27 January 2012

Re: Evidence of Closure and Reclamation Security held by the Crown

The Wek’èezhii Land and Water Board (WLWB) letter of January 25, 2012 has established that the total closure and reclamation security required for the Diavik site is $131,360,000. This is the expected total cost that would be incurred by the Crown in the event that Diavik Diamond Mines Inc. (DDMI) defaulted and the Crown was required to remediate and close the Diavik site. The security cost estimate was derived using the RECLAIM model, as adjusted by the WLWB, and based on the closure and reclamation activities (land and water) recently approved in the Interim Closure and Reclamation Plan (ICRP) Version 3.2. The cost estimate includes $8,014,077 for engineering and project management as well as a $16,028,155 contingency.

On January 12, 2012 and again in the January 25, 2012 letter WLWB Staff requested information from Aboriginal Affairs and Northern Development Canada (AANDC) or DDMI regarding security held by the Crown under instruments other than the Water License.

“If evidence of reclamation related security being held under other instruments is provided to the Board, they will take that into consideration when setting their amended security value held under the Water License.”

The letters specifically mention security held by the Crown under land authorizations. AANDC indicated that they would provide the requested evidence by January 27, 2012 to enable consideration by the WLWB at the February 6, 2012 Board meeting.

DDMI would like to provide the WLWB with complete evidence of all closure and reclamation related security currently held by the Crown, for consideration when setting the amended security value under the Water License. The purpose of providing this evidence is to ensure that there is no duplication between instruments that could result in the Crown being required to hold more than $131,360,000 in closure and reclamation security.

Currently the Crown holds six (6) irrevocable letters of credit (ILOC) for DDMI as listed in Table 1.
Table 1. Irrevocable Letters of Credit (ILOC) held by Crown for DDMI.

<table>
<thead>
<tr>
<th>ILOC#</th>
<th>Date last amended</th>
<th>Reference</th>
<th>Amount</th>
<th>Security for Closure and Reclamation?</th>
</tr>
</thead>
<tbody>
<tr>
<td>M123574</td>
<td>October 24, 2011</td>
<td>Water License</td>
<td>$171,184,000</td>
<td>Yes</td>
</tr>
<tr>
<td>M262246</td>
<td>March 22, 2010</td>
<td>Land Leases</td>
<td>$11,090,000</td>
<td>Yes</td>
</tr>
<tr>
<td>M262245</td>
<td>October 24, 2011</td>
<td>“Security Deposit” Environmental Agreement 15.1(b)</td>
<td>$5,516,001</td>
<td>Yes</td>
</tr>
<tr>
<td>M262247</td>
<td>March 11, 2011</td>
<td>“Additional Security Deposit ” Environmental Agreement 15.1(d)</td>
<td>$8,209,999</td>
<td>Yes*</td>
</tr>
<tr>
<td>M112594</td>
<td>No amendments</td>
<td>“EA Security Deposit” Environmental Agreement 15.1(k)</td>
<td>$3,000,000</td>
<td>No</td>
</tr>
<tr>
<td>M116461</td>
<td>July 14, 2005</td>
<td>Fisheries Authorization 14.1</td>
<td>$2,400,000</td>
<td>Yes**</td>
</tr>
</tbody>
</table>

Note * - The “Additional Security Deposit” is defined in the Environmental Agreement to include “… security for the incremental cost which Canada will incur if it has to conduct reclamation and abandonment of the Project due to a default by DDMI, contingencies, potential for increases in liabilities related to variations in Project configuration and operations which may occur over the life of the Project, and defaults under this Agreement not related to reclamation and abandonment.” (emphasis added) EA 15.1(d). The “EA Security Deposit” is intended as security for the DDMI performance of obligations under the EA (EA 15.1(k)). It is DDMI’s view that the “Additional Security Deposit” is therefore principally, if not entirely, for closure and reclamation.

Note ** - In the Fisheries Authorization (14.1) the security deposit is defined as “DDMI shall provide DFO with a monetary deposit as security for the performance by DDMI with regard to all its obligations under this Authorization, including the required breaching of dikes, fish habitat compensation, 3 years of post breaching compensation monitoring (per dike), reporting and additional work determined by DFO if required …” (emphasis added). DDMI understands that the closure and reclamation of the pit areas as described above and in the ICRP V3.2, are the largest activities that remain to be completed under the Authorization.

In total the Crown current holds in excess of $195,000,000 of closure and reclamation security as compared with the WLWB updated total cost estimate of $131,360,000.

We attached for your reference a copy of each ILOC listed in Table 1 along with a copy of the most recent amendment to each ILOC showing the current amount held by the Crown. We have also attached a copy of the Environmental Agreement and the Fisheries Authorization which describe the basis for the security deposit amounts and use.

DDMI requests that the WLWB contact the Department of Fisheries and Oceans (DFO) and/or AANDC directly to confirm, for ILCOCs M116461 and M262247, the amount of security that is specifically available for closure and reclamation activities.

Please do not hesitate to contact the undersigned if you have any questions regarding the evidence presented here.
Regards,

Gord Macdonald

cc  Mark Cliff-Philips (WLWB)
Patty Ewaschuk (WLWB)
Terresa Joudrie (AANDC)
Bruce Hanna (DFO)

Attachments:

ILOC #M123574 – Water License
ILOC #M262246 – Land Leases
ILOC #M262245 – “Security Deposit” Environmental Agreement
ILOC #M262247 – “Additional Security Deposit” Environmental Agreement
ILOC #M112594 – “EA Security Deposit” Environmental Agreement
ILOC #M116461 – “Security Deposit” Fisheries Authorization
Diavik Environmental Agreement
Fisheries Authorization SC98001
ILOC #M123574 – Water License
AMENDMENT TO IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: OCTOBER 24, 2011

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 – 50TH AVENUE
YELLOWKNIFE, NT X1A 2P8

OUR REFERENCE NUMBER: M123574

BENEFICIARY:
HER MAJESTY THE QUEEN IN RIGHT OF
CANADA AS REPRESENTED BY THE MINISTER
OF INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT
PAYEE: RECEIVER GENERAL OF CANADA
4914 – 50TH STREET, 3RD FLOOR
BOX 1500
YELLOWKNIFE, NT X1A 2R3
ATTENTION: REGIONAL DIRECTOR GENERAL,
DIAND – NT REGION

RE: SECURITY PURSUANT TO TYPE "A" WATER LICENSE NO. N7L2-1645 (Renewal No. W2007L2-
003)

1. IRREVOCABLE DOCUMENTARY CREDIT NO. M123574, ISSUED AUGUST 15, 2002, (THE
   "CREDIT") IS HEREBY AMENDED AS FOLLOWS:

   a. THE AMOUNT OF THE CREDIT IS INCREASED BY CAD 3,237,000.00 (THREE
      MILLION, TWO HUNDRED THIRTY SEVEN THOUSAND AND 00/100 CANADIAN
      DOLLARS), TO CAD 171,184,000.00 (ONE HUNDRED AND SEVENTY ONE
      MILLION, ONE HUNDRED AND EIGHTY FOUR THOUSAND AND 00/100 CANADIAN
      DOLLARS), AND THE CREDIT IS HENCEFORTH FOR SUMS NOT EXCEEDING IN
      THE AGGREGATE CAD 171,184,000.00 (ONE HUNDRED AND SEVENTY ONE
      MILLION, ONE HUNDRED AND EIGHTY FOUR THOUSAND AND 00/100 CANADIAN
      DOLLARS);

2. THIS AMENDMENT IS TO BE CONSIDERED PART OF THE CREDIT AND MUST BE
   ATTACHED THERETO.

3. ALL OTHER TERMS AND CONDITIONS OF THE CREDIT REMAIN IN EFFECT.

4. SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS
   (2007 REVISION), THIS AMENDMENT TAKES EFFECT AT 10:00 A.M. ON NOVEMBER 1, 2011.

ROYAL BANK OF CANADA

NADIA BOULOS BANOUB
IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: AUGUST 15 2002

OUR REFERENCE NUMBER: M123574

AMOUNT: CAD21,000,000.00

MAXIMUM TWENTY-ONE MILLION CANADIAN DOLLARS ONLY

APPLICANT:

DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 – 50TH AVENUE
YELLOWKNIFE, NT X1A 2P8

BENEFICIARY:

RECEIVER GENERAL FOR CANADA
ON BEHALF OF THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
4914 – 50TH STREET, 3RD FLOOR
BOX 1500
YELLOWKNIFE, NT X1A 2R3
ATTENTION: REGIONAL DIRECTOR GENERAL, DIAND – NT REGION

RE: SECURITY PURSUANT TO TYPE “A” WATER LICENCE NO. N7L2-1645

AT THE REQUEST AND FOR THE ACCOUNT OF DIAVIK DIAMOND MINES INC., WE, ROYAL BANK OF CANADA, HEREBY ESTABLISH IN YOUR FAVOUR OUR IRREVOCABLE DOCUMENTARY CREDIT NO. M123574 (“CREDIT”) FOR SUMS NOT EXCEEDING IN THE AGGREGATE CAD21,000,000.00 (TWENTY-ONE MILLION AND 00/100 CANADIAN DOLLARS).

THIS CREDIT IS AVAILABLE WITH US FOR DRAWING AT SIGHT, AGAINST PRESENTATION TO US, BY YOU OR YOUR DUTY AUTHORIZED REPRESENTATIVE OR AGENT, OF THE FOLLOWING DOCUMENTS:

1) A SIGHT DRAFT DRAWN ON ROYAL BANK OF CANADA, INTERNATIONAL TRADE CENTRE-QUEBEC, 1 PLACE VILLE MARIE, 2ND FLOOR, MONTREAL, QUEBEC H3B 4R7, MENTIONING THIS IRREVOCABLE DOCUMENTARY CREDIT NO. M123574; AND

2) THE ORIGINAL OF THIS IRREVOCABLE DOCUMENTARY CREDIT NO. M123574 FOR ENDORSEMENT OF PAYMENT THEREON; AND

3) A STATEMENT SIGNED BY AN OFFICIAL OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT AND CERTIFYING

A) THAT THE SIGNATORY IS AN OFFICIAL OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT AND HAS AUTHORITY TO SIGN THE STATEMENT ON BEHALF OF THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT (THE “MINISTER”), AND
B) EITHER

I) THAT THE MINISTER IS ENTITLED TO APPLY THE AMOUNT DRAWN, BEING ALL OR PART OF THE SECURITY POSTED AND MAINTAINED PURSUANT TO TYPE "A" WATER LICENCE NO. N7L2-1645 ISSUED BY THE NORTHWEST TERRITORIES WATER BOARD (AND DEEMED TO HAVE BEEN ISSUED BY THE MACKENZIE VALLEY LAND AND WATER BOARD), WHETHER AS ORIGINALLY ISSUED OR AS AMENDED OR RENEWED FROM TIME TO TIME, OR

II) THAT THIS CREDIT IS DUE TO EXPIRE IN 30 DAYS OR LESS AND THAT THE APPLICANT HAS NOT REPLACED THIS CREDIT BY POSTING WITH THE MINISTER OTHER SECURITY SATISFACTORY TO THE MINISTER.

PARTIAL DRAWINGS ARE PERMITTED.

THIS CREDIT IS EFFECTIVE FROM 3:00 P.M. ON AUGUST 15, 2002 AND SHALL EXPIRE AT OUR COUNTERS AT 3:00 P.M. ON AUGUST 16, 2003 (THE "INITIAL EXPIRATION DATE"). THIS CREDIT SHALL BE RENEWED AUTOMATICALLY FOR AN ADDITIONAL TWO-YEAR PERIOD FROM THE INITIAL EXPIRATION DATE, AND FOR AN ADDITIONAL TWO-YEAR PERIOD FROM EACH FUTURE EXPIRATION DATE, UNLESS AT LEAST ONE HUNDRED AND TWENTY (120) DAYS PRIOR TO THE OPERATIVE EXPIRATION DATE WE NOTIFY YOU IN WRITING BY REGISTERED MAIL OR COURIER THAT WE ELECT NOT TO CONSIDER THIS CREDIT RENEWED FOR SUCH ADDITIONAL PERIOD.

WE HEREBY AGREE THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT SHALL BE DULY HONORED BY US IF PRESENTED FOR PAYMENT ON OR BEFORE THE OPERATIVE EXPIRATION DATE.

EXCEPT SO FAR AS IS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 500. NOTWITHSTANDING ARTICLE 17 OF SAID PUBLICATION, IF THIS CREDIT EXPIRES DURING AN INTERRUPTION OF BUSINESS AS DESCRIBED IN ARTICLE 17, WE AGREE TO EFFECT PAYMENT IF THIS CREDIT IS DRAWN ON US WITHIN FIFTEEN (15) DAYS AFTER THE RESUMPTION OF BUSINESS.

ROYAL BANK OF CANADA

[Signature]

Suzanne Ratelle

[Signature]

[Signature]
ILOC #M262246 – Land Leases
AMENDMENT TO IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: MARCH 22, 2010
OUR REFERENCE NO.: M262246

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
YELLOWKNIFE, NT
X1A 2P8

BENEFICIARY:
HER MAJESTY THE QUEEN IN RIGHT OF
OF CANADA AS REPRESENTED BY THE
MINISTER OF INDIAN AFFAIRS AND
NORTHERN DEVELOPMENT
PAYEE: RECEIVER GENERAL FOR CANADA
4914 – 50TH STREET
BOX 1500
YELLOWKNIFE, NT
X1A 2R3
ATTENTION: REGIONAL DIRECTOR
GENERAL, DIAND – NT
REGION

RE: "ADDITIONAL SECURITY DEPOSIT" PURSUANT TO LEASE #76D/9-9-2

1. IRREVOCABLE DOCUMENTARY CREDIT NO. M262246, ISSUED MARCH 21, 2003, (THE "CREDIT") IS HEREBY AMENDED AS FOLLOWS:

   A. THE BENEFICIARY IS AMENDED AS DESCRIBED ABOVE;

   B. THE AMOUNT OF THE CREDIT IS INCREASED BY CAD10,000.00 (TEN THOUSAND AND 00/100 CANADIAN DOLLARS) TO CAD11,090,000.00 (ELEVEN MILLION AND NINETY THOUSAND AND 00/100 CANADIAN DOLLARS), AND THE CREDIT IS HENCEFORTH FOR SUMS NOT EXCEEDING IN THE AGGREGATE CAD11,090,000.00 (ELEVEN MILLION AND NINETY THOUSAND AND 00/100 CANADIAN DOLLARS);

   C. THE SECOND PARAGRAPH OF CREDIT DEALING WITH "SIGHT DRAFTS" IS HEREBY AMENDED TO READ AS FOLLOWS:

   THIS CREDIT SHALL BE AVAILABLE TO YOU BY SIGHT DRAFT(S) DRAWN ON ROYAL BANK OF CANADA, INTERNATIONAL TRADE CENTRE-QUEBEC, 1 PLACE VILLE-MARIE, 2ND FLOOR, MONTREAL, QUEBEC H3B 4R7 ON DEMAND WITHOUT ENQUIRY AS TO WHETHER YOU HAVE A RIGHT AS BETWEEN YOURSELF AND THE APPLICANT TO MAKE SUCH DEMAND AND WITHOUT RECOGNIZING ANY CLAIM OF THE APPLICANT, AGAINST
PRESENTATION TO US, OF A CERTIFICATE SIGNED BY AN OFFICER OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT STATING:

CLAUSES A AND B OF THE CREDIT REMAIN UNCHANGED AND IN EFFECT.

D. CLAUSE C) E. OF THE CREDIT IS HEREBY AMENDED TO READ:

THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS OBLIGATIONS UNDER LEASE #76D/9-9-2 (MINING OF THE A21 PIPE ONLY), AS MAY BE AMENDED FROM TIME TO TIME, THAT THE BENEFICIARY IS ENTITLED TO DRAW ON THE CREDIT TO A MAXIMUM OF CAD20,000.00 AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF LEASE #76D/9-9-2 AS THEY RELATE TO THE APPLICANT'S DEFAULT UNDER THE LEASE, OR

E. THE PENULTIMATE PARAGRAPH OF THE CREDIT, WHICH REFERS TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NUMBER 500), IS HEREBY REPLACED TO READ AS FOLLOWS:

EXCEPT SO FAR AS IS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NUMBER 600). NOTWITHSTANDING ARTICLE 36 OF SAID PUBLICATION, IF THIS CREDIT EXPIRES DURING AN INTERRUPTION OF BUSINESS AS DESCRIBED IN ARTICLE 36, WE AGREE TO EFFECT PAYMENT IF THIS CREDIT IS DRAWN ON US WITHIN FIFTEEN (15) DAYS AFTER RESUMPTION OF BUSINESS.

2. THIS AMENDMENT IS TO BE CONSIDERED PART OF THE CREDIT AND MUST BE ATTACHED THERETO.

3. ALL OTHER TERMS AND CONDITIONS OF THE CREDIT REMAIN IN EFFECT.

4. SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION), THIS AMENDMENT TAKES EFFECT AT 10:00 A.M. ON MARCH 29, 2010.

ROYAL BANK OF CANADA

[Signatures]

Usha Krishnan
INTERNATIONAL TRADE CENTRE-QUEBEC
1 PLACE VILLE MARIE, 2nd FLOOR
MONTREAL, QUEBEC H3B 4R7

IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: MARCH 21, 2003
OUR REFERENCE NO.: M262246
AMOUNT: CAD11,080,000.00
MAXIMUM ELEVEN MILLION AND EIGHTY
THOUSAND CANADIAN DOLLARS ONLY

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
YELLOWKNIFE, NT
X1A 2P8

BENEFICIARY:
RECEIVER GENERAL FOR CANADA
ON BEHALF OF THE MINISTER OF
INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT
4914 – 50th STREET
BOX 1500
YELLOWKNIFE, NT
X1A 2R3
ATTENTION: REGIONAL DIRECTOR
GENERAL, DIAND – NT
REGION

AT THE REQUEST OF AND FOR ACCOUNT OF DIAVIK DIAMOND MINES INC., WE, ROYAL
BANK OF CANADA, HEREBY ESTABLISH IN YOUR FAVOUR OUR IRREVOCABLE
DOCUMENTARY CREDIT NO. M262246 (“CREDIT”) FOR SUMS NOT EXCEEDING IN THE
AGGREGATE CAD11,080,000.00 (ELEVEN MILLION AND EIGHTY THOUSAND CANADIAN
DOLLARS) SUBJECT TO THE SPECIAL CONDITIONS MENTIONED BELOW.

THIS CREDIT SHALL BE AVAILABLE TO YOU BY SIGHT DRAFT(S) DRAWN ON ROYAL
BANK OF CANADA, INTERNATIONAL TRADE CENTRE-QUEBEC, 1 PLACE VILLE MARIE,
2ND FLOOR, MONTREAL, QUEBEC H3B 4R7 TOGETHER WITH A CERTIFICATE SIGNED
BY TWO OFFICERS OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT STATING:

A. THAT THE SIGNATORIES ARE OFFICERS OF THE DEPARTMENT OF INDIAN
AFFAIRS AND NORTHERN DEVELOPMENT; AND

B. THAT THE AMOUNT DRAWN HAS NOT OTHERWISE BEEN PAID TO YOU BY OR
ON BEHALF OF THE APPLICANT; AND
C. EITHER

a. THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS OBLIGATIONS UNDER LEASE #76D/8-6-2 (QUARRY/COUNTRY ROCK PILE ETC.), AS MAY BE AMENDED FROM TIME TO TIME, THAT THE BENEFICIARY IS ENTITLED TO DRAW ON THE CREDIT TO A MAXIMUM OF CAD1,000,000.00, AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF LEASE #76D/8-6-2 AS THEY RELATE TO THE APPLICANT'S DEFAULT UNDER THE LEASE, OR

b. THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS OBLIGATIONS UNDER LEASE #76D/9-5-2 (AIRSTRIPE AND RELATED FACILITIES ONLY), AS MAY BE AMENDED FROM TIME TO TIME, THAT THE BENEFICIARY IS ENTITLED TO DRAW ON THE CREDIT TO A MAXIMUM OF CAD50,000.00, AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF LEASE #76D/9-5-2 AS THEY RELATE TO THE APPLICANT'S DEFAULT UNDER THE LEASE, OR

c. THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS OBLIGATIONS UNDER LEASE #76D/8-7-2 (LOCATION OF A MINE SITE, INCLUDING A KIMBERLITE PROCESSING PLANT AND RELATED FACILITIES ONLY), AS MAY BE AMENDED FROM TIME TO TIME, THAT THE BENEFICIARY IS ENTITLED TO DRAW ON THE CREDIT TO A MAXIMUM OF CAD10,000,000.00, AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF LEASE #76D/8-7-2 AS THEY RELATE TO THE APPLICANT'S DEFAULT UNDER THE LEASE, OR

d. THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS OBLIGATIONS UNDER LEASE #76D/8-5-2 (MINING OF THE A154 NORTH AND SOUTH AND A418 PIPES ONLY), AS MAY BE AMENDED FROM TIME TO TIME, THAT THE BENEFICIARY IS ENTITLED TO DRAW ON THE CREDIT TO A MAXIMUM OF CAD20,000.00, AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF LEASE #76D/8-5-2 AS THEY RELATE TO THE APPLICANT'S DEFAULT UNDER THE LEASE, OR

e. THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS OBLIGATIONS UNDER LEASE #76D/9-9-2 (MINING OF THE A21 PIPE ONLY), AS MAY BE AMENDED FROM TIME TO TIME, THAT THE BENEFICIARY IS ENTITLED TO DRAW ON THE CREDIT TO A MAXIMUM OF CAD10,000.00, AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF LEASE #76D/9-9-2 AS THEY RELATE TO THE APPLICANT'S DEFAULT UNDER THE LEASE, OR

f. THAT THIS CREDIT IS DUE TO EXPIRE IN THIRTY (30) DAYS OR LESS AND THAT THE APPLICANT HAS NOT REPLACED THIS CREDIT BY DEPOSITING WITH THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT OTHER SECURITY SATISFACTORY TO THE SAID MINISTER.

PARTIAL DRAWINGS ARE PERMITTED.

THIS CREDIT IS EFFECTIVE FROM 10:00 A.M. ON MARCH 28, 2003 AND SHALL EXPIRE AT OUR COUNTERS AT 3:00 P.M. ON MARCH 28, 2004 (THE "INITIAL EXPIRATION DATE"). HOWEVER, IT IS A CONDITION OF THIS CREDIT THAT IT WILL BE AUTOMATICALLY RENEWED FOR AN ADDITIONAL ONE YEAR PERIOD FROM THE INITIAL EXPIRATION
DATE, AND FOR AN ADDITIONAL ONE YEAR PERIOD FROM EACH FUTURE EXPIRATION DATE HEREOF, UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE OPERATIVE EXPIRATION DATE WE NOTIFY YOU IN WRITING BY COURIER OR REGISTERED MAIL THAT WE ELECT NOT TO CONSIDER THIS CREDIT TO BE RENEWED FOR SUCH ADDITIONAL PERIOD.

EXCEPT SO FAR AS IS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NUMBER 500). NOTWITHSTANDING ARTICLE 17 OF SAID PUBLICATION, IF THIS CREDIT EXPIRES DURING AN INTERRUPTION OF BUSINESS AS DESCRIBED IN ARTICLE 17, WE AGREE TO EFFECT PAYMENT IF THIS CREDIT IS DRAWN ON US WITHIN FIFTEEN (15) DAYS AFTER RESUMPTION OF BUSINESS.

THIS CREDIT ANNULS AND REPLACES OUR IRREVOCABLE DOCUMENTARY CREDIT NO. M121384 (FOR CAD7,820,000.00; ISSUED FEBRUARY 18, 2002).

ROYAL BANK OF CANADA

Suzanne Rateille

Daniel Beaulieu
ILOC #M262245 – “Security Deposit” Environmental Agreement
AMENDMENT TO IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: OCTOBER 24, 2011
OUR REFERENCE NUMBER: M262245

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 – 50TH AVENUE
YELLOWKNIFE, NT X1A 2P8

BENEFICIARY:
HER MAJEStY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
PAYEE: RECEIVER GENERAL FOR CANADA
4914 – 50TH STREET, 3RD FLOOR
BOX 1500
YELLOWKNIFE, NT X1A 2R3
ATTENTION: REGIONAL DIRECTOR GENERAL, DIAND – NT REGION

RE: "SECURITY DEPOSIT" PURSUANT TO ENVIRONMENTAL AGREEMENT

1. IRREVOCABLE DOCUMENTARY CREDIT NO. M262245, ISSUED MARCH 21, 2003, (THE "CREDIT") IS HEREBY AMENDED AS FOLLOWS:

   a. THE AMOUNT OF THE CREDIT IS DECREASED BY CAD 3,237,000.00 (THREE MILLION, TWO HUNDRED AND THIRTY SEVEN THOUSAND AND 00/100 CANADIAN DOLLARS), TO CAD 5,516,001.00 (FIVE MILLION FIVE HUNDRED AND SIXTEEN THOUSAND AND ONE AND 00/100 CANADIAN DOLLARS), AND THE CREDIT IS HENCEFORTH FOR SUMS NOT EXCEEDING IN THE AGGREGATE CAD 5,516,001.00 (FIVE MILLION FIVE HUNDRED AND SIXTEEN THOUSAND AND ONE AND 00/100 CANADIAN DOLLARS).

2. THIS AMENDMENT IS TO BE CONSIDERED PART OF THE CREDIT AND MUST BE ATTACHED THERETO.

3. ALL OTHER TERMS AND CONDITIONS OF THE CREDIT REMAIN IN EFFECT.

4. SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION), THIS AMENDMENT TAKES EFFECT AT 10:00 A.M. ON NOVEMBER 1, 2011.

ROYAL BANK OF CANADA

AUTHORIZED SIGNATURE

NADIA BOULOS BANOUB
INTERNATIONAL TRADE CENTRE-QUEBEC
1 PLACE VILLE MARIE, 2ND FLOOR
MONTREAL, QUEBEC H3B 4R7

IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: MARCH 21, 2003
OUR REFERENCE NO.: M262245
AMOUNT: CAD7,920,000.00
MAXIMUM SEVEN MILLION NINE
HUNDRED TWENTY THOUSAND
CANADIAN DOLLARS ONLY

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 – 50TH AVENUE
YELLOWKNIFE, NT X1A 2P8

BENEFICIARY:
RECEIVER GENERAL FOR CANADA
ON BEHALF OF THE MINISTER OF
INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT
4914 – 50TH STREET
BOX 1500
YELLOWKNIFE, NT X1A 2R3
ATTENTION: REGIONAL DIRECTOR
GENERAL,
DIAND – NT REGION

RE: “SECURITY DEPOSIT” PURSUANT TO ENVIRONMENTAL AGREEMENT

AT THE REQUEST AND FOR THE ACCOUNT OF DIAVIK DIAMOND MINES INC., WE,
ROYAL BANK OF CANADA, HEREBY ESTABLISH IN YOUR FAVOUR OUR IRREVOCABLE
DOCUMENTARY CREDIT NO. M262245 (“CREDIT”) FOR SUMS NOT EXCEEDING IN THE
AGGREGATE CAD7,920,000.00 (SEVEN MILLION NINE HUNDRED TWENTY THOUSAND
AND 00/100 CANADIAN DOLLARS) SUBJECT TO THE SPECIAL CONDITIONS MENTIONED
BELOW.

THIS CREDIT SHALL BE AVAILABLE TO YOU BY SIGHT DRAFT(S) DRAWN ON ROYAL
BANK OF CANADA, INTERNATIONAL TRADE CENTRE-QUEBEC, 1 PLACE VILLE MARIE,
2ND FLOOR, MONTREAL, QUEBEC H3B 4R7 TOGETHER WITH A CERTIFICATE SIGNED
BY AN OFFICER OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT STATING:

A. THAT THE SIGNATORY IS AN OFFICER OF THE DEPARTMENT OF INDIAN
AFFAIRS AND NORTHERN DEVELOPMENT; AND

B. THAT THE AMOUNT DRAWN HAS NOT OTHERWISE BEEN PAID TO YOU BY OR
ON BEHALF OF THE APPLICANT; AND

9/18
C. EITHER

I) THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS OBLIGATIONS UNDER THE ENVIRONMENTAL AGREEMENT MADE AS OF MARCH 8, 2000, AS MAY BE AMENDED FROM TIME TO TIME, AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF THE ENVIRONMENTAL AGREEMENT AS THEY RELATE TO THE APPLICANT’S DEFAULT UNDER THE ENVIRONMENTAL AGREEMENT, OR

II) THAT THIS CREDIT IS DUE TO EXPIRE IN THIRTY (30) DAYS OR LESS AND THAT THE APPLICANT HAS NOT REPLACED THIS CREDIT BY PROVIDING THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT WITH OTHER SECURITY SATISFACTORY TO THE SAID MINISTER.

PARTIAL DRAWINGS ARE PERMITTED.

THIS CREDIT IS EFFECTIVE FROM 10:00 A.M. ON MARCH 28, 2003 AND SHALL EXPIRE AT 3:00 P.M. ON MARCH 31, 2004 (THE "INITIAL EXPIRATION DATE"). HOWEVER, IT IS A CONDITION OF THIS CREDIT THAT IT WILL BE AUTOMATICALLY RENEWED FOR AN ADDITIONAL ONE YEAR PERIOD FROM THE INITIAL EXPIRATION DATE, AND FOR AN ADDITIONAL ONE YEAR PERIOD FROM EACH FUTURE EXPIRATION DATE HEREOF, UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE OPERATIVE EXPIRATION DATE WE NOTIFY YOU IN WRITING BY COURIER OR REGISTERED MAIL THAT WE ELECT NOT TO CONSIDER THIS CREDIT TO BE RENEWED FOR SUCH ADDITIONAL PERIOD.

EXCEPT SO FAR AS IS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NUMBER 500). NOTWITHSTANDING ARTICLE 17 OF SAID PUBLICATION, IF THIS CREDIT EXPIRES DURING AN INTERRUPTION OF BUSINESS AS DESCRIBED IN ARTICLE 17, WE AGREE TO EFFECT PAYMENT IF THIS CREDIT IS DRAWN ON US WITHIN FIFTEEN (15) DAYS AFTER RESUMPTION OF BUSINESS.
ILOC #M262247 – “Additional Security Deposit”
Environmental Agreement
AMENDMENT TO IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: MARCH 11, 2011

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 – 50TH AVENUE
YELLOWKNIFE, NT X1A 2P8

OUR REFERENCE NUMBER: M262247

BENEFICIARY:
HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
PAYEE: RECEIVER GENERAL FOR CANADA
4914 – 50TH STREET, 3RD FLOOR
BOX 1500
YELLOWKNIFE, NT X1A 2R3
ATTENTION: REGIONAL DIRECTOR GENERAL, DIAND – NT REGION

RE: “ADDITIONAL SECURITY DEPOSIT” PURSUANT TO ENVIRONMENTAL AGREEMENT

1. IRREVOCABLE DOCUMENTARY CREDIT NO. M262247, ISSUED MARCH 21, 2003, (THE “CREDIT”) IS HEREBY AMENDED AS FOLLOWS:

a. THE AMOUNT OF THE CREDIT IS DECREASED BY CAD$ 3,000,000.00 (THREE MILLION AND 00/100 CANADIAN DOLLARS), TO CAD$ 2,099,999.00 (EIGHT MILLION, TWO HUNDRED AND NINE THOUSAND, NINE HUNDRED AND NINETY-NINE AND 00/100 CANADIAN DOLLARS), AND THE CREDIT IS HENCEFORTH FOR SUMS NOT EXCEEDING IN THE AGGREGATE CAD$ 2,099,999.00 (EIGHT MILLION, TWO HUNDRED AND NINE THOUSAND, NINE HUNDRED AND NINETY-NINE AND 00/100 CANADIAN DOLLARS).

2. THIS AMENDMENT IS TO BE CONSIDERED PART OF THE CREDIT AND MUST BE ATTACHED THERETO.

3. ALL OTHER TERMS AND CONDITIONS OF THE CREDIT REMAIN IN EFFECT.

4. SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION), THIS AMENDMENT TAKES EFFECT AT 10:00 A.M. ON MARCH 31, 2011.

ROYAL BANK OF CANADA

AUTHORISED SIGNATURE

M.A. TAMBURO

AUTHORISED SIGNATURE

NADIA BOULOS BANOUB
DATE OF ISSUE: MARCH 21, 2003
OUR REFERENCE NO.: M262247
AMOUNT: CAD10,000,000.00
MAXIMUM TEN MILLION
CANADIAN DOLLARS ONLY

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 – 50TH AVENUE
YELLOWKNIFE, NT X1A 2P8

BENEFICIARY:
RECEIVER GENERAL FOR CANADA
ON BEHALF OF THE MINISTER OF
INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT
4914 – 50TH STREET
BOX 1500
YELLOWKNIFE, NT X1A 2R3
ATTENTION: REGIONAL DIRECTOR
GENERAL,
DIAND – NT REGION

RE: "ADDITIONAL SECURITY DEPOSIT" PURSUANT TO ENVIRONMENTAL AGREEMENT

AT THE REQUEST AND FOR THE ACCOUNT OF DIAVIK DIAMOND MINES INC., WE,
ROYAL BANK OF CANADA, HEREBY ESTABLISH IN YOUR FAVOUR OUR IRREVOCABLE
DOCUMENTARY CREDIT NO. M262247 ("CREDIT") FOR SUMS NOT EXCEEDING IN THE
AGGREGATE CAD10,000,000.00 (TEN MILLION AND 00/100 CANADIAN DOLLARS)
SUBJECT TO THE SPECIAL CONDITIONS MENTIONED BELOW.

THIS CREDIT SHALL BE AVAILABLE TO YOU BY SIGHT DRAFT(S) DRAWN ON ROYAL
BANK OF CANADA, INTERNATIONAL TRADE CENTRE-QUEBEC, 1 PLACE VILLE MARIE,
2ND FLOOR, MONTREAL, QUEBEC H3B 4R7 TOGETHER WITH A CERTIFICATE SIGNED
BY AN OFFICER OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT STATING:

A. THAT THE SIGNATORY IS AN OFFICER OF THE DEPARTMENT OF INDIAN
AFFAIRS AND NORTHERN DEVELOPMENT; AND

B. THAT THE AMOUNT DRAWN HAS NOT OTHERWISE BEEN PAID TO YOU BY OR
ON BEHALF OF THE APPLICANT; AND

C. EITHER

   I) THAT THE APPLICANT HAS FAILED TO PERFORM ONE OR MORE OF ITS
OBLIGATIONS UNDER THE ENVIRONMENTAL AGREEMENT MADE AS OF
MARCH 8, 2000, AS MAY BE AMENDED FROM TIME TO TIME, AND THAT THE AMOUNT DRAWN IS DRAWN PURSUANT TO THE TERMS OF THE ENVIRONMENTAL AGREEMENT AS THEY RELATE TO THE APPLICANT'S DEFAULT UNDER THE ENVIRONMENTAL AGREEMENT, OR

II) THAT THIS CREDIT IS DUE TO EXPIRE IN THIRTY (30) DAYS OR LESS AND THAT THE APPLICANT HAS NOT REPLACED THIS CREDIT BY PROVIDING THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT WITH OTHER SECURITY SATISFACTORY TO THE SAID MINISTER.

PARTIAL DRAWINGS ARE PERMITTED.

THIS CREDIT IS EFFECTIVE FROM 10:00 A.M. ON MARCH 28, 2003 AND SHALL EXPIRE AT 3:00 P.M. ON MARCH 31, 2004 (THE "INITIAL EXPIRATION DATE"). HOWEVER, IT IS A CONDITION OF THIS CREDIT THAT IT WILL BE AUTOMATICALLY RENEWED FOR AN ADDITIONAL ONE YEAR PERIOD FROM THE INITIAL EXPIRATION DATE, AND FOR AN ADDITIONAL ONE YEAR PERIOD FROM EACH FUTURE EXPIRATION DATE HEREOF, UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE OPERATIVE EXPIRATION DATE WE NOTIFY YOU IN WRITING BY COURIER OR REGISTERED MAIL THAT WE ELECT NOT TO CONSIDER THIS CREDIT TO BE RENEWED FOR SUCH ADDITIONAL PERIOD.

EXCEPT SO FAR AS IS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NUMBER 500). NOTWITHSTANDING ARTICLE 17 OF SAID PUBLICATION, IF THIS CREDIT EXPIRES DURING AN INTERRUPTION OF BUSINESS AS DESCRIBED IN ARTICLE 17, WE AGREE TO EFFECT PAYMENT IF THIS CREDIT IS DRAWN ON US WITHIN FIFTEEN (15) DAYS AFTER RESUMPTION OF BUSINESS.

ROYAL BANK OF CANADA

Suzanne Ratelle

Daniel Beaules
ILOC #M112594 – “EA Security Deposit” Environmental Agreement
INTERNATIONAL TRADE CENTRE-QUEBEC
1 PLACE VILLE MARIE, 2ND FLOOR
MONTREAL, QUEBEC H3B 4R7

IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: MAY 31, 2000
OUR REFERENCE NO.: M112594
AMOUNT: CAD3,000,000.00
MAXIMUM THREE MILLION CANADIAN DOLLARS ONLY

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
YELLOWKNIFE, N.T.
X1A 2P8

BENEFICIARY:
RECEIVER GENERAL FOR CANADA

DEPARTMENT OF INDIAN AFFAIRS & NORTHERN DEVELOPMENT
YELLOWKNIFE, NT
X1A 2R3
ATTENTION: DIRECTOR-GENERAL NT REGION

AT THE REQUEST OF AND FOR ACCOUNT OF DIAVIK DIAMOND MINES INC., WE, ROYAL BANK OF CANADA, HEREBY ESTABLISH IN YOUR FAVOUR OUR IRREVOCABLE DOCUMENTARY CREDIT NO. M112594 (“CREDIT”) FOR A SUM NOT EXCEEDING THE AGGREGATE OF CAD3,000,000.00 (THREE MILLION CANADIAN DOLLARS) SUBJECT TO THE SPECIAL CONDITIONS MENTIONED BELOW.

THIS CREDIT SHALL BE AVAILABLE TO YOU BY SIGHT DRAFT(S) DRAWN ON ROYAL BANK OF CANADA, INTERNATIONAL TRADE CENTRE-QUEBEC, 1 PLACE VILLE MARIE, 2ND FLOOR, MONTREAL, QUEBEC H3B 4R7 TOGETHER WITH A CERTIFICATE SIGNED BY TWO OFFICERS OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT STATING:

A. THAT THE SIGNATORIES ARE OFFICERS OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT; AND

B. THAT THE AMOUNT DRAWN HAS NOT OTHERWISE BEEN PAID TO YOU BY OR ON BEHALF OF APPLICANT; AND

C. THAT THE APPLICANT HAS FAILED TO PERFORM ITS OBLIGATIONS THAT RELATE TO THE "EA SECURITY DEPOSIT" UNDER THE ENVIRONMENTAL AGREEMENT MADE AS OF MARCH 3, 2000, AS MAY BE AMENDED FROM TIME TO TIME AND THAT THE AMOUNT DRAWN IS PURSUANT TO THE TERMS OF THE ENVIRONMENTAL AGREEMENT AS THEY RELATE TO THE APPLICANT’S DEFAULT AS REFERENCED ABOVE; OR, THAT THIS CREDIT WILL NOT BE RENEWED AND THAT THE APPLICANT HAS FAILED TO PROVIDE THE
BENEFICIARY WITH SECURITY TO REPLACE THIS CREDIT AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRY DATE, OR ANY FUTURE EXPIRY DATE.

PARTIAL DRAWINGS ARE PERMITTED.

THIS CREDIT EXPIRES MAY 29, 2001 AT OUR COUNTERS. HOWEVER, IT IS A CONDITION OF THIS CREDIT THAT IT WILL BE AUTOMATICALLY EXTENDED FOR A FURTHER ONE YEAR PERIOD FROM THE PRESENT OR ANY FUTURE EXPIRY DATE HEREOF, UNLESS AT LEAST NINETY (90) DAYS PRIOR TO SUCH EXPIRY DATE, WE NOTIFY YOU IN WRITING BY COURIER OR REGISTERED MAIL THAT WE ELECT NOT TO CONSIDER THIS CREDIT TO BE EXTENDED FOR ANY ADDITIONAL PERIOD.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED THIS DOCUMENTARY CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NUMBER 500). NOTWITHSTANDING ARTICLE 17 OF SAID PUBLICATION, IF THIS DOCUMENTARY CREDIT EXPIRES DURING AN INTERRUPTION OF BUSINESS AS DESCRIBED IN ARTICLE 17, WE AGREE TO EFFECT PAYMENT IF THIS DOCUMENTARY CREDIT IS DRAWN ON THE BANK WITHIN FIFTEEN (15) DAYS AFTER RESUMPTION OF BUSINESS.

ROYAL BANK OF CANADA

SUZANNE RATELLE

DANIEL BEAULIEU
LOC #M116461 – “Security Deposit” Fisheries Authorization
AMENDMENT TO IRREVOCABLE DOCUMENTARY CREDIT

DATE: JULY 14, 2005

OUR REFERENCE NUMBER: M116461

AMOUNT: CAD $1,500,000
NEW AVAILABLE AMOUNT: CAD $2,400,000.00

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 – 50th AVENUE
YELLOWKNIFE, N.W.T. X1A 2P8

BENEFICIARY:
DEPARTMENT OF FISHERIES AND OCEANS
YELLOWKNIFE, NWT, CANADA X1A 1E2

ATTENTION: AREA DIRECTOR,
WESTERN ARCTIC AREA

KINDLY NOTE THAT THE ABOVE MENTIONED IRREVOCABLE DOCUMENTARY CREDIT IS AMENDED AS FOLLOWS:

THE AMOUNT IS INCREASED BY:
THE NEW AVAILABLE AMOUNT IS:

CAD $900,000.00.
CAD $2,400,000.00.

THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE ABOVE IRREVOCABLE DOCUMENTARY CREDIT AND MUST BE ATTACHED THERETO.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

ROYAL BANK OF CANADA

AUTHORIZED SIGNATURE

NATHALIE SOUDIF

AUTHORIZED SIGNATURE

MA. TAMBURRO
June 08, 2001

Department of Fisheries and Oceans
Fish Habitat Management
Suite 101, 5204-50th Ave
Yellowknife, NT
X1A 1E2

Attn: Julie Dahl
Area Chief, Habitat
Western Arctic Area

Dear Julie:

RE: SECURITY DEPOSIT

Pursuant to Section 14.1 (a) of DDMI’s Section 35 (2) Fisheries Act Authorization, please find enclosed an “Irrevocable Documentary Credit”, issued by the Royal Bank in the amount of $1,500,000.00.

Regards,

[Signature]
Gord Macdonald
Environmental Advisor

Attachment

Receipt of the above-described letter of credit to be held pursuant to the terms and conditions in the Section 35(2) Fisheries Authorization, is hereby acknowledged this 28th day of June, 2001.

Department of Fisheries and Oceans

Signed by Julie Dahl, Area Chief
IRREVOCABLE DOCUMENTARY CREDIT

DATE OF ISSUE: MAY 28, 2001
OUR REFERENCE NUMBER: M116461
AMOUNT: CAD $1,500,000

APPLICANT:
DIAVIK DIAMOND MINES INC.
P.O. BOX 2498
5007 - 50th AVENUE
YELLOWKNIFE, N.W.T. X1A 2P8

BENEFICIARY:
DEPARTMENT OF FISHERIES AND OCEANS

STREET ADDRESS
YELLOWKNIFE, NT, CANADA X1A 1E2
ATTENTION: AREA DIRECTOR,
WESTERN ARCTIC AREA

RE: SECURITY PURSUANT TO AUTHORIZATION FOR WORKS AFFECTING FISH HABITAT (DFO FILE No. SC98001)

AT THE REQUEST AND FOR THE ACCOUNT OF DIAVIK DIAMOND MINES INC., WE, ROYAL BANK OF CANADA, HEREBY ESTABLISH IN YOUR FAVOUR OUR IRREVOCABLE DOCUMENTARY CREDIT NO. M116461 ("CREDIT") FOR SUMS NOT EXCEEDING CAD 1,500,000.00 (ONE MILLION FIVE HUNDRED THOUSAND AND 00/100 CANADIAN DOLLARS).

THIS CREDIT IS AVAILABLE WITH US AT SIGHT FOR DRAWING IN PART OR IN FULL, AGAINST PRESENTATION TO US, BY YOU OR YOUR DULY AUTHORIZED REPRESENTATIVE OR AGENT, OF THE FOLLOWING DOCUMENTS:

1) A SIGHT DRAFT DRAWN ON ROYAL BANK OF CANADA, INTERNATIONAL TRADE CENTRE-QUEBEC, 1 PLACE VILLE MARIE, 2ND FLOOR, MONTREAL, QUEBEC H3B 4R7, MENTIONING THIS IRREVOCABLE DOCUMENTARY CREDIT NO. M116461; AND

2) THE ORIGINAL OF THIS IRREVOCABLE DOCUMENTARY CREDIT NO. M116461 FOR ENDORESEMENT OF PAYMENT THEREON; AND

3) A STATEMENT SIGNED BY AN OFFICIAL OF THE DEPARTMENT OF FISHERIES AND OCEANS CERTIFYING

A) THAT THE SIGNATORY IS AN OFFICIAL OF THE DEPARTMENT OF FISHERIES AND OCEANS AND HAS AUTHORITY TO SIGN THE STATEMENT ON BEHALF OF THE MINISTER OF FISHERIES AND OCEANS (THE "MINISTER"), AND

[Signature]
B) EITHER

I) THAT THE MINISTER IS ENTITLED TO APPLY THE AMOUNT DRAWN, BEING ALL OR PART OF THE SECURITY POSTED AND MAINTAINED PURSUANT TO AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT NO. SC98001 ISSUED BY THE DEPARTMENT OF FISHERIES AND OCEANS, WHETHER AS ORIGINALY ISSUED OR AS AMENDED OR RENEWED FROM TIME TO TIME, OR

II) THAT THIS CREDIT IS DUE TO EXPIRE IN 30 DAYS OR LESS AND THAT THE APPLICANT HAS NOT REPLACED THIS CREDIT BY POSTING WITH THE MINISTER OTHER SECURITY SATISFACTORY TO THE MINISTER.

THIS CREDIT IS EFFECTIVE FROM 10:00 A.M. ON MAY 28, 2001 AND SHALL EXPIRE AT OUR COUNTERS AT 3:00 P.M. ON MAY 27, 2002 (THE “EXPIRATION DATE”). THIS CREDIT SHALL BE RENEWED AUTOMATICALLY FOR AN ADDITIONAL TWO-YEAR PERIOD FROM THE EXPIRATION DATE, AND FOR AN ADDITIONAL TWO-YEAR PERIOD FROM EACH FUTURE EXPIRATION DATE, UNLESS AT LEAST ONE HUNDRED AND TWENTY (120) DAYS PRIOR TO THE OPERATIVE EXPIRATION DATE WE NOTIFY YOU IN WRITING BY REGISTERED MAIL OR COURIER THAT WE ELECT NOT TO CONSIDER THIS CREDIT RENEWED FOR SUCH ADDITIONAL PERIOD.

WE HEREBY AGREE THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT SHALL BE DULY HONOURED BY US IF PRESENTED FOR PAYMENT ON OR BEFORE THE OPERATIVE EXPIRATION DATE.

EXCEPT SO FAR AS IS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 500. NOTWITHSTANDING ARTICLE 17 OF SAID PUBLICATION, IF THIS CREDIT EXPIRES DURING AN INTERRUPTION OF BUSINESS AS DESCRIBED IN ARTICLE 17, WE AGREE TO EFFECT PAYMENT IF THIS CREDIT IS DRAWN ON US WITHIN FIFTEEN (15) DAYS AFTER THE RESUMPTION OF BUSINESS.

ROYAL BANK OF CANADA

[Signatures]

SUZANNE RATELLE

DANIEL BRAUN
Diavik Environmental Agreement
ENVIRONMENTAL AGREEMENT

This Agreement made as of the 8th day of March, 2000.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the
Minister of Indian Affairs and Northern Development

(hereinafter referred to as "Canada")

AND

THE GOVERNMENT OF THE NORTHWEST TERRITORIES
as represented by the
Minister of Resources, Wildlife and Economic Development

(hereinafter referred to as the "GNWT")

AND

DIAVIK DIAMOND MINES INC.
(hereinafter referred to as "DDMI")

AND

DOGRIIB TREATY 11 COUNCIL

AND

LUTSEL K'E DENE BAND

AND

YELLOWKNIVES DENE FIRST NATION

AND
# DIAVIK ENVIRONMENTAL AGREEMENT

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NORTH SLAVE MÊTIS ALLIANCE

AND

KITIKMEOT INUIT ASSOCIATION

RECITALS

A. WHEREAS DDMI as manager of an unincorporated Joint Venture with Aber Diamond Mines Ltd. ("Aber") proposes to establish the Project to be located at the East Island in Lac de Gras, Northwest Territories for the production of rough diamonds;

B. AND WHEREAS the Responsible Authorities conducted a comprehensive study of the Project pursuant to the Canadian Environmental Assessment Act and issued the Comprehensive Study Report wherein the Responsible Authorities concluded that, taking into account the implementation of appropriate mitigation measures, the Project is not likely to cause significant adverse environmental effects;

C. AND WHEREAS the Minister of the Environment and the Responsible Authorities have determined that the Project, taking into account the implementation of appropriate mitigation measures, is not likely to cause significant adverse environmental effects;

D. AND WHEREAS the CSR includes a requirement for the Minister, as the lead Responsible Authority, to develop an environmental agreement to provide a formal mechanism to ensure that the mitigation measures outlined in DDMI’s Commitments, in addition to the mitigation measures and follow-up requirements which will be specified as terms and conditions by Regulatory Instruments, are appropriately implemented and monitored;

E. AND WHEREAS the air, land, water, aquatic resources, and wildlife are essential to the lives and well-being of the Aboriginal Peoples;

F. AND WHEREAS DDMI proposes to conduct adaptive environmental management to minimize the environmental impact of the Project;

G. AND WHEREAS DDMI and the Aboriginal Peoples have entered into or are in the process of negotiating and settling Participation Agreements in connection with the Project;
H. AND WHEREAS, DDMI and the GNWT have entered into a Socio-economic Monitoring Agreement which is intended to meet the requirement of the CSR and provides for the involvement of Aboriginal Peoples.

NOW THEREFORE, in consideration of the premises and the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, the Parties covenant and agree as follows:

ARTICLE I

STATEMENT OF PURPOSE AND GUIDING PRINCIPLES

1.1 PURPOSE

This Agreement is intended to be a legally binding agreement for the achievement of the following purposes:

(a) To ensure that the mitigation measures outlined in DDMI’s Commitments and in the Responsible Authorities’ conclusions as documented in the CSR are appropriately implemented;

(b) To provide for additional monitoring which, in conjunction with the monitoring requirements of Regulatory Instruments, will serve to verify the accuracy of the environmental assessment of the Project and the effectiveness of mitigation measures, and whether Commitments are being fulfilled;

(c) To facilitate the use of holistic and ecosystem-based approaches for the monitoring, management and regulation of the Project;

(d) To respect and protect air, land, water, aquatic resources, wildlife, archaeological and cultural resources, and the land-based economy that are essential to the way of life and well-being of the Aboriginal Peoples;

(e) To create opportunities for community and public input and participation;

(f) To provide advice and direction to DDMI in order to assist DDMI in managing the Project consistent with these purposes;

(g) To maximize the effectiveness and co-ordination of environmental monitoring and regulation of the Project; and
(h) To facilitate effective communication about the Project with Affected Communities and effective participation of the Aboriginal Peoples and the general public in the achievement of the above purposes.

1.2 GUIDING PRINCIPLES

The Parties agree to carry out their responsibilities under this Agreement and the Regulatory Instruments consistently with the purposes in Article 1.1 and guided by the following principles:

(a) Adaptive environmental management;

(b) Sustainable development;

(c) Design and implementation of Environmental Protection Measures to minimize adverse effects on Environmental Quality to the extent technically and economically feasible;

(d) Precautionary Principle;

(e) Promotion of capacity-building for the Aboriginal Peoples respecting Project-related environmental matters;

(f) Recognition of the particular environmental values of the Lac de Gras region;

(g) Full consideration and use of both traditional knowledge and other scientific information where appropriate; and

(h) Promotion of a co-operative approach among the Parties respecting Project-related environmental matters.
ARTICLE II

NO PREJUDICE

2.1 NO PREJUDICE

This Agreement is without prejudice to the positions of the Parties respecting any:

(a) existing Aboriginal or treaty rights of the Aboriginal Peoples;

(b) on-going or future land claims or self-government negotiations affecting Aboriginal Peoples;

(c) constitutional changes which may occur in the Northwest Territories;

(d) changes to legislation or regulations resulting from the settlement of land claims and self-government negotiations, or resulting from constitutional changes or devolution; or

(e) existing or future Participation Agreements.

2.2 TRANSITIONAL

In the event that jurisdiction or regulatory authority relating to the Project or any aspect of the Project, is transferred or devolved as a result of constitutional change, treaty, self-government or land claim agreement, or otherwise, the Parties shall negotiate, in good faith, to amend this Agreement to reflect such transfer or devolution, while maintaining the purposes and principles of this Agreement.

ARTICLE III

INTERPRETATION

3.1 DEFINITIONS

In this Agreement, unless the context otherwise indicates, the following terms shall have the meanings ascribed to them below:

"Aboriginal Peoples" means the Dogrib Treaty 11 Council, the Lutsel K’e Dene Band, the Yellowknives Dene First Nation, the North Slave Métis Alliance and the Kitikmeot Inuit Association.
“Affected Communities” means the communities identified in the CSR which are affected in relation to the subject matter within which they are referenced in the CSR.

“Annual Report” has the meaning attributed thereto in Article 12.1.

“Arbitrator(s)” means the arbitrator or arbitrators selected pursuant to Article 16.3 in respect of any particular dispute.

“Archaeological Site” means a site or work of archaeological, ethnological or historical importance, interest, or significance or a place where an archaeological specimen is found and includes explorers’ cairns.

“Commercial Production” means production at the rate of 80% of design capacity for the Project processing plant for 30 consecutive days.

“Commitment” means:

(a) any commitment to a mitigation measure or a follow-up program made by DDMI, whether

(i) given to a Responsible Authority in the course of seeking or securing any recommendation or decision under the Canadian Environmental Assessment Act with respect to the Project, or

(ii) given to the governmental agency responsible for issuing any Regulatory Instrument, in the course of seeking or securing the issuance of the Regulatory Instrument,

provided that

(iii) where the commitment as originally given by DDMI was modified by DDMI and where the modification was accepted by the Responsible Authority (in the case of a commitment referred to in paragraph (a)(i) of this definition) or the responsible governmental authority (in the case of a commitment referred to in paragraph (a)(ii) of this definition) in the recommendation, decision or Regulatory Instrument, or prior to the making or issuance thereof, “Commitment” means the commitment as so modified, and

(iv) where the commitment as originally given by DDMI is departed from in order to comply with the requirements of the principle of adaptive environmental management, “Commitment” means the commitment modified to comply with those requirements; and

(b) any obligation imposed upon DDMI by or pursuant to the terms of any such recommendation, decision, or Regulatory Instrument.

“Consult” or “Consultation” shall mean, at a minimum:

(a) the provision, to the party to be consulted, of notice of a matter to be decided in sufficient form and detail to allow that party to prepare its views on the matter;

(b) the provision of a reasonable period of time in which the party to be consulted may prepare its views on the matter, and provision of an opportunity to present such views to the party obliged to consult; and

(c) full and fair consideration by the party obliged to consult of any views presented.

“$” means Canadian dollars.

“Effective Date” has the meaning assigned to it in Article 18.1 (a).

“Environment” means the components of the Earth, and includes:
(a) land, water, and air, including all layers of the atmosphere,
(b) all organic and inorganic matter and living organisms, and
(c) the interacting natural systems that include components referred to in paragraphs (a) and (b)

“Environmental Management Plans” has the meaning attributed thereto in Article VI.

“Environmental Monitoring Advisory Board” means the Advisory Board referred to in Article IV.

“Environmental Monitoring Programs” has the meaning attributed thereto in Article VII.

“Environmental Plans and Programs” means the Environmental Management Plans, Environmental Monitoring Programs, the Reclamation and Abandonment Plan and any other environmental management plans or environmental monitoring programs carried out or conducted in connection with the Project.

“Environmental Protection Measures” means all measures taken to effect Environmental Quality, including but not limited to, assessment and prediction of impacts, monitoring, measures to avoid or mitigate impacts, setting of limits for environmental degradation, and measures for construction, operations, closure, reclamation and abandonment of the Project.

“Environmental Quality” means the state of the environment at any time as compared to natural, unaltered characteristics of the area with respect to biological diversity and ecosystem structures and processes. Environmental Quality is maximized when measured indicators show that ecological processes are functioning naturally, ecosystem structure and reproductive capacity of animal and plant populations is unimpaired, and human interference has negligible impacts.

“Joint Venture” means the unincorporated joint venture established by the parties to the Joint Venture Agreement.

“Joint Venture Agreement” means the agreement between DDMI and Aber.

“Land Leases” means the following leases under the Territorial Lands Act: 76D/8-5-2 (Water Lot B A154/418), 76D/8-6-2 (Quarry/PKC/North Inlet), 76D/8-7-2 (Infrastructure), 76D/9-5-2 (Airstrip), and 76D/9-9-2 (Water Lot E A21), which as of the date of this Agreement, have not yet been fully executed; and includes any renewal, amendment or replacement thereof.

“Minister” means the Minister of Indian Affairs and Northern Development.

“Minister's Report” means a report that may be provided by the Minister to DDMI in the event that any Annual Report, Environmental Management Plan, or Environmental Monitoring Program provided to the Minister by DDMI is determined by the Minister to be deficient.
"Notice of Default" means a notice which may be issued by the Minister upon the occurrence of any non-compliance by DDMI with any provisions of this Agreement describing the specific default or defaults including a requirement to rectify such default or defaults.

"NWT" means the Northwest Territories.

"Nunavut" means the Territory of Nunavut.

"Participation Agreements" means those participation agreements, also known as impact benefit agreements or other similar agreements, entered into between DDMI and the Aboriginal Peoples with respect to the Project and as same may be supplemented, revised, restated or replaced from time to time during the term of this Agreement.

"Parties" means those parties listed on the face page and second page of this Agreement who actually sign this Agreement in accordance with the provisions of Article 18, and "Party" shall mean any one of them.

"Precautionary Principle" means, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing reasonable measures to prevent environmental degradation.

"Project" means the Project described in the Project Description Submission submitted by DDMI in March 1998 for the purpose of providing the Responsible Authorities with sufficient information to initiate the Federal Environmental Assessment Process, with such refinements or alterations as have been submitted since the Project Description Submission and considered in the CSR or which are required by Responsible Authorities or regulatory authorities.

"Reclamation and Abandonment Plan(s)" has the meaning attributed thereto in Article X.

"Regulatory Instrument(s)" means any authorization, licence, lease, or permit required under any legislation required for the carrying out of the Project and includes without limitation, the Water Licence, the Fisheries Authorization(s) issued under s.35 of the Fisheries Act, the Land Use Permits, the Land Leases, the Explosives Factory Licences, and the Navigable Waters Permits.

"Responsible Authorities" means those departments identified as such in the CSR.

"Socio-economic Monitoring Agreement" means the agreement made the 2nd day of October, 1999 between the GNWT and DDMI pursuant to the requirements of the CSR.

"Water Licence" means the Type A Water Licence #N7L2-1645 for which original application was made by DDMI on March 4, 1998, revised September 10, 1999, and which as of the date of this Agreement, has not yet been issued by the Northwest Territories Water Board pursuant to the Northwest Territories Waters Act and Northwest Territories Waters Regulations and includes any renewal, amendment or replacement under that or any successor or other applicable legislation.
3.2 EXTENDED MEANINGS

Words importing the singular number include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; words importing persons include firms and corporations.

3.3 TIME OF ESSENCE

Time shall be of the essence in all respects of this Agreement.

3.4 BUSINESS DAY

Whenever a payment to be made or action to be taken under this Agreement is required to be made or taken on a day which is a Saturday, Sunday or statutory holiday in the NWT, then such payment shall be made or action taken on the next succeeding day that is not a Saturday, Sunday or statutory holiday in the NWT.

3.5 REFERENCES

References to an article, section, subsection, paragraph or schedule shall be construed as references to an article, section, subsection, paragraph or schedule to this Agreement unless the context otherwise requires and all references to this Agreement mean this Environmental Agreement dated as of March 8, 2000.

3.6 HEADINGS

The division of this Agreement into articles and subsections and the insertion of headings are for convenience of reference only and shall not alter the construction or interpretation of this Agreement.

3.7 LEGISLATION

A reference to any statute shall be construed as including any regulations promulgated thereunder, any amendments thereto, and any successor legislation.
ARTICLE IV

ENVIRONMENTAL MONITORING ADVISORY BOARD

4.1 ENVIRONMENTAL MONITORING ADVISORY BOARD

(a) The Environmental Monitoring Advisory Board (the "Advisory Board") for the Project shall be established as a non-profit organization under the Societies Act, R.S.N.W.T 1988, c. S-11. Canada shall arrange to have the Advisory Board established within sixty (60) days of the coming into effect of Article IV.

(b) The costs incurred by Canada in establishing the Advisory Board shall be credited against Canada's contribution to the first year's budget under Article 4.8(d).

4.2 MANDATE OF THE ADVISORY BOARD

The Advisory Board shall operate at arm's length and independent from the Parties, and shall perform its functions consistently with the purposes and guiding principles in Article I. The mandate of the Advisory Board shall be, in respect of the Project, to:

(a) provide an integrated approach to achieving the purposes in Article I;

(b) assist the Parties to implement a co-operative approach to achieving the purposes and implementing the guiding principles in Article I;

(c) serve as a public watchdog of the regulatory process and the implementation of this Agreement;

(d) review Environmental Plans and Programs, Annual Reports, Environmental Protection Measures, compliance or monitoring reports and other reports and data bearing on Environmental Quality that are produced by any of the Parties or regulatory authorities pursuant to this Agreement, Regulatory Instruments and laws of general application;

(e) in respect of a matter reviewed pursuant to (d), make recommendations for the achievement of the purposes and guiding principles in Article I, to DDMI, the Minister and any other Party or body having regulatory or management responsibility for the matter;
(f) make recommendations on issues relating to access for purposes of wildlife harvesting;

(g) make recommendations respecting the participation of each of the Aboriginal Peoples and Affected Communities in training initiatives and monitoring programs bearing on Environmental Quality;

(h) make recommendations concerning the need for and design of traditional knowledge and other studies, and, where appropriate, facilitate the management and implementation of these studies;

(i) facilitate programs to provide information to Affected Communities and the general public on matters bearing on Environmental Quality;

(j) report to the Parties and the public on the Advisory Board’s activities and the achievement of its mandate;

(k) provide an accessible and public repository of environmental data, studies and reports relevant to the Advisory Board’s mandate;

(l) participate as an intervenor, as appropriate for the achievement of its mandate, in regulatory processes, the dispute resolution process under this Agreement and other legal processes; and

(m) provide a meaningful role for each of the Aboriginal Peoples in the review and implementation of environmental monitoring plans in respect of the Project.

4.3 The Minister, DDMI, or any other Party, shall within sixty (60) days of receipt of any written recommendation of the Advisory Board directed to it, give full and serious consideration to the written recommendation; and either:

(a) accept for implementation a written recommendation of the Advisory Board that is determined by the recipient to be appropriate and report to the Advisory Board to that effect; or

(b) provide the Advisory Board with written reasons where it has been determined by the recipient that the recommendation is not appropriate and will not be implemented.
4.4 The Minister shall encourage any regulatory authority to which a written recommendation is provided by the Advisory Board to comply with the requirements in Article 4.3.

4.5 COMPOSITION OF THE ADVISORY BOARD

(a) Subject to Article 4.6 (a), the Parties may appoint their respective members to the Advisory Board as follows:

Dogrib Treaty 11 Council .................................. 1 representative

Yellowknife Dene First Nation.......................... 1 representative

Lutsel K'e Dene Band................................. 1 representative

Kitikmeot Inuit Association................................. 1 representative

North Slave Métis Alliance...................... 1 representative

GNWT ......................................................... 1 representative

Government of Canada................................ 1 representative

DDMI .......................................................... 1 representative

(b) Subject to Article 4.6 (b), the Government of Nunavut may appoint one representative to the Advisory Board.

(c) The Parties may jointly appoint two public representatives to the Advisory Board.

(d) Subject to Article 4.6 (a) and (b), each of the Parties and the Government of Nunavut may appoint one alternate representative.

(e) Either or both of the representative and the alternate representative appointed to the Advisory Board by the Parties and the Government of Nunavut shall be resident in the Northwest Territories or Nunavut.
4.6 FUNCTIONING OF THE ADVISORY BOARD

Each Party to this Agreement and the Government of Nunavut shall be entitled to appoint representatives to the Advisory Board as follows:

(a) A representative and an alternate shall be appointed by each Party within sixty (60) days, or as soon as practicable, following the later of the signing of this Agreement by that particular Party or the conditions in Article 18.1(c) being satisfied or waived;

(b) The Government of Nunavut shall appoint its representative and alternate within sixty (60) days, or as soon as practicable, following the conditions in Article 18.1(c) being satisfied or waived;

(c) Notice of appointments shall be given in writing to the Minister, and to the Chair of the Advisory Board once a Chair has been appointed;

(d) Each of the Parties and the Government of Nunavut may, from time to time, change the representatives on the Advisory Board appointed by it, upon notice in accordance with Article 4.6(c);

(e) The Parties may, from time to time, jointly change or remove either or both of the public representatives on the Advisory Board, upon notice in accordance with Article 4.6(c);

(f) In the event of any vacancy or vacancies, the Advisory Board may conduct its business with such members as have been appointed;

(g) The Advisory Board shall establish procedural rules and by-laws that are not inconsistent with the purposes and principles of this Agreement;

(h) Terms of appointment and selection of officials and similar matters such as remuneration and conflict of interest shall be governed by the Advisory Board’s by-laws;

(i) No representative shall be deemed to be in a conflict of interest in representing the general interest of the Party or government that appointed that representative;
(j) The Advisory Board shall have an annual audit of its accounts done and shall provide a copy of the audit report to the Parties and to the Government of Nunavut. The Advisory Board shall maintain its financial records in accordance with generally accepted accounting principles; and

(k) The Advisory Board may coordinate its activities with the activities of the board established pursuant to the Socio-economic Monitoring Agreement.

4.7 ANNUAL ADVISORY BOARD REPORT

The Advisory Board shall provide an annual report of its activities and recommendations to the Parties and the Government of Nunavut. The annual report shall be made available to the public.

4.8 FUNDING

(a) During the term of this Agreement, DDMI shall provide funding, in accordance with the Advisory Board’s budget, to the Advisory Board to carry out its mandate.

(b) DDMI will pay to the Advisory Board the full amount of its contribution to the budget for a 12-month period sixty (60) days prior to the commencement of the period or, in the case of the first budget, within thirty (30) days following the establishment of the Advisory Board.

(c) The Advisory Board shall manage and conduct its affairs in a fiscally prudent, reasonable and cost-effective manner and shall to that end endeavour wherever possible to reduce the cost of fulfilling its responsibilities hereunder including by: making full use of information, data and resources that may be available from DDMI or public sources; avoiding the duplication of monitoring and other activities being conducted by DDMI or governmental agencies or departments; and co-ordinating its activities with those of the board established pursuant to the Socio-economic Monitoring Agreement, including sharing office space and administrative and secretarial functions where practicable.

(d) The Advisory Board’s annual budget for each of the first two years after its establishment shall be $800,000. DDMI, Canada, and the GNWT shall contribute respectively, $600,000, $150,000, and $50,000 of that amount. The first two years’ budget contains start-up costs that are non-recurring and accordingly shall not be considered a base amount for future years. Thereafter, Canada and the GNWT shall have no obligation to provide funding for future years to the Advisory Board.
(e) After the first two years, the Advisory Board’s budget will be for two year periods, unless the Advisory Board and DDMI agree on a shorter or longer period. The Advisory Board’s budget for a period shall be determined as follows:

(i) At least 180 days before the expiry of the then current budget period, the Advisory Board shall prepare a recommended budget for the next budget period, based on a plan of anticipated work for that period and a review of past work and financial experience;

(ii) The Advisory Board shall make best efforts to ensure that the amount of DDMI’s contribution to the budget for any two year period shall not, without the agreement of DDMI, exceed DDMI’s contribution to the budget for the preceding two year period by a percentage which is greater than the percentage change in the Consumer Price Index published by Statistics Canada over that two year period. For this purpose, the budget for the second year shall be considered $600,000.

(iii) DDMI and the Advisory Board shall jointly review the plan of anticipated work and the recommended budget, and shall attempt to agree on a budget for the period;

(iv) In the event that DDMI and the Advisory Board cannot agree on the budget within sixty (60) days following the initiation of the joint review under Article 4.8 (e)(iii), they shall forthwith confer with the Minister and each of them will submit to the Minister a proposed budget; and

(v) If DDMI, the Minister, and the Advisory Board cannot within thirty (30) days following the initiation of the process under Article 4.8(e)(iv), agree on a budget for a period, the Minister shall forthwith select either the budget submitted by DDMI or, provided the Minister is reasonably satisfied that the Advisory Board has complied with Article 4.8(e)(ii), the budget submitted by the Advisory Board, and the budget so selected by the Minister shall be the budget for the next two year period.

(f) In addition to the budget, DDMI may provide additional funding to the Advisory Board for research and monitoring activities or unforeseen circumstances, based on proposals submitted to DDMI by the Advisory Board for which funding is not available in the budget. DDMI shall in good faith review and consider proposals submitted by the Advisory Board for additional funding and shall provide written reasons to the Advisory Board and Canada if any request for funding is not accepted by DDMI. If requested by the Advisory Board or DDMI, the Minister
shall review the matter and provide the Advisory Board and DDMI with his/her views on how this matter might be resolved and shall make public those views.

(g) Any funds provided by DDMI, Canada, or GNWT in a budget period that are not expended in that period shall be applied to fund the costs of the Advisory Board in accordance with the budget for the succeeding budget period, provided that funds that are designated for a program that continues into a new budget period may be used for that program.

4.9 ADMINISTRATION, TRADITIONAL KNOWLEDGE AND SCIENTIFIC SUPPORT

(a) The Advisory Board may establish a secretariat to support it in its activities.

(b) The Advisory Board may from time to time establish two panels of experts as follows:

(i) One panel to assist in the application and consideration of traditional knowledge; and

(ii) One panel to assist in the application and consideration of other types of scientific knowledge.

(c) Each panel shall act on specific instruction from the Advisory Board to assist it in carrying out the Advisory Board’s mandate.

(d) The panels of experts may, both separately and jointly, meet, prepare reports and meet with the Advisory Board from time to time.

(d) Scientific and traditional knowledge obtained through the operation or activities of the Advisory Board shall be considered public information. In the case of traditional knowledge, the agreement of the Aboriginal Peoples providing the traditional knowledge shall be necessary before the information is made public.

4.10 INFORMATION AND CO-OPERATION

Each of the Parties shall co-operate with the Advisory Board and provide the Advisory Board in a timely fashion with such information and assistance requested by the Advisory Board that such Parties are reasonably able to provide and which is required for the Advisory Board to carry out its mandate.
4.11 TRANSITIONAL

The Parties shall review this Article IV two years after the Effective Date of this Agreement. Taking into account the results of the regional cumulative effects assessment and management framework initiative referred to in Article IX and the experience of other advisory environmental boards, including the BHP Independent Environmental Monitoring Agency, the Parties may negotiate to amend the provisions of this Article IV. DDMI shall not, as a result of such negotiations, be required to provide, in relation to the Project, any funding in excess of its funding obligations specified in Article 4.8.

ARTICLE V

ENVIRONMENTAL COMPLIANCE

5.1 COMPLIANCE

DDMI shall carry out the Project in compliance with all environmental laws and regulations and Regulatory Instruments applicable to the Project including, without limitation, the following:

(a) the Water Licence;

(b) Authorization(s) issued under Section 35 of the Fisheries Act;

(c) Explosives Factory Licences issued under the Explosives Act;

(d) the Land Leases;

(e) Navigable Waters Permits issued under the Navigable Waters Protection Act; and

(f) Any and all additional Regulatory Instruments applicable to the Project at any time.

5.2 In carrying out the Project, DDMI shall comply with this Agreement and all Environmental Plans and Programs submitted and reviewed in accordance with this Agreement.

5.3 DDMI shall take prompt and appropriate corrective action to remedy any non-compliance with Article 5.1 or Article 5.2.
5.4 CONFIRMING COMPLIANCE

(a) The Minister may direct, on his or her own initiative or at the request of the Advisory Board, any qualified person to conduct investigations to confirm compliance with Article 5.2 of this Agreement.

(b) DDMI shall admit the qualified person to the Project and shall provide the qualified person with all reasonable assistance.

(c) The Minister will take all reasonable efforts to co-ordinate investigations under this Agreement with inspections under the Regulatory Instruments.

(d) The qualified person shall prepare a report of his or her investigations for the Minister and the Advisory Board.

ARTICLE VI

ENVIRONMENTAL MANAGEMENT PLANS

6.1 PROVISION OF ENVIRONMENTAL MANAGEMENT PLANS

Construction Phase(s)

DDMI has provided the Parties and the Government of Nunavut, and will provide the Advisory Board (when established), with copies of its Environmental Management Plans for the Construction Phase(s) of the Project. The Environmental Management Plans contain specific and comprehensive plans to deal with environmental matters of particular concern during construction of the Project. DDMI shall provide the Parties, the Government of Nunavut, and the Advisory Board with any and all amendments and revisions to the Environmental Management Plans as and when such amendments or revisions are made.

Operating Phase

Not later than six months before the commencement of Commercial Production from the Project, DDMI shall provide the Parties, the Government of Nunavut, and the Advisory Board with updated copies of its Environmental Management Plans for the operating phase of the Project. The Environmental Management Plans shall contain specific and comprehensive plans to deal with environmental matters of particular concern during
operation of the Project. Thereafter DDMI shall provide the Parties, the Government of Nunavut, and the Advisory Board with any and all amendments and revisions to the Environmental Management Plans as and when such amendments or revisions are made. DDMI shall consider technological advances as factors in the development of Environmental Management Plans during operations. In order to effectively incorporate the traditional knowledge of Aboriginal Peoples in its Environmental Plans and Programs, DDMI shall undertake or fund such traditional knowledge studies as a Party can reasonably demonstrate are necessary and relevant, do not duplicate existing studies, and can be carried out at reasonable cost. Where applicable, traditional knowledge shall be considered fully along with scientific knowledge in developing, reviewing and amending the Environmental Management Plans.

Closure Phase

Not later than three years before planned closure activities are scheduled to occur, DDMI shall provide the Parties, the Government of Nunavut, and the Advisory Board with current copies of its Environmental Management Plans for the Closure and Post Closure phase(s) of the Project. Thereafter DDMI shall provide the Parties, the Government of Nunavut, and the Advisory Board with any and all amendments and revisions to the Environmental Management Plans as and when such amendments or revisions are made.

6.2 ENVIRONMENTAL MANAGEMENT PLANS

DDMI shall undertake environmental management of the Project through the implementation of Environmental Management Plans. The Environmental Management Plans shall, where applicable, include the following specific and comprehensive plans designed as part of a program of adaptive environmental management:

(a) Waste Management Plan;
(b) Water Management Plan;
(c) Hazardous Materials Management Plan;
(d) Blasting/Explosives Management Plan;
(e) Quarry Management Plan;
(f) Emergency Response Plan;
(g) Processed Kimberlite Containment Management Plan;
(h) Country Rock and Till Storage Management Plan;
(i) Dredged Lakebed Sediment Management Plan;
(j) Reclamation and Abandonment Plan(s) (including Initial, Interim and Final Plans);
(k) Biotite Schist Management Plan;
(l) Exploration Environmental Management Plan;
(m) Traffic Management Procedures;
(n) Fish Habitat Management Plan;
(o) Construction Area and Activity Management Plan;
(p) Operations Area and Activity Management Plan; and
(q) Wildlife Management Related Extracts from above noted plans.

The Environmental Management Plans shall include the mitigation measures outlined in DDMI’s Commitments and in the conclusions of the Responsible Authorities documented in the CSR. DDMI shall adapt or revise these mitigation measures in accordance with the principles of adaptive environmental management.

DDMI shall, in the development and implementation of Environmental Plans and Programs include, where appropriate, the following:

(a) quality control and assurance programs;
(b) environmental awareness training for employees and contractors;
(c) regular briefings on environmental matters to on-site supervisors; and
(d) detailed adaptive environmental mitigation measures.

6.3 REVIEW OF ENVIRONMENTAL MANAGEMENT PLANS

(a) In the event that, at any time, the Minister on his/her own initiative, or in response to a request from any Party or the Advisory Board and after Consultation with DDMI, determines that an Environmental Management Plan is inadequate or incomplete, the Minister may provide DDMI with a Minister’s Report and DDMI shall forthwith, but in any event within sixty (60) days of receipt of the Minister’s Report, provide:

(i) the Minister with revisions to the Environmental Management Plan which address to the Minister’s satisfaction the deficiencies described in the Minister’s Report;

(ii) a replacement Environmental Management Plan which addresses to the Minister’s satisfaction the deficiencies described in the Minister’s Report; or
(iii) specific replies to the deficiencies described in the Minister’s Report and DDMI's detailed explanation, to the Minister’s satisfaction, as to why, in DDMI’s view, the Environmental Management Plan need not be revised or replaced to deal with the deficiencies outlined in the Minister’s Report.

(b) In relation to matters substantially within the jurisdiction of the GNWT, the Minister shall provide DDMI with a Minister’s Report pursuant to Article 6.3 (a) when the Minister receives a request from the GNWT pursuant to that Article and the GNWT’s request shall be included in the Minister’s Report.

(c) The Minister may provide DDMI with an extension of time where DDMI is bona fide delayed in complying with this Article.

ARTICLE VII
ENVIRONMENTAL MONITORING PROGRAMS

7.1 PROVISION OF ENVIRONMENTAL MONITORING PROGRAMS

DDMI shall undertake compliance and environmental effects monitoring of the Project through the Environmental Monitoring Programs. DDMI shall provide the Parties, the Government of Nunavut, and the Advisory Board (when established) with copies of its Environmental Monitoring Programs. The Environmental Monitoring Programs contemplated by this Article shall be reviewed in accordance with Article 7.5 of this Agreement. The Environmental Monitoring Programs shall be revised on an ongoing basis as necessary and where appropriate in response to changing circumstances and additional information.

The Environmental Monitoring Programs shall include activities designed to:
(a) meet the monitoring requirements of all Regulatory Instruments;
(b) verify the accuracy of the environmental assessment of the Project;
(c) determine the effectiveness of measures taken to mitigate any adverse environmental effects of the Project;
(d) consider traditional knowledge;
(e) establish or confirm thresholds or early warning signs;
(f) trigger action by adaptive mitigation measures where appropriate;
(g) provide opportunities for the involvement or active participation of each of the Aboriginal Peoples in the implementation of the monitoring programs; and
(h) provide training opportunities for each of the Aboriginal Peoples.
7.2 ENVIRONMENTAL MONITORING COMPONENTS

The Environmental Monitoring Programs shall include, but not necessarily be limited to, the following programs:

(a) An Environmental Air Quality Monitoring Program;
(b) A Wildlife/Vegetation Monitoring Program;
(c) An Aquatic Effects Monitoring Program;
(d) A Geotechnical Monitoring Program;
(e) An Operational Health and Safety Program (limited to effects on human health resulting from environmental changes); and
(f) Other specific environmental monitoring programs as required under territorial or federal legislation or as required in the CSR.

7.3 The Environmental Monitoring Programs will include the identification of monitoring objectives and the monitoring programs outlined in DDMI's Commitments and in the conclusions of the Responsible Authorities documented in the CSR. DDMI shall adapt or revise the Environmental Monitoring Programs in accordance with the principles of adaptive environmental management.

7.4 MONITORING DATA AND RESULTS

(a) DDMI shall deliver monitoring data and information to the Parties, the Government of Nunavut, and the Advisory Board in time-frames and in formats developed in Consultation with the Advisory Board.

(b) The formats for submission of monitoring program results and analysis shall not be inconsistent with reporting requirements established under legislation, regulations and Regulatory Instruments and the requirements of such legislation, regulations and Regulatory Instruments shall apply to the extent of any inconsistency.

(c) Reporting dates will be established to conform with the requirements of the appropriate Regulatory Instruments.

(d) DDMI shall carry out the monitoring in a manner which will provide data consistent with any cumulative effects monitoring programs and shall Consult and co-operate with the regulatory agencies undertaking such programs, as appropriate.
7.5 REVIEW OF ENVIRONMENTAL MONITORING PROGRAMS

(a) In the event that, at any time, the Minister, on his/her own initiative, or in response to a request of any Party or the Advisory Board, and after Consultation with DDMI, determines that an Environmental Monitoring Program is inadequate or incomplete, including with respect to a matter under Article 7.4, the Minister may provide DDMI with a Minister's Report and DDMI shall forthwith, but in any event within sixty (60) days of receipt of the Minister's Report, provide:

(i) the Minister with revisions to the Environmental Monitoring Program which address to the Minister's satisfaction the deficiencies described in the Minister's Report;

(ii) a replacement Environmental Monitoring Program which addresses to the Minister's satisfaction the deficiencies described in the Minister's Report; or

(iii) specific replies to the deficiencies described in the Minister's Report and DDMI's detailed explanation, to the Minister's satisfaction, as to why, in DDMI's view, the Environmental Monitoring Program need not be revised or replaced to deal with the deficiencies outlined in the Minister's Report.

(b) In relation to matters substantially within the jurisdiction of the GNWT, the Minister shall provide DDMI with a Minister's Report pursuant to Article 7.5(a) when the Minister receives a request from the GNWT pursuant to that Article and the GNWT's request shall be included in the Minister's Report.

(c) The Minister may provide DDMI with an extension of time where DDMI is bona fide delayed in complying with this section.

7.6 ABORIGINAL COMMUNITY INVOLVEMENT

In addition to the participation of Aboriginal Peoples in the review of Environmental Management Plans and Environmental Monitoring Programs through participation on the Advisory Board and its activities, and the resulting capacity building, DDMI shall use its best efforts to:

(a) provide for the involvement of members of each of the Aboriginal Peoples in Environmental Monitoring Program design and implementation;
(b) give priority to members of each of the Aboriginal Peoples in the provision of training and employment in relation to environmental monitoring in accordance with the provisions of the Socio-economic Monitoring Agreement; and

(c) provide technical training opportunities for youth of each of the Aboriginal Peoples.

ARTICLE VIII

SOCIO-ECONOMIC EFFECTS RESULTING FROM ENVIRONMENTAL CHANGE

8.1 DDMI shall comply with all requirements of the CSR relating to monitoring and mitigation of potential socio-economic effects resulting from environmental changes.

ARTICLE IX

REGIONAL CUMULATIVE EFFECTS ASSESSMENT & MANAGEMENT FRAMEWORK

9.1 DDMI will participate in the initiative announced by the Minister of the Environment on November 3, 1999 to develop a regional cumulative effects assessment and management framework. This framework is to consider both scientific and traditional knowledge, and be used in conjunction with adaptive management to ensure sustainable development.

ARTICLE X

RECLAMATION AND ABANDONMENT

10.1 RECLAMATION AND ABANDONMENT

(a) DDMI shall submit Reclamation and Abandonment Plan(s) as and when required pursuant to the *Northwest Territories Waters Act*, the *Mackenzie Valley Resource Management Act*, and the *Territorial Lands Act*;

(b) The Parties acknowledge that the Reclamation and Abandonment Plan(s) will evolve over time during the life of the Project as part of the process of adaptive environmental management and through the incorporation of new and emerging technologies;
(c) The final Project will be abandoned using the most current technology reasonably practicable; and

(d) DDMI will implement progressive reclamation and abandonment of the Project in a manner consistent with sustainable development.

ARTICLE XI

ARCHAEOLOGICAL SITES

11.1 PROTECTION OF KNOWN SITES

DDMI shall establish, after Consultation with the Aboriginal Peoples and the appropriate government agencies, including the Prince of Wales Northern Heritage Centre, appropriate protection of the Archaeological Sites in the vicinity of the Project, in accordance with applicable laws and regulations, to minimize the impacts on Archaeological Sites.

11.2 ARCHAEOLOGICAL SURVEYS

(a) In the continuing exploration and development of the Project, DDMI shall conduct Archaeological surveys to meet the prevailing standards of the day and respecting places of significance to Aboriginal Peoples.

(b) Archaeological surveys shall to the greatest extent possible, be designed and, where possible, implemented in partnership with the Aboriginal Peoples and Affected Communities or if not possible, in Consultation with the Aboriginal Peoples and Affected Communities.

(c) DDMI shall Consult with Aboriginal Peoples and Affected Communities to ensure that traditional knowledge is incorporated into the archaeological surveys and to ensure that burial sites are identified.

(d) In the event that an Archaeological Site is discovered in carrying out the Project, DDMI shall immediately notify the Minister, the GNWT and Aboriginal Peoples of the presence of the Archaeological Site and, subject to Article 11.2(c), DDMI shall take all reasonable steps necessary to protect the Archaeological Site.
(e) In conducting archaeological surveys and in the event that it becomes necessary to disturb the Archaeological Site and collect the artifacts, DDMI shall Consult with Aboriginal Peoples and obtain all necessary authorizations and comply with all applicable laws.

ARTICLE XII

ANNUAL REPORTS

12.1 ANNUAL REPORT

(a) DDMI shall prepare and submit an annual report (the "Annual Report") to the Parties, the Government of Nunavut, and the Advisory Board on March 31, (or on such other date as prescribed by the Minister from time to time), for each calendar year during the term of this Agreement, commencing March 31, 2001.

(b) Each Annual Report shall include the results of Environmental Monitoring Programs, and a rolling summary and analysis of environmental effects data over the life of the Project to illustrate any trends. The actual performance of the Project shall be compared to the results predicted in the environmental assessment and the CSR and an evaluation provided as to how DDMI's adaptive environmental management has performed to the date of each Annual Report.

(c) Each Annual Report shall include, but not be limited to, the following:

(i) a comprehensive summary of all supporting information, data and results from the Environmental Monitoring Programs and all studies and research;
(ii) a comprehensive summary of all compliance reports required by the Regulatory Instruments;
(iii) a comprehensive summary of operational activities during the preceding year;
(iv) actions taken or planned to address effects or compliance problems which are set out in the Annual Report;
(v) a comprehensive summary of operational activities for the next year;
(vi) lists and abstracts of all Environmental Plans and Programs;
(vii) verification of accuracy of environmental assessments;
(viii) determination of effectiveness of mitigative measures;
(ix) a comprehensive summary of all adaptive management measures taken;
(x) a comprehensive summary of public concerns and responses to public concerns;
(xi) a comprehensive summary of the new technologies investigated;
(xii) the Minister's comments, including any Minister's Report, on the previous Annual Report; and
(xiii) a plain English executive summary and translations into Dgrīb, Chipewyan, and Innuinaqtun using appropriate media.

(d) In order to prepare each Annual Report and with a view to both ensuring that an opportunity is provided for early disclosure and discussion of problems and that each Annual Report meets with the requirements of this Agreement, DDMI shall consult with the Minister and the Advisory Board as DDMI compiles the information and data to be included in such Annual Report.

(e) Within forty-five (45) days of the receipt of the Annual Report, any Party or the Advisory Board may advise the Minister whether such Annual Report is satisfactory or unsatisfactory.

(f) Within ninety (90) days of the receipt by the Minister of the Annual Report, the Minister shall advise DDMI whether such Annual Report is satisfactory or whether the Minister has determined that such Annual Report is deficient. In the event that the Minister has determined the Annual Report to be deficient, the Minister shall provide DDMI with a Minister's Report.

(g) In relation to matters substantially within the jurisdiction of the GNWT, the Minister shall provide DDMI with a Minister's Report pursuant to Article 12.1(f) when the Minister receives advice from the GNWT that the Annual Report is unsatisfactory and the GNWT's advice shall be included in the Minister's Report.

(h) Within sixty (60) days of the receipt by DDMI of a Minister's Report, DDMI shall reply to the Minister's Report and provide the Minister with a revised Annual Report or an addendum which addresses satisfactorily the deficiencies described in the Minister's Report.

(i) The Minister may provide DDMI with an extension of time where DDMI is bona fide delayed in completing an Annual Report or providing a reply to a Minister's Report.
ARTICLE XIII

REGULATORY AUTHORITY

13.1 PARAMOUNTCY

In the event that any provisions of this Agreement are in conflict with or inconsistent with any legislation or Regulatory Instrument with respect to the Project, the terms of such legislation or Regulatory Instrument shall prevail over any of the terms of this Agreement to the extent of the conflict or inconsistency.

13.2 NON-DUPLICATION

The Parties to this Agreement acknowledge that it is not the intention of this Agreement to cause any duplication with the requirements of any Regulatory Instrument. In the event that any provisions of this Agreement duplicate the requirements of any Regulatory Instrument, satisfaction of the requirements of the Regulatory Instrument shall be accepted as compliance with the requirements of this Agreement.

13.3 EXERCISE OF STATUTORY DUTIES

Nothing in this Agreement shall be construed as limiting the Minister or any other regulatory authority in the exercise of statutory powers and duties.

ARTICLE XIV

COMMUNICATION AND PUBLIC ACCESS TO INFORMATION

14.1 GENERAL COMMUNICATIONS PRINCIPLES

(a) The Advisory Board shall ensure that a timely, responsive, pro-active and cooperative approach to communication and exchange of information among the Parties, between the Advisory Board and the Parties, and between the Advisory Board and the Affected Communities is in place at all times.

(b) The Parties shall remain respectful of the functions and responsibilities of each other in the conduct of their duties.

(c) The Parties shall provide to the Advisory Board adequate copies of all information (including data, studies, reports and other material) they generate for another body, or the public, which relates to this Agreement and is non-proprietary.
(d) The Parties shall take reasonable steps to provide access for the public and Affected Communities to all plans, programs, reports and other documents referred to in this Agreement.

(e) DDMI in Consultation with the Advisory Board shall make each Annual Report available to the public and shall arrange for public meetings to review and discuss each Annual Report.

(f) The Parties’ obligations under this Agreement to collect or provide information and documentary materials are subject to any applicable legislation regarding access to information or privacy.

14.2 COMMUNICATION PLAN

The Advisory Board shall develop a Communication Plan. The Communication Plan shall ensure timely, effective, efficient and consistent communication of information related to the environmental management of the Project.

14.3 PUBLIC REGISTRY

The Advisory Board shall maintain a public registry and a listing of all materials placed on the public registry. All written correspondence, reports, or other materials received by the Advisory Board that relate to this Agreement shall be placed on the public registry in the Advisory Board’s office and shall be made available to the public.

ARTICLE XV
SECURITY AND ENFORCEMENT

15.1 SECURITY

The Security Deposit, the EA Security Deposit and the Additional Security Deposit shall be held by the Minister as security for the performance by DDMI of its reclamation and abandonment obligations under the Water Licence and Land Leases, any other obligations of DDMI under environmental laws and regulations or under any other Regulatory Instruments for which the Minister is responsible, and any other obligations of DDMI under this Agreement, on and subject to the terms and conditions of this Article XV.

(a) Within 20 days of the Effective Date of this Agreement, DDMI shall provide to the Minister a security deposit, in the amount of $15,000,000.
(b) On March 31, 2001 and annually on March 31 thereafter, DDMI shall provide the Minister with additional security so that the amount of security deposited with the Minister shall equal the amount specified for that particular year in Column A in Schedule 1 as adjusted pursuant to Articles 15.1(g), 15.1(h) and 15.1(i). The $15,000,000 amount deposited pursuant to Article 15.1(a) together with such additional amounts deposited under this Article 15.1(b) shall hereinafter be referred to as the "Security Deposit".

(c) Column A of Schedule 1 is the estimated cost of DDMI undertaking the reclamation and abandonment of the Project should abandonment take place in any particular year. As of the Effective Date, Column A of Schedule I is the estimated projected cost of restoration and abandonment for the Project as prepared for DDMI by an independent professional engineer with recognized expertise in this area.

(d) In addition to the Security Deposit, on March 31, 2003 and annually on March 31 thereafter, DDMI shall provide to the Minister additional security so that the aggregate amount of additional security deposited with the Minister shall equal the amount specified for that particular year in Column B of Schedule 1. Such aggregate amount of additional security is hereinafter referred to as the "Additional Security Deposit". Where the Additional Security Deposit held by the Minister on March 31 of any year exceeds the amount specified in Column B of Schedule 1 for that year, the Minister shall refund to DDMI any excess. The Additional Security Deposit includes security for the incremental costs which Canada will incur if it has to conduct reclamation and abandonment of the Project due to a default by DDMI, contingencies, potential for increases in environmental liabilities related to variations in Project configuration and operations which may occur over the life of the Project, and defaults under this Agreement not related to reclamation and abandonment. At the fifth anniversary of the Effective Date and at five-year intervals thereafter, the Minister at his or her sole discretion may adjust the Additional Security Deposit by an amount not to exceed the average change in the Consumer Price Index over the five-year interval. DDMI may at any time request that the Minister review the amount of the Additional Security Deposit. Upon receiving such a request the Minister shall review the amount of the Additional Security Deposit and may, in his/her sole discretion, acting in a commercially reasonable manner and in the public interest, reduce the amount of the Additional Security Deposit that DDMI is required to provide to the Minister. In making determinations under this Article 15.1(d), the Minister will take into account the extent to which the development and operations of the Project have reduced the need for the Minister to hold additional security for contingencies and for the
potential for increases in environmental liabilities related to variations in Project configuration and operations, as well as the principle that there should be no duplication between the security for costs and contingencies which DDMI provides by way of the Security Deposit and the security which it provides for costs and contingencies by way of the Additional Security Deposit. The Minister will provide DDMI and the Advisory Board with reasons for all his/her decisions made pursuant to this Article 15.1(d).

(e) The Security Deposit and the Additional Security Deposit shall be maintained throughout the term of this Agreement. In the event that all or any portion of the Security Deposit or the Additional Security Deposit is used by the Minister pursuant to Article 15.3 of this Agreement, DDMI shall, unless otherwise directed by the Minister, within thirty days of demand by the Minister showing particulars of use reimburse to the Minister the amount so used so that the amounts of the Security Deposit and the Additional Security Deposit are at all times equal, respectively, to the amounts required to be maintained pursuant to Article 15.1(b), subject to adjustment as provided in Articles 15.1(g), 15.1(h) and 15.1(i), and Article 15.1(d).

(f) The amount of each security deposit which DDMI posts with the Minister pursuant to the Land Leases or the Water Licence shall be credited first against the Security Deposit and then against the Additional Security Deposit provided that any credit against the Additional Security Deposit shall not exceed 67% of the Additional Security Deposit. For greater certainty, a credit will not reduce either the quantum of the Security Deposit required by Article 15.1(b) or the quantum of the Additional Security Deposit required by Article 15.1(d), but rather will be an amount that is deemed to have been provided as required. Also for greater certainty, if the security posted under the Water Licence or the Land Leases is reduced, then: the credit given under this Article 15.1(f) shall decrease by an amount which corresponds to the reduction; and DDMI shall provide without delay an addition to the Security Deposit, and/or an addition to the Additional Security Deposit, to fully offset the decrease in the credit.

(g) As provided for in Article X of this Agreement, DDMI is required to undertake progressive reclamation and abandonment of the Project in accordance with the principles of sustainable development.

(i) Column C of Schedule 1 sets out DDMI's projected cumulative expenditures on progressive reclamation work that it will undertake over the life of the Project.
(ii) Prior to January 31, 2005 and prior to January 31 of each year thereafter, DDMI may deliver to the Minister and the Advisory Board a report detailing the progressive reclamation work undertaken by or for DDMI during the previous calendar year(s), the costs incurred in undertaking this progressive reclamation work and a revised estimate of the cost of DDMI undertaking the reclamation and abandonment over the remaining life of the Project, taking into account this progressive reclamation, certified by an independent professional engineer with recognized expertise in this area. By March 31 of the same year, the Minister will review the report and determine the extent to which the progressive reclamation work has reduced the estimated cost of DDMI undertaking the reclamation and abandonment over the remaining life of the Project and the extent to which the estimate contained in the report accurately reflects the revised costs of DDMI undertaking the remaining reclamation and abandonment of the Project. To the extent the Minister is satisfied that the progressive reclamation work undertaken by DDMI has reduced the estimated costs of reclamation and abandonment remaining over the life of the Project, the Minister shall make a determination to that effect and provide a copy to DDMI and the Advisory Board. The amount of the Security Deposit which DDMI must provide to the Minister on March 31 of that year and subsequent years shall be reduced so that it is equal to the revised estimated costs of DDMI undertaking the reclamation and abandonment over the remaining life of the Project, as accepted by the Minister and Column A of Schedule I shall be adjusted accordingly. Where the amount of the Security Deposit which DDMI has provided to the Minister exceeds the estimated cost of DDMI undertaking reclamation and abandonment over the life of the Project on any March 31 date, as accepted by the Minister, the Minister shall refund to DDMI any such excess, subject to applicable legislation.

(h) At any time after the second anniversary of the Effective Date of this Agreement, DDMI may deliver to the Minister and the Advisory Board a report detailing a revised estimate of the cost of DDMI undertaking the reclamation and abandonment over the remaining life of the Project, taking into account changes to the Project and any other relevant factors not considered in Article 15.1(g) above, prepared by an independent professional engineer with recognized expertise in this area. Within ninety days of receipt of the report, the Minister will review the report and determine the extent to which this revised estimate accurately reflects the costs of DDMI undertaking the remaining reclamation and abandonment of the Project. To the extent the Minister is satisfied that this estimate accurately reflects the costs of DDMI undertaking the remaining reclamation and abandonment of the Project, the Minister shall make a determination to that effect and will provide a copy to
DDMI and the Advisory Board. The amount of the Security Deposit which DDMI must provide to the Minister on the next March 31, and March 31 of subsequent years shall be reduced so that it is equal to the revised estimated costs of DDMI undertaking the reclamation and abandonment over the remaining life of the Project, as accepted by the Minister and Column A of Schedule I will be amended to reflect the Minister's determination. Where the amount the Security Deposit which DDMI has provided to the Minister exceeds the estimated cost of DDMI undertaking reclamation and abandonment over the life of the Project on any March 31 date, as accepted by the Minister, the Minister shall refund to DDMI any such excess subject to applicable legislation.

(i) At any time after the second anniversary date of the Effective Date of this Agreement, the Minister may notify DDMI and the Advisory Board that he/she intends to seek a report containing an updated estimate of the cost of reclamation and abandonment for the Project prepared by an independent professional engineer with recognized expertise in this area. DDMI shall be offered a reasonable opportunity to provide comments to the Minister on the scope of such a report. When any such report is then available, the Minister shall provide a copy to DDMI and the Advisory Board and will again provide to DDMI a reasonable opportunity to provide comments on the report. To the extent that the Minister determines that he/she does accept the updated estimates of the costs of reclamation and abandonment over the remaining life of the Project, and should such estimated costs of reclamation and abandonment to the extent accepted by the Minister as at that time be greater than the amount of the Security Deposit, DDMI shall provide the Minister with an additional amount of security so that the amount of the Security Deposit required at that time is equal to the estimated costs of reclamation and abandonment as at that time, such additional security to be provided to the Minister within 60 days of a demand by the Minister to do so, and Column A of Schedule I will be amended to reflect the Minister's determination.

(j) The reviews of the Security Deposit contemplated in Articles 15.1(g), 15.1(h) and 15.1(i) shall, to the extent practicable, be co-ordinated with the reviews of security posted pursuant to the Land Leases and/or the Water Licences. In addition, where there has been a reduction in the amount of the security under either the Water Licence or the Land Leases, the Minister shall, at the request of DDMI, review the amount of the Security Deposit to determine if the Security Deposit should be adjusted, giving serious consideration to the rationale for any such reduction in the amount of security posted under the Water Licence and Land Leases.
(k) In addition to the Security Deposit and the Additional Security Deposit, as security for the performance of its obligations under this Agreement, DDMI shall provide to the Minister within 90 days of the signing of this Agreement, and shall at all times maintain with the Minister, a security deposit (the “EA Security Deposit”) in a form satisfactory to the Minister and on terms satisfactory to the Minister in the amount of $3,000,000. At the fifth anniversary of the Effective Date and at five-year intervals thereafter, the Minister at his or her sole discretion may adjust the EA Security by an amount not to exceed the average change in the Consumer Price Index over the five-year interval. In the event that all or any portion of the EA Security Deposit is used by the Minister pursuant to Article 15.3 to cure a default under this Agreement, DDMI shall within thirty days of demand by the Minister showing particulars of use reimburse to the Minister the amount so used so that the aggregate amount of the EA Security Deposit shall at all times equal $3,000,000 subject to adjustment as herein provided.

(l) The Security Deposit, the EA Security Deposit and at least sixty-seven percent (67%) of the Additional Security Deposit shall be provided in the form of: cash; an irrevocable unconditional letter of credit; an amount held in a Qualifying Environmental Trust established through an indenture that has been approved by the Minister; any other form of security proposed by DDMI and satisfactory to the Minister; or any combination of the foregoing. Up to thirty-three percent (33%) of the Additional Security Deposit need not be provided in the form of: cash; an irrevocable unconditional letter of credit; an amount held in a Qualifying Environmental Trust established through an indenture that has been approved by the Minister; or any combination of the foregoing, but may be provided in the form of: an irrevocable guarantee; insurance; or any other form of security proposed by DDMI; or any combination of the foregoing, provided that the Additional Security Deposit is in a form(s) satisfactory to the Minister.

(m) If the Security Deposit, the Additional Security Deposit or the EA Security Deposit is composed in whole or in part of cash, how it is invested and how interest which may be earned thereon will be allocated, shall be determined by the Minister and DDMI in the terms of the applicable security instrument(s). The terms on which the Security Deposit, the Additional Security Deposit or the EA Security Deposit will be delivered to and held by the Minister, if the Security Deposit, the Additional Security Deposit or the EA Security Deposit is not wholly in the form of cash, shall be consistent with the terms of this Agreement and be determined by the Minister and DDMI in the applicable security instrument(s).
(n) Once DDMI has completed the reclamation and abandonment of the project to the satisfaction of the Minister, the Minister shall return to DDMI any unused portion of the Security Deposit, the EA Security Deposit and of the Additional Security Deposit less any amounts related to ongoing monitoring and maintenance of the Project, if and to the extent required by this Agreement. The Minister's obligation to return any unused portion of the Additional Security Deposit shall include taking appropriate steps to terminate, cancel or release guarantees, insurance or like assurances comprised in the Additional Security Deposit.

(o) Schedule 1 shall form part of this Agreement and shall be deemed to be amended from time to time to incorporate changes made to it pursuant to this Article 15.1.

15.2 GNWT JURISDICTION

(a) The Minister shall provide DDMI with a Notice of Default, in accordance and compliance with the process in Article 15.3, when the Minister is notified in writing by the GNWT that, in the opinion of the GNWT DDMI has not performed any of its obligations under this Agreement with respect to a matter substantially within the jurisdiction of the GNWT.

(b) In relation to matters substantially within the jurisdiction of the GNWT, the Minister shall, within 30 days after the Minister has drawn funds on the Security Deposit, the EA Security Deposit or the Additional Security Deposit in accordance with Article 15.3(a)(iii) or Article 15.3(a)(iv), pay to the GNWT from the funds so drawn reimbursement of all reasonable costs expended by the GNWT in rectifying non-compliance by DDMI under Article V.

15.3 EVENTS OF DEFAULT AND REMEDIES

(a) (i) Subject to Articles 15.3(b) and 15.3(d), in the event that in the opinion of the Minister DDMI has not performed any of its obligations under this Agreement, the Minister will advise DDMI, specifying the failure, and DDMI will have a reasonable period determined by the Minister in his/her discretion in which to either explain to the Minister's satisfaction why such failure has not occurred, or commence to carry out, and thereafter diligently continue to carry out, all required steps to remedy the failure and to prevent its recurrence.
(ii) If, within the determined period, DDMI fails to explain to the Minister's satisfaction and fails to commence carrying out to the Minister's satisfaction all required steps to remedy the failure and to prevent its recurrence, or if DDMI, having commenced to carry out all required steps, thereafter fails to continue carrying out to the Minister's satisfaction any required step, then the Minister shall be entitled to give Notice of Default to DDMI.

(iii) Subject to Article 15.3(iv) below, if the default has arisen as a result of DDMI's failure to comply with any of its obligations under this Agreement, and if within 30 days, or such longer period as the Minister will grant if reasonable in his/her opinion, of receipt of such Notice of Default DDMI does not commence to carry out, and thereafter diligently continue to carry out, all required steps to remedy the failure and to prevent its recurrence, the Minister shall be entitled to draw down and use the Security Deposit, the Additional Security Deposit and the EA Security Deposit as and when required to carry out any work reasonably required to cure such default, provided that the Minister shall draw down and use the portion of the Additional Security Deposit that is described in the second sentence of Article 15.1(l) only after utilizing the security posted under the Water Licence, the Land Leases, the Security Deposit, the remainder of the Additional Security Deposit and the EA Security Deposit, to the extent available. In addition, if such default has arisen as a result of DDMI's failure to comply with its obligations under Article V or X of this Agreement, and if such default is substantial and material, and if DDMI does not commence to carry out, and thereafter diligently continue to carry out, all required steps to remedy the failure and to prevent its recurrence, the Minister shall, in addition to the right to use the Security Deposit, the Additional Security Deposit and the EA Security Deposit, be entitled to suspend the operations of the Project and/or terminate the Land Leases.

(iv) The Minister shall be entitled to draw down and use the EA Security Deposit, as and when required, only to remedy defaults under this Agreement except for defaults under Article 5.1.

(b) In the case of a serious and imminent threat to the environment for which DDMI is responsible under this Agreement and in respect of which DDMI has been informed and is not taking measures satisfactory to the Minister, the Minister shall
be immediately entitled to use the Security Deposit (unless the security deposit under the Water Licence or the security deposits under the Land Leases are available for that purpose) and the Additional Security Deposit without the requirement for any demand, notice or other formality whatsoever.

(c) In the event that DDMI fails to provide the Minister with the Security Deposit, the EA Security Deposit or the Additional Security Deposit as required by Article 15.1, fails to increase the Security Deposit or the Additional Security Deposit as required by Article 15.1 or fails to reimburse any amounts drawn on the Security Deposit, the Additional Security Deposit or the EA Security Deposit as required by this Agreement, within 30 days of the delivery to DDMI of a Notice of Default, or any such longer period as the Minister in his/her sole discretion may decide, the Minister shall be entitled to suspend the operations of the Project and/or terminate the Land Leases.

(d) In the event that DDMI is adjudged or declared bankrupt or adjudged or declared insolvent or makes an assignment for the benefit of its creditors or petitions or makes a proposal in bankruptcy or applies to any tribunal for the appointment of a receiver or trustee for DDMI or for any substantial part of its property, or commences any proceedings, other than a Permitted Arrangement, relating to it under any reorganization, arrangement or re-adjustment of debt, dissolution or liquidation law, law enabling corporate reorganizations or statute of any jurisdiction whether now or hereafter in effect relating to or governing debtors, or by any act indicates its consent to, approval of, or acquiescence in, any such proceeding for DDMI or any part of its property, or suffers the appointment of any receiver or trustee or administrative receiver, DDMI shall, absent a declaration to the contrary by the Minister, be immediately deemed to be in default under this Agreement and the Minister shall immediately be entitled to the full amount of the Security Deposit, the Additional Security Deposit and the EA Security Deposit without the requirement for any notice or demand or other formality whatsoever provided, however, that as long as DDMI is otherwise in compliance with its obligations under this Agreement, the Water Licence, the Land Leases and any other applicable Regulatory Instruments, the Minister shall not withdraw any amounts from the Security Deposit, the EA Security Deposit and the Additional Security Deposit, it being acknowledged and agreed that the Security Deposit, the EA Security Deposit and the Additional Security Deposit shall only be used to fund performance, by or on behalf of the Minister, of said obligations in the event DDMI defaults in the performance of such obligations and, except in the case of a serious and imminent threat to the environment resulting from such default of which DDMI has been informed and in respect of which DDMI is not taking measures satisfactory to the Minister, in which case the Minister shall be immediately
entitled to use the Security Deposit, EA Security Deposit and the Additional Security Deposit as provided in Article 15.3(b), DDMI does not cure such default to the Minister's satisfaction within thirty (30) days, or such longer period as the Minister may grant if reasonable in his/her opinion, of the Minister providing DDMI with notice of such default. DDMI shall no longer be deemed to be in default under this Article 15.3(d) in the event that a plan, proposal or arrangement under the Bankruptcy and Insolvency Act or Companies'-Creditors Arrangement Act or similar or analogous proceedings are approved and implemented.

'Permitted Arrangement' means an arrangement, amalgamation or winding-up under the Canada Business Corporations Act or any similar legislation which the Minister has consented to, such consent not to be unreasonably withheld, or which (a) would not in any way compromise, adversely affect or adversely modify the rights, ranking and priority of the claims of Her Majesty arising under this Agreement, the Water Licence, the Land Leases or any other applicable Regulatory Instruments or any security provided in connection herewith or therewith against DDMI or its assets or property it being acknowledged that a substitution, in accordance with the provisions of Article 17.6, of a new or successor corporation for DDMI that would not itself be deemed to be in default pursuant to this Article 15.3(d), will not in and of itself be an adverse modification of Her Majesty's rights, (b) would not convert or create any entitlement (whether conditional or otherwise) to conversion of any equity into indebtedness, other than indebtedness which by its terms is subordinated to the claims of Her Majesty under this Agreement and (c) would not result in the holder of any claim which, prior to such arrangement taking effect, ranked subordinate to or pari passu with the claims of Her Majesty arising under this Agreement, the Water Licence, the Land Leases or any other applicable Regulatory Instruments or any security provided in connection herewith or therewith acquiring a priority (or prior right or claim) over such claims of Her Majesty.

(e) The remedies provided for hereunder are not exclusive and are not intended to replace remedial measures which are given effect pursuant to environmental legislation, regulations or under the Regulatory Instruments. For greater certainty, notwithstanding Article 15.3(a) and (b); any security taken pursuant to the Water Licence shall be used in accordance with the Northwest Territories Waters Act.

(f) Any costs which are incurred by Canada in connection with default by DDMI under the terms of this Agreement, and which exceed the amount available under any of the security deposits, shall be recoverable from DDMI as a debt due to Her Majesty.
(g) In using the Security Deposit, EA Security Deposit and the Additional Security Deposit to remedy defaults under this Agreement, the Minister shall be required to act in a commercially reasonable manner, and shall not remedy any default to a higher standard than would be required of DDMI.

(h) To the extent not prohibited by law, DDMI shall have the right to audit, from time to time on reasonable notice to the Minister and at DDMI's expense, any expenditure of funds withdrawn by the Minister from the Security Deposit, EA Security Deposit or the Additional Security Deposit.

15.4 **DISPUTE SETTLEMENT**

Any determination by the Minister under Articles 15.1(g), 15.1(h) or 15.1(i) shall be subject to arbitration by DDMI and the Minister in accordance with the provisions of Article XVI in the event that such determination is disputed by DDMI. Any other dispute or matter arising under or with reference to this Article XV shall not be dealt with pursuant to Article XVI but shall instead be within the jurisdiction of the courts.

**ARTICLE XVI**

**RESOLUTION OF DISPUTES**

16.1 **DISTPUTE RESOLUTION**

Subject to Article 15.4, where there is a dispute between any Parties (the "disputing parties") arising out of or in connection with this Agreement, then the disputing parties shall submit the matter to binding arbitration subject to the dispute resolution provisions set out below.

16.2 In the event a dispute arises, the disputing parties shall use all reasonable efforts, including mediation if the disputing parties agree, to amicably resolve the dispute within sixty (60) days, or such extended time as the disputing parties may agree, within delivery of notice in writing of a dispute from one disputing party to another.
16.3 SELECTION OF THE ARBITRATOR(S)

If the dispute is not resolved pursuant to Article 16.2, then the disputing parties shall refer the dispute to binding arbitration and the following provisions shall apply:

(a) the dispute shall be referred to a single arbitrator if the disputing parties agree; otherwise it shall be referred to three arbitrators, one of whom shall be chosen by the Party or Parties bringing the dispute, one by the Party or Parties responding to the dispute, and the third by the two so chosen. The third arbitrator shall be the chairperson. Arbitrators shall be independent, disinterested, knowledgeable and experienced in the issue in dispute. A decision may be made by a majority of the arbitrators;

(b) if, within sixty (60) days of being notified that a dispute has been referred to arbitration, or such extended time as the disputing parties may agree upon, a Party or Parties who have been so notified fail to appoint an arbitrator, then an application may be made to the Supreme Court of the Northwest Territories for the appointment of an arbitrator; and

(c) if within thirty (30) days or such extended time as the disputing parties may agree upon, the first two arbitrators appointed under Article 16.3 (a) or (b) above do not agree upon the third arbitrator, then an application may be made to the Supreme Court of the Northwest Territories for the appointment of the third arbitrator.

16.4 Except as to matters otherwise provided herein, the provisions of the Commercial Arbitration Act (Canada) and Commercial Arbitration Code annexed thereto, shall apply.

16.5 The Advisory Board shall be entitled to intervene, as appropriate, in the resolution of disputes under this Agreement.

16.6 COSTS OF DISPUTE RESOLUTION

Unless the parties agree otherwise, the Parties shall bear their own costs of dispute resolution, and the costs of a mediator or an Arbitrator(s) shall be paid in equal shares by the parties to the dispute.
16.7 JURISDICTION OF THE ARBITRATOR(S)

The jurisdiction of the Arbitrator(s) is limited to issuing awards resolving disputes respecting interpretation, application or alleged breach of the terms of this Agreement, awards requiring compliance with this Agreement and awards requiring the performance of work in accordance with this Agreement. An Arbitrator(s) shall not have jurisdiction to issue any monetary awards or damages, penalties, accounting, costs or equitable remedies, except for the issuance of orders requiring the performance of work in accordance with this Agreement.

16.8 INTERLOCUTORY RELIEF

(a) Nothing in this Article prevents a Party from commencing judicial proceedings at any time:

(i) to prevent a loss of a right to commence proceedings due to the expiration of a limitation period; or

(ii) to obtain an interim order for the protection or preservation of property that is the subject matter of the dispute;

where, for any reason, it is impossible or impractical for an Arbitrator(s) to promptly resolve the matter in dispute.

(b) Neither the resolution of such court application nor the participation therein by any Party shall operate as a bar to arbitration, or as a waiver of any of the rights and obligations of any Party with respect to dispute resolution in accordance with the terms of this Agreement.

ARTICLE XVII

GENERAL PROVISIONS

17.1 REMEDIES NOT EXCLUSIVE

The rights and remedies of any Party under this Agreement are cumulative and in addition to, and not in substitution for, any rights, powers or remedies provided at law or in equity including, without limitation, pursuant to applicable environmental legislation. Any single or partial exercise by any Party of any right or remedy for a default or breach of any term, covenant, condition or agreement in this Agreement does not affect that Party’s rights and
does not waive, alter, affect or prejudice any other right or remedy to which that Party may be entitled for the same default or breach. Any waiver by any Party of the strict observance of, performance of, or compliance with, any term, covenant, condition or agreement of this Agreement must be in writing to be effective and any waiver or indulgence by any Party shall not constitute a waiver of any other provisions, a continuing waiver or a waiver of any subsequent default.

17.2 REVIEW AND AMENDMENT OF AGREEMENT

(a) After the fifth anniversary of the Effective Date of this Agreement and thereafter at five-year intervals, the Parties may conduct an assessment of this Agreement in Consultation with the Advisory Board.

(b) This Agreement may be amended at any time by written agreement among the Parties.

17.3 GOVERNING LAW

This Agreement is governed by and is to be construed in accordance with the laws of the Northwest Territories, and the laws of Canada applicable therein.

17.4 FURTHER ASSURANCES

The Parties shall with reasonable diligence do all things and provide such further documents or instruments as may be reasonably necessary or desirable to give effect to this Agreement and to carry out its provisions.

17.5 SUCCESSORS AND ASSIGNS

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

17.6 ASSIGNMENT

DDMI shall not assign this Agreement or any part of it, nor be released from its obligations or covenants under this Agreement, unless:

(a) it is determined by Canada and the GNWT that the proposed assignee has the financial capacity and qualifications, and such other capacity and qualifications as may be required, to carry out DDMI's obligations under this Agreement;
the proposed assignee enters into an agreement in writing with Canada and the GNWT in which the assignee assumes all of DDMI’s obligations and liabilities under this Agreement; and

(c) the proposed assignee is also the assignee of DDMI’s obligations under the Regulatory Instruments and the Participation Agreements.

Provided, however, that if the requirements of Articles 17.6 (a) to (c) above are satisfied, DDMI shall be released from all and any obligations under this Agreement and the Parties shall execute and deliver to DDMI documents of release reasonably requested by DDMI.

17.7 SEVERABILITY

Any provision of this Agreement which is or becomes prohibited or unenforceable in any jurisdiction shall not invalidate or impair the remaining provisions hereof, which shall be deemed severable from any such prohibited or unenforceable provision, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

17.8 MEMBER OF HOUSE OF COMMONS NOT TO BENEFIT

As required by the Parliament of Canada Act, it is an express condition of this Agreement that no member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

17.9 NOT A PARTNERSHIP OR JOINT VENTURE

Nothing contained in this Agreement shall be deemed to constitute the Parties or any of them partners, joint venturers or principal and agent.

17.10 LIABILITY

This Agreement in no way limits the obligations of DDMI with respect to any environmental matter relating to the Project including, without limitation, the legal obligation to undertake full mine site reclamation and post closure water treatment in respect of the Project and any other potential development within the bounds of the Project.
17.11 **DDMI COMMITMENTS**

For greater certainty, nothing in this Agreement shall lessen or otherwise remove any of DDMI’s Commitments.

**17.12 REVIEW OF AGREEMENT**

The Parties agree to review, and amend if necessary, this Agreement when the Land Leases are fully executed and the Water Licence is issued to DDMI, to address any conflicts or inconsistencies.

**17.13 DDMI AS MANAGER**

DDMI represents and warrants that it is the manager of the Project in accordance with the terms of the Joint Venture Agreement and that the terms of the Joint Venture Agreement entitle DDMI to enter into this Agreement and carry out its obligations hereunder.

**17.14 FORCE MAJEURE**

Except in respect of matters of a serious and imminent threat to the environment in which case this Article 17.14 will not apply, in the event that DDMI is delayed or hindered in or prevented from the performance of its obligations under this Agreement by reason of an event beyond the reasonable control of DDMI, including, without limitation, strikes, inability to procure materials or services, civil commotion, sabotage or act of God, then obligations under this Agreement that are not fulfilled by DDMI as a direct result of such delay or hindrance shall not constitute a default under this Agreement during the period of such delay or hindrance.

**17.15 SUSPENSION OF OPERATIONS**

DDMI may curtail, suspend or interrupt operations as it sees fit, and during such period of curtailment, suspension or interruption, DDMI shall be excused from the performance of its obligations hereunder to the extent considered reasonable by the Minister in Consultation with the Advisory Board.
NOTICES

Any notices or communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered, during normal business hours, to, or sent by prepaid registered or certified mail, or confirmed facsimile addressed as follows:

1) In the case of a notice or communication to the Minister:

**Department of Indian Affairs and Northern Development**
P.O. Box 1500
Yellowknife, NT
X1A 2R3
Attention: Regional Director General
Telephone: (867) 669-2501
Facsimile: (867) 669-2703

2) In the case of a notice or communication to the GNWT:

**Government of the Northwest Territories**
P.O. Box 1320
Yellowknife, NT
X1A 2L9
Attention: Deputy Minister
Resources, Wildlife and Economic Development
Telephone: (867) 920-8691
Facsimile: (867) 873-0563

3) In the case of a notice or communication to the Government of Nunavut:

**Government of Nunavut**
P.O. Box 1340
Iqaluit, NU
X0A 0H0
Attention: Deputy Minister
Sustainable Development
Telephone: (867) 979-5900
Facsimile: (867) 975-5982
4) In the case of a notice or communication to DDMI:

Diavik Diamond Mines Inc.
P.O. Box 2498
Yellowknife, NT
X1A 2P8
Attention: Vice President - Environmental Affairs
Telephone: (867) 669-6500
Facsimile: (867) 669-9058

5) In the case of a notice or communication to Dogrib Treaty 11 Council:

Dogrib Treaty 11 Council
P.O. Box 412
Rae-Edzo, NT
X0E 0Y0
Attention: Grand Chief
Telephone: (867) 392-6381
Facsimile: (867) 392-6389

6) In the case of a notice or communication to Lutsel K’e Dene Band:

Lutsel K’e Dene Band
P.O. Box 28
Lutsel K’e, NT
X0E 1A0
Attention: Chief
Telephone: (867) 370-3051
Facsimile: (867) 370-3010

7) In the case of a notice or communication to Yellowknives Dene First Nation:

Yellowknives Dene First Nation
P.O. Box 2514
Yellowknife, NT
X1A 2P8
Attention: Chiefs
Telephone: (867) 873-4307
Facsimile: (867) 873-5969
8) In the case of a notice or communication to North Slave Métis Alliance:

North Slave Métis Alliance  
P.O. Box 340  
Yellowknife, NT  
X1A 2N3  
Attention: President  
Telephone: (867) 873-9176  
Facsimile: (867) 669-7442

9) In the case of a notice or communication to Kitikmeot Inuit Association:

Kitikmeot Inuit Association  
P.O. Box 18  
Cambridge Bay, NU  
X0E 0C0  
Attention: President  
Telephone: (867) 983-2458  
Facsimile: (867) 983-2701

10) In the case of a notice or communication with the Advisory Board:

The Advisory Board shall give notice of its address to the Parties and the Government of Nunavut as soon as is practicable.

or at such other address as any Party or the Government of Nunavut may from time to time advise the other Parties, the Government of Nunavut, and the Advisory Board by notice in writing. Any notice given by personal delivery shall be deemed to be received on the date of delivery. Any notice sent by fax shall be deemed to have been received on the next day following receipt by the sender of confirmation of completion or transmission that is not a Saturday, Sunday or statutory holiday in the NWT.

17.17 COUNTERPARTS

This Agreement may be executed in counterparts each of which shall be considered an original and all of which taken together shall constitute a single agreement. The Parties may rely upon copies of this Agreement which are delivered by facsimile as if such copies were originals.
ARTICLE XVIII

TERM

18.1 TERM

(a) Subject to Article 18.1 (c), this Agreement shall come into effect upon signing by at least DDMI, GNWT and Canada (the date upon which such a signing occurs being called the "Effective Date").

(b) This Agreement shall become binding upon and shall enure to the benefit of each of the other Parties if, as and when they sign this Agreement.

(c) Subject to Article 18.1 (d), the provisions of Articles IV, VI, VII, VIII, XII and XIV shall not come into effect unless and until the Land Leases have been fully executed and the Water Licence and all other Regulatory Instruments to commence construction of the Project have been issued to DDMI and DDMI has given written notice to the Minister of its intention to proceed to construct and operate the Project.

(d) DDMI may unilaterally waive the condition in Article 18.1 (c).

18.2 This Agreement shall terminate upon full and final reclamation and abandonment of the Project site, in accordance with the requirements of all Regulatory Instruments and the terms of this Agreement and completion of any and all post-closure monitoring and maintenance required in connection with the Project.

18.3 Once DDMI has ceased Commercial Production at the Project, the Minister may, in his/her discretion, and following Consultation with the Parties and the Advisory Board, do either or both of the following:

(a) relieve DDMI of its responsibilities and obligations arising from this Agreement to the extent deemed by the Minister to be reasonable in the circumstances; and
(b) set a schedule for winding down and concluding the operation of the Advisory Board.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed in their respective names by their duly authorized representatives.

DIAVIK DIAMOND MINES INC.

By: ________________________________

By: ________________________________

Minister of Indian Affairs and Northern Development, on behalf of Her Majesty The Queen in right of Canada

Witness

Minister of Resources, Wildlife and Economic Development on behalf of the Government of the Northwest Territories

Witness

Grand Chief
Dogrib Treaty 11 Council

Witness
Chief
Lutsel K'e Dene Band

Witness

Chief
Yellowknives Dene First Nation

Witness

President
Kitikmeot Inuit Association

Witness

President
North Slave Metis Alliance

Witness
### SCHEDULE 1
(millions)

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Fisheries Authorization SC98001
May 16, 2001

Gord Macdonald
Diavik Diamond Mines Inc.,
Yellowknife, NT
X1A 2P8

RE: Fisheries Act Authorization Amendment

Dear Gord:

Please find enclosed an amended s.35(2) Fisheries Act authorization (#SC98001). The amendments contained therein reflect those amendments indicated in the following letters from the Department of Fisheries and Oceans, Fish Habitat Management office – Western Arctic Area (DFO) to Diavik Diamonds Mines Inc. (DDMI): January 15, 2001, March 7, 2001, April 5, 2001 and April 18, 2001. The format of the authorization has changed somewhat in that each page now has a creation date as a footnote, to facilitate tracking of any future amendments. Also, any amended sections are noted in the margin with the footnote reflecting the corresponding date of that change.

Once DFO has received the original amended authorization signed by DDMI, it will be signed by DFO and considered to be in effect. DFO will then provide a copy of the signed original for DDMI’s records.

If you have any questions, feel free to contact me at (867) 669-4911, or by fax at (867) 669-4940.

Sincerely,

Julia Dahl
Area Chief, Habitat
Western Arctic Area

c. Ron Allen – Area Director, DFO, Western Arctic Area

MVLWB
EMAB

Canada
AUTHORIZATION FOR WORKS OR UNDERTAKING AFFECTING FISH HABITAT
AUTHORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT
L'HABITAT DU POISSON

DFO File No. SC98001
Authorisation No./N° de l’autorisation

Authorization Issued To/Autorisation délivrée à

Name: Dr. Stephen F. Prest - President

Address: Diavik Diamond Mines Inc.
Post Office Box 2498
Suite 205, 5007-50th Avenue
Yellowknife, Northwest Territories X1A 2P8

Telephone: (867) 669-6500

Facsimile: (867) 669-9058

Location of Project/Emplacement du projet

On and adjacent to the East Island located on the eastern side of Lac de Gras, approximately 300 km northeast of Yellowknife in the Northwest Territories. Latitude 64°31' North, Longitude 110°20' West.

Valid Authorization Period/Période de validité

The valid authorization period for the harmful alteration, disruption or destruction of fish habitat from the activities described in the section below, "Description of HADD Works or Undertakings", is from August 2, 2000, as determined in section 18.0 of this authorization, to December 31, 2025. The valid authorization period for studies, compensation works, monitoring, and other conditions of this authorization are as set out below.

Description of HADD Works or Undertakings/Description des ouvrages ou entreprises

Diavik Diamond Mines Inc. (DDMI) proposes to conduct open pit and underground mining of kimberlite pipes at their Lac de Gras mine site (Project). It is anticipated that activities related to the Project will cause the following harmful alteration, disruption or destruction (HADD) of fish habitat:

(i) In addition to other lakes and ponds within the mine footprint that were determined not to be fish habitat, fish habitat in the following six lakes on the East Island identified in the Project Plans will be destroyed due to mine development: e1, e3, e6, e7, e8, and e10.

(ii) Fish habitat in streams on the east island will be destroyed due to mine development;

(iii) Fish habitat in Lac de Gras will be destroyed due to the placement of rock in the lake to construct approximately 5 kilometers of dikes;

(iv) Fish habitat in Lac de Gras (inside of the dikes) will be destroyed due to open pit mining;

(v) Fish habitat in the North Inlet of Lac de Gras will be destroyed due to the construction of a dike across the mouth of the inlet, and the use of the inlet as part of DDMI's water management system;

(vi) Fish habitat in Lac de Gras will be altered due to the construction of a rock jetty to support a water intake structure and;

Amended May 16, 2001

Canada
AUTHORIZATION FOR WORKS OR UNDERTAKING AFFECTING FISH HABITAT
AUTHORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT
L'HABITAT DU POISSON

DFO File No. SC98001
Authorization No./N° de l'autorisation

vii) Fish habitat in Lac de Gras will be altered due to the deposit of sediment as a result of dredging and dike construction.
The above are collectively referred to as “Project Effects”.

Conditions of Authorization/Conditions de l’autorisation

1.0 Pursuant to subsection 35(2) of the Fisheries Act, the Minister of Fisheries and Oceans (DFO) authorizes DDMI to cause the Project Effects by the following means or under the following conditions. In developing this Authorization, DFO considered its Policy for the Management of Fish Habitat (DFO 1986).

2.0 For the purposes of this Authorization, mine activities are considered to be any activity undertaken with respect to the Project related to construction, operation, closure and post closure.

3.0 DDMI confirms that all plans and specifications for all works and undertakings proposed relating to this Authorization have been duly prepared and reviewed by appropriate professionals working on behalf of DDMI. DDMI acknowledges that it is solely responsible for all design, safety and workmanship aspects of all works associated with this Authorization.

4.0 The approved drawings and documents include those specifying the works and/or undertakings proposed, mitigative measures, compensation and monitoring requirements:

4.1 No Net Loss Plan Addendum, (NNL Plan Addendum) dated April 12, 1999, prepared by DDMI;

4.2 No Net Loss Plan, (NNL Plan) dated August 1998, prepared by DDMI;

4.3 Environmental Effects Report documents, dated September 1998, prepared by DDMI;

4.3.1 Environmental Effects Report, Fish and Water, dated September 1998, prepared by DDMI;

4.4 Project Description Submission, dated March 1998, prepared by DDMI;

4.5 Class A Water Licence Application, dated March 4, 1998 submitted by DDMI

4.6 "Terms of Reference" - Habitat Utilization Study, dated June 15, 2000, and signed by Murray Swyrje, DDMI;

4.7 The above drawings and documents are hereafter referred to as the Project Plans.

4.8 DDMI shall notify DFO of any proposed changes to the Project Plans, activities or methodologies that have the potential to adversely impact fish and/or fish habitat.

5.0 Reporting Requirements and Approvals

Original document August 2, 2000

Canada
AUTHORIZATION FOR WORKS OR UNDERTAKING AFFECTING FISH HABITAT
AUTHORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT
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Authorization No./N° d'authorisation

5.1 DDMI shall submit all study, compensation, monitoring and other plans required under this Authorization to DFO for review and approval a minimum of 3 months prior to the initiation of the corresponding studies etc., unless otherwise specified within this Authorization or approved by DFO.

5.2 DDMI shall ensure that all study, compensation, monitoring and other plans initiated are completed in a reasonably timely manner and DDMI shall submit all study reports etc., required under this Authorization, to DFO for review and approval a maximum of 6 months after completion of the corresponding studies, unless otherwise specified within this Authorization or approved by DFO.

5.3 Any and all requirements outlined within this Authorization, including habitat compensation, studies, and reporting, shall be done to the satisfaction of DFO.

6.0 Compensation for the HADD of fish habitat

6.1 DDMI shall compensate for the HADD of fish habitat though the following:

Inland Lakes

6.1.1 Compensation for the HADD of at least 4.6 habitat units (HUs, equal to habitat suitability index multiplied by area for the following inland lakes identified in the Plan: e1, e3, e6, e7, e8 and e10) of inland lake habitat on the East Island shall be achieved by the enhancement of existing lakes within the Project area, namely:

6.1.1.1 Creating connections suitable for water movement and fish passage among lakes designated as m1, m2 & m3 on the mainland (as identified in the NNL Plan Addendum), to achieve a gain of approximately 3.7 HUs;

6.1.1.2 Enhancing at least one east island lake (lakes e11, e14 or e17, as identified in the NNL Plan) with the goal of enhancing limiting habitat types and structures such that the productive capacity of the habitat is the chosen lake (or lakes) is increased for an approximate gain of 3.3 HUs;

6.1.1.3 Ensuring that the total gained HUs/lost HUs ratio for inland lake fish habitat is 1.5 or better.

Streams

6.1.2 Compensation for the HADD of stream habitat on the East Island shall be achieved through the enhancement of a stream denoted as w1 located on the West Island between lake w1 and Lac de Gras as well as incorporation of habitat features in the connector stream created between lakes m1 and m3 on the mainland, as identified in the NNL Plan and NNL Plan Addendum;

Original document August 2, 2000
6.1.2.1 The habitat compensation shall be in the form of improving in-stream habitat and improving fish passage, for those fish species identified as using streams in the project area, within the streams as identified in the NNL Plan and NNL Plan Addendum.

Lac De Gras

6.1.3 Compensation for the HADD of at least 77 HUs of fish habitat within Lac de Gras (accounting for habitat impacted due to the dike footprints, North inlet development, open pit mining, and the construction of the water intake structure) shall be achieved as follows;

6.1.3.1 By the development of shallow rearing habitat, spawning shoals and shoreline habitat within the diked areas around the open pits in Lac de Gras upon completion of mining in each open pit;

6.1.3.2 By ensuring that habitat features within the diked areas, upon completion of mining in each open pit (including depth, substrate type, size and configuration), are modeled after those features found in other productive areas of the lake, as well as incorporating traditional knowledge where applicable;

6.1.3.3 By the enhancement of the outer edges of the dikes around the open pits for fish spawning by incorporating optimal features used by those fish such as; substrate size, shape, slope, suitable wave exposure and proximity to complementary habitat types and features;

6.1.3.3.1 Dike enhancement on the lake side of the dikes shall not commence until DDMI has satisfactorily demonstrated (in a report submitted to DFO prior to dike enhancement) that water quality due to dike leaching and potential effects due to blasting (as per the section 32 Fisheries Act Authorization issued concurrently with this Authorization) will not adversely affect fish targeted in the enhancement efforts.

6.1.3.4 By constructing the water intake support jetty with slopes and materials as specified in the engineering designs submitted for the section 30 Fisheries Act Approval issued April 6, 2000.

6.1.3.5 By ensuring that fish habitat compensation efforts in Lac de Gras will achieve a total gained HUs:lost HUs ratio of 1.2 or better.

6.1.4 Fish salvage methods shall be developed and implemented for moving fish from behind the dikes into Lac de Gras so as to minimize mortalities and allow complete documentation of species composition, numbers and mortalities.

Original document August 2, 2000

Canada
6.1.5 DDMI shall report on the fish salvage in side of each dike (in particular the methods employed and results) within 3 months of completing the dewatering of the respective dike pools.

Compensation and Monitoring Plans

6.2 DDMI shall develop implementation plans for compensation of fish habitat, hereafter known as Compensation Plans;

6.2.1 Develop Compensation Plans for each of the above mentioned areas of habitat compensation. At a minimum these plans must include a description of the process for consultation with First Nations groups and DFO, scheduling, compensation strategies, engineering design, and construction activities. The following Compensation Plans shall be submitted to DFO for review and approval one year following the issuance of this Authorization:

6.2.1.1 A Compensation Plan for the enhancement of inland lake and stream habitat;

6.2.1.2 A Compensation Plan for the development of habitat within the diked areas of Lac de Gras, and;

6.2.1.3 A Compensation Plan for the enhancement of habitat external to the dikes

6.2.2 DDMI shall develop and submit to DFO, within two years of the issuance of this Authorization, the design specifications in the Compensation plans per the approaches contained within DDMI's No Net Loss Plan and No Net Loss Addendum, with full consideration of input received through consultation with affected First Nations groups and further consultation with DFO.

6.2.3 Design specifications in the Compensation Plans shall be developed with considerations for each thing as timing, engineering techniques, and contingencies.

6.3 DDMI shall develop, in consultation with affected First Nations groups Monitoring Plans for determining the effectiveness of all habitat enhancement and development efforts and shall submit these Monitoring Plans to DFO one year following the issuance of this Authorization:

6.4 DDMI shall develop the Compensation Plans and Monitoring Plans with specific consideration for the terms denoted in Section 6.1;

6.5 DDMI shall alter or modify the habitat compensation approach or structures, as required by DFO, to obtain the level of lake and stream habitat compensation to the satisfaction of DFO.

Original document August 2, 2000
AUTHORIZATION FOR WORKS OR UNDERTAKING AFFECTING FISH HABITAT
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DFO File No. SC98001
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6.6  DDMI shall submit estimates of pit water quality for each dikes area updated with the results of the water quality monitoring as per Section 11.0, a minimum of three months prior to the anticipated date of commencement of habitat compensation works within each dikes area.

6.6.1  DDMI shall demonstrate that water quality will be acceptable to DFO prior to any dikes breaching as per Section 11.1.2;

6.6.2  If water quality within the diked area is unacceptable, DDMI shall submit a revised Compensation Plan (within six months of the unacceptable water quality results) for habitat compensation within the A21 area of Lac du Gras prior to implementing compensation efforts within that dikes.

6.6.3  Upon demonstration of acceptable water quality, DDMI shall commence with the Compensation Plans for each of the diked areas provided that:

6.6.3.1  The locations and sizes of dikes breaches are specified within the Navigable Waters Protection Act Permit (issued concurrently with this Authorization).

6.7  DDMI shall submit a report on the habitat compensation efforts (a final calculation of actual habitat losses and habitat gains expressed as HUs for each of the dikes) including and follow-up monitoring within one year of the breaching of each dike;

6.8  DDMI shall maintain all habitat compensation as required, and monitor, verify and report on the effectiveness of the compensation efforts that will be outlined in the Compensation and Monitoring Plans as approved by DFO;

6.8.1  Results from A21 monitoring shall be used to modify habitat compensation plans and monitoring plans, as necessary, for the A154 and A418 areas.

6.9  The conditions detailed in Sections 6.7 shall also apply to the A154 diked area and the A418 diked area.

7.0  Fish-out Studies:

7.1  DDMI shall conduct Fish-out Studies, as per approved study design, on each of the following lakes on the East Island scheduled for dewatering: e3, e7, e8, and e10.

7.2  DDMI shall submit reports on the Fish-out Studies within six months of the initiation of dewatering any of the following lakes: e3, e7, e8, and e10.

7.3  These reports shall include results, data analyses, discussion of the results and recommendations.

8.0  Fish Habitat Utilization Study
AUTHORIZATION FOR WORKS OR UNDERTAKING AFFECTING FISH HABITAT
AUTHORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT
L'HABITAT DU POISSON

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8.1 DDMI shall conduct a Fish Habitat Utilization Study as indicated in the Project Plan, that meets the following general objectives:

8.1.1 Two years prior to re-take dike construction activities, approximately 25 fish are to be tagged, approximately half from an area near the dike and the others from high quality habitat in another part of Lac de Gras. The tagged fish shall be monitored to determine the linkage between these fish and habitat usage (including spawning, feeding, over-wintering habitat).

8.1.2 Link information obtained in the radio-tagging component of the study to existing habitat mapping work that has been conducted for Lac de Gras.

8.1.3 Monitor the fish habitat use in the vicinity of the mine (including shoals) on an annual basis, to determine if use of these habitats has been altered, as indicated in the Project Plan.

8.2 DDMI shall submit a report on this study with specific reference to the objectives in section 8.1 following the completion of the study.

9.0 Fish Palatability and Texture Study

9.1 Within two years of the issuance of this Authorization DDMI shall, in cooperation with DFO and affected First Nations groups, develop and conduct a 'Fish Palatability and Texture Study' to ensure that fish palatability and texture is not degraded by mining activities. Once the study methods have been finalized, testing shall be conducted to determine pre-mining conditions. Additional testing at a frequency of once every five years shall be conducted thereafter, unless DFO receives complaints of effects on fish palatability and/or texture in writing. In this case the frequency of testing shall increase as directed by DFO.

9.1.1 Fish tissue metal analysis shall be conducted prior to the fish being utilized for this study.

9.2 Where practical sampling of fish shall be coordinated with the monitoring of fish populations and indices of health as per Section 10.0, with the goal of reducing the number of fish sacrificed.

9.3 DDMI shall submit a report on the results of this study each year after the studies are conducted, unless otherwise agreed to by DFO.

9.3.1 Such reports shall also suggest mitigative measures which will be implemented by DDMI if the results show that palatability and/or texture of fish is being degraded by mining activities.

10.0 Monitoring of fish populations and indices of fish health

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10.1 Fish populations and indices of fish health in Lac de Gras shall be monitored through:

10.1.1 Obtaining a randomized sample of fish (not to exceed 60 fish, see section 11.1.5.3) every 5 years from the Project area to collect data on length, weight, age at maturity, fecundity, contaminants load and food habits;

10.1.1.1 Such sampling shall be coordinated with other requirements of this Authorization with the goal of reducing the number of fish sacrificed.

10.2 The results of the fish population and indices of fish health monitoring shall be provided following the year being reported on, unless otherwise agreed to by DFO.

11.0 Monitoring of water quality, metals and trace elements

11.1 DDMF shall verify their predictions of impacts on fish and fish habitat as presented in their Environmental Assessment Report documents, dated September 1998, by monitoring and reporting results regarding the following:

11.1.1 Water quality of pit inflows to estimate pit water quality prior to flooding each pit;

11.1.2 Undertaking verification sampling prior to dike breaching to ensure water quality parameters within the diked areas acceptable to DFO;

11.1.3 Metal and trace element concentrations in dike interstitial water, verification of metal and trace element leaching rates from the dikes, and verification of predicted spatial and seasonal water column concentrations of such metals and trace elements concentrations at various locations adjacent to the dikes;

11.1.4 Metal concentrations in sediment samples and benthic invertebrate samples obtained from sites radiating from the mine water discharge, at the 60m mixing zone boundary, adjacent to the dikes in Lac de Gras, and at control sites, both prior to mine activities and following the onset of mine activities and every three years thereafter;

11.1.4.1 Metal analysis is to be done on total benthic invertebrate biomass in the event that there is not enough biomass of individual taxa to do separate analyses. If an adequate protocol for invertebrate metal analysis cannot be carried out, DFO shall be informed of sampling efforts and a request may be made to amend the requirement for benthic invertebrate metal analysis.

11.1.4.2 The results and interpretation of the metal analysis of sediment core samples and benthic invertebrate samples, unless amended as per section 11.1.4.1, along with an analysis of changes in benthic communities, shall be submitted to DFO within 6 months of sampling, unless otherwise agreed to by DFO.

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11.1.5 Slimy sculpins (Cottus cognatus) shall be sampled prior to dredging and dike construction to provide pre-activity baseline data for metallothionein and metals;

11.1.5.1 If, post-activity, chemical analysis of waters and sediments demonstrate elevations in metals and trace elements (based on annual review of water and sediment quality data), annual sampling of slimy sculpin shall be initiated at the end of the open water season from no less than six sites local to the vicinity of the mine site (the same sites to be used annually), to obtain at least twenty fish per site;

11.1.5.2 Visceral contents (stomach, intestine and all other internal abdominal organs) shall be analysed for metals and metallothionein, and the remaining carcass (muscle, skin, and fins, but not the head) shall be analysed for metals.

11.1.5.3 If the interpretation of the results from the slimy sculpin sampling indicate that, relative to pre-activity results, metals and/or trace element bioavailability has increased and that the fish species metallothionein production has also increased then, lake trout (Salvelinus namaycush) as well as round whitefish (Prosopium cylindraceum), shall be sampled at no less than three sites to obtain at least twenty fish per site (the same sites to be used annually), per species, at the end of the next open water season, and every three years thereafter.

11.1.5.4 Lake trout and whitefish kidneys and livers shall be analysed for metals and metallothionein, and muscle tissue analysed for metals.

11.1.5.4.1 The results and interpretation of the metal and metallothionein monitoring in Lac de Gras fish shall be provided following sampling, unless otherwise agreed to by DFO.

11.1.5.5 If the metals and/or trace element bioavailability and/or metallothionein production has increased to a level unacceptable to DFO then mitigation shall be initiated.

11.2 Measurements of under ice dissolved oxygen levels shall be periodically taken in the vicinity of the sewage outfall in Lac de Gras to monitor for potential oxygen depletion;

11.2.1 If dissolved oxygen is depressed to a level that may represent adverse impact to fish and/or habitat, then mitigative measures shall be employed.

12.0 Total suspended solids (TSS) in relation to dredging and dike construction

12.1 DDMI shall monitor daily discrete depth total suspended solids (TSS) concentrations during all dredging and dike construction (A154, A418, A21 and North Inlet) and ensure established target

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12.1 Threshold value of 45 mg/L TSS for a 110 day average (final compliance limit) is not to be exceeded beyond the monitoring locations established in 12.1.2, to minimize adverse effects on fish.

12.1.2 For the purposes of TSS monitoring, monitoring locations are to be established as close as is practical to the 200m boundary is measured from the toe of the dike and will be marked by buoys.

12.1.3 The 110 day average shall be based on discrete depth TSS measurements taken at the depth of greatest TSS concentration as determined by daily turbidity profiles.

12.1.3.1 The data used for calculations of the average shall be the day's actual measurements plus the preceding 109 days' measurements. Pre-construction measurements will be deemed average background TSS levels.

12.1.3.2 Missing data (e.g. when weather conditions make sampling unsafe) shall be substituted with a TSS estimate based on turbidity data derived from automated turbidity meters at each fixed station, using a TSS/turbidity relationship.

12.2 DDMI shall monitor daily discrete depth TSS concentrations and turbidity profiles and notify DFO immediately if TSS levels reach 75% of the threshold values established in 12.1.1;

12.3 During dredging and dike construction and throughout the open water season, DDMI shall determine the spatial and temporal extent of the TSS plume in Lac de Gras (defined as TSS concentrations above background). This shall be accomplished through weekly TSS and turbidity surveys at appropriate sampling stations, delineating the plume, as well as expressing the plume area as a percentage of the total fish habitat available in the eastern basin of Lac de Gras.

12.4 DDMI shall determine sediment deposition on shoal habitat adjacent to the dike and compare these areas and amounts of sedimentation to those predicted by dispersion modeling. DDMI shall verify that the shoals are washed clean one year following the completion of dredging activities. If the shoals are not washed clean as predicted, additional fish habitat compensation may be required.

12.5 DDMI shall conduct a biological survey of the benthic invertebrate community, and an analysis of sediment composition and water chemistry prior to and after sediment deposition due to dredging and dike construction activities, to assess changes in benthic community composition, abundance and distribution.

12.5.1 Benthic invertebrate samples shall be obtained at sites adjacent to the dike alignments within the zones of sediment deposition and at control sites.

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12.6 To mitigate impacts to fish habitat in Lac de Gras beyond the dike dredging and construction activities, a continuous floating silt curtain material shall be deployed.

12.7 The sediment curtain deployed to the south of the A154 dike alignment (in the vicinity of stations referred to as stations 1645-64 and -65 in the NWT Water License N7L2-1645 and amended to 1645-58 and -59) shall be moved further north such that the maximum amount of showticle is protected from further inundation by suspended and deposited sediments. This adjustment of the sediment curtain shall be done as soon as the dredge anchors have moved beyond this area and will no longer interface with the sediment curtain anchors.

12.8 TSS measurements and levels/conditions shall be made available to DFO on a weekly basis throughout the dike construction activities unless otherwise required (see section 12.2).

12.9 Dredged material resulting from the construction of dike A154 shall be deposited via pipeline to a land based containment facility on the East Island. Dredged material resulting from the construction of dikes A418 and A21 shall be deposited via pipeline to the North Inlet Facility. All dredged material shall be contained to prevent re-entry into Lac de Gras.

13.0 No Fishing Policy

13.1 DDMI shall develop and enforce a policy that prohibits fishing on Lac de Gras, in the East Island lakes or streams by individuals on the mine site in a capacity as mine employee, contractor or visitor during all phases of mining activities, unless otherwise agreed to by DFO.

13.1.1 This Policy shall be made available and understood by individuals on the mine site in a capacity as mine employee, contractor or visitor during all phases of mining activities.

14.0 Security Deposit:

14.1 DDMI shall provide DFO with a monetary deposit as security for the performance by DDMI with regard to all of its obligations under this Authorization, including the required breaching of dikes, fish habitat compensation, 3 years of post-breach compensation monitoring (per dike), reporting, and additional work determined by DFO if required, according to the following schedule:

a) prior to commencement of dredging and dike construction of the A154 pit $1,500,000.00 dollars.

b) prior to commencement of dredging and dike construction of the A418 pit an additional nine hundred thousand ($900,000.00) dollars.

c) prior to commencement of dredging and dike construction of the A21 pit an additional one million five hundred thousand ($1,500,000.00) dollars.

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14.2 The security deposit provided by DDMI must be in a form agreed to by DFO.

14.3 DDMI shall maintain the deposited amounts until all DDMI's obligations under this Authorization are satisfied.

14.4 At the discretion of DFO, the amount of the security deposit may be adjusted annually to account for fish habitat compensation completed or to accomplish additional work that DFO may require to satisfy the objectives of fish habitat compensation.

14.5 DFO shall be able to call on the security deposit unconditionally if DDMI does not meet any of the requirements outlined within this Authorization, as determined solely by DFO.

14.6 To the extent not prohibited by law, DDMI shall have the right to audit, from time to time with reasonable notice to DFO and at DDMI's expense, any expenditure of funds withdrawn by DFO.

14.7 Once DDMI has completed to the satisfaction of DFO all studies, reports and works required by DFO, DFO shall return to DDMI any unused portion of the security deposit.

General Conditions:

15.0 DDMI shall ensure that no adverse impacts to fish and/or fish habitats occur as a result of the Project beyond those impacts that have been identified and compensated for under this agreement, unless authorized by DFO.

16.0 Any deviation from the Plan, the construction schedule or the mitigation and compensation measures stated above that may potentially affect fish or fish habitat, must be discussed and approved in writing by the Department of Fisheries and Oceans - Fish Habitat Management, Western Arctic Area prior to implementation.

17.0 A copy of this Authorization shall be at the work site during all work periods. Work crews shall be made familiar with the conditions of this Authorization prior to implementation of the works or undertakings.

18.0 This Authorization is deemed to be in force on that day upon which DFO receives a copy thereof dated and signed by DDMI, to signify that DDMI has read and understood its content and undertakes to carry out the company activities accordingly.

The holder of this Authorization is hereby authorized under the authority of section 35(2) of the Fisheries Act, R.S.C., 1985, c. F. 14, to carry out the work or undertaking described herein. This Authorization is valid only with respect to fish habitat and for no other purposes. It does not purport to release the applicant from any obligation to obtain permission from or to comply with the requirements of any other regulatory agencies.

Failure to comply with any condition of this Authorization may result in charges being incurred under the Fisheries Act.

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This Authorization form should be held on site and work crews should be made familiar with the conditions attached.

Le détenteur de la présente est autorisé en vertu du paragraphe 35(2) de la Loi sur les pêches, L.R.C. 1985, ch. F. 14, à exploiter les ouvrages ou entreprises décrits aux présentes.
L'autorisation n'est valide qu'en ce qui concerne l'habitat du poisson et pour aucune autre fin. Elle ne dispense pas le requérant de l'obligation d'obtenir la permission d'autres organismes réglementaires concernés ou de se conformer à leurs exigences.

En vertu de la Loi sur les pêches, des accusations pourront être portées contre ceux qui ne respectent pas les conditions prévues dans la présente autorisation.

Cette autorisation doit être conservée sur les lieux des travaux, et les équipes de travail devraient en connaître les conditions.

Date of Issuance:

Approved by: Prepared by: Julie Dahl
Ron Allca Pete Cott
A/ Area Director Fish Habitat Management
Western Arctic Area Western Arctic Area
Fisheries and Oceans Canada Central and Arctic Region

Dr. Stephen F. Prest – President
Diavik Diamond Mines Inc.

Witness:
Diavik Diamond Mines Inc.

Signature: Signature:

Copy signed by DDMI received by DFO

Signature: Date:

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