or prospective dissolution, insolvency or bankruptcy of Contractor or of his inability to fully perform the Contract.
 - f) A reasonable doubt that the Contract can be completed by the Contractor for the balance of the Contract Price not yet claimed.
 - g) Failure of the Contractor to perform any of its obligations under this Contract.

- 24.2 When the grounds for withholding or nullifying a certificate have been removed, the Project Manager shall re-consider such certificate and if approved by the Project Manager such certificate shall be issued or reinstated.

GC. 25 PAYMENTS BY THE CONTRACTOR AND LIENS

- 25.1 The Contractor shall promptly pay its accounts for work done and materials supplied and ensure that its Subcontractors do the same. When making payment for materials supplied by a person with whom the Contractor has an account, the Contractor and all Subcontractors shall indicate to the Supplier that the payments are made with trust funds and are to be used solely to pay invoices and accounts for materials supplied for the Contract.
- 25.2 If any builders lien, mechanics lien, or any other lien is filed in relation to the Work, the Contractor shall remove the lien within 7 days of receiving notice of the lien. If the lien is not removed within the said 7 days, the Owner has the right to retain out of any money due or to become due to the Contractor, an amount sufficient to indemnify itself against the said lien and to make payment into court of the amount required to remove the lien. The Owner may also deduct from any sums owing to the Contractor all costs and expenses incurred by the Owner in dealing with the lien, including for the actual legal fees and disbursements expended by the Owner. If the value of the lien or liens exceed the amount otherwise due to the Contractor, the Contractor shall pay the excess to the Owner on demand.
- 25.3 The Contractor shall indemnify and save the Owner harmless from and against all costs, expenses and damages in connection with any liens filed by anyone claiming through or under the Contractor, including all costs, expenses and damages in connection with any actions commenced against the Owner pursuant to the *Nunavut Mechanics Lien Act*, or any successor legislation, including actual legal fees and disbursements expended), and the Contractor shall indemnify and save the Owner, the Cominco Mining Partnership, Teck Cominco Limited, Teck Cominco Metals Ltd. and Cominco Nova Scotia Company harmless from and against the amounts of any declarations of lien. This provision does not apply to liens filed by the Contractor if the Owner is in default in payments to the Contractor as required under the Contract.

GC. 26 CONSTRUCTION SCHEDULE, METHODS AND EQUIPMENT

- 26.1 Not later than one week after the date of the Notice of Award the Contractor shall furnish to the Owner for his approval a supplementary schedule which shall conform to the Construction Schedule given in the Tender but shall show in such greater detail as may be required by the Owner the proposed starting and completion dates for the various divisions and sub-divisions and types and classes of work. After approval by the Owner, the Contractor shall furnish to the Owner five (5) copies of the approved supplementary Construction Schedule.
- 26.2 The Contractor shall complete each portion of the Work on or before the date set forth in the approved supplementary Construction Schedule.
- 26.3 If required by the Owner, the Contractor shall submit in writing a general description of the manner in which he proposes to carry out the Work and a detailed description of the manner in which he proposes to carry out any designated portion of the Work, together with a list of the construction plant and equipment which he proposes to use.
- 26.4 If at any time before the commencement or during the progress of the Work any part of the construction plant or equipment or any of the Contractor's methods of executing the Work appear to the Owner to be unsafe, inefficient, or inadequate, or should the Contractor not be proceeding with the Work with sufficient diligence to satisfy the Owner, or, in the opinion of

the Owner, with sufficient force to ensure its progress and completion in accordance with the Contract, the Owner may order and direct the Contractor, at no change to the Contract Price, to increase or improve the plant or equipment, as the case may be, or to improve his methods, or to increase and employ such additional force, or to perform such night work or such overtime work as shall be, in the judgment of the Owner, necessary to ensure the safety, efficiency and adequacy of the construction plant and equipment and the completion of the Work, on the particular portion thereof affected, within the specified time. The Contractor shall comply with the Owner's instructions in this respect within a reasonable time of the receipt of said instructions in writing.

- 26.5 Neither compliance with such instructions nor the failure of the Owner to issue such instructions shall relieve the Contractor of his obligations to secure the degree of safety, quality of work and the rate of progress required under the Contract. The Contractor shall be responsible for the safety, adequacy and efficiency of the plant and equipment at the Site of the Work and for construction methods, and for the provision of sufficient force. The Contractor shall cause his employees and the employees of any of his Subcontractors to comply in all respects with rules and regulations issued from time to time in writing by the Owner governing the conduct of such employees, and shall conduct his Work in such manner as not wilfully to hinder, impede or injure the operation of the Owner's plant or affiliated plants.
- 26.6 The Contractor shall not remove any equipment or materials from the Site of the Work without the written approval of the Owner.

GC. 27PREVAILING WAGES

- 27.1 The Contractor shall ensure that the labour conditions and wage rates affecting his employees meet the standards prevailing for labour in the construction industry in the area in which the Work is performed. In any area in which prevailing wages are fixed by Applicable Law or other requirements of an Authority Having Jurisdiction, the Contractor shall conform in particular to all such Applicable Law and requirements and the Owner may withhold from the Contractor an amount equivalent to any deficiency in the wages paid to the Contractor's employees, without prejudice to the Owner's other rights and resources.

GC. 28LABOUR RELATIONS

- 28.1 Materials shall be furnished and the Work shall be performed in such form and manner as to minimize conflict with or between labour unions or labour organizations.
- 28.2 The Contractor shall promptly notify the Owner of any existing or threatened labour dispute which might interfere with the progress of the Work and, upon the request of the Owner, shall confer with the Owner regarding the action to be taken to minimize the risk of such interference with the progress of the Work.
- 28.3 The Owner reserves the right to terminate the Contract in accordance with the provisions of GC. 42 (Termination of The Contract) in the event that a labour dispute arises affecting other trades or labour employed by the Owner or Other Contractors or Subcontractors as a result of the Contractor's assignment of labour to the Work, or which may in the opinion of the Owner delay the Completion Date by more than 14 (fourteen) calendar days.
- 28.4 The Contractor shall, when requested by the Project Manager, furnish a copy of any and all labour contracts and collective agreements to which the Contractor or a Subcontractor is a party either directly or through an association of employers.

- 28.5 The Contractor acknowledges that the Site and in particular the Site of the Work is considered an open site, not exclusively union or non-union, and shall take all reasonable measures within its control to ensure labour peace is maintained at the Site.

GC. 29 DELAYS

- 29.1 The Contractor shall immediately notify the Owner, in writing, of any occurrence which, in the opinion of the Contractor, has caused or which may cause a substantial delay which will affect the performance of the Work according to the Construction Schedule, or the Completion Date for the entire Work, and in any event shall notify the Owner, in writing, not later than seven (7) days after the occurrence which caused the alleged delay or gave rise to the anticipated delay.
- 29.2 In addition to submitting the above notice, if the Contractor claims that the alleged delay was occasioned through labour disputes, strikes, lockouts, fire, unusual delay by common carriers or unavoidable casualties that are beyond the Contractor's reasonable control, then the Contractor may also submit a claim to the Owner for a revision of the Construction Schedule and for an extension of the time for completing the Work, but the Contractor shall not be entitled to any additional compensation in respect thereof.
- 29.3 If the Contractor considers that the alleged delay was the direct result of the act or neglect of the Owner or the Project Manager, then the Contractor may also submit a written claim to the Owner for approval of the reimbursement of the Contractor's additional field overhead costs which can be shown to be the result of the delay due to such act or neglect.
- 29.4 Such claims must be included in the Contractor's notice of the delay pursuant to GC 29.1 provided however that the Contractor may reserve the right to submit a supplementary claim when the extent of the alleged delay has been determined by the Contractor but in any event not later than seven (7) days after the date on which the full extent of the alleged delay or the full amount of the additional field overhead costs could reasonably be determined, and such claims shall be restricted and directly related to the occurrence specified in the notice pursuant to GC 29.1 and the Contractor shall take all reasonable steps to mitigate the extent of the delay and additional field overhead costs.
- 29.5 After receipt of a claim submitted pursuant to GC 29.2, the Project Manager shall decide the validity of the claim and if he accepts such claim, he shall have the right to revise the Construction Schedule and extend the Completion Date for the Work, or alternatively, to require the Contractor to complete the Work according to the Construction Schedule pursuant to the provisions of GC 30.2.
- 29.6 After receipt of a claim pursuant to GC 29.3, the Project Manager shall decide the validity of the claim and if he accepts such claim he shall determine the amount to be paid to the Contractor as reimbursement for his additional field overhead costs.
- 29.7 The decisions to be rendered by the Project Manager pursuant to GC 29.5 or GC 29.6 may be made either immediately after the receipt of the Contractor's claim or at a later date, including a date after completion of the Work, if the Project Manager considers that his decision can best be rendered at such later date having regard to all the circumstances.
- 29.8 Notwithstanding any of the provisions of this GC. 29 (Delays), no claim shall be allowed, based on a failure to supply Drawings unless the Contractor has made a written request for the Drawings to the Owner at least fourteen (14) days prior to the date on which the Drawings were required to carry out the Work according to the Construction Schedule, and not then unless the request be reasonable.

- 29.9 This GC. 29 shall not preclude the recovery of damages for delay by either Party under any other provision of the Contract Documents.

GC. 30ACCELERATION OF THE WORK

- 30.1 If the Contractor fails to complete any part of the Work in the time specified in the Construction Schedule, or if it becomes apparent to the Owner that the Work will not be completed in the time specified, then the Owner may require that the Contractor expedite the work and, should it become necessary, to work overtime, to add additional shifts, or to provide additional workers or to provide additional equipment to accomplish this. If such failure is due to fault on the part of the Contractor, the premium for such overtime and for such additional shifts, the cost of employing additional workers or providing additional equipment, together with any other additional costs thereby incurred shall be at the Contractor's sole expense.
- 30.2 The Owner shall have the right to require the Contractor to complete the Work or any part thereof before the date set forth in the Construction Schedule, or to require the Contractor to complete the Work according to the Construction Schedule when his claim for a delay has been ruled valid by the Project Manager pursuant to GC 29.5.
- 30.3 The Contractor may submit a claim for reimbursement for his additional costs that can be shown to be the direct result of the acceleration provided for in GC 30.2, including the costs of additional shifts or overtime if the Contractor is required by a labour agreement to pay a premium over and above normal wage rates for such work. This premium shall include the actual extra labour costs over the rate for regular time and shall also include any mandatory labour additives. If approved by the Owner, the premium shall also apply to the Contractor's supervisory and clerical staff where the payment of overtime is required under the terms of their employment. Time slips covering ordered overtime or additional shifts will be submitted daily to the Project Manager for checking and approval.

GC. 31EMERGENCIES

- 31.1 If, in the opinion of the Project Manager or the Owner, the manner in which the Work is being performed affects or threatens to affect the safety of life or the safety of any part of the Work or any adjoining property, or if any emergency arises which affects or threatens to affect the safety of life or the safety of any part of the Work or of any adjoining property, then the Project Manager or the Owner may stop the work or may give whatever instructions are necessary in their opinion to relieve the circumstances, in which event the Project Manager shall determine whether the Contractor is entitled to an extension of time or to extra compensation pursuant to GC. 29 (Delays).

GC. 32CONTRACTOR FAMILIAR WITH SITE

- 32.1 The Contractor acknowledges having examined the Site and the adjoining premises and areas before entering into the Contract and having made his own evaluation of the facilities available, the means of access to and egress from the Site, and all difficulties attending the Work.

GC. 33SUBSURFACE CONDITIONS

- 33.1 If during the execution of the Work subsurface conditions at the Site of the Work are found to differ materially from those shown in the Contract Documents or otherwise represented in writing by the Owner to the Contractor, then the Contractor shall promptly notify the Owner in writing of such conditions and if the Project Manager finds that they differ materially and will result in an increase or decrease in the cost of or time required for performance of this

Contract, an equitable adjustment (which amount of equitable adjustment shall not exceed the amount to which the Contractor would be entitled under GC. 18 (Changes in the Work) and GC. 19 (Valuation of Changes in the Work) if such different subsurface conditions constituted a Change under the Contract) shall be negotiated between the Parties and the Contract shall be modified in writing accordingly. If the Parties fail to agree the dispute shall be determined by arbitration as provided for in GC. 46 (Arbitration) and the amount to which the Contractor is entitled shall be valued in accordance with GC. 19 (Valuation of Changes in the Work).

GC. 34 SURVEYS, LINES AND LEVELS

- 34.1 The Project Manager will furnish a basic reference line and a bench mark and may at his discretion furnish other reference lines and bench marks.
- 34.2 The Contractor shall furnish from such reference lines and bench marks such other points and elevations as may be required for the execution of the Work. The Contractor shall keep proper records in connection with the establishment by him of such other points and elevations. The data books, sketches and other records pertaining thereto shall be available for examination by the Project Manager or the Owner upon request.
- 34.3 The Contractor shall protect all bench marks, survey pegs and monuments from damage or movement. If any of these are moved or disturbed they shall be relocated and replaced by the Project Manager at the Contractor's expense.
- 34.4 The Contractor shall be responsible for the entire cost of rectifying work improperly installed due to such bench marks, survey pegs and monuments having been removed without authorization, or failure to protect and maintain same.

GC. 35 CONTRACT DOCUMENTS ISSUED FOR CONSTRUCTION

- 35.1 Following execution of the Contract Agreement two (2) sets of the Contract Documents, excluding the Drawings, will be issued to the Contractor to be used for construction purposes, and up to three (3) additional copies of individual Specifications will be issued upon request of the Contractor.
- 35.2 Three (3) copies of Construction Drawings and reference documents will be issued to the Contractor and upon request of the Contractor up to three (3) additional copies will be issued. If the Contractor requires more than six (6) copies of Construction Drawings they will be furnished at cost upon request. In the event the Contractor is required to furnish Drawings to any Authority Having Jurisdiction additional copies for this purpose will be furnished to the Contractor upon request, at no charge.
- 35.3 If, in the opinion of the Project Manager, the Construction Drawings for work other than unit price, cost plus or cost-reimbursable Work differ materially from the Work described in the Contract Documents, including the Contract Drawings, and such difference would result in a change in the cost of carrying out the Work, then the Contract Price shall be adjusted subject and pursuant to the provisions of GC. 18 (Changes in the Work) and GC. 19 (Valuation of Changes in the Work).
- 35.4 The Contractor shall not use scaled dimensions for the construction of the Work. Should any dimensions be unobtainable from the Drawings, the Contractor shall obtain them in writing from the Project Manager.

GC. 36 REVISIONS OF DRAWINGS AND SPECIFICATIONS

- 36.1 The Drawings and Specifications may be revised or supplemented by further drawings and specifications from time to time as the Work progresses and the Contractor shall be supplied with prints of the revised and additional Drawings and Specifications. The Contractor shall acknowledge receipt of all such prints immediately, and he and all Subcontractors shall thereafter be held responsible for any and all errors that may occur due to the use of superseded Drawings or Specifications.
- 36.2 If, in the Contractor's opinion, the revised or additional Drawings or Specifications call for work more costly than that called for by the Contract or adversely affect the scheduling of the Work, the Contractor shall give written notice to such effect to the Owner within seven (7) days after the same are delivered. If the Project Manager concurs, the Drawings and Specifications shall be amended or, alternatively, additional compensation or time, or both, shall be given to the Contractor pursuant and subject to GC. 18 (Changes in the Work) and GC. 19 (Valuation of Changes in the Work) for the increased cost of the Work or the increased time required to complete same. If the Contractor fails to give notice within the aforesaid time period, no additional compensation or time shall be given to the Contractor.

GC. 37 INSPECTION AND TESTS

- 37.1 In order to inspect the Work and the progress thereof, the Owner and the Project Manager shall at all times have access to the Work, both at the Site of the Work and in the premises of the Contractor and his Subcontractors, or other places where any part of the Work is being fabricated or manufactured, and the Contractor shall facilitate such inspection and arrange access as required by the Owner and the Project Manager.
- 37.2 If the Contract Documents, the Project Manager or Engineer's instructions, Applicable Law or any Authority Having Jurisdiction require any Work to be inspected, tested or approved, the Contractor shall give the Project Manager advance notice of its readiness for inspection, testing or approval, and if the inspection, testing and approval is by an authority other than the Project Manager, he shall notify such authority and the Project Manager that the Work is ready for inspection, testing and approval. If any such Work is covered up without the approval or consent of the Project Manager, it shall be uncovered for inspection and made good at the Contractor's expense.
- 37.3 Inspection or re-inspection of any portion of the Work may be ordered by the Project Manager at any time during the Work and until the end of the warranty period specified in GC. 11 (Guarantees). The Contractor shall uncover or otherwise expose the questioned work for inspection. If such work is found to be in accordance with the Contract, the Owner shall pay the costs of exposing the questioned work, and of the inspection or re-inspection and restoration. If such work is found to be not in accordance with the Contract, the Contractor shall pay such costs.
- 37.4 The Contractor shall provide proper facilities for such inspections and for the taking of such samples of materials as may be required, without charge, and shall pay for the packaging and delivering of the samples to the testing laboratory. Materials, workmanship or installed work that is certified by the testing laboratory to the Owner as not conforming to the Contract Documents shall, upon written notice to the Contractor by the Owner, be removed, replaced or made good to the satisfaction of the Owner at the Contractor's expense.
- 37.5 No interim or final inspection or acceptance or approval of the Work by the Engineer, the Project Manager, or the Owner, shall serve to relieve the Contractor from its obligations under the Contract.

GC. 38 REJECTED MATERIAL AND WORK

- 38.1 The Contractor shall promptly remove from the premises all materials furnished by him and rejected as failing to conform to the Contract, and the Contractor shall promptly replace them with materials conforming to the Contract and without expense to the Owner.
- 38.2 If the Contractor does not remove such rejected materials promptly, the Owner may remove and store them at the expense of the Contractor, and in addition to any other remedies the Owner may have, the cost of such removal and storage by the Owner may be deducted by the Owner from any monies otherwise due to the Contractor.
- 38.3 The Contractor shall promptly remove and re-execute all Work rejected as failing to conform to the Contract, without expense to the Owner, and shall bear the expense of making good all other Work destroyed or damaged by such removal and re-execution.
- 38.4 If the Contractor does not promptly remove and re-execute such rejected Work, the Owner may cause such removal and re-execution to be carried out by his own forces, or by Other Contractors, in accordance with the provisions of GC. 41 (Owner's Right to do Work).
- 38.5 The Owner shall have the option to allow defective or improper work to stand and to deduct from the payment to the Contractor a sum of money equivalent to the difference between the value of the work as actually performed and its value if performed as specified in the Contract Documents.

GC. 39 RESPONSIBILITY FOR DEFECTIVE WORK AFTER FINAL PAYMENT

- 39.1 Neither the final certificate nor the final payment nor any provision in the Contract Documents shall relieve the Contractor of responsibility for faulty materials or workmanship appearing within the warranty period specified in GC. 11 (Warranty and Guarantee).

GC. 40 USE OF COMPLETED PORTIONS BY THE OWNER

- 40.1 The Owner shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding that the period of time for completing the Work, or such portions thereof, may not have expired. Such taking possession of and use shall not be deemed an acceptance of any of the Work not carried out in accordance with the Contract Documents. If such prior use should increase the cost or delay the completion of the Work, the Project Manager shall determine whether the Contractor is entitled to extra compensation or extension of time, or both, subject and pursuant to GC. 29 (Delays).

GC. 41 OWNER'S RIGHT TO DO WORK

- 41.1 If the Contractor fails to comply with any provision of the Contract Documents, including but not limited to failure to perform properly any portion of the Work or to comply with any direction of the Owner, or if he fails to perform any of the Work in the time specified in the Construction Schedule or to comply with the Owner's direction to accelerate the work pursuant to GC. 30 (Acceleration of the Work), and if the Owner wishes to make good such failure with his own forces or to employ Other Contractors to make good such failure, the Owner may, three days after giving written notice to the Contractor and without prejudice to any other rights that he may have under the Contract, delete portions of the Work with a corresponding reduction of the Contract Price calculated in the same manner and for the same amount as if such portions of the Work were added to the Contract, notwithstanding which the Contractor shall continue to perform the balance of the Work under the terms of the Contract.

- 41.2 The Contractor, on receiving such notice, shall promptly vacate those areas in which he is no longer required to perform the Work, and shall fully cooperate with and coordinate the balance of the Work with the Owner or Other Contractors employed to make good the Work.
- 41.3 All additional costs that the Owner incurs as a result of action being taken under this GC. 41, including any excess costs of completion over and above that which would have been paid to the Contractor, shall be paid by the Contractor to the Owner on demand, and in addition to any other rights the Owner may have, such cost may be deducted from any payment then or thereafter due to the Contractor, and any such payment may be withheld until such costs are determined.
- 41.4 The payment, if any, that the Contractor shall be entitled to receive for the Work he has performed up to or after the date of the entry of the Owner's forces, or forces employed by the Owner, shall be decided by the Project Manager.

GC. 42 TERMINATION OF THE CONTRACT

- 42.1 The Owner may, upon written notice to the Contractor and without process or action at law, and without prejudice to any other right or remedy the Owner may have, terminate the Contract or take all or any part or parts of the Work out of the control of the Contractor and complete those parts by whatever methods the Owner considers expedient:
- a) if the Contractor has failed to commence Work within the time stipulated in the Contract Documents or to diligently execute the Work or any portion thereof to the satisfaction of the Project Manager, and the Project Manager has given notice to the Contractor requiring the Contractor to employ additional labour and equipment or otherwise expedite the Work and the Contractor fails within 7 days to follow these instructions;
 - b) if the Contractor fails or appears unable to complete the Work by the required Completion Date stipulated in the Contract or the revised Completion Date as may be allowed under the terms of the Contract;
 - c) if the Contractor fails, neglects or refuses to perform the Work in accordance with the Contract, the Contract Documents, Applicable Law or requirements of any Authority Having Jurisdiction;
 - d) if a labour dispute between the Contractor and its employees or a Subcontractor and its employees causes or threatens to cause disruption at any of the Owner's operations, or a delay in completion of the Contract of fourteen (14) calendar days or more;
 - e) if the Contractor makes any assignment for the benefit of creditors, becomes bankrupt or insolvent, or takes the benefit of any Act which may be in force for bankrupt or insolvent debtors, if a receiver or a receiver-manager of substantially all the Contractor's property is appointed or if the Contractor is wound-up or liquidated;
 - f) if the Contractor abandons the Work for 1 day or longer;
 - g) if the Contractor makes an assignment of the Contract without the required consent;
 - h) if the Contractor has, without obtaining the Owner's prior consent, subcontracted any part of the Contract;

- i) if the Contractor fails to act in accordance with the Owner's decision to proceed with the Work as provided in GC 4.3; or
 - j) if the Contractor, except in the case of any emergency which appears to endanger life or property, fails to commence its remedial warranty work in accordance with the Contract.
- 42.2 When the Work or any portion thereof has been taken out of the Contractor's control, the Owner may take possession of the premises and of all materials, plant, equipment, tools and supplies which the Contractor and its Subcontractors have on Site and complete the Work and the Contractor shall be liable for all loss, damage and expenses incurred by the Owner in completing the Work.
- 42.3 The Contractor shall not in any way prevent or restrict the Owner, or others acting on behalf of the Owner, from completing the Work as provided in GC 42.2 and the Contractor shall not be entitled to any further payments due until the Work is completed and then only to the extent provided in GC 42.4.
- 42.4 When the Work has been completed by the Owner in accordance with the Contract Documents, if the entire cost of the Work to the Owner and all related costs, including additional engineering and administrative costs, exceeds the total which would have been payable by the Owner to the Contractor if the Work had been completed by the Contractor, then the Contractor shall be liable and shall pay such excess to the Owner or if the total which would have been payable by the Owner to the Contractor if the Work had been completed by the Contractor exceeds or equals the said entire cost of the Work to the Owner, then the Owner shall pay to the Contractor only the unpaid balance of the value, under the terms of the Contract, of the Work actually carried out by the Contractor.
- 42.5 If the Work is stopped or suspended by an order of a court of competent jurisdiction or of any other public authority, through no act or fault of the Contractor or a Subcontractor or if the Owner fails to pay the Contractor as provided in the Contract Documents, then the Contractor may, upon giving 10 days advance written notice to the Owner, cease to perform the Work and may recover from the Owner payment for all Work properly executed prior to the cessation and if the cessation is due to the Owner's failure to pay such other damages as the Contractor may have sustained as a result of the default of the Owner.

GC. 43 CANCELLATION

- 43.1 The Owner may, at its option, cancel the Work and the Contract in whole at any time by written notice to the Contractor and the Contractor, upon receipt of the written cancellation notice, shall, unless the notice requires otherwise:
 - a) immediately discontinue the Work on the date and to the extent specified in the cancellation notice;
 - b) place no further order or subcontracts for materials, services or facilities for the cancelled portion of the Work;
 - c) promptly make every reasonable effort to obtain cancellation upon terms satisfactory to the Owner of all orders and subcontracts to the extent that they relate to the performance of the Work cancelled or to assign to the Owner those orders and subcontracts all as specified in the cancellation notice; and
 - d) assist the Owner in the maintenance, protection and disposition of the property acquired by the Owner under the Contract.

- 43.2 If the Owner cancels the work in accordance with GC 43.1, the Owner shall pay to the Contractor in satisfaction of all of the Contractor's claims, including loss of profits, the following:
- a) the amounts due to the Contractor for the Work properly completed prior to the date of termination;
 - b) the costs, if any, to settle and pay claims arising out of the termination of contracts or orders as provided for in GC 43.1c); and
 - c) fair and reasonable costs that the Contractor incurs pursuant to GC 43.1d).

Provided, however, that the total amount due to the Contractor for such cancellation shall not exceed the amount to which the Contractor would have been entitled if everything up to and including the time of cancellation was performed on a Force Account basis and paid in accordance with the provisions of GC. 18 (Changes in the Work) and GC. 19 (Valuation of Changes in the Work).

GC. 44 ASSERTION OF RIGHTS

- 44.1 Failure of the Owner to assert any of his rights under the Contract shall not be construed as a waiver thereof.
- 44.2 The Owner is not bound by a waiver of any provision of the Contract unless the waiver is clearly expressed in writing and signed by the Owner, and waiver of any one provision on any one occasion shall not be a continuing waiver or a waiver of the same provision on any other occasion.

GC. 45 ASSIGNMENT AND BANKRUPTCY

- 45.1 This Contract shall bind and enure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns. The Contractor may not assign this Contract or any portion thereof, or any benefit or monies accruing to it thereunder, except with the prior consent of the Owner, which consent may be withheld at the Owner's sole discretion and without giving reasons.
- 45.2 The Contract shall not be or be deemed to be an asset in the bankruptcy of the Contractor.

GC. 46 ARBITRATION

- 46.1 All disputes arising out of or in connection with this Contract, or in respect of any defined legal relationship associated therewith or derived therefrom, shall be referred to and finally resolved by arbitration before a single arbitrator under the rules of the British Columbia International Commercial Arbitration Centre ("BCICAC") for domestic commercial arbitrations. The award of the arbitrator shall be final and binding upon both parties to this agreement.
- 46.2 No one shall be nominated to act as an arbitrator who is in any way financially interested in the conduct of the Work or in the business affairs of either the Owner, the Contractor or any consultant, subconsultant or subcontractor of either party.
- 46.3 The appointing authority shall be the BCICAC.
- 46.4 The case shall be administered by the BCICAC in accordance with its "Procedures for Cases under the BCICAC Rules".

- 46.5 The place of arbitration shall be Vancouver, British Columbia, Canada.
- 46.6 Each Party shall be responsible for payment of one-half of the fees of the arbitrator, and one-half of all administration fees and expenses of the arbitrator and the BCICAC.
- 46.7 Unless otherwise agreed in writing by the Parties in respect of any particular dispute, arbitration proceedings shall not take place until after Substantial Performance, or if applicable the termination or cancellation of the Contract.
- 46.8 If either the Owner or the Contractor is or becomes involved in any arbitration proceeding with any other party and such arbitration involves common factual or legal issues which are or may be in dispute between the Owner and the Contractor, the arbitration of disputes between the Owner and the Contractor which include those common factual or legal issues shall be consolidated or joined with the other arbitration or arbitrations provided that the Owner, the Contractor and other parties all agree or, failing agreement, if a court on application considers it just and convenient in all the circumstances that they should be so consolidated or joined.
- 46.9 If either the Owner or the Contractor is or becomes involved in any legal proceeding with any other party and the factual or legal issues of such legal proceeding require the joinder of either or both the Owner or the Contractor in that proceeding, then on the application of either party to the court having jurisdiction the court may, if it determines that it is just and convenient in all the circumstances, order a stay of the arbitration proceedings or order that the above provisions regarding arbitration are not applicable, in which case any or all disputes referred to shall be determined by that court or a court of competent jurisdiction in British Columbia such that all factual and legal issues between the Contractor and the Owner shall be resolved in one forum.

GC. 47GENERAL

- 47.1 The Owner may in its discretion exercise any remedy under the Contract Documents or otherwise at law or in equity contemporaneously one with the other, or in such priority as the Owner may see fit, and may exercise any one or more of such remedies at such time and in such priority and without prejudice to or waiver of any other remedy.
- 47.2 All provisions of this Contract which are expressly stated to survive the termination of the Contract, and all provisions which by their nature are intended to survive the termination of the Contract, including all indemnities in the Contract, shall survive Completion and the termination, cancellation or completion of the Contract.
- 47.3 The Parties agree that this Contract may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which shall constitute one and the same instrument. To expedite the execution hereof, any one or more of the Parties may transmit by fax to the other Party a copy of this Contract executed by one or more of the Parties, the receipt of which shall have the same force and effect as if the original thereof had in fact been delivered at the same time. Any original, fax copy or photocopy of this Contract bearing one or more signatures of the Parties shall be admissible against those Parties in any legal proceeding as evidence of the due and proper execution of this Contract by those Parties.

END OF GENERAL CONDITIONS

POLARIS MINE CLOSURE

CONTRACT 2071-C.01
Demolition and Site Reclamation

SPECIAL CONDITIONS

POLARIS MINE CLOSURE

SPECIAL CONDITIONS

INDEX

SC.1. DEFINITIONS AND INTERPRETATION	1
SC.2. LIENS, SUBSTANTIAL PERFORMANCE, CERTIFICATE OF SUBSTANTIAL PERFORMANCE, AND COMPLETION.....	2
SC.3. HOLDBACK AND PAYMENT OF HOLDBACK	4
SC.4. WORKERS COMPENSATION ACT, SAFETY AND FIRST AID	4
SC.5. PERMITS AND LICENSES	6
SC.6. SHOP AND CONTRACTOR DESIGN DRAWINGS	6
SC.7. RECORD DOCUMENTS AND DRAWINGS	7
SC.8. SAMPLES AND MANUFACTURER'S SPECIFICATIONS	7
SC.9. MATERIALS AND WORKMANSHIP	7
SC.10. PROCUREMENT, SHIPMENT, AND HANDLING OF EQUIPMENT AND MATERIAL	7
SC.11. USE OF SITE BY CONTRACTORS	8
SC.12. TEMPORARY UTILITIES, SYSTEMS AND STRUCTURES AND PROTECTION OF WORK AND PROPERTY	9
SC.13. USE OF EQUIPMENT	10
SC.14. SANITARY ARRANGEMENTS AND CLEAN UP	10
SC.15. USE OF OWNER'S PROPERTY	11
SC.16. LABOUR RELATIONS	11
SC.17. WORK SCHEDULE	11
SC.18. LIFTING EQUIPMENT	12
SC.19. WORK PAPERS AND CONFIDENTIALITY	12
SC.20. PUBLICITY	13
SC.21. OWNER-FURNISHED UTILITIES AND SITE SERVICES	13
SC.22. FACILITIES	13
SC.23. STANDARD WORK WEEK	14
SC.24. SNOW REMOVAL	14
SC.25. SITE MEETINGS	14
SC.26. RECEIPT OF AND ADDRESSES FOR NOTICE	14
SC.27. PROVISION OF SERVICES TO OWNER	15
SC.28. ENVIRONMENTAL RESPONSIBILITY	15
SC.29. SALVAGE	17

SC.1. DEFINITIONS AND INTERPRETATION

- 1.1 Wherever used in the Contract Documents, and unless the context clearly indicates to the contrary, terms which are defined in the General Conditions and not superseded or modified below shall have the meanings ascribed to them in the General Conditions, and the following terms have the following meanings:
- (a) "Closure Plan" means the document entitled "Polaris Mine Decommissioning and Reclamation Plan", dated March 2001, by Gartner Lee Limited, including all attachments thereto, and including any amendments made thereto, all as submitted to and approved by the Authorities Having Jurisdiction.
 - (b) "Cost Centre" means the Owner's internal cost accounting designations for parts of the Work, for purposes of monitoring the portion of the Contract Price which relates to various parts of the Work.
 - (c) "Construction Drawings" means those Drawings which were originally used for the construction of the Polaris Mine, as amended and supplemented, and included in the Contract Documents for reference purposes only.
 - (d) "Contract Drawings" means Drawings, other than Construction Drawings, and describe the parts of the Work included therein.
 - (e) "Decommissioning and Reclamation Plan" means the Closure Plan.
 - (f) "Drawings" means the drawings expressly listed in the Contract Documents and intended to form part of the Contract Documents, including those listed under the heading "Drawings and Specifications" in the Scope of Work.
 - (g) "Mechanics Lien Act" means the Mechanics Lien Act, R.S.N.W.T. 1988, c. 8, as amended and as duplicated for Nunavut by s. 29 of the Nunavut Act, including all amendments thereto and all successor legislation in or applicable to Nunavut relating to builders liens.
 - (h) "Polaris" means "Polaris Mine"
 - (i) "Polaris Mine" means the Owner's Polaris Mine, located on Little Cornwallis Island, Territory of Nunavut, approximately 100km northwest of the settlement of Resolute, Nunavut.
 - (j) "Polaris Operations" means the Owner's operating and maintenance personnel at the Site.
 - (k) "LRD Quarry" means the Little Red Dog quarry at or near the Site.
 - (l) "Permits & Licenses" means all permits, licenses, approvals and permissions applicable to the Work and required to be obtained by Applicable Law or the requirements of the Authorities Having Jurisdiction.
 - (m) "Reference Drawings" are Drawings which do not form part of the Contract and are included for reference purposes only for the convenience of the Contractor.
 - (n) "Scope of Work", when used in reference to a specific part of the Contract Documents, means the part of the Contract Documents expressly designated as the "Scope of Work", including appendices thereto, and otherwise means the Work.

- (o) "Substantial Completion", wherever used in the Contract Documents and notwithstanding any definition to the contrary contained elsewhere in the Contract Documents, means "Substantial Performance".
 - (p) "Substantial Performance", wherever used in the Contract Documents and notwithstanding any definition to the contrary contained elsewhere in the Contract Documents, means when the Contract is "complete", as the term "complete" is used in the *Mechanics Lien Act* of Nunavut.
- 1.2 References to Cost Centre in the Contract Documents are references to the Owner's internal cost accounting designation for some of the parts of the Work, and are not intended to define part of the Work or the method or type of payment for any part of the Work. For those parts of the Work for which a Cost Centre is referenced in the Contract Documents, the Contractor shall break down its invoices to identify the amount of each invoice which relates to each Cost Centre.
- 1.3 These Special Conditions are in addition to and supplement the General Conditions and other Contract Documents. Where provisions of these Special Conditions appear to duplicate similar provisions of the General Conditions or other parts of the Contract Documents, they are complementary and the more stringent requirements shall apply unless a provision of this Special Condition expressly states that it replaces and supersedes the other provision of the Contract Documents.
- SC.2. LIENS, SUBSTANTIAL PERFORMANCE, CERTIFICATE OF SUBSTANTIAL PERFORMANCE, AND COMPLETION**
- 2.1 For purposes only of claims for release of lien holdbacks under the *Mechanics Lien Act* of Nunavut, , the Contract is considered complete at the later of the time:
- (a) when the cost of completion of all outstanding work, including all final documentation as required by the Contract Documents and including the correction of known defects, is 1% of the Contract Price or \$1,000, whichever is the lesser; or
 - (b) the Contract is complete under the *Mechanics Lien Act*.
- 2.2 The Contractor shall comply with the provisions of Section 9(1) of the *Mechanics Lien Act*, including posting at the Site a copy of the receipted payroll and delivering to the Project Manager the original payroll, together with the prescribed receipts from each worker confirming payment has been received by each worker. The Contractor shall comply with the provisions of Section 9(1) of the *Mechanics Lien Act*, including posting at the Site a copy of the receipted payroll and delivering to the Project Manager the original payroll, together with the prescribed receipts from each worker confirming payment has been received by each worker.
- 2.3 Where the Contractor considers the Work to have achieved Substantial Performance, as defined in these Special Conditions, the Contractor may request the issuance of a certificate of Substantial Performance for purposes of payment of holdback in accordance with the *Mechanics Lien Act* of Nunavut and in accordance with the Contract Documents.
- 2.4 All requests for issuance of a certificate of Substantial Performance shall be submitted to the Project Manager in writing by the Contractor and in addition to any documentation or requirements of the General Conditions shall be complete with the following documentation:
- (a) Statement indicating subcontracts involved (if any) and the cost of each subcontract, including any changes authorized to date;

- (b) Statement certifying that the Contractor has inspected the Work and that the Contractor is satisfied that the Contractor has achieved Substantial Performance, as defined in these Special Conditions;
- 2.5 Within 10 days after the date of receipt by the Project Manager of the written request and the required documentation, a joint inspection of the Work will be carried out with the Contractor, Subcontractor(s), the Engineer, and the Owner and/or the Project Manager. Where the Contractor has been determined by the Project Manager to have achieved Substantial Performance as a result of this inspection, which shall be no earlier than the date the Contract is considered "complete" under the Mechanics Lien Act of Nunavut, this will be so certified by the Project Manager by signing the certificate of Substantial Performance. The date of Substantial Performance shall be the date of said signature by the Project Manager unless stipulated otherwise on the certificate.
- 2.6 Where the Contractor has been certified to have achieved Substantial Performance, as defined in these Special Conditions, the Project Manager shall by personal service or registered mail within seven (7) days after the certificate is signed;
 - (a) give a copy to the Owner and the Contractor;
 - (b) give a copy of the certificate to all persons providing services or materials and Subcontractors who have requested, in writing, a copy of the certificate; and,
 - (c) post a copy of the certificate in a prominent spot on the Site.
- 2.7 Where the Contractor has been certified by the Project Manager to have achieved Substantial Performance, as defined in these Special Conditions, then in addition to any requirements of the General Conditions, the Contractor shall within 5 days of receipt of the signed certificate submit to the Project Manager;
 - (a) a progress claim for release of lien holdback monies, which shall be due and payable no earlier than 45 days after Substantial Performance, as defined in these Special Conditions;;
 - (b) a sworn statement by the Contractor or Subcontractor(s) that all accounts for labour, subcontracts, products, construction machinery and equipment, and any other indebtedness which may have been incurred by the Contractor or Subcontractor in the Work and for which the Owner might in any way be held liable have been paid in full except for holdback monies, if any, properly retained from them under the *Mechanics Lien Act*, and;
 - (c) a general release and waiver of all claims and ;liens in a form satisfactory to the Owner;
 - (d) Evidence of the Contractor and of each Subcontractor compliance in good standing with the Workers Compensation Board.

SC.3. HOLDBACK AND PAYMENT OF HOLDBACK

- 3.1 The amount of holdback to be deducted from each application for progress payments, in respect of the *Mechanics Lien Act* of Nunavut, shall be ten (10) percent.
- 3.2 Where the Contractor has been certified by the Project Manager to have achieved Substantial Performance, as defined in these Special Conditions, and provided no claim of lien has been registered and provided further that the money is otherwise due and payable under the

Contract and all necessary documentation and clearances have been issued by the Contractor, the Owner will;

(a) subject to receipt of all final documentation, make payment of the holdback calculated as of the day of Substantial Performance of the Contract or Subcontract, 45 clear days after the day the Contractor was certified to have achieved Substantial Performance, as defined in these Special Conditions.

3.3 Unless stated otherwise in the Contract Documents any interest income resulting from holdbacks shall accrue to the Owner.

SC.4. WORKERS COMPENSATION ACT, SAFETY AND FIRST AID

4.1 The Contractor shall prepare, implement and maintain a safety program for all persons working on the Site and provide all first aid personnel, facilities, equipment and supplies required by Applicable Law, including without limitation pursuant to the applicable Workers Compensation Act or applicable requirement of an Authority Having Jurisdiction. The Contractor shall submit its proposed safety program to the Project Manager for review and approval, shall make such changes as the Project Manager may require, and shall not commence any part of the Work on Site until after the safety program has been approved and accepted by the Project Manager. Without limiting the foregoing requirements, the Contractor acknowledges and agrees that the Owner's first aid facilities, including emergency transportation service, may only be available to the Contractor in the event of major emergency and the Contractor shall be responsible for providing all additional or alternative first aid facilities, personnel and arrangements which may be required by Applicable Law or the requirements of the Authorities Having Jurisdiction.

4.2 The Contractor shall comply with all the safety rules and regulations of all Applicable Law, including without limitation any relevant Workers Compensation or Industrial Insurance Act, an all safety statutes, rules and regulations established by standard practice in the construction industry for the type of work to be performed, including for Hazardous Substances, as well as any safety rules and regulations established by the Owner for the Site.

Safety rules and regulations governing the conduct of the Work shall include without limitation those in the Nunavut *Safety Act* and regulations, the Nunavut *Mine Health and Safety Act* and regulations, as well as the Owner's safety rules and regulations. All employees of the Contractor and of any and all Subcontractors will be required to provide evidence of WHMIS training and to attend a Contractor safety orientation program prior to being allowed access to the Site. The Contractor shall be responsible for ensuring that all new personnel are properly trained and are aware of all applicable safety rules and regulations prior to being allowed access to the Site.

4.3 Employees of the Contractor and of all Subcontractors shall wear approved safety gear, including hard hats, safety glasses, and footwear, while on the Site. While working on, around, or with any Hazardous Substances, employees of the Contractor and all Subcontractors shall be equipped with all necessary safety wear and equipment, including respiratory equipment, relevant to working with or near such Hazardous Substances, and shall be properly trained by the Contractor on all aspects of safety for working on, around or with such Hazardous Substances which may be on or at the Site.

4.4 The Contractor shall properly light the Work and shall provide and maintain all passageways, handrails, guard fences, barricades, lights and other facilities for the protection required by normal prudence, public authorities, the Project Manager or the Owner.

- 4.5 The Contractor shall designate and make known to the Project Manager an appropriately qualified safety officer, who shall be a responsible member of the Contractor's organization whose duty shall be the prevention of accidents. This person shall see to, and the Contractor shall be responsible for, the posting of proper warning signs at all hazardous places in or about the Work. The safety officer shall dedicate as much of his time as may be required to safety and give his duties as safety officer priority over all other duties and tasks which may be assigned to him.
- 4.6 The Contractor's safety organization will be responsible for the management and control of the frequent polar bear incursions at the Site, all in accordance with applicable wildlife regulations and other Applicable Law and requirements of Authorities Having Jurisdiction.. In this regard, the Contractor will ensure that the personnel are suitably licensed for the possession of firearms, are familiar with applicable regulations, and that a "Business Firearms Permit/License" is maintained throughout the period of the Contract.
- 4.7 Once the Contractor mobilizes to Site, the Contractor shall be the party primarily responsible for the safety of everyone at Site, including for the Contractor, its Subcontractors, the Owner, the Project Manager and their respective agents, consultants and contractors. The Contractor shall assume to the Owner all duties and obligations the Owner has under all Applicable Law and the requirements of all Authorities Having Jurisdiction for safety in relation to the Site, and shall carry out and fulfil all such duties and obligations in such a manner that the Owner complies fully with all Applicable Law and the requirements of all Authorities Having Jurisdiction relating to occupational health and safety. In addition to all other indemnities under the Contract, Contractor shall indemnify and hold the Owner harmless from any liability, fines, penalties or assessments which arise out of safety violations, personal injury or property damage at the Site from and after mobilization to Site by the Contractor.
- 4.8 The Owner, the Project Manager, the Engineer and their officers, directors, servants, agents and employees shall all have authority to order the Contractor to immediately cease any or all activities which, in their opinion, may cause danger to person or property, or be in violation of any Applicable Law or requirement of any Authority Having Jurisdiction relating to occupational health and safety or workers compensation. The Contractor, at its sole cost and expense and without reimbursement from the Ownre, shall immediately comply with such direction and shall not re-commence such activity or activities until after the Contractor has demonstrated to the satisfaction of the Project Manager, the Engineer, the Owner and the Authorities Having Jurisdiction, by amending its construction methodology if necessary and all without additional compensation, that the activity can be commenced again and successfully completed without danger to person or property, or violation of of any Applicable Law or requirement of any Authority Having Jurisdiction. Without limiting the Owner's other remedies, the Project Manager may require the Contractor to remove personnel and Subcontractors that cause flagrant or repeated violations of any provisions of this SC 4.
- 4.9 Compliance by the Contractor with any rules, directions or requirements of the Contract, the Project Manager or the Owner in connection with occupational health and safety shall not relieve the Contractor from its sole responsibility and liability to perform the Work and complete the Contract without causing injury or damage to person or property, and without violating any Applicable Law or requirement of any Authority Having Jurisdiction relating to occupational health and safety.
- 4.10 Failure by the Contractor to comply with any of the foregoing provisions of this SC 4 shall constitute a material event of default by the Contractor under the Contract and the Owner may exercise any or all of the remedies available to it under the Contract, including terminating this Contract for cause.

SC.5. PERMITS AND LICENSES

- 5.1 The Owner will secure and maintain the following licenses and permits through the decommissioning/demolition period;
- Land Use Permits.
 - Water Use Licenses.
 - Approval of the Closure Plan from the Authorities Having Jurisdiction.
- 5.2 Except for those Permits and Licenses that are the responsibility of the Owner pursuant to SC 5.1, the Contractor shall obtain all other Permits and Licenses required for the maintenance and operation of the Site, as well as for the execution of the Work, from the appropriate Authorities Having Jurisdiction and give notices and pay all fees required for such Permits and Licenses.
- 5.3 The costs to the Contractor for all Permits and Licenses required in SC 5.2, except for business licenses and permits required of all companies carrying on business in Nunavut, will be reimbursed by the Owner.
- 5.4 The Contractor will comply with all Permits and Licenses, including all provisions and conditions contained or referenced in Permits and Licenses, whether obtained by the Owner or the Contractor and shall be responsible for giving notices to Authorities Having Jurisdiction as may be required under such permits and licenses.

SC.6. SHOP AND CONTRACTOR DESIGN DRAWINGS

- 6.1 The Contractor shall furnish to the Owner, at proper times, such design or shop or setting Drawings or diagrams as the Engineer or the Project Manager may deem necessary in order to clarify the details of the Work. The Contractor shall make any changes in such Drawings or diagrams which the Engineer or the Project Manager may require, consistent with the Contract, and shall submit sufficient copies (as specified, but in no case less than four) of the revised prints to the Owner for review. After review and approval one copy shall be returned to the Contractor and the Contractor shall perform the Work in accordance with the Drawings and diagrams as approved.
- 6.2 When submitting such design or shop or setting drawings or diagrams, the Contractor shall notify the Owner in writing of any discrepancies between such Drawings and diagrams and the Owner's Drawings or Specifications sufficiently in advance of proceeding with that part of the Work so as to allow the Owner sufficient time to review same without delay to the schedule. If the Contractor proceeds with the part of the Work which is the subject matter of or related to such drawings or diagrams before obtaining clarification of such discrepancies from the Owner, the Contractor shall not be entitled to any compensation or extensions of time in relation to that part of the Work which is affected thereby, or for any remedial work required to Work already performed by the Contractor. The review by the Owner, the Engineer, or the Project Manager of such drawings or diagrams or of the revised Drawings or diagrams shall not relieve the Contractor of responsibility for errors made by the Contractor therein or for deviations from the Drawings or Specifications not covered by the Contractor's written notification to the Owner.

SC.7. RECORD DOCUMENTS AND DRAWINGS

- 7.1 As the Work progresses, the Contractor shall record all changes and deviations from the Work, including decommissioning and reclamation work, as laid out in the Contract Documents, by marking up appropriate drawings and recording activities in daily activity log and disposal record spreadsheets acceptable to the Owner.

- 7.2 Activities and disposal records will be maintained by the Contractor and updated on a daily basis. The records will be kept in Microsoft Excel 2000 spreadsheet format as set out in the Contract Documents or as otherwise acceptable to the Owner.
- 7.3 At the completion of the Work, or parts of the Work as requested by the Owner, the Contractor shall mark up, complete and deliver to the Owner record drawings confirming the "as-built" or "final" conditions, and spreadsheet records.

SC.8. SAMPLES AND MANUFACTURER'S SPECIFICATIONS

- 8.1 If requested by the Owner, the Contractor shall state the source of any material he proposes to use in the Work. The Contractor at his own expense shall furnish to the Owner for approval such samples and manufacturer's specifications as are called for by the Contract Documents and such additional samples and specifications as the Owner may require. The Work shall conform to the samples and manufacturer's specifications approved in writing by the Project Manager but no such approval shall prevent the subsequent rejection by the Owner of all or any portion thereof which may turn out to be unsound or unfit for use or for the purpose for which it was intended.

SC.9. MATERIALS AND WORKMANSHIP

- 9.1 Unless otherwise specified, all materials and work methods shall comply with the standards as stipulated in the Contract Documents. The Contractor shall, if requested, furnish evidence to the Owner as to the origin and quality of any materials supplied.
- 9.2 In cases where the Contract Documents provide for a choice of more than one make or class of article or material, the final selection of the article or material rests with the Owner. Where any difference in price is involved, the Contractor shall have no claim against the Owner in respect thereof unless such difference has been made known to and accepted in writing by the Owner before the Contract is signed.
- 9.3 Workmanship shall be of the first class only and the best of its kind in each trade.

SC.10. PROCUREMENT, SHIPMENT, AND HANDLING OF EQUIPMENT AND MATERIAL

- 10.1 Where the Contract Documents provide for payment by the Owner to the Contractor on a cost reimbursable basis for actual costs of subcontracts, services, supplies or materials or equipment, the Contractor shall ensure that prices are obtained from a minimum of three (3) potential suppliers, approved in advance by the Project Manager, prior to entering into any subcontracts or placing any purchase orders (the foregoing does not apply to sub-contracts with Subcontractors expressly named in the Tender Form). The Contractor shall submit an analysis of the proposals received from the suppliers, its recommendations for award, and the reasons for its recommendation to the Project Manager for review and approval of the supplier and prices in advance of the Contractor awarding any such purchase orders or subcontracts. Subject to mutual agreement and upon written notification to the Contractor, the Project Manager may waive this requirement for all minor purchase orders or subcontracts with a forecast final value of less than \$10,000 each, or such other limit as may be established by the Project Manager.
- 10.2 The Contractor will be solely responsible for planning, ordering, and arranging shipment of all equipment, materials and supplies required for the Work. Shipment shall be by the most economical means possible consistent with the schedule requirements and, where shipment costs are reimbursable by the Owner, shall be subject in each instance to prior written approval of the Owner. The reimbursement of cost of air transport of major pieces of

equipment or non perishable supplies or materials will only be approved in the event of emergencies or where, in the Owner's opinion, the requirement for such equipment, supplies or materials could not reasonably have been foreseen by the Contractor in sufficient time to arrange sea transport. If sea transport could have been used had the Contractor acted diligently and in a timely manner, but air transport is required to meet the schedule, the Contractor will only be reimbursed the amount which sea transport would have cost had it been used.

- 10.3 The Contractor shall be responsible for and take all appropriate precautions against loss, theft or damage of equipment or material while in transit or delivered to the Site for the purpose of the Work, whether such equipment or material is the property of the Owner, the Contractor, Subcontractors or others, and shall arrange for all reasonable insurance in relation thereto. The cost of repair or replacement of Contractor supplied equipment or material lost or damaged in transit shall be to the Contractor's account.
- 10.4 The Contractor shall off-load, handle on the Site and store in areas to be designated by the Owner, all equipment and material supplied by the Owner or Other Contractors for the Work which arrives on the Site during the time the Contractor is to be on the Site.
- 10.5 The Contractor shall provide suitable lock-up facilities on the Site for his tools and equipment and for those of his employees.
- 10.6 No tools, equipment, material or other articles may be removed from the Site, unless the person removing such article can clearly identify each article and establish his ownership and his right to remove it from the Site.
- 10.7 The Contractor will disassemble, store, make preparations, load and ship to other locations as designated in the Contract Documents, or if not designated as directed or approved by the Owner, such equipment and materials as the Owner designates as salvaged equipment or materials and/or waste materials for disposal off-Site.

SC.11. USE OF SITE BY CONTRACTORS

- 11.1 Upon the Contractor's mobilization to the Site, and upon hand-over of the Site by the Owner, the Contractor will be responsible for the whole of the Site, including in addition to demolition, decommissioning, removal and disposal of facilities at Site all aspects of operation and maintenance of the Site, including the activities of itself, the Owner and Other Contractors while on Site.
- 11.2 The Contractor's employees shall be restricted to the areas on the Site in which they are employed and shall not leave those areas except in the case of emergency or when expressly authorized to do so. To prevent damage to the delicate vegetation, travel by vehicle is restricted to established roadways only.
- 11.3 The Contractor shall observe and enforce the Owner's instructions regarding signs, advertisements, fires, smoking, security regulations and traffic regulations.
- 11.4 The Contractor shall be responsible for conducting his operations and those of his Subcontractors in such a manner as will, in the opinion of the Owner, prevent the creation or existence of fire hazards and facilitate the extinguishing of any fires that may occur and, to this end, shall take all precautionary measures as required by Applicable Law, Authorities Having Jurisdiction, the relevant insurance inspection authority and common prudence.
- 11.5 The Contractor shall not permit any fires to be built or open salamanders to be used in any part of the Work, except for such facilities, approved by the owner, as may be required during

winter weather or for incineration as specified in the Scope of Work, and then only under the Contractor's continuous supervision. The Contractor shall furnish, mount for emergency use and maintain the necessary equipment, all of approved types, as required by Applicable Law, the Authorities Having Jurisdiction and the relevant insurance inspection authorities.

- 11.6 Flammable fluids shall be brought onto the Site only in appropriate safety containers, and shall be stored in and dispensed from a storage area designated by the Owner, and smoking shall be prohibited in that area.
- 11.7 Storage and handling of explosives shall conform to the requirements of Applicable Law. Excess explosive materials shall be removed from the Site immediately after the portion of the Work requiring the use of explosives has been completed.
- 11.8 During the course of the Work, including demolition and reclamation activities, the Contractor is responsible for any spills that contravene Applicable Law or the requirements of the Authorities Having Jurisdiction in relation to the Environment. Any costs for clean-up and reclamation Work associated with spills attributed to the Contractor and/or Subcontractors, and any fines, penalties or assessments which may be levied against the Contractor and/or Subcontractors, will be borne by the Contractor without reimbursement from the Owner, and the Contractor will indemnify and hold the Owner harmless against any fines, penalties or assessments which may be levied against the Owner resulting from such spills.
- 11.9 The Contractor will be responsible and liable for the behavior, actions and safety of all visitors to the Site invited or permitted by the Contractor, to the same extent provided by the terms of the Contract Documents, for Contractor's employees, Subcontractors and others for whom the Contractor is responsible.

SC.12. TEMPORARY UTILITIES, SYSTEMS AND STRUCTURES AND PROTECTION OF WORK AND PROPERTY

- 12.1 The Contractor shall take precautions to ensure that shoring, construction equipment, materials, or any of his operations or those of his Subcontractors, or forces of nature, which apply loads to any part of the Work shall not damage the Work.
- 12.2 All shoring, false-work temporary structures and temporary modifications to electrical, mechanical and utility systems shall be designed by an engineer authorized and licensed to practice in the province or territory in which the Work is being performed and all drawings, specifications and instructions related thereto must bear his seal and signature and copies shall be furnished to the Project Manager for the Owner's approval.

Drawings, specifications and instructions relating to temporary structures or mechanical/electrical systems described in the Contract Documents as requiring approval of the Owner, the Project Manager, or the Engineer must be approved before construction of such temporary works are commenced.

- 12.3 Without prejudice to or limiting GC.9 (Indemnity and Hold Harmless), the Contractor shall, as the Owner may direct, promptly repair or replace at his own expense any portion of the Work, any property of the Owner and any property of others that is lost, damaged, destroyed or injured in any way as a result of the performance of the Work or the acts or omissions of the Contractor or anyone for whom the Contractor is responsible.

SC.13. USE OF EQUIPMENT

- 13.1 All equipment left at the Site by the Owner for use by the Contractor for his use during the period of the Work, including the demolition and reclamation, is to be operated and maintained by the Contractor in accordance with normal operating and maintenance procedures. The equipment remains the property of the Owner. Any equipment designated as salvage by the Owner shall be returned to the Owner in the same condition as it was received by the Contractor, normal wear and tear excepted, and the Contractor shall be liable to the Owner without reimbursement from the Owner for any deterioration of condition beyond normal wear and tear. Upon completion of the Work the equipment will be designated by the Project Manager for disposal at Site or for shipment off-Site. The Contractor will make preparations to the equipment for shipping off-Site including storage and loading onto ships.

SC.14. SANITARY ARRANGEMENTS AND CLEAN UP

- 14.1 In addition to the operation and maintenance of the Site sewage disposal system, the Contractor shall provide and maintain, in accordance with all Applicable Law and the requirements of any Authority Having Jurisdiction, temporary sanitary facilities on the Site for the use of all persons connected with the Work, and shall remove them and their contents on completion of the Work.
- 14.2 The Contractor shall at all times keep the Site neat, clean and free from accumulation of waste materials and rubbish which arise out of the performance of the Work, regardless of the source, and in particular, without limiting the generality of the foregoing, he shall keep the Site, the Site of the Work, the Work and the work of Other Contractors free of debris, or materials used in the Work.
- 14.3 On completion of the Work, the Contractor shall remove from the Site all of his waste materials and rubbish, temporary buildings and facilities, tools, plant, equipment and surplus materials and shall leave the working area clean as required by the Contract Documents.
- 14.4 If the Contractor fails to perform any of his obligations with regard to clean up, the Owner may arrange to have any work necessary to correct such default performed by others, and the Owner will deduct the cost thereof, as determined by the Project Manager, from the amount due to the Contractor under the Contract.
- 14.5 If at the time the Contractor has achieved Substantial Performance of the Work, as certified by the Project Manager, including removal of temporary buildings and equipment, the weather conditions are such that, in the opinion of the Project Manager, it is impracticable for the Contractor to carry out the remainder of the cleaning up operations effectively, or are such as to make it impossible for the Project Manager to properly inspect the conditions of the Site, then the Owner may withhold from payments due to the Contractor an amount that is twice the amount reasonably estimated to be sufficient to cover the cost of such cleaning up, including all incidental and related costs including transportation, as a guarantee that the Contractor will carry out the remainder of the cleaning up operations as soon as weather conditions permit this work to be performed effectively and the condition of the Site to be inspected properly.

SC.15. USE OF OWNER'S PROPERTY

- 15.1 As required by the Scope of Work in the Contract Documents, the Contractor will make use of the Owner's facilities, equipment, tools, or other property at the Site. The Contractor shall do so at its own risk. Prior to using any such facilities, equipment, tools, or other property the Contractor shall inspect same and assure himself that it is in safe condition, and shall be

responsible for training operators, if required, and for ensuring safe use of the facilities, equipment, tools, or other property. The Contractor shall indemnify and hold harmless the Owner, the Project Manager, and their respective directors, employees, and agents from any claims and liabilities arising out of use of such facilities, equipment, tools, or other property.

SC.16. LABOUR RELATIONS

- 16.1 The Contractor agrees to carry out the Work in a manner which will avoid labour conflict, disruptions and slowdowns which could affect the progress of the Work, the date for Substantial Performance or the Completion Date. The Contractor also agrees to report promptly to the Project Manager any potential labour conflicts. Any proposed resolutions of a labour conflict or a potential labour conflict arising directly or indirectly out of the Work must be approved by the Owner.

SC.17. WORK SCHEDULE

- 17.1 The Contractor shall, within ten (10) days of the Contractor's receipt of written Notice of Award of the Contract, and before the first application for progress payment is made, submit a detailed work schedule to the Project Manager for review and approval. If not approved, the Contractor shall make such changes and additions to the proposed schedule as the Project Manager may require as a condition of approval. It is a condition precedent to any payment to the Contractor that the Owner has received the aforesaid detailed work schedule as approved by the Project Manager. The approved schedule shall be updated monthly by the Contractor and submitted to the Project Manager review, showing progress against each activity and, if applicable, revised projections to completion, with an explanation of variances from the schedule.
- 17.2 The detailed schedule referred to in Subsection 17.1 shall be complete in all respect, and shall cover, in addition to activities at the Site of the Work, off-Site activities such as design, fabrication, procurement, shipping and job Site delivery of Contractor-furnished equipment and the scheduled shipping dates of equipment and materials to be salvaged or for off-Site disposal by the Contractor or on behalf of the Owner, if any, and shall include a manpower forecast by trade or craft.
- 17.3 The Contractor shall promptly inform the Project Manager of any proposed change in the detailed schedule referred to in Subsection 17.1, the reasons therefore, and the steps the Contractor proposes to take to bring the Work back onto the original schedule.
- 17.4 During the performance of the Work, the Contractor shall submit to the Project Manager weekly reports on the actual progress of the Work. Such progress reports shall include the following:
- (a) a list of equipment used on the Work during the reporting period and any equipment idle during the reporting period.
 - (b) the total number of men actually engaged on the Work during the reporting period, with such total stated separately as to office, supervisory and manual (broken down by trade classifications) personnel; and
 - (c) a manpower and equipment forecast for the next week stating the total number of men, and separately stating such total as to office, supervisory and manual personnel.
 - (d) a weekly summary of the daily activity log and disposal quantities records spreadsheets referred to in SC.7.

- 17.5 It is a condition precedent to any and all payments to the Contractor that the Contractor shall have, for the period covered by each application for payment, satisfied all requirements of this SC.17 at the time the application for payment is submitted, and the Owner shall not have any obligation to make any payment to the Contractor unless the Contractor has satisfied all such requirements of this SC.17.

SC.18. LIFTING EQUIPMENT

- 18.1 The Contractor shall furnish all lifting equipment necessary to perform the Work over and above that equipment provided by the Owner. Such equipment shall conform to the sizes and conditions required. All equipment, including Owner provided equipment, shall be maintained by the Contractor, in accordance with proper standard practices and shall be operated within the published ratings and capacities. All necessary slings, lines, etc., shall be furnished in the sizes and capacities required for the Work and in accordance with recommended standards. Where lifts are of a nature which, by best industry practice, Applicable Law or the requirements of the Authorities Having Jurisdiction, are required to or should be an engineered lift, the Contractor will provide a detailed lift plan, signed and sealed by a registered or licensed professional engineer, to the Project Manager for review prior to commencing the lift.
- 18.2 The Contractor shall keep the Project Manager fully advised of its plans and procedures relating to the offloading, transporting and handling of all materials and equipment.

SC.19. WORK PAPERS AND CONFIDENTIALITY

- 19.1 All information provided by the Owner to the Contractor and all Work Papers (as defined in SC 19.4) shall be and remain the property of the Owner. At the conclusion of the Work or from time to time as requested by the Project Manager, the Contractor shall deliver to the Project Manager copies of any or all of the Work Papers and the originals of any of the Work Papers which were specifically prepared for the Work or the Project.
- 19.2 From the date of execution of the Agreement until the final acceptance of the Work by the Owner, and for a period of five years thereafter, the Contractor shall retain in strict secrecy, and shall not divulge to anyone or use any of the Work Papers or any proprietary, trade secret or technical processes or information of the Owner other than for the purpose of performing the Work, without the prior written approval of the Owner, provided, however, that the Contractor shall not be required to maintain as confidential the following information:
- (a) technical information which at the time of disclosure was in the public domain;
 - (b) technical information which after disclosure becomes part of the public domain, by publication or otherwise, other than by the Parties to the Contract or any Subcontractor;
 - (c) technical information which the Contractor can establish conclusively was in its possession at the time of the disclosure and that it did not obtain directly or indirectly from the Owner; and
 - (d) technical information which has been, or is now, or is in the future, furnished or made known to the Contractor by third parties, as a matter of right and without restriction on disclosure, but not including any technical information furnished or made known to the Contractor by the Owner.
- 19.3 At any time prior to the completion of the Work, the Owner may, by notice to the Contractor, designate specific information as confidential, and forthwith the Contractor shall use its best efforts to ascertain which of its employees, agents and other related individuals know or have

had access to that confidential information, and to acquire from and deliver to the Owner personal covenants from each of those individuals that they will not thereafter divulge or make use of that confidential information except as expressly authorized by the Owner.

- 19.4 The term "Work Papers" as used herein shall include any and all Contract Documents, including documents referenced therein, and all other records, reports, drawings, specifications, technical or reference data, and other documents or information which may be provided to the Contractor by or on behalf of the Owner (whether in paper or electronic form).

SC.20. PUBLICITY

- 20.1 The Contractor shall not in any manner publish or advertise the fact that it has performed services or entered a contractual relationship with the Owner except with prior approval of the Owner.
- 20.2 The Contractor will not issue press/media releases without the prior approval of the Owner.
- 20.3 The Contractor's signs or advertising posters may not be erected or placed on the Site or elsewhere without prior written approval from the Owner.
- 20.4 All visitors to the Site will be allowed only with pre-authorization by the Project Manager.

SC.21. OWNER-FURNISHED UTILITIES AND SITE SERVICES

- 21.1 Following Owner's completion of mining operations at the Site, the Owner will leave for the Contractor's use those utilities and services specified in the Scope of Work part of the Contract Documents.

The Contractor will provide all personnel, tools, fuels and materials required to operate and maintain these systems, utilities and services throughout the period of the Contract or until such times as they are shut down for demolition purposes.

- 21.2 Utilities, systems and services requiring modifications or the addition of temporary facilities or equipment as a result of demolition activities will be designed and modified and supplied by the Contractor to maintain required and continued operation throughout the period of the Contract. The design of modifications and temporary equipment and facilities shall be fully engineered, sealed and signed by qualified engineers licensed in a Canadian Provincial Professional Engineering Association and permitted to practice and provide engineering services in Nunavut. Designs are subject to approval by the Owner prior to construction. Use of salvaged equipment and materials is preferred and shall be maximized where cost effective so to do.
- 21.3 Any extensions required to existing utility systems to enable the Contractor to perform the Work will be completed by the Contractor.
- 21.4 Modifications to existing utilities, systems, services will meet all regulatory and safety requirements in accordance with all Applicable Law, including the laws and regulations of Nunavut.

SC.22. FACILITIES

- 22.1 The facilities listed below shall be furnished by the Owner, and may be used by the Contractor without charge, upon written approval from the Project Manager:

(a) Storage and Working Areas

Outdoor storage is available at the Site, but may not be immediately adjacent to the Site of the Work. The Contractor shall be responsible for on-site offloading and transportation of its material and equipment.

If it becomes necessary at any time during the Work to move temporarily stored construction materials or equipment, the Contractor or Subcontractor furnishing these materials or equipment shall, when directed by the Project Manager, move same or cause them to be moved without additional cost to the Owner.

(b) Buildings & Office Spaces

The Contractor may utilize existing buildings and structures for use as offices, tools and equipment storage during the period of the Contract.

(c) Temporary Buildings

Any buildings for temporary accommodation, offices and storage required by the Contractor due to demolition of the Owner's buildings will be provided by the Contractor and will be removed from Site by the Contractor at completion of the Work. The Contractor shall submit for prior approval by the Project Manager plans relating to temporary buildings and/or facilities which the Contractor proposes to be used at the Site of the Work.

SC.23. STANDARD WORK WEEK

23.1 The standard work week on the Project shall be the hours per day and days per week as stated in the applicable collective bargaining agreements (if any) and permitted by legislated statutes and regulations. The Contractor shall ensure that any deviation from the standard work week has been approved in advance by any Authority Having Jurisdiction and that all necessary permits have been obtained.

23.2 The Contractor shall not work overtime without prior approval of the Project Manager.

SC.24. SNOW REMOVAL

24.1 The Contractor shall be responsible for snow removal. All snow shall be hauled to a disposal area designated by the Project Manager. The Contractor shall be required to sand icy surfaces in its work areas.

SC.25. SITE MEETINGS

25.1 The Contractor shall attend and cause his Subcontractors to attend, as requested by the Project Manager, all regularly scheduled and special Site meetings.

SC.26. RECEIPT OF AND ADDRESSES FOR NOTICE

26.1 All notices to the Owner, the Project Manager, and the Engineer or Contractor must be in writing, addressed in accordance with the provisions for notice in the Agreement portion of the Contract.

SC.27. PROVISION OF SERVICES TO OWNER

- 27.1 The Contractor will provide to the Owner, the following services at the unit prices specified in the Tender Form:
- Accommodation services for a maximum of 10 persons.
 - Air transport of Owner's personnel.
- 27.2 The Owner's personnel will be given first priority on flights to and from the Site.
- 27.3 The Contractor will provide specific accommodations and office space for the Owner's personnel for the duration of the Project, as described in the Scope of Work. The Owner will advise the Contractor specific units within the accommodation complex to be reserved for Owner's personnel. Should the personnel accommodations assigned to the Owner be vacant for extended periods of time, the Owner will make the vacant accommodations available to the Contractor for specific periods. Office space will be provided by the Contractor for Owner's use, complete with communications and office equipment.

SC.28. ENVIRONMENTAL RESPONSIBILITY

- 28.1 Before any part of the Work on Site is commenced, the Contractor will develop Environmental procedures and control plans including a waste and spill control plan relevant to the Work. The plan will include provisions for:
- monitoring plan
 - spill prevention rules and procedures
 - spill containment schemes
 - records keeping and reporting standards and procedures
 - regulatory authority contacts
 - clean-up procedures
 - disposal procedures
- 28.2 The Contractor's Environmental procedures and control plans will be submitted to the Owner for review and approval before Work on Site is initiated. The Contractor shall make such changes to its proposed Environmental procedures and control plans as the Owner may reasonably require as a condition of its approval of same. No part of the Work may commence on Site until after the Environmental procedure and control plans have been approved by the Owner in writing. Similarly, any subsequent revisions to such plans shall be submitted to the Owner for approval prior to implementation. Without limiting the other requirements of this SC.28, the Contractor shall comply with the approved Environmental procedures and control plans.
- 28.3 The extent of soil reclamation quantities will be determined by periodic sampling and analysis by the Owner's environmental consultants. The Contractor will coordinate and schedule excavation and reclamation operations to the timing of sampling and analytical events and results. No additional costs will be accepted by the Owner for delays attributed to environmental sampling and analysis. Without limiting the foregoing, for any part of the Work performed on a cost reimbursable basis the Contractor will not be paid for costs which could have been avoided by proper planning and scheduling by the Contractor to allow sufficient time for environmental sampling and analysis to take place.
- 28.4 The Contractor shall be deemed to have knowledge of the existence and presence of all Hazardous Substances generally known or reasonably expected to be encountered in the performance of work such as that contemplated by the Contract. In the event that the

Contractor encounters a Hazardous Substance for which handling or disposal procedures are not included in the Owner's Closure Plan, the Contractor shall:

- (a) notify the Owner and Project Manager in writing;
- (b) take all reasonable steps, including stopping the Work, to ensure that no person suffers injury, sickness, or death and that no property is injured or destroyed as a result of exposure to or the presence of the Hazardous Substances; and
- (c) comply with the directions and instructions of the Project Manager.

For all Hazardous Substances, the Owner will coordinate with Authorities Having Jurisdiction for the requirements for the treatment, handling and disposal procedures to be employed and the Contractor shall comply with all such requirements. The unit prices and lump sum prices in the Contract include all costs, delays and impacts associated with the existence or presence of Hazardous Substances on the Site and of which the Contractor is or should have been aware of prior to commencing the Work.

- 28.5 In addition to all other requirements of the Contract Documents, the Contractor shall at all times and without additional compensation comply strictly with all Environmental guidelines, requirements and directions of the Owner, the Project Manager, the Engineer, the Owner's consultants and any Authority Having Jurisdiction, as well as with the requirements of all Applicable Law, as they relate to the protection of the Environment or Environmental matters, or as they relate to the transport or use of Hazardous Substances. Further, and without limiting the foregoing, the Contractor will also comply with any additional and more stringent Applicable Law that is applicable to lands owned or controlled by the federal government of Canada or the Territory of Nunavut.
- 28.6 Further, the Contractor shall take all reasonable and necessary measures and precautions to ensure that any activities undertaken in the performance of the Work are conducted in such a way as to have no adverse impact on the natural, physical or biological Environment in excess of the limits allowed by Applicable Law and all regulatory and other Authorities Having Jurisdiction. In addition and without limiting the foregoing, the Contractor shall not to any degree disturb, damage or impair the Environment outside of the Site, or any Environmental resources identified and marked by the Owner in the Site. The Contractor shall comply strictly with all terms and conditions in any permits, approvals and licenses of any Authority Having Jurisdiction. In no circumstances shall the Contractor discharge any substance used in the performance of the Work, or provided by the Contractor, into the Environment (excluding only normal combustion exhaust emissions from Construction Equipment which are within legally allowable levels). In the event of any such discharge and without limiting any other indemnity in the Contract, the costs associated with investigation, monitoring, clean-up and disposal of Environmental discharges caused by the Contractor during the term of the Contract will be borne by the Contractor.
- 28.7 The Owner, the Project Manager, the Engineer and their officers, directors, servants, agents and employees shall all have authority to order the Contractor to immediately cease any or all activities which, in their opinion, may cause damage, disturbance or impairment to or of the Environment in excess of that allowed by Applicable Law, in breach of the requirements of any Authorities Having Jurisdiction, or in breach of the requirements of the Contract. The Contractor, at its sole cost and expense, shall immediately comply with such direction and shall not re-commence such activity or activities until after the Contractor has demonstrated to the satisfaction of the Project Manager, the Engineer, the Owner and the Authorities Having Jurisdiction, by amending its construction methodology if necessary and all without additional compensation, that the activity can be commenced again and successfully completed without disturbance, damage or impairment to or of the Environment in excess of

that allowed by Applicable Law, the requirements of any Authority Having Jurisdiction or the Contract. Without limiting the Owner's other remedies, the Owner may require the Contractor to remove personnel and Subcontractors that cause flagrant or repeated violations of the provisions of this SC.28.

- 28.8 Compliance by the Contractor with any rules, directions or requirements of the Contract, the Project Manager or the Owner in connection with health, safety and the Environment shall not relieve the Contractor from its sole responsibility and liability to perform the Work and complete the Contract without causing injury or damage to health or the Environment and to perform the Work in a safe manner.
- 28.9 Failure by the Contractor to comply with any of the foregoing provisions of this SC.28 shall constitute a material event of default by the Contractor under the Contract and the Owner may exercise any or all of the remedies available to it under the Contract, including terminating this Contract for cause.

SC.29. SALVAGE

- 29.1 All materials and equipment at the Site will remain the property of the Owner until the Owner authorizes its sale and removal in writing.
- 29.2 The Owner has designated items of equipment or materials to be retained by the Owner and not considered for sale as salvage. These items are identified in the Scope of Work, Appendix SW6.
- 29.3 For items of materials or equipment listed as to be retained by the Owner, the Contractor will be responsible for its removal, cleaning, disassembly, packaging and preparation for shipment, loading to transport and shipping to destination designated by the Owner. Costs associated with this work are reimbursable.
- 29.4 The Contractor will indicate in the Bid Document (Tender Form, Appendix 9), items of equipment or materials to be claimed as salvage by the Contractor. A credit will be offered for each item. During the period of the Contract the Contractor may offer to purchase additional items of salvage by applying in writing to the Owner, indicating an offered credit value for the additional salvage items. The Owner's acceptance of the credit values offered for each item of salvage will be considered valid only upon written acceptance of the agreed credit value issued by the Owner or the Project Manager.
- 29.5 Items of material and equipment not listed as sold to the Contractor may not be removed from the site without an authorization in writing received from the Owner or the Project Manager.
- 29.6 All costs associated with salvage of equipment and materials claimed by the Contractor, including but not limited to costs for, removal, cleaning, disassembly, packaging and preparation for shipment, loading to transport and shipping to destination, shall be to the Contractor's account.
- 29.7 At any time prior to shipment off-site, the Owner reserves the absolute right to recover from the Contractor any item previously specified as salvage by the Contractor, for the previously agreed credit value plus any costs incurred by the Contractor, but not normally reimbursable by the Owner, for removal, cleaning, disassembly, packaging and preparation for shipment of the salvaged item.

-- END OF SPECIAL CONDITIONS--

POLARIS MINE CLOSURE

CONTRACT 2071-C.01 Demolition and Site Reclamation

COMPACT DISK FILES

Closure Plan (Previously forwarded under separate cover.)

All on one disk entitled;

**POLARIS MINE
DECOMMISSIONING AND RECLAMATION PLAN
MARCH 2001**

Drawings

All on two disks entitled;

CD1 Bechtel Construction Drawings SW7.1

**CD2 Mine & Surface Drawings – SW7.2
Accommodation Complex Drawings – SA7.3
CRF Plant Drawings – SW7.4**