

#### **10.0 Relationship to Nunavut Land Claims Agreement (NLCA)**

- 10.1 The Policy is aimed at implementing the Government of Nunavut's obligations under Article 24 of the NLCA.
- 10.2 The Policy shall be interpreted so as to respect to the letter and intent of the NLCA.

#### **11.0 Evaluation Process and Bid Adjustment**

- 11.1 The evaluation process for the award of Tenders and for the cost criteria portion of Requests for Proposals shall be as follows:
  - (a) all Tenders submitted should meet minimum contract requirements specified in the request for tender or proposal and should demonstrate a capability of carrying out the work;
  - (b) all Tenders meeting the requirements of 11.1.a and the cost criteria of relevant Proposals shall then be adjusted based upon Nunavut Business status, Inuit Firm status, and Local status of the proponent, general contractor, subcontractors, and suppliers, including the labour component;
    - (i) the adjustment for the labour component shall be based on estimates of payroll expenditures made by the general contractor, subcontractors and suppliers, for Nunavut, Inuit, and Local payroll expenditures that form part of the bid; and,
    - (ii) in the absence of any qualitative or contrary considerations based on quality of goods and services, conduct, past performance, or other like considerations, the lowest tender after adjustments shall be awarded the contract.
  - (c) the bid adjustment values shall be as follows:
    - (i) Nunavut firm status, an adjustment of 14%;
    - (ii) Inuit firm status, an additional adjustment of 3%;
    - (iii) Local status, an additional adjustment of 3%
- 11.2 The evaluation process for the award of Proposals shall be as follows:
  - (a) all Proposals submitted should meet minimum contract requirements specified in the Request For Proposals and should demonstrate a capability of carrying out the work;
  - (b) all proposals meeting the requirements of 11.2.a will be evaluated to determine which appears to offer the best overall value to the Government of Nunavut, based on the evaluation criteria established in the RFP;
  - (c) for Proposals where there is a clear cost criteria the bid adjustment values outlined in 11.1.c will be applied to that portion of the evaluation;

(d) Inuit content criteria will be included in the evaluation criteria established for each RFP. The Inuit content values shall be, at a minimum, as follows:

- (i) for Inuit employment 10%
- (ii) for Inuit ownership 5%

- 11.3 Details of the evaluation process shall be further described in procedures developed by the Responsible Department and made available to the public.
- 11.4 The bid adjustment values for goods contracts will be applied to the first \$100,000.00 only.
- 11.5 Evaluation criteria, consistent with the Policy Objectives contained in 7.0, and based on the Bid Adjustment Values and Content Ratings identified in this section, may be developed by the Responsible Department for specific types of professional services contracts or other distinctive sub-categories of contract.

## **12.0 Bonuses and Penalties**

12.1 Contracts may provide for:

- (a) a bonus that shall be applied in the event that minimum threshold requirements set by the Contracting Authority in the request for tenders or proposals have been exceeded; or,
- (b) a penalty that shall be applied in event that minimum threshold requirements set by the Contracting Authority in the request for tenders or proposals have not been met.

12.2 Where applicable, bonuses or penalties shall apply with respect to Inuit participation in employment, project management, and training.

12.3 Where applicable, in the area of employment, a bonus or penalty shall be calculated as 1/3 of 1% of the total labour content of the contract for each 1% of the amount by which employment either exceeds or does not meet the mandatory requirement.

12.4 Bonuses and penalties shall be calculated for Local Inuit Labour and/or Nunavut Inuit Labour.

12.5 In the area of Inuit management, a bonus or penalty in the amount of 2% of the total labour content shall be determined on the basis of whether an Inuk is employed as a Project Manager, either locally or for Nunavut. A larger bonus, but not a larger penalty, of an additional 1% shall be determined for a locally employed Inuk Project Manager than a Nunavut employed Inuk Project Manager.

12.6 Where applicable, a bonus or penalty shall be determined on the basis of on-going evaluation as to whether Inuit are provided training in the following areas:

- (a) entry level or support positions, involving the performance of basic tasks; and,
- (b) apprenticeship or development positions, involving on-the-job training and classroom instruction aimed at professional skills and accreditation;

- 12.7 Bonuses and penalties shall be determined for the provision of training to both non-Local Inuit and Local Inuit.

### **13.0 Maximum Bonuses and Penalties**

- 13.1 The maximum total bonuses and penalties to be determined for a single Contract for employment, management, and training shall not exceed 25% of the total labour price.

### **14.0 Monitoring and Enforcement Procedures**

- 14.1 Monitoring and enforcement procedures shall be developed and applied:

- (a) generally, to ensure compliance with the Policy by Contractors;
- (b) more specifically, to ensure that bonuses and penalties are based on actual performance;
- (c) to ensure that the Policy is applied consistently across departments of the Government of Nunavut, the various regional and local offices of those departments, and those GN Public Agencies and Boards set out in the Financial Administration Act.

### **15.0 Application of Monitoring and Enforcement Procedures**

- 15.1 Each Contract Authority within the Government of Nunavut is responsible for monitoring and enforcement of Contracts under which it expend funds.
- 15.2 Each Contract Authority within the Government of Nunavut shall provide monitoring and enforcement information to the Responsible Department in a manner that may be stipulated by that department.
- 15.3 The Government of Nunavut, through the Responsible Department shall provide Nunavut Tunngavik Incorporated with information in a timely manner regarding the outcomes of its monitoring and enforcement activities.

### **16.0 Periodic Review**

- 16.1 It is recognized that achieving the objectives of the Policy will require consistent and persistent effort.
- 16.2 It is further recognized that the achievement of objectives may be most realistically and reliably secured by measured progress over time.
- 16.3 The substance and application of the Policy should therefore be reviewed and revised on a periodic basis to ensure that progress towards objectives is being made in a demonstrable and balanced way.

### **17.0 Review Committee**

- 17.1 A Contracting Policy Review Committee, consisting of representatives appointed by the

- Government of Nunavut and Nunavut Tunngavik Incorporated, shall be established to review the implementation of the Policy on a periodic basis and, in any event, at least on an annual basis.
- 17.2 As part of its mandate, the Review Committee shall develop and apply specific mechanisms for assessing progress towards objectives and making recommendations for adjustments to the Policy.
- 17.3 As part of its mandate, the Review Committee shall examine monitoring and enforcement concerns arising out of the implementation of the Policy.
- 17.4 The Review Committee will conduct a comprehensive review at the end of the first three-year period, and every five years thereafter
- 17.5 The Review Committee shall submit all of its work to the Government of Nunavut and Nunavut Tunngavik Incorporated.
- 17.6 In carrying out its work, the Review Committee shall make efforts to collect public input and to consult with interested parties. Without limiting the ability of the Committee to make other parts of its work available to the public, these annual and multi-year reviews shall in all cases be made available to the public.

#### **18.0 Appeals and Arbitration**

- 18.1 A Contractor that has submitted a proposal or Tender and that wishes to challenge an award of Tender or proposal may do so within five (5) days of the award announcement by directing the challenge to the Contracting Authority. The Contracting Authority shall have five (5) business days to respond to the challenge.
- 18.2 Any further challenge of an award shall be directed in writing to a Contracting Appeals Board.
- 18.3 An independent Contracting Appeals Board shall be formed, consisting of the representatives of three parties, appointed to terms of two years. A representative shall be appointed by each of the following :
- i) the Government of Nunavut;
  - ii) Nunavut Tunngavik Incorporated; and,
  - iii) the Nunavut Chambers of Commerce.
- 18.4 The Board shall convene within 21 days of receiving a challenge.
- 18.5 Upon hearing a challenge, the Appeals Board may:
- i) uphold the award; or
  - ii) recommend remedial actions.

- 18.6 The decision of the Appeals Board shall be binding and final.
- 18.7 If, in the sole opinion of the Appeals Board, a challenge of an award is frivolous or vexatious, then the Board may seek administrative costs against the party who brought the challenge.
- 18.8 An annual report, including financial statements, shall be prepared by the Appeals Board and submitted to the Government of Nunavut and to Nunavut Tunngavik Incorporated. In addition, these annual reports shall be made available to the public.
- 18.9 Notwithstanding that an appeal may be pending, the Contracting Authority may award the Contract.
- 19.0 Financial Resources**
- 19.1 The expenditure of funds by the Government of Nunavut under the Policy is conditional on approval of such funds in the Main Estimates by the Legislative Assembly and on there being a sufficient uncommitted balance in the appropriated item for the fiscal year in which the expenditure is required, and on meeting such further requirements as may be set out in the Financial Administration Act.
- 20.0 Transition for Certain Businesses**
- 20.1 The Government of Nunavut recognizes the contribution made to the Nunavut economy by a number of companies that have operated for many years in Nunavut that do not qualify as a Nunavut Business under this Policy. Accordingly, any business that, immediately before the coming into effect of the Policy, qualified as a Nunavut Business for the purpose of the Business Incentive Policy, shall qualify as a Nunavut Business under this Policy until the second anniversary of the coming into effect of this Policy.
- 20.2 For greater certainty, section 20.1 shall cease to have any application on the second anniversary of the coming into effect of the Policy and no business shall continue to qualify as a Nunavut Business or Inuit Firm unless it meets the definitions for those terms set out in Appendix A.
- 21.0 Revisions to or repeal of this Policy**
- 21.1 Cabinet may make changes to this policy consistent with the obligations of the Government of Nunavut in Article 24 of the Nunavut Land Claims Agreement which requires a collaborative process with Nunavut Tunngavik Inc. in the maintenance of preferential procurement policies, procedures and approaches.

*page 8 of 8*

APPROVED BY CABINET

DATE:

Original is signed by the Premier

---

Paul Okalik, Premier

Includes Appendix A – Seven pages

## **APPENDIX A: DEFINITIONS**

The following definitions apply to the Policy and its Procedures.

**Article 23** - the Article of the Nunavut Land Claims Agreement dealing with Inuit Employment within Government.

**Article 24** - the Article of the Nunavut Land Claims Agreement dealing with Government Contracts.

**Bid** - a tender or an offer to sell or provide goods, services, or construction that is submitted to a Contract Authority in response to a Request for Bids or Tenders.

**Bid Adjustment** - the amount by which the face value of a Bid is reduced in accordance with Section 6(2) of this Policy. The Bid Adjustment is used for Bid evaluation purposes only. The Bid price minus the Bid Adjustment will be referred to as the adjusted price.

**Bid Security** - security given by a Bidder or Proponent to guarantee entry into a Contract.

**Bidder** - an individual, partnership, corporation, society or co-operative who submits a Bid.

**Contract** - a written agreement between a Contracting Authority and another party to provide goods, perform services, construct public works, or lease real property, for consideration, and includes

- i. Contracts for the supply of goods.
- ii. construction Contracts.
- iii. Contracts for the supply of services.
- iv. leases.

**Contract Authority** - a Government of Nunavut Minister, a Deputy Minister, or a public officer with the duties and authorities set out in the Financial Administration Act and Regulations thereto.

**Contract Price** - the price or price formulated in a Contract.

**Contract Security** - a deposit of securities by the Contractor which the Contracting Authority may convert to carry out the Contractor's obligations under the Contract.

**Contractor** - a corporation, partnership or individual that has been awarded a Contract for the execution of work or services under the terms of a Contract.

**DIO** - Nunavut Tunngavik Incorporated or such other Inuit organizations that, from time to time, Nunavut Tunngavik Incorporated may, by notice to the Government of Nunavut, designate.

*Appendix "A"*  
*page 2 of 7*

**Employment Contract** - a Contract which establishes an employer-employee relationship.

**Financial Administration Act** - the Financial Management Act, R.S.N.W.T. 1990 (as adopted by Nunavut) c. F-3 and amendments thereto.

**General Contractor** - a Contractor who contracts to undertake an entire Contract, rather than a portion of the Contract.

**Goods Contract** - a Contract for the purchase of articles, commodities, equipment, goods, materials or supplies which may include installation.

**Government** - the Government of Nunavut.

**Government of Nunavut** - all Territorial Government departments and all public agencies defined by the Financial Administration Act, S.N.W.T. 1987 (1), c.16, Part IX, and Schedules A, B, and C, as amended for Nunavut pursuant to s.29 and 76.05 of the federal Nunavut Act but excluding the Northwest Territories Power Corporation.

**Inuit (singular: Inuk)** - a person described in Article 1.1.1 of the Nunavut Land Claims Agreement (NLCA) and who has enrolled himself or herself on the Inuit Enrolment List under Article 35 of the NLCA.

**Inuit Content** - the dollar value of the goods and services required by the Contract supplied by any Inuit Firm or Inuit sole proprietorship, and Inuit Labour. Inuit Content may include:

- i. goods and services supplied by an Inuit Firm or Inuit supplier acting as the General Contractor. These are referred to as "own forces";
- ii. goods and services supplied by an Inuit Firm or Inuit supplier so long as these goods and services are required for the completion of the Contract and are paid for by the Contract.
- iii. Inuit labour by an Inuit Firm or a non-Inuit Firm

**Inuit Enrolment List** - the list of Inuit maintained by Nunavut Tunngavik Incorporated under Article 35 of the Nunavut Land Claims Agreement.

**Inuit Firm** - an entity which complies with the legal requirements to carry on business in the Nunavut Settlement Area, and which is

- i. a limited company with at least 51% of the company's voting shares beneficially owned by Inuit, or
- ii. a cooperative controlled by Inuit, or
- iii. an Inuk sole proprietorship or partnership; and
- iv. able to present evidence of inclusion on NIT's Inuit Firms Registry.

**Inuit Firms Registry** - the list of Inuit Firms that is maintained by Nunavut Tunngavik Incorporated in accordance with Article 24.7.1 of the Nunavut Land Claims Agreement.



*Appendix "A"*  
*page 3 of 7*

**Inuit Labour** - labour, including professional services, provided in any capacity by an Inuk or Inuit, and not necessarily through an Inuit Firm.

**Inuit Training** - Training of an Inuk or Inuit related to a specific Contract that has been pre-approved by the Contract Authority.

**Inuk Project Manager** - an Inuk [ordinarily resident in the Subject Community] who is capable of undertaking all aspects of the management of the project, and has decision-making authority over day-to-day matters affecting the project.

**Invite** - to call publicly for Bids.

**Local Business** - a Nunavut Business which has been resident in the Subject Community for the four months prior to application and in addition complies with the following criteria:

- i. maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on a year-round basis for the primary purpose of operating the subject business, and
- ii. maintains a Local Resident Manager, and
- iii. undertakes in the Subject Community the majority of its management and administrative functions related to its operations in the Subject Community, and
- iv. has applied for and received designation as a Local Business at least two weeks prior to the Tender opening.

**Local Content** - the goods and services required by the Contract and supplied by any Local Business or Local Labour. Local Content may include:

- i. goods, services or labour supplied by a local business acting as the General Contractor. These are referred to as "own forces";
- ii. goods, services or labour supplied by any other Local Business or Local Supplier that are required for the completion of the Contract and are provided for by the Contract.

**Local Labour** - labour of Local Residents related to a Contract, not necessarily through a Local Business.

**Local Resident** - a Nunavut Resident who has been ordinarily resident in the subject community for the last four months.

**Local Resident Manager** - a Local Resident who is capable of undertaking all aspects of the management of the Local Business and has absolute decision-making authority over day to day matters affecting the Local Business. The Government of Nunavut may waive this requirement in the case of a newly appointed Local Resident Manager, on proof that within six months the Local Resident Manager will have met the residency requirements.

**Local Supplier** - a supplier of goods in the Subject Community, to whom the public has access and from whom the public may purchase directly from a Representative Inventory of items

*Appendix "A"*  
*page 4 of 7*

offered for sale. The supplier must be and must have been a Local Resident for the four months prior to application. The Government of Nunavut may recognize as a Local Supplier a business that does not "physically" carry in inventory specific goods due to factors such as high cost/low demand, made-to-order goods, or articles of a nature that the Government is the sole requisitioner.

**Nunavummi Nangminiaqtunik Ikajuuti (NNI)** - the name of this Policy in Inuktitut, meaning "Assistance for Nunavut Businesses."

**Nunavummi Nangminiaqtunik Ikajuuti Business Directory** - the list of Nunavut Businesses that have applied and met the requirements of the NNI for Nunavut Business Status.

**Nunavut Business**

A business which complies with the legal requirements to carry on business in Nunavut, and meets the following criteria:

- i. is a limited company with at least 51 percent of the company's voting shares beneficially owned by Nunavut Residents, or
- ii. is a co-operative with at least 51 percent of the Residents' voting shares beneficially owned by Nunavut, or
- iii. is a sole proprietorship, the proprietor of which is a Nunavut Resident, or
- iv. is a partnership, the majority interest in which is owned by Nunavut Residents and in which the majority benefits, under the partnership agreement, accrue to Nunavut Residents and complies with :
- v. maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business, and
- vi. maintains a Resident Manager, and
- vii. undertakes the majority of its management and administrative functions related to its Nunavut operations in Nunavut, and
- viii. has received designation as a Nunavut Business at least two weeks prior to the Tender opening.

**Nunavut Content** - the goods and services required by the Contract and supplied by any Nunavut Business or Nunavut Supplier. Nunavut Content may include:

- i. goods, services or labour supplied by a Nunavut Business acting as the General Contractor. These are referred to as "Own Forces";
- ii. goods, services or labour supplied by any other Nunavut Business or Nunavut Supplier that are required for the completion of the Contract and are paid for by the Contract.

**Nunavut Resident** - a person who:

*Appendix "A"*  
*page 5 of 7*

- i. is on the NTI Inuit Enrollment List; or has spent the last twelve months ordinarily resident in Nunavut, and
- ii. has a valid Nunavut Healthcare Card and/or other accepted proof of residency such a Nunavut General Hunting Licence, a Nunavut Driver's Licence, a lease or rental receipt, and provides a physical address where residing.

**Nunavut Supplier** - a Nunavut Business that is a supplier of goods to which the general public has access and from whom the general public can purchase directly from a Representative Inventory of items offered for sale.

**Nunavut Land Claims Agreement (NLCA)** - the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, signed on May 25, 1993, and any amendments thereto.

**Nunavut Tunngavik Incorporated (or NTI)** - the corporation incorporated under the Canada Corporations Act, and the Inuit party to the Nunavut Land Claims Agreement.

**Own Forces** - goods, services or labour supplied by a Nunavut Business acting as the General Contractor.

**Professional Services** - services such as legal, accounting or consulting services provided to the Government of Nunavut by way of a Contract by an individuals or professional service companies.

**Proponent** - an individual, partnership, corporation or cooperative who submits a Proposal.

**Proposal** - an offer, either unsolicited or in response to a Request for Proposals, to propose a solution to a problem, need or objective, under stated terms and conditions.

**Public Agency** - any public agency defined by the Financial Administration Act, S.N.W.T. 1987 (1), c.16, Part IX, and Schedules A, B, and C, as amended for Nunavut pursuant to s.29 and 76.05 of the federal Nunavut Act, but excluding the Northwest Territories Power Corporation.

**Public Board** - Those boards defined as Public Boards in the Financial Administration Act Regulations concerning Government contracts.

**Public Tender** - a Request for Bids made by public advertisement.

**Qualification Committees** - committees in the Kivalliq, Kitikmeot, and Baffin Regions chaired by the Responsible Department, and responsible for determining the eligibility of businesses to be included on the **Nunavummi Nangminiqaqtunik Ikajuuti Directory**.

**Request for Bids** - a document defining the minimum standards to be met by Bidders and the specific requirements for goods, services or construction, so as to permit the comparison of Bids on the basis of price.

**Request for Tenders** - a document defining the minimum standards to be met by Tenderers and the requirements of the Contract so as to permit the comparison of Bids on the basis of price.

*Nunavummi Nangminiqaqtunik Ikajuuti (N.N.I.) Policy*

*March 17, 2000*

*Appendix "A"*  
*page 6 of 7*

**Request for Proposals** - a document inviting companies to propose a solution to a problem, need or objective, so as to permit the comparison of proposals on the basis of a number of factors including price.

**Representative Inventory** - for a company that is a supplier of goods, an inventory stored in the community where the company is located, that consists of the type of goods that the supplier deals in. The inventory volume should be large enough to generally to meet the demand of Local and Nunavut Residents and is to be re-stocked as goods are sold so that goods are usually available off the shelf.

**Resident Manager** - a Nunavut Resident who is capable of undertaking all aspects of the management of the Nunavut Business and has absolute decision making authority over day-to-day matters affecting the Nunavut Business. The Government of Nunavut may waive this requirement in the case of a newly appointed Resident Manager, on proof that within six months the Resident Manager will have met the residency requirements.

**Responsible Department** - The Department of the Government of Nunavut which holds responsibility for implementing the Nunavummi Nangminiaqtunik Ikajuuti Policy.

**Security** - cash, a bank draft or certified cheque payable to the Government, or such other Security specified in the Request for Tender or Contract documents.

**Solicit** - to request Bids from a limited number of businesses based on some form of pre-qualification.

**Standing Offer Agreement** - a method of supply used to provide direct access to sources of supply for goods and/or services, on an as-needed basis, for specific periods of time, at prearranged prices and delivery conditions.

**Subcontractor** - includes any party that does not have a direct Contract with the owner, or has entered into a Contract with the General Contractor to supply goods or services that will be incorporated into the entire project covered by the Contract.

**Subject Community** - the community or communities wherein or adjacent to where the Contract performance is undertaken. Where the work is undertaken outside the legal boundaries of a community, the Government of Nunavut may:

- i. define "community" to include that adjacent community in any case, or
- ii. define "community" to include both or all adjacent communities, where two or more communities, such as Hall Beach/Igloolik and Arctic Bay/Nanisivik, are both very close to the work site.
- iii. The name(s) of the Subject Community or Communities to be included in the term "Subject Community" for the purpose of receiving a local preference shall be specified in all Tender documents and Contracts.

**Tender** - a Bid or offer to sell or provide goods, services, or construction that is submitted to a Contract Authority in response to a Request for Bids or Tenders.

**Tenderer** - a person, partnership or corporation who submits a Tender.

*Appendix "A"*  
*page 7 of 7*

**Tender Adjustment** - the amount by which the face value of a Tender is reduced in accordance with Section 6(2) of this Policy. The Tender Adjustment is used for Bid evaluation purposes only. The Tender price minus the Tender Adjustment will be referred to as the adjusted price.

**Training** - training related to a specific Contract, that has been pre-approved by the Contract Authority.

**Contract No.: CT03-2004**

**Project No.: 02-4200**

## **CONTRACTOR'S OBLIGATIONS TO PROVIDE INUIT CONTENT - APPENDIX K**

### **1.0 GENERAL**

This contract pertains to work in Nunavut and contains provisions regarding minimum prescribed levels of Inuit Labour that must be met or exceeded in the performance of the work. The requirements set out in this Appendix K to meet minimum prescribed levels of Inuit Labour is a fundamental term of the contract. The minimum prescribed level of Inuit Labour shall be complied with.

If the amount of Inuit Labour identified by the bidder on Appendix "B-2" of the tender is less than with the tender requirements, this would result in an obvious qualification to the tender submission by the bidder that would ordinarily cause the tender to be considered non-responsive.

For an Inuit Labour level achieved which differs from the level prescribed, a bonus or penalty will be assessed in accordance with the NNI Policy, specifically Articles 12.3 and 12.4 of the Policy. A bonus would be for exceeding the minimum prescribed Inuit Labour level, and a penalty would be for not meeting the minimum prescribed Inuit Labour level.

"Inuit Labour" and "Inuit Goods and Services" identified on the tender forms shall receive a bid adjustment in accordance with the NNI Policy and the adjustment percentages indicated on Appendix B-2 forms. "Inuit Goods and Services" means "Inuit Content" as defined in the Nunavummi Nangminiqatunik Ikajuuti (NNI) Policy definition appendix; the NNI Policy is attached as tender Appendix "J"

Damages as described in contract General Condition GC 55 may apply if the Inuit Labour and/or Inuit Goods and Services proposed by the Contractor on the tender Appendix B-2 forms are not met. In addition, if the minimum prescribed levels of Inuit Labour identified on page 4 of this Appendix is not met, then for future tenders where there are similar prescribed minimum levels for Inuit Labour, the Contractor may be deemed "not responsible" (as defined in the Government Contract Regulations.)

### **2.0 DEFINITIONS**

- .1 "Inuit (singular Inuk)" means a person described in Article 1.1.1 of the Nunavut Land Claims Agreement (NLCA) and who has enrolled himself or herself on the Inuit Enrolment List under Article 35 of the NLCA.
- .2 "Inuit firm" means an entity which complies with the legal requirements to carry on business in the Nunavut Settlement Area, and which is,
  - .1 a limited company with at least 51% of the company's voting shares beneficially owned by Inuit, or
  - .2 a cooperative controlled by Inuit, or
  - .3 an Inuk sole proprietorship or partnership; and
  - .4 is included on Nunavut Tunngavik Inc. (NTI)'s Inuit Firms Registry

**Contract No.: CT03-2004**

**Project No.: 02-4200**

**.3 "Labour"**

For the purpose of this contract and specifically Appendix K, "Labour" means the Labour (including Inuit labour) used on the job in any capacity and including, for example, tradespeople, administrative staff and professional staff whether in a head office or in a site office and attributable to this project. "Inuit Labour" refers to the status of employees and may be directly provided by the general contractor or indirectly through a sub contractor, and is not necessarily through an Inuit Firm.

**.4 "Goods and Services"**

For the purpose of this contract and specifically Appendix K, "Goods and Services" means the entire dollar value of the Work including Labour. For further clarification "Inuit Goods and Services" includes all labour of Inuit firms attributable to and paid from the Contract. "Inuit Goods and Services" are to have the same meaning as the term "Inuit Content" used in the General Conditions of the Construction Contract.

**.5 "Inuit Content"**

"Inuit Content" is defined as the dollar value of the goods and services required by the Contract supplied by any Inuit Firm or Inuit sole proprietorship and Inuit Labour. Inuit Content may include:

- i. goods and services supplied by an Inuit Firm or Inuit supplier acting as the General Contractor. These are referred to as "own forces";
- ii. goods and services supplied by an Inuit Firm or Inuit supplier so long as these goods and services are required for the completion of the Contract and are paid for by the Contract.
- iii. Inuit labour by an Inuit Firm or a non-Inuit Firm.

**3.0 REQUIREMENTS**

- .1 The Contractor shall maximize the value of Inuit Labour and Inuit Goods and Services and shall meet or exceed the Inuit Labour minimum level identified in this appendix when bidding. In the performance of the work, the Contractor shall meet or exceed the amounts tendered on Appendix B-2.
- .2 The Contractors shall submit records on a monthly basis, or as specified, indicating the amount of Inuit Labour and Inuit Goods and Services used. No payment shall be due or payable to the Contractor if the Contractor fails to supply these reports to the Owner.

**Contract No.: CT03-2004**

**Project No.: 02-4200**

#### **4.0 FAILURE TO ACHIEVE INUIT CONTENT REQUIREMENTS**

In addition to the bonus or penalty prescribed by the Nunavummi Nangminiaqtunik Ikajuuti (NNI) Policy for exceeding or not meeting the minimum prescribed Inuit Labour level set out on page 4 of this Appendix K; the following damages may apply for not meeting Inuit Labour and /or Inuit Goods and Services requirements:

- .1 There is a requirement to provide no less than the levels of Inuit Labour and Inuit Goods and Services tendered by the Contractor on Appendix B2 of the tender. Failure to meet this requirement by achieving the levels tendered may result in the Owner applying damages described in the contract General Condition GC 55.
- .2 Additionally, if the contractor fails to meet the prescribed minimum Inuit Labour set out on page 4 of this Appendix K, then for future tenders where there are similar prescribed minimum levels for Inuit Labour the Owner may deem the Contractor to be "not responsible" (as defined in the Government Contract Regulations).
- .3 The Owner may terminate this contract prior to Final Completion if the Contractor has not demonstrated compliance with the requirement to attain the prescribed minimum levels of Inuit Labour set out on page 4 of this Appendix K.

#### **5.0 INDEMNIFICATION**

- .1 The Contractor shall indemnify the Owner against any claim brought by any person because of any failure by the Contractor to achieve the prescribed levels of Inuit Labour prescribed by this contract.

#### **6.0 WAIVER OF INUIT CONTENT REQUIREMENTS**

- .1 The prescribed level of Inuit Labour shall only be reduced when sufficient Inuit Labour is not available and the Contractor has requested and received prior approval by the Owner in writing to reduce the prescribed levels.



Contract No.: CT03-2004

Project No.: 02-4200

Inuit Labour	
<p>It is a fundamental term of this contract that the contractor shall maximize the value of Inuit labour used to perform the Work. Therefore the GN has set a minimum percent by dollar value for the use of Inuit labour. The Inuit labour content may be provided by the general contractor or any subcontractor and may include professional or administrative staff or skilled or unskilled trades people, and not necessarily through an Inuit Firm. The minimum may only be reduced where sufficient Inuit labour is not available and the approval of the Owner has been obtained in writing.</p>	
<p>For the purposes of this contract the GN has prescribed that the following minimum percent of the total labour for this job by dollar value shall be provided by Inuit workers.</p>	<p><b><u>20%</u></b> <b>Prescribed</b> minimum level of Inuit labour as a percent of total labour by dollar value.</p>
Substantiation	
<p>In order to substantiate the amount of Inuit Labour the general contractor shall be responsible for providing an amalgamated employment report that shall reflect the Inuit labour used by the general contractor and any other sub contractor or supplier. The general contractor shall submit this employment report with every Progress Claim. Receipt of an employment report shall be a condition precedent to the release of a progress payment, an interim payment and/or a final payment.</p> <p>If requested, the general contractor shall also provide a completed "Employee Verification and Consent Form" for an Inuit worker.</p>	

## ARTICLES OF AGREEMENT

These Articles of Agreement, effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Between

\_\_\_\_\_

(herein the "Owner")

and

\_\_\_\_\_

(herein the "Contractor")

witness that in consideration for the mutual promises and obligations contained in the contract, the Owner and the Contractor covenant and agree as follows:

### A1 CONTRACT DOCUMENTS

1.1 Subject to A1.4 and A1.5, the documents forming the contract between the Owner and the Contractor, referred to herein as the contract documents are all of those documents referred to on Appendix A of the Tender and;

1.1.1 any Addenda issued during the Tender period and identified in Clause 2 of the Tender Form,

1.1.2 any amendment or variation of the contract documents that is made in accordance with the General Conditions,

1.2 1.2.1 The Owner hereby designates \_\_\_\_\_  
as the Owner's Representative for the Department of \_\_\_\_\_ of the  
Government of Nunavut.

1.2.3 The Contractor hereby designates \_\_\_\_\_  
as the Contractor's Representative.

1.3 In the contract;

1.3.1 "Fixed Price Arrangement" means that part of the contract that prescribes a lump sum as payment for performance of the work to which it relates; and/or

1.3.2 "Unit Price Arrangement" means that part of the contract that prescribes the product of a price multiplied by a number of units of measurement of a class as payment for the performance of the work to which it relates.

1.4 Any of the provisions of the contract that are expressly stipulated to be applicable only to a Unit Price arrangement are not applicable to any part of the work to which a Fixed Price Arrangement is applicable.

1.5 Any of the provisions of the contract that are expressly stipulated to be applicable only to a Fixed Price Arrangement are not applicable to any part of the work to which a Unit Price Arrangement is applicable.

**A2 DATE OF COMPLETION OF WORK AND DESCRIPTION OF WORK**

- 2.1 The Contractor shall, between the effective date of the Agreement and the [REDACTED] day of [REDACTED] 20[REDACTED], in a careful and workmanlike manner, diligently perform and complete the following work:

[REDACTED]  
which work is more particularly described in the Plans and Specifications.

**A3 CONTRACT AMOUNT**

- 3.1 Subject to any increase, decrease, deduction, reduction, or set-off permitted under the terms of the contract, the Owner shall pay the Contractor at the times and in the manner that is set out or referred to in the Agreement;
- 3.1.1 the sum of \$ [REDACTED] in consideration for the performance of the work or the part thereof that is subject to a Fixed Price Arrangement, and/or
- 3.1.2 a sum that is equal to the aggregate of the products of the number of units of measurement of each class of labour, plant and material that is set out in a Final Certificate of Measurement referred to in GC43.7 multiplied in each case by appropriate unit price that is set out in the Unit Price Table "Appendix D" in consideration for the performance of the work or the part thereof that is subject to a Unit Price Arrangement.
- 3.2 For the information and guidance of the Contractor and the person administering the contract on behalf of the Owner, but not so as to constitute a warranty, representation or undertaking of any nature by either party, it is estimated that the total amount payable by the Owner to the Contractor for the part of the work to which a Unit Price Arrangement is applicable will not exceed

\$ [REDACTED]

- 3.3 A3.1.1 is applicable only to a Fixed Price Arrangement
- 3.4 A3.1.2 and A3.2 are applicable only to a Unit Price Arrangement.

**A4 UNIT PRICE TABLE**

- 4.1 The Owner and the contractor agrees that Appendix "D" of the Tender is the Unit Price Table for the purposes of the Contract.
- 4.2 The Unit Price Table that is set out in A4.1 designates the part of the work to which a Unit Price Arrangement is applicable.
- 4.3 The part of the work that is not designated in the Unit Price Table referred to in A4.2 is the part of the work to which a Fixed Price Arrangement is applicable.

**A5 FINANCIAL ADMINISTRATION ACT (NUNAVUT)**

The attention of the Contractor is drawn to the following statutory provision. It is a condition of this Agreement that payment hereunder is subject to Section 46 of the Financial Administration Act (Nunavut) as amended or re-enacted in successor legislation during the term of this Contract. Section 46 currently provides as follows: "It is a condition of every contract made by or on behalf of the Government requiring an expenditure that an expenditure pursuant to the contract will be incurred only if there is a sufficient uncommitted balance in the

appropriated item for the fiscal year in which the expenditure is required under the Contract."

**SIGNED, SEALED AND DELIVERED** in the presence of:

**Contractor:** Contractor's Full Legal Business Name and Address:

\_\_\_\_\_ (Seal)

\_\_\_\_\_

\_\_\_\_\_

Facsimile No. \_\_\_\_\_

• \_\_\_\_\_  
Signature

\_\_\_\_\_

Name

\_\_\_\_\_

Date

\_\_\_\_\_

Title

• \_\_\_\_\_  
Signature

\_\_\_\_\_

Witness

\_\_\_\_\_

Name

\_\_\_\_\_

Name

\_\_\_\_\_

Title

\_\_\_\_\_

Title

**Owner:** Owner's Full Business Name and Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Government of Nunavut \_\_\_\_\_

Facsimile No. (867) \_\_\_\_\_

• \_\_\_\_\_  
Signature

\_\_\_\_\_

Date

\_\_\_\_\_

Name

\_\_\_\_\_

Witness

\_\_\_\_\_

Title

\_\_\_\_\_

Title

**END OF ARTICLES OF AGREEMENT**

## **TERMS OF PAYMENT**

### **TP1 AMOUNT PAYABLE - GENERAL**

- 1.1 Subject to any other provisions of the contract, the Owner shall pay the Contractor, at the times and in the manner hereinafter set out, the amount by which;
    - 1.1.1 the aggregate of the amounts described in TP2 exceeds,
    - 1.1.2 the aggregate of the amounts described in TP3, and
- the Contractor shall accept that amount as payment in full satisfaction for everything furnished and done by him in respect of the work to which the payment relates.

### **TP2 AMOUNT PAYABLE TO THE CONTRACTOR**

- 2.1 The amounts referred to in TP1.1.1 are the aggregate of;
  - 2.1.1 the amounts referred to in the Articles of Agreement, and
  - 2.1.2 the amounts, if any, that are payable to the Contractor pursuant to the General Conditions and the amounts, if any, that are a bonus for Inuit Labour achieved, as described in the Nunavummi Nangminiaqtunik Ikajuuti (NNI) Policy for the contract work.

### **TP3 AMOUNTS PAYABLE TO THE OWNER**

- 3.1 The amounts referred to in TP1.1.2 are the aggregate of the amounts, if any, that the Contractor is liable to pay the Owner pursuant to the contract, including any penalty assessed for Inuit Labour shortfalls, as described in the Nunavummi Nangminiaqtunik Ikajuuti (NNI) Policy for the contract work.
- 3.2 When making any payment to the Contractor, the failure of the Owner to deduct an amount referred to in TP3.1, from an amount referred to in TP2 shall not constitute a waiver of the right to do so, or an admission of lack of entitlement to do so in any subsequent payment to the Contractor.

### **TP4 TIME OF PAYMENT**

- 4.1 For the purposes of this Term of Payment, "payment period" means a period of 30 consecutive days or such other interval as is agreed between the Contractor and the Owner.
- 4.2 The Contractor shall, on the expiration of a payment period, deliver to the Owner in respect of that payment period a written progress claim that fully describes any part of the Work that has been completed, and any material that was delivered to the work site but not incorporated into the Work, during that payment period.
- 4.3 The Owner shall, not later than ten days after receipt by him of a progress claim referred to in TP4.2.
  - 4.3.1 inspect the part of the work and the material described in the progress claim; and
  - 4.3.2 issue a progress report, which may take the form of an endorsement on the progress claim, a copy of which will be given to the Contractor, that indicates the value of the part of the Work and the material described in the progress claim that, in his opinion,
    - 4.3.2.1 is in accordance with the contract, and

4.3.2.2 was not included in any other progress report relating to the contract.

- 4.4 Subject to TP1, the Owner shall pay the Contractor in accordance with applicable statutes the amounts stipulated hereunder. Claims of Nunavut Contractors, as defined by the Nunavummi Nangminiaqtunik Ikajuuti (NNI) Policy, will become due and payable 20 days after receipt by the Owner of the claim specified in 4.2. Claims from other Contractors will become due and payable 30 days after receipt by the Owner of the claim specified in 4.2.
- 4.4.1 an amount that is equal to 95% of the value that is indicated in that progress report if a labour and material payment bond has been furnished by the Contractor, or
- 4.4.2 an amount that is equal to 90% of the value that is indicated in that progress report if a labour and material payment bond has not been furnished by the Contractor.
- 4.5 Subject to TP1 and TP4.6, the Owner shall, not later than 20 days for Nunavut Contractors (as defined by the Nunavummi Nangminiaqtunik Ikajuuti (NNI) Policy of the GN) or 30 days for other Contractors after the date of issue of a Substantial Certificate of Completion referred to in GC43.2, pay the Contractor the amount referred to in TP1 less the aggregate of;
- 4.5.1 the sum of all payments that were made pursuant to TP4.4,
- 4.5.2 an amount that is equal to the Owner's estimate of the cost to the Owner of rectifying defects described in the Substantial Certificate of Completion, and
- 4.5.3 an amount that is equal to the Owner's estimate of the cost to the Owner of completing the parts of the Work described in the Substantial Certificate of Completion other than the defects referred to in TP4.5.2
- 4.6 It is a condition precedent to the Owner's obligation under TP4.5 that:
- 4.6.1 the Contractor has made and delivered to the Owner a statutory declaration described in TP4.7 in respect of a Substantial Certificate of Completion referred to in GC43.2, and
- 4.6.2 the Contractor has complied with the various requirements to provide Inuit Local and Nunavut Employment and involvement reports as required in the Appendices to the Contractor's Tender Submission Form.
- 4.7 A statutory declaration referred to in TP4.6 and TP4.9 shall be submitted on the attached form, page 4 & 5. Substitutes will not be accepted.
- 4.8 Subject to TP1 and TP4.9, the Owner shall, not later than 20 days for Nunavut Contractors (as defined by the Nunavummi Nangminiaqtunik Ikajuuti (N.N.I.) Policy of the GN) or 30 days for other Contractors after the date of issue of a Final Certificate of Completion referred to in GC43.1, pay the Contractor the amount referred to in TP1 less the aggregate of;
- 4.8.1 the sum of all payments that were made pursuant to TP4.4, and
- 4.8.2 the sum of all payments that were made pursuant to TP4.5.
- 4.9 It is a condition precedent to the Owner's obligation under TP4.8 that the Contractor has made and delivered a statutory declaration to the Owner as described in TP4.7 in respect of a Final Certificate of Completion referred to in GC43.1.

**TP5 PROGRESS REPORT AND PAYMENT THEREUNDER NOT BINDING ON THE OWNER**

- 5.1 Neither a progress report referred to in TP4.3 nor any payment made by the Owner pursuant to these Terms of Payment shall be construed as an admission by the Owner that the Work, material or any part thereof is complete, is satisfactory or is in accordance with the contract.

**TP6 DELAY IN MAKING PAYMENT**

- 6.1 Notwithstanding GC6 any delay by the Owner in making any payment when it is due pursuant to these Terms of Payment shall not be a breach of the contract by the Owner.
- 6.2 When the Owner delays in making a payment that is due pursuant to TP4.4, TP4.5 and TP4.8, the Contractor shall be entitled to receive interest on the amount that is overdue in accordance with the Government of Nunavut's Financial Administration Manual Section 803-4.
- 6.3 The Contractor shall not be entitled to receive interest on any other amount that is unpaid including, without limitation, an amount that is calculated in accordance with GC49.

**TP7 RIGHT OF SET-OFF**

- 7.1 Without limiting any right of set-off or deduction given or implied by law or elsewhere in the contract, the Owner may set-off any amount payable to the Owner by the Contractor under this contract or under any current contract against any amount payable to the Contractor under this contract or under any current contract.
- 7.2 For the purposes of this Term of Payment, "current contract", means a contract between the Owner and the Contractor;
- 7.2.1 under which the Contractor has an undischarged obligation to perform or supply work, labour or material, or;
- 7.2.2 in respect of which the Owner has, since the date on which the Articles of Agreement were made, exercised any right to take the work that is subject of the contract out of the Contractor's hands.

**TP8 PAYMENT IN EVENT OF TERMINATION**

- 8.1 If the contract is terminated pursuant to GC40, the Owner shall pay the Contractor any amount that is lawfully due and payable to the Contractor as soon as is practicable under the circumstances.

**Certificate of Completion**  
**STATUTORY DECLARATION**

THE MATTER OF a contract bearing

#

between the Government of Nunavut and

(Insert full name of contractor)

herein the Contractor,

for

(briefly describe the work to be performed)

dated the \_\_\_\_\_ day of \_\_\_\_\_

and

IN THE MATTER OF the Certificate of Completion relating thereto

TO WIT:

I, \_\_\_\_\_ of \_\_\_\_\_  
(print or type full name of declarant) (declarant's city of residence)

DO SOLEMNLY DECLARE:

- (1) That I am \_\_\_\_\_  
(print or type declarant's position or title with the Contractor or state that the declarant is the Contractor)

And as such have a personal knowledge of the said contract and of the facts and matters stated herein.

- (2) That all assessments and levies under The Unemployment Insurance Act, The Workers' Compensation Act or other social or labour legislation in respect of the said contract have been fully paid:
- (3) That all subcontractors, labourers and suppliers of materials and equipment whatsoever who have entered into agreements to supply goods or services which have been incorporated into the construction of this project have been fully paid except for contractual holdbacks and the further amount(s), if any, which is (are) listed below which is (are) being withheld from the subcontractor(s) listed herein, due to legitimate dispute(s) arising out of the performance, or lack of performance, of the work by the listed subcontractor(s).

Subcontractor(s)

Amount(s) in Dispute  
and Being Withheld

_____	_____
_____	_____
_____	_____



**Certificate of Completion - STATUTORY DECLARATION**  
**2nd page**

and the following amounts, if any, which are being withheld pending payment to the Contractor by the Owner.

Subcontractor(s)	Amount(s) Being Withheld
_____	_____
_____	_____
_____	_____

And I make this SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the LAWS OF CANADA and NUNAVUT.

DECLARED before me at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_,

(Signature of Declarant)

(signature of person before whom declaration is made)

(print name of person before whom declaration is made)

A Notary Public, Commissioner, etc. \_\_\_\_\_

(please state clearly authority for receiving solemn declarations - notaries to affix notary seal)

NOTE 1 Where the Contractor is a corporation or a partnership, declarant's position in the corporation or partnership, and the corporation or partnership name should be clearly shown in No. 1.

NOTE 2. Where the Contractor is an individual he must make the declaration himself. Where the Contractor is a partnership the declaration must be made by one of the partners. Where the Contractor is an incorporated company, the declaration must be made by the President, Vice-President, Secretary Treasurer or a Director. If any other person makes the declaration, two copies of the by-law issued under the corporation seal, authorizing the individual to execute documents must be submitted with the first declaration of each contract.

If this declaration is not complete in every detail, it will be returned for completion and payment will be delayed.

The following section of the Criminal Code of Canada is hereby brought to the attention of the Declarant:

122. Everyone who, not being a witness in a judicial proceeding but being permitted, authorized or required by law to make a statement by affidavit, by solemn declaration or orally under oath, makes in such statement, before a person who is authorized by law to permit it to be made before him, an assertion with respect to a matter of fact, opinion, belief or knowledge, knowing that the assertion is false, is guilty of an offense and is liable to imprisonment for fourteen years.

122.1 (1) Everyone who, not being specially permitted, authorized or required by law to make a statement by affidavit, by solemn declaration or orally under oath, makes in such a statement, before a person who is authorized by law to permit it to be made before him, an assertion with respect to a matter of fact, opinion, belief or knowledge, knowing that the assertion is false, is guilty of an offense punishable on summary conviction."

## **GENERAL CONDITIONS**

<b>Section</b>	<b>Page</b>	<b>Heading</b>
GC1	1	Interpretation
GC2	2	Successors and Assigns
GC3	2	Assignment of Contract
GC4	2	Subcontracting by Contractor
GC5	3	Amendments
GC6	3	No Implied Obligations
GC7	3	Time of Essence
GC8	3	Indemnification by Contractor
GC9	3	Indemnification by the Owner
GC10	3	Notices to Contractor
GC11	4	Material, Plant and Real Property Supplied by the Owner
GC12	4	Material, Plant and Real Property Becomes the Property of the Owner
GC13	5	Municipal Permits
GC14	5	Performance of Work under Direction of Engineer
GC15	5	Cooperation with Other Contractors
GC16	6	Examination of Work
GC17	6	Clearing of Site
GC18	6	Contractor's Superintendent
GC19	7	National Security
GC20	7	Unsuitable Workers
GC21	7	Increased or Decreased Costs
GC22	8	Labour and Material
GC23	8	Protection of Work and Documents
GC24	8	Public Ceremonies and Signs
GC25	8	Precautions against Damage, Infringement of Rights, Fire and Other Hazards
GC26	9	Insurance
GC27	9	Insurance Proceeds
GC28	10	Contract Security
GC29	10	Changes in the Work
GC30	11	Interpretation of Contract by Engineer
GC31	11	Warranty and Rectification of Defects in Work
GC32	11	Non-Compliance by Contractor
GC33	11	Protesting Engineer's Decisions
GC34	12	Changes in Soil Conditions and Neglect or Delay by the Owner
GC35	13	Extension of Time
GC36	13	Assessments and Damages for Late Completion
GC37	13	Taking the Work out of the Contractor's Hands
GC38	14	Effect of Taking the Work out of the Contractor's Hands
GC39	14	Suspension of Work by Owner
GC40	15	Termination of Contract
GC41	15	Claims against and Obligations of the Contractor or Subcontractor
GC42	16	Security Deposit - Forfeiture or Return
GC43	16	Engineer's Certificates
GC44	17	Return of Security Deposit
GC45	17	Clarification of Terms in GC47 to GC50
GC46	18	Additions or Amendments to Unit Price Table

GC47	18	Determination of Cost - Unit Price Table
GC48	18	Determination of Cost - Negotiation
GC49	18	Determination of Cost - Failing Negotiation
GC50	19	Records to be Kept by Contractor
GC51	20	Litigation
GC52	20	Requirements for Inuit, Local and Nunavut Content
GC53	20	Requirements for Community Meetings
GC54	21	Monitoring the Level of Inuit, Local and Nunavut Labour
GC55	22	Failure to Comply with Proposed Inuit Local and Nunavut Content
GC56	23	Obligation to Provide Contract Security
GC57	23	Prescription of Acceptable Contract Security
GC58	24	Comprehensive General Liability Requirements
GC59	24	Automobile Liability Insurance Requirements
GC60	25	Aircraft and Water Craft Liability Insurance Requirements
GC61	25	General Insurance Conditions
GC62	25	Property Insurance

## GENERAL CONDITIONS

### GC1 INTERPRETATION

#### 1.1 In the contract

- 1.1.1 where reference is made to a part of the contract by means of numbers preceded by letters, the reference shall be construed to be a reference to the particular part of the contract that is identified by that combination of letters and numbers and to any other part of the contract referred to therein.
- 1.1.2 "contract" means the contract documents referred to in the Articles of Agreement.
- 1.1.3 "contract security" means any security given by the Contractor to the Owner in accordance with the contract.
- 1.1.4 "Engineer" means the officer or employee of the Owner who is designated pursuant to the Articles of Agreement and includes a person specially authorized by him to perform, on his behalf, any of his functions under the contract.
- 1.1.5 "material" includes all commodities, articles and things required to be furnished by or for the Contractor under the contract for incorporation into the work.
- 1.1.6 "person" includes, unless the context otherwise requires, a partnership, proprietorship, firm, joint venture, consortium and a corporation.
- 1.1.7 "plant" includes all animals, tools, implements, machinery, vehicles, buildings, structures, equipment and commodities, articles and things other than material, that are necessary for the due performance of the contract.
- 1.1.8 "subcontractor" means a person to whom the Contractor has, subject to GC4, subcontracted the whole or any part of the work.
- 1.1.9 "substantial performance" as defined in the lien legislation applicable to the Place of Work. If such legislation is not in force, is not applicable or does not contain such definition, substantial performance shall have been reached when Work is ready for use or is being used for the purpose intended and is so certified by the Engineer.
- 1.1.10 "superintendent" means the employee of the Contractor who is designated by the Contractor to act pursuant to GC18.
- 1.1.11 "work" includes, subject only to any express stipulation in the contract to the contrary, everything that is necessary to be done, furnished or delivered by the Contractor to perform the contract.

1.2 The division into sections, the table of contents, and the headings in the contract documents, other than in the Plans and Specifications, form no part of the contract but are inserted for convenience of reference only.

1.3 In interpreting the contract, in the event of discrepancies or conflicts between anything in the Plans and Specifications and the General Conditions, the General Conditions govern.

1.4 In interpreting the Plans and Specifications, in the event of discrepancies or conflicts between

1.4.1 the Plans and Specifications, the Specifications govern;

1.4.2 the Plans, the Plans drawn with the largest scale govern, and

1.4.3 figured dimensions and scaled dimensions, the figured dimensions govern.

1.5 Any reference to a statutory provision shall include any subordinate legislation made and from time-to-time amended, extended or re-enacted.

1.6 This Agreement shall be governed by and construed in accordance with the laws of Nunavut and the laws of Canada as applicable therein.

1.7 Unless otherwise indicated, all dollar amounts referred to in the Agreement are in lawful money of Canada.

1.8 In any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and everything else in this Agreement shall continue in full force and effect. In the event any provision of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain in full force and effect.

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

1.10 The Contractor shall be required to comply, and shall require its subcontractors to comply, with all applicable laws, orders, rules and regulations; and, without limiting the generality of the foregoing, the Contractor shall at its sole expense comply with all unemployment insurance, Worker's Compensation, income tax, payroll tax, Canada Pension Plan, occupational health and safety and environmental protection legislation.

## **GC2 SUCCESSORS AND ASSIGNS**

2.1 The contract shall inure to the benefit of and be binding upon the parties hereto and their lawful heirs, executors, administrators, successors and assigns.

## **GC3 ASSIGNMENT OF CONTRACT**

3.1 The contract may not be assigned by the Contractor, either in whole or in part without the written consent of the Owner.

## **GC4 SUBCONTRACTING BY CONTRACTOR**

4.1 Subject to this General Condition, the Contractor may subcontract any part of the work so long as such subcontracting is consistent with the information provided on Appendix B-1 and B-2 of the Tender.

4.2 The Contractor shall notify the Engineer of his intention to subcontract.

4.3 A notification referred to in GC4.2 shall identify the part of the work, and the subcontractor with whom it is intended to subcontract.

4.4 The Engineer may, within six days of receipt by him of a notification referred to in GC4.2, object to the intended subcontracting.