

*****CONFIDENTIAL DRAFT*****

**BCIB-SUBCONTRACTOR AGREEMENT
TRANS CANADA HIGHWAY 1 – SELKIRK MOUNTAIN PROJECT**

BC INFRASTRUCTURE BENEFITS INC.

AND

[SUBCONTRACTOR]

[INSERT DATE]

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BCIB-SUBCONTRACTOR AGREEMENT

THIS BCIB-SUBCONTRACTOR AGREEMENT is made effective as of the <*> day of <*>, 202<*>

BETWEEN:

BC INFRASTRUCTURE BENEFITS INC., a company incorporated under the laws of British Columbia having its head office at Suite 1050 – 89 West Georgia Street, Vancouver, BC V6B 0N8 (“**BCIB**”)

AND:

<*> (the “**Subcontractor**”)

WHEREAS:

- A. BCIB has entered into a Community Benefits Agreement dated the 17th day of July, 2018, as amended and restated on March 1, 2022, as may be further amended, supplemented or restated from time to time (the “**Community Benefits Agreement**”) with the Allied Infrastructure and Related Construction Council of British Columbia (the “**Council**”) which governs the terms and conditions of employment for Employees in respect of the Project;
- B. BCIB has entered into an agreement with the Owner made and dated for reference as of the <*> day of <*>, 20<*>, as may be amended, supplemented or restated from time to time, whereby BCIB has, subject to the Community Benefits Agreement, the sole and exclusive right to provide Employees to contractors who will perform work or provide services at the Site in respect of the Project;
- C. The Owner and the Contractor have entered into the Construction Contract;
- D. BCIB and the Contractor have entered into the BCIB-Contractor Agreement, which, among other things, requires the Contractor to cause the Subcontractor to enter into this Agreement with BCIB;
- E. The Subcontractor requires Employees in order to fulfill its obligations under the Subcontract; and
- F. The parties wish to enter into a formal contract for the provision of such Employees to the Subcontractor by BCIB.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Hundred Dollars (\$100.00) now paid by each of the Subcontractor and BCIB to the other (the receipt of which sum by the Subcontractor and by BCIB is hereby irrevocably acknowledged) and of the mutual promises and agreements contained in this Agreement, the parties agree as follows:

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, except as otherwise expressly provided or unless the context otherwise requires, capitalized terms have the meanings set out in Schedule 1. This Agreement will be interpreted and construed in accordance with the provisions set out in Schedule 1.

2.0 REPRESENTATIVES

2.1 Within two Business Days after the Effective Date, and thereafter from time to time as BCIB deems necessary, BCIB will designate one person (“**BCIB’s Representative**”), and an alternate in the event BCIB’s Representative is absent, to be BCIB’s single point of contact for the Subcontractor with respect to this Agreement. BCIB will, upon designating such person, advise the Subcontractor in writing of the name, address, telephone number and email address of BCIB’s Representative.

2.2 Within two Business Days after the Effective Date, and thereafter from time to time as the Subcontractor deems necessary, the Subcontractor will designate one person (the “**Subcontractor’s Representative**”), and an alternate in the event the Subcontractor’s Representative is absent, to be the Subcontractor’s single point of contact for BCIB with respect to this Agreement. The Subcontractor will, upon designating such person, advise BCIB in writing of the name, address, telephone number and email address of the Subcontractor’s Representative. If, at any time, BCIB’s Representative, acting reasonably, objects to the Subcontractor’s Representative, then the Subcontractor will replace the Subcontractor’s Representative with a person acceptable to BCIB’s Representative.

2.3 As soon as practicable after the Effective Date, and thereafter from time to time as may be necessary, BCIB’s Representative will advise the Subcontractor’s Representative of the name, address, telephone number and email address of the Council’s Representative.

2.4 The Subcontractor acknowledges that BCIB will have a presence on the construction Site. The parties will, within ten Business Days after the Effective Date, establish a system for ongoing communication and liaison for the purpose of ensuring the timely exchange of information that is necessary for the effective coordination and implementation of this Agreement, including regular, active and open communication with respect to the Subcontractor’s requirements for Employees (broken down by trade), information the Subcontractor already has in its possession with respect to individuals who may be available to become Employees and information regarding BCIB’s sourcing of Employees and its anticipated ability to fulfill Employee Requests. The parties will meet as required by either of the parties to review such system and make whatever adjustments to such system as are necessary to ensure that the intent of this provision is put into practice during the Project.

3.0 OBLIGATION TO OBTAIN EMPLOYEES

- 3.1 The Subcontractor will obtain from BCIB all Employees required by the Subcontractor to fulfill its obligations under the Subcontract.
- 3.2 Notwithstanding the powers expressly delegated by this Agreement to the Subcontractor by BCIB, all Employees provided to the Subcontractor by BCIB will be employed by BCIB, and BCIB will retain, with respect to all such Employees, the exclusive rights as employer in all aspects of labour relations and in all aspects of the employment relationship. The Subcontractor will not in any way derogate or attempt to derogate from the rights and authority of BCIB as employer.

4.0 OBTAINING EMPLOYEES

- 4.1 The Subcontractor will participate in any pre-job conference(s) arranged by BCIB, and will present, after collaboration with BCIB and the Council, details of the Subcontract Work, including schedule, work type and anticipated numbers and Job Classifications of Employees.
- 4.2 Notwithstanding any Subcontract Work schedule submission requirements under the Subcontract, including with respect to submission timelines, and notwithstanding any requirement under the Subcontract for any approval or acceptance of any such submitted Subcontract Work schedule, the Subcontractor will provide the following forecasts:
- (a) *Initial Forecast.* The Subcontractor will, no later than five Business Days after the Effective Date, provide to BCIB's Representative:
- (i) in the form and format provided by BCIB, the Subcontractor's best estimate of the anticipated Employees that will be required by the Subcontractor and all of the Applicable Sub-subcontractors for the first six months of the Subcontract Work, giving estimates of headcounts by trade, Job Classifications and skill-level of Employees that will be required, including any specific certifications, training or qualifications required, on a month-by-month basis; and
 - (ii) the Subcontractor's then current overall Subcontract Work schedule showing the planned order of activities from commencement of the Subcontract Work to the end of the Subcontract Work **[Note to Proponents: Any specific file format that is required (to match the Construction Contract requirements) will be included here prior to execution of this Agreement.]**.
- (b) *Three Month Forecast.* The Subcontractor will, on the first Business Day of each month starting with the second month after the Effective Date, provide to BCIB's Representative:
- (i) in the form and format provided by BCIB, the Subcontractor's best estimate of the anticipated Employees that will be required by the

Subcontractor and all of the Applicable Sub-subcontractors for the then current month and the next following two months of the Subcontract Work, giving estimates of headcounts by trade, Job Classifications and skill-level of Employees that will be required, including any specific certifications, training or qualifications required, on a month-by-month basis; and

- (ii) the Subcontractor's then current overall Subcontract Work schedule showing the planned order of activities from commencement of the Subcontract Work to the end of the Subcontract Work **[Note to Proponents: Any specific file format that is required (to match the Construction Contract requirements) will be included here prior to execution of this Agreement.]**.
 - (c) The parties agree that the forecasts provided pursuant to Section 4.2(a) and Section 4.2(b) are non-binding and are estimates only, but that such forecasts are expected to closely align to the actual Employee Requests provided by the Subcontractor, and that each such forecast will be used by BCIB to source an appropriate workforce for the Project in collaboration with the Subcontractor.
- 4.3 The Subcontractor will, from time to time during the term of this Agreement but in any event not later than 30 days prior to the date that the Subcontractor requires certain Employees, provide to BCIB's Representative a request for Employees (each, an **"Employee Request"**) in the form and format required by BCIB, and setting out the following information:
- (a) the number and Job Classifications of Employees required by the Subcontractor;
 - (b) the 'name hires' requested by the Subcontractor (the **"CBA Name Hires"**);
 - (c) the names of prospective Employees the Subcontractor wishes to name request from the information provided pursuant to Section 4.8 or from other information that may be available to the Subcontractor;
 - (d) the number and type (level) of apprentices requested by the Subcontractor;
 - (e) the date upon which each such Employee will be required to commence working under the direction of the Subcontractor;
 - (f) the Subcontractor's best estimate of the time period each such Employee will be required by the Subcontractor;
 - (g) the details of any special experience or technical or other qualifications required in respect of any particular Employee;
 - (h) the intended work assignments in compliance with Article 6 of the Community Benefits Agreement; and

- (i) such other relevant information with respect to potential Employees as BCIB's Representative may reasonably request (and which the Subcontractor possesses and is legally permitted to disclose), or that the Subcontractor may consider beneficial, in order to enable BCIB to provide the Employees required by the Subcontractor.
- 4.4 BCIB will, in accordance with the dispatch provisions of the Community Benefits Agreement, including Articles 8.200, 8.600 and 9.100 of the Community Benefits Agreement, and subject to the minimum time period described in Section 4.6 where applicable, use reasonable efforts to provide the Subcontractor with Employees to perform the Subcontract Work in the numbers and Job Classifications set out in the Employee Request submitted pursuant to Section 4.3 to the extent that BCIB is itself able to obtain Employees in such numbers and Job Classifications.
- 4.5 Unless the CBA Name Hires have already been provided or committed by BCIB to another contractor, or they are unavailable due to circumstances beyond BCIB's control, in each case at the time of the Employee Request, BCIB will provide the CBA Name Hires to the Subcontractor in accordance with the dispatch provisions of the Community Benefits Agreement.
- 4.6 If, due to unforeseen circumstances related to the timing of the performance of the Subcontract Work or a component of the Subcontract Work, the Subcontractor is not able to provide an Employee Request which provides for the 30 day time period described in Section 4.3, the Subcontractor acknowledges that, despite any request for Employees to be provided by a certain date, BCIB requires a minimum of three Business Days prior written notice of the date upon which the Subcontractor requires an Employee or Employees to commence performance of the Subcontract Work in order to be able to provide the requested Employee(s).
- 4.7 In the case of:
- (a) an Employee Request submitted in accordance with Section 4.3, BCIB will advise the Subcontractor as soon as practicable but in any event not later than nine days prior to the date that the Subcontractor requires Employees as set out in a particular Employee Request if BCIB is unable to fulfill such particular Employee Request; and
 - (b) an Employee Request submitted pursuant to Section 4.6, BCIB will advise the Subcontractor as soon as practicable if BCIB is unable to fulfill such particular Employee Request.

If BCIB advises the Subcontractor that BCIB is unable to fulfill a particular Employee Request, the Subcontractor will provide to BCIB's Representative information already in the possession of the Subcontractor with respect to individuals who may be available to become Employees, who are suitable for performing the Subcontract Work and who, if hired by BCIB as Employees, could allow BCIB to fulfill the Employee Request. Unless such identified individuals refuse to become Employees, or have already been provided

or committed by BCIB to another contractor, or such individuals are unavailable due to circumstances beyond BCIB's control, in each of the latter two cases at the time the information is provided to BCIB's Representative, BCIB will provide such identified individuals to the Subcontractor. Any failure to so advise the Subcontractor, or any indication that BCIB will be able to or unable to fulfill a particular Employee Request, does not derogate from or negate any of the provisions of Section 21.0.

- 4.8 BCIB will promptly provide to the Subcontractor's Representative information that BCIB:
- (a) has in its possession which relates to work task or activity accommodations that are to be made in respect of the Employees provided to the Subcontractor by BCIB; and
 - (b) receives from the Affiliated Unions with respect to prospective Employees that may be available to work on the Project for the purpose of the Subcontractor name requesting prospective Employees from the Affiliated Unions.
- 4.9 The Subcontractor will, if and when requested by BCIB's Representative from time to time, provide one representative of the Subcontractor to assist in the interviewing of individuals who are proposed to be hired by BCIB for subsequent assignment to the Subcontractor.
- 4.10 BCIB will not be responsible for keeping the Subcontractor informed as to employee requests made by Applicable Sub-subcontractors to BCIB, nor the circumstances with respect to the fulfillment of such requests.

5.0 EMPLOYEE RELATIONS

- 5.1 To the extent necessary to enable the Subcontractor to perform its obligations under this Agreement, BCIB does hereby delegate to the Subcontractor, consistent with the provisions of Article 7.400 of the Community Benefits Agreement, BCIB's right to operate, direct and supervise on a day-to-day basis the Employees provided to the Subcontractor by BCIB. For certainty, but without limiting the foregoing, the Subcontractor, pursuant to the delegation provided by this Section 5.1, has the authority:
- (a) to assign work tasks and activities to such Employees and to reassign such Employees to other work tasks and activities;
 - (b) to issue warnings to such Employees as described in Section 8.2; and
 - (c) to require such Employees to cease performing work, or to vacate the Site, or to report to BCIB's Representative for further action by BCIB, or all of the foregoing.

- 5.2 The Subcontractor will, with respect to the Employees provided to the Subcontractor by BCIB:
- (a) be solely responsible for the operation, direction and supervision of the Employees pursuant to the delegation of such responsibility in accordance with Section 5.1;
 - (b) be solely responsible for the performance of the Subcontract Work by the Employees;
 - (c) promptly advise BCIB's Representative in writing of any requested changes in the status of any Employee, including any changes which may be necessitated by changes in work assignment, completion of work, lack of work or absence of the Employee from the Subcontract Work for whatever reason;
 - (d) give full consideration to a request from BCIB to transfer an Employee from the Subcontractor to another entity which has a contract with BCIB, recognizing that, pursuant to Article 7.600 of the Community Benefits Agreement, any such transfer will require the agreement of the appropriate Affiliated Union, the contractors involved, the Employee and BCIB;
 - (e) promptly upon receipt of a written request from BCIB's Representative, provide BCIB's Representative with such information and documents relating to the Employees who are under the direction of the Subcontractor as BCIB may from time to time require;
 - (f) comply with any instruction which may be given by BCIB or BCIB's Representative with respect to the Job Classifications of any Employee to be used with respect to any type of Subcontract Work;
 - (g) not use or seek to use any full-time Employee for anything other than performing the Subcontract Work;
 - (h) not do anything which could cause and will not direct a lockout of Employees;
 - (i) recognize the Council's Representative and any Affiliated Union's representative and, provided reasonable written notice has been provided to the Subcontractor's Representative, provide such representatives access to all parts of the Site as may be necessary for the administration and application of the Community Benefits Agreement. All such representatives will be required to comply with the health and safety protocols for attendance on the Site as required by the applicable designated "prime contractor" under the *Workers Compensation Act* (British Columbia);

- (j) to the extent necessary to reflect Subcontract Work-specific and Site-specific matters, provide orientation to Employees that is required by the Community Benefits Agreement and applicable law on the following topics:
 - (i) general matters, including, at a minimum, Site orientation and a discussion of housekeeping, environmental stewardship and cultural awareness; and
 - (ii) occupational health and safety matters, including health and safety training and health and safety-related skills training; and
- (k) to the extent necessary and applicable to the Subcontractor or the performance of the Subcontract Work, comply with and give effect to the results of negotiations and any rulings, interpretations, orders and decisions made in labour relations matters of which BCIB notifies the Subcontractor's Representative and that relate to the Employees.

5.3 BCIB will:

- (a) provide to each Employee to be provided to the Subcontractor or provided to the Subcontractor:
 - (i) two hours of onboarding training, which training will be provided prior to the Employee being dispatched to the Subcontractor;
 - (ii) a maximum of 10 hours of general and introductory safety training (the content of which training will be determined by BCIB in its sole and absolute discretion), which training BCIB will endeavour to provide as early as possible after an Employee is identified as being able to fulfill an Employee Request and prior to the Employee being dispatched to the Subcontractor. If, for whatever reason, an Employee does not receive such training prior to being dispatched to the Subcontractor, BCIB will provide such training to the Employee at the next following regularly scheduled training session which occurs on the third Wednesday of each month; and
 - (iii) for each supervisor (including any Employee who will be supervising other Employees for safety), a maximum of two days of supervisor training, which training will be provided prior to the Employee commencing work as a supervisor;
- (b) notify the Subcontractor in writing of any change under the Community Benefits Agreement, including changes to:
 - (i) initiation fees or dues, or of assessments by the Affiliated Unions;
 - (ii) steward appointments;
 - (iii) hourly wage rates and trade provisions; and

- (iv) new or revised Job Classifications and associated wage rates and trade provisions;
 - (c) acting in the best interests of the Project and to uphold the spirit and intent of the Community Benefits Agreement, enforce its rights under the Community Benefits Agreement, it being acknowledged that it is in the mutual best interest of BCIB and the Subcontractor to prevent and resolve strikes, lockouts, slowdowns or other interruptions in the orderly performance of the Work, including the Subcontract Work;
 - (d) seek input from the Subcontractor regarding and will act in good faith in all labour relations matters which are relevant to the Subcontractor, including in grievance, arbitration and jurisdictional proceedings, including in the settlement of such proceedings, it being acknowledged that it is in the mutual best interest of BCIB and the Subcontractor to prevent strikes, lockouts, slowdowns or other interruptions in the orderly performance of the Work, including the Subcontract Work;
 - (e) keep the Subcontractor's Representative informed of the results of any negotiations and any rulings, interpretations, orders and decisions made in labour relations matters which are relevant to the Subcontractor so that the Subcontractor may, to the extent necessary and applicable to the Subcontractor or the performance of the Subcontract Work, comply with and give effect to any such results and rulings, interpretations, orders and decisions; and
 - (f) provide the Subcontractor with any and all Employee information which is required by the Subcontractor in order for the Subcontractor to fulfill its duties and responsibilities at law.
- 5.4 The Subcontractor may implement an employee appreciation and/or recognition program to supplement the wages paid to Employees under the Community Benefits Agreement or to recognize the performance of Employees, provided that any such program is consented to in writing by BCIB, in its discretion, prior to its implementation and which program may require the approval or consent of the Council.

6.0 COMMUNITY BENEFITS AGREEMENT

- 6.1 A true copy of the Community Benefits Agreement has been made available to the Subcontractor. The Subcontractor represents and warrants it has full knowledge of and understands the provisions of the Community Benefits Agreement.
- 6.2 The Subcontractor acknowledges that for all purposes of this Agreement any reference to the Community Benefits Agreement will include all amendments to, supplements to or restatements of the Community Benefits Agreement, and will include all agreements entered into between BCIB and the Council as contemplated by Article 24 of the Community Benefits Agreement.

- 6.3 Unless otherwise expressly modified by the terms of this Agreement, the Subcontractor, in performing its obligations under this Agreement and to fulfill its obligations under the Subcontract, will give effect to, and will observe, comply with and perform all terms and conditions of the Community Benefits Agreement that are specified to apply to the Subcontractor as a “Contractor” (as that term is used in the Community Benefits Agreement), as well as all consequent functions, obligations and responsibilities that are associated with such terms and conditions.
- 6.4 The Subcontractor, on behalf of BCIB, will give effect to, and will observe, comply with and perform all of BCIB’s functions, obligations and responsibilities described in the provisions of the Community Benefits Agreement set out in Schedule 2, as well as all consequent functions, obligations and responsibilities that are associated with such terms and conditions.
- 6.5 The Subcontractor will not act in any way which may obstruct, interfere with or impede BCIB’s ability to observe, comply with and perform each and every provision of the Community Benefits Agreement.
- 6.6 The Subcontractor will perform such acts and do such things, including attending meetings, grievance, arbitration, court and other labour relations proceedings and Jurisdictional Assignment Plan hearings, whether or not with the Council, as BCIB may from time to time reasonably require in order to permit BCIB to perform its obligations under and to comply with the Community Benefits Agreement.
- 6.7 The Subcontractor acknowledges BCIB’s authority to act on behalf of the Subcontractor in all matters related to the interpretation, application, administration or alleged violation of the Community Benefits Agreement, including BCIB’s sole responsibility for discussing, resolving or arbitrating any grievance that may arise under the Community Benefits Agreement. BCIB will keep the Subcontractor informed of, involve the Subcontractor in and seek input from the Subcontractor regarding such matters, including in the settlement of such matters, to the extent those matters are relevant to the Subcontractor or the performance of the Subcontract Work.

7.0 PAYROLL

- 7.1 Whenever required by BCIB, the Subcontractor will provide to BCIB payroll administration support by providing information reasonably requested by BCIB in the form and format required by BCIB. Such information will include recruitment information, hours of work schedules, timesheets, change of status requests and termination information, and any other information deemed necessary by BCIB. If requested by BCIB’s Representative, the Subcontractor will review and approve the timesheets prior to submitting them to BCIB.

7.2 BCIB will prepare and deliver an invoice (each, a “**Payroll Invoice**”) to the Subcontractor for each pay period. The Payroll Invoice will set out the amount owing by the Subcontractor to BCIB (the “**Payroll Amount**”) in respect of:

- (a) all amounts:
 - (i) to be paid to Employees provided to the Subcontractor by BCIB during the applicable pay period, including with respect to any statutory required paid leave or paid sick leave, any Community Benefits Agreement required paid leave or paid sick leave and any administrative paid time off during any investigation involving an Employee. Without limiting the generality of the foregoing, and for further clarity, the Subcontractor will be responsible for all amounts to be paid in respect of:
 - (A) such leave and time off whether or not such leave and time off is required to be provided and paid for by law (such as, in the case of leave or time off required to be provided and paid for by law, laws deeming certain leave or time off to be time spent working or laws requiring Employees to be paid for certain leave or time off) and regardless of when or under which employer or contractor the Employee became eligible for any such leave or time off and regardless of the length of time the Employee has been provided to the Subcontractor; and
 - (B) the time Employees are being trained (whether by BCIB (as described in Section 5.3(a) or elsewhere in this Agreement) or the Subcontractor as described in this Agreement, or otherwise trained by the Subcontractor); and
 - (ii) required by the Community Benefits Agreement to be paid to third parties other than the Employees provided to the Subcontractor by BCIB based on the number of hours worked by the Employees provided to the Subcontractor by BCIB, such as the Funds described in Article 13.200 of the Community Benefits Agreement;
- (b) all applicable payroll taxes and assessments, including Employment Insurance, Canada Pension Plan, and Employer Health Tax; and
- (c) all other applicable taxes.

Promptly upon receipt of a Payroll Invoice, the Subcontractor will review the Payroll Invoice against the Subcontractor’s records and advise BCIB’s Representative of any necessary changes. If any changes to a Payroll Invoice are necessary, BCIB will endeavour to revise and reissue the Payroll Invoice in sufficient time to allow the Subcontractor to comply with Section 7.3. If there is not sufficient time, BCIB will capture the necessary changes on the next issued Payroll Invoice.

- 7.3 The Subcontractor will pay the Payroll Amount to the account specified in the Payroll Invoice no later than five Business Days after receipt of each initial Payroll Invoice.
- 7.4 If BCIB delivers Employee payroll cheques or payslips, or both, to the Subcontractor's Representative, the Subcontractor will promptly distribute such documents to the applicable Employees.
- 7.5 In the event that an Employee or other person or authority on behalf of such Employee was overpaid by BCIB, BCIB and the Subcontractor will cooperate to obtain repayment of such overpaid amount from such Employee or other person or authority who received such overpayment, and amounts recovered will be credited to the Subcontractor on the next applicable Payroll Invoice.
- 7.6 The Subcontractor will remit to WorkSafeBC the WorkSafeBC assessments calculated by the Subcontractor on each payroll, at the rate or rates which are applicable to the Subcontractor according to the classification and rates determined by WorkSafeBC. The rate or rates will be applied to the applicable gross amounts earned in accordance with the *Workers Compensation Act* (British Columbia).

8.0 DISCIPLINE, DISMISSAL, REINSTATEMENT AND TERMINATION OF EMPLOYMENT

- 8.1 The Subcontractor acknowledges the provisions of Article 10 of the Community Benefits Agreement and agrees to give effect to, and to observe, comply with and perform the terms and conditions set out in that Article.
- 8.2 Notwithstanding anything to the contrary contained in this Agreement, the Subcontractor will be permitted to issue warnings to the Employees provided to the Subcontractor by BCIB. The Subcontractor, in issuing any warnings to Employees, will comply with the provisions of BCIB's Contractor Discipline Process Policy dated <*>, as may be amended, supplemented or restated from time to time. As soon as practicable after issuing a warning, the Subcontractor's Representative will notify BCIB's Representative in writing providing details of the warning.
- 8.3 Without limiting the Subcontractor's abilities as described in Section 5.1 and Section 8.2, if and whenever:
- (a) BCIB has knowledge of any conduct of an Employee who is under the direction of the Subcontractor which would justify discipline, dismissal or the taking of other corrective or rehabilitative action in respect of such Employee, whether it be for incompetence, insubordination, unreliability or otherwise; or
 - (b) the Subcontractor's Representative recommends to BCIB that an Employee be disciplined or dismissed or that other corrective or rehabilitative action be taken in respect of an Employee, whether it be for incompetence, insubordination, unreliability or otherwise,

BCIB will, in its sole and absolute discretion:

- (c) take no action where the circumstances do not support the application of discipline or the taking of other corrective or rehabilitative action; or
- (d) promptly discipline or take such other corrective or rehabilitative action in respect of such Employee as the situation requires; or
- (e)
 - (i) promptly remove such Employee from the direction of the Subcontractor; and
 - (ii) terminate such Employee's employment with BCIB in accordance with the provisions of the Community Benefits Agreement and applicable law.

8.4 In the event that any Employee whose employment has been terminated pursuant to Section 8.3 initiates a grievance under the Community Benefits Agreement, the Subcontractor and BCIB will make every effort to complete Stage I of the grievance procedure under the Community Benefits Agreement before the grieving Employee leaves the Site.

8.5 With respect to any Employee that has been removed, whether temporarily or permanently, from the direction of the Subcontractor pursuant to Section 8.3, if the Subcontractor's Representative requests in writing a replacement Employee, BCIB will, in accordance with the dispatch provisions of the Community Benefits Agreement, including Articles 8.200, 8.600 and 9.100 of the Community Benefits Agreement, and within three Business Days of such request, provide a replacement Employee to the Subcontractor, such replacement Employee to be in the same Job Classification as and with comparable qualifications, certifications, if any, and experience to the Employee being replaced.

8.6 BCIB will permit the Subcontractor to have an active role in supporting any investigation BCIB conducts into Employee conduct which may lead to BCIB taking action pursuant to Section 8.3 and in connection with a grievance initiated by an Employee provided to the Subcontractor by BCIB.

8.7 The Subcontractor will comply with the terms of any grievance award, and any order, judgment, direction or interpretation made under the procedures set forth in the Community Benefits Agreement, or by any arbitrator, court or other authority having jurisdiction over the Employees which in any way relates to the Employees provided to the Subcontractor by BCIB, including awards of the Jurisdictional Assignment Plan Umpire of Work Assignment as described in Article 6.103 of the Community Benefits Agreement, and including any reinstatement order, judgement or direction, to the extent that the Subcontractor's compliance is necessary in order to enable BCIB to comply with any such award, order, judgment, direction or interpretation.

8.8 The Subcontractor will provide to BCIB, at a location designated by BCIB, any information required by BCIB in a form and format required by BCIB to enable BCIB to

complete end of employment documentation in respect of an Employee whose services have been terminated.

9.0 SUBCONTRACTING

- 9.1 The Subcontractor will notify BCIB's Representative in writing of the names of all of the Subcontractor's sub-subcontractors (of any and all tiers) (each, a "**Sub-subcontractor**") engaged to perform a portion of the Subcontract Work at the Site, whether or not such Sub-subcontractor requires Employees. Except in circumstances where two weeks prior notice is not commercially reasonable, the Subcontractor will provide such notice no less than two weeks prior to the Sub-subcontractor commencing work at the Site.
- 9.2 The Subcontractor will not permit any Sub-subcontractor to perform any work at the Site unless and until that Sub-subcontractor:
- (a) confirms in writing to BCIB that the Sub-subcontractor will not require any Employees to be provided by BCIB, and BCIB agrees with such determination;
 - (b) is granted a permit pursuant to Article 8.400 of the Community Benefits Agreement; or
 - (c) executes a BCIB-Subcontractor Agreement pursuant to Section 9.3.
- 9.3 The Subcontractor will cause each Sub-subcontractor (other than a Sub-subcontractor described in Section 9.2(a) or Section 9.2(b)) (each, an "**Applicable Sub-subcontractor**") to enter into an agreement with BCIB (each, also a "**BCIB-Subcontractor Agreement**") to obtain from BCIB the Employees that the Applicable Sub-subcontractor will require for the performance of its portion of the Subcontract Work at the Site. Each other BCIB-Subcontractor Agreement will be in the form of this Agreement, subject only to variations in form required by BCIB, in its sole and absolute discretion, to suit the circumstances.
- 9.4 The Subcontractor will cause each Sub-subcontractor described in Section 9.2(a) to acknowledge that all policies and procedures identified in Section 15.1 and described in Section 15.4 apply to all Employees working on the Project, and will ensure that all such Sub-subcontractors' employees and representatives working or attending at the Site are aware of the contents and obligations contained in such policies and procedures. Additionally, the Subcontractor will ensure that all such Sub-subcontractors and all such Sub-subcontractors' employees and representatives working or attending at the Site will give effect to, and will observe and comply with, including fully cooperating in any investigation conducted by BCIB pursuant to any such policies and procedures, the terms and conditions of each such policy and procedure to the extent necessary such that the terms, conditions and spirit of each such policy and procedure are adhered to. The Subcontractor will be fully responsible and liable for all such Sub-subcontractors' and for all such Sub-subcontractors' employees' and representatives' breaches and violations of such policies and procedures.

9.5 Without duplication of recovery under Section 12.0, if, under any other BCIB-Subcontractor Agreement, an Applicable Sub-subcontractor fails to pay any amount required to be paid to BCIB beyond any period permitted for the payment of such amount as set out in the BCIB-Subcontractor Agreement, then, upon written notice to the Subcontractor, the Subcontractor will pay such amount to BCIB, or cause BCIB to be paid such amount, no later than five Business Days after receipt of such notice.

10.0 PERMITTEES

10.1 The Subcontractor may request that permits be granted to Sub-subcontractors or employees (who would ordinarily be “Employees” for the purposes of the Community Benefits Agreement), or both, as described in Article 8.400 of the Community Benefits Agreement.

10.2 For any permit request, the Subcontractor will be responsible for completing a permit request form (in the form required by the Council), and will submit the completed permit request form along with the required fee made payable to the Council to BCIB’s Representative for review. Provided the permit request form and associated fee comply with the provisions of Article 8.400 of the Community Benefits Agreement, BCIB will promptly sign the permit request form and submit it and the fee to the Council. If BCIB refuses to sign the permit request form, then BCIB’s Representative will promptly return the form and fee to the Subcontractor’s Representative with reasons for BCIB’s refusal to sign the form.

10.3 BCIB will, to the extent necessary, arrange meetings between the Subcontractor and the Council to resolve any issues with respect to the granting of permits, however, the Subcontractor remains fully responsible for satisfying the conditions required for the granting of a permit.

10.4 The Subcontractor acknowledges the provisions of Articles 8.403 and 8.409 of the Community Benefits Agreement and agrees to give effect to, and to observe, comply with and perform the terms and conditions set out in those Articles.

11.0 BCIB COSTS

11.1 In addition to paying the Payroll Amount, the Subcontractor will pay to BCIB the following costs and expenses reasonably incurred by BCIB (“**BCIB Costs**”) in connection with or with respect to the Employees provided to the Subcontractor by BCIB for performing the Subcontract Work, without duplication of items included in the Payroll Amount:

- (a) the fees and disbursements charged to BCIB by those lawyers, accountants, consultants, witnesses or other professionals or experts retained by BCIB at the request of the Subcontractor;
- (b) the amount of any damages, salary, severance pay, expenses, costs, penalties, fines or other monies which BCIB is ordered to pay by any arbitrator, court or

other authority having jurisdiction, or which BCIB reasonably agrees to pay, in respect of any Employee(s), with respect to grievance, arbitration, court or other labour relations proceedings initiated by any Employee(s), the Council or any Affiliated Union which relates to working conditions or worker camp conditions, the Subcontractor's operation, direction and supervision of the Employee(s) or the performance of the Subcontract Work, including the costs incurred by, including third party fees and disbursements charged to, BCIB in investigating the circumstances which led to such proceedings;

- (c) the costs incurred by, including third party fees and disbursements charged to, BCIB in investigating (whether in relation to the Site or any worker camp) complaints made by an Employee(s) relating to working conditions or worker camp conditions, the Subcontractor's operation, direction and supervision of the Employee(s), the performance of the Subcontract Work or any breach or violation of any of the BCIB policies and procedures which are applicable to the Site or worker camp, whether or not any such complaint is made pursuant to BCIB policies and procedures, but only in circumstances where the investigation determines that the Subcontractor or the Subcontractor's employee(s) or representative(s) or a Sub-subcontractor(s) described in Section 9.2(a) or any such Sub-subcontractor's employee(s) or representative(s) has breached or violated the Community Benefits Agreement, any applicable BCIB policy and procedure or applicable law;
- (d) notwithstanding anything to the contrary in the Workplace Drug and Alcohol Policy and Procedures, the costs of all Substance Testing (as defined in the Workplace Drug and Alcohol Policy and Procedures), including the costs of all pre-access testing whether the Employee fails to attend for a pre-access test or tests positive or negative on such test, conducted under the Workplace Drug and Alcohol Policy and Procedures;
- (e) the amount of any medical doctor's charges or other charges paid by BCIB in connection with the provision of food handling certificates, underground certificates, audio certificates or any other certificate relating to the fitness or qualifications of any Employee;
- (f) the costs of providing training to an Employee(s) selected by BCIB in consultation with the Subcontractor in the event that BCIB is unable to provide an Employee(s) to the Subcontractor with the qualifications requested by the Subcontractor, and, in addition, the costs of providing to any Employee any other special training or skills upgrading which may be requested or otherwise approved by the Subcontractor;
- (g) the costs incurred by, including third party fees and disbursements charged to, BCIB in investigating any accident, incident or occurrence requiring an investigation under the *Workers Compensation Act* (British Columbia) or otherwise required by law;

- (h) the costs of any items or services required to be provided to or for any Employee by the provisions of the Community Benefits Agreement which are the responsibility of the Subcontractor to provide pursuant to the provisions of this Agreement, but which were not provided by the Subcontractor, including the costs of providing orientation, training, tools, safety equipment, clothing and transportation;
 - (i) the costs of any items or services required to be provided by the Subcontractor pursuant to the provisions of this Agreement, but which were not provided by the Subcontractor, including the costs of transportation, providing training to Employees, the Subcontractor's employees and representatives working or attending at the Site and others working or attending at the Site and providing information, instruction, training and supervision to "supervisors" (as that term is used in Part 2 of the *Workers Compensation Act* (British Columbia));
 - (j) in the event that BCIB requests an amount from the Owner under the provisions of Section 12.0, the sum of \$1,000.00 for each such request as compensation to BCIB for its costs of administering such request to the Owner. For clarity, BCIB will not charge the Subcontractor this fee if BCIB has already charged an equivalent fee to an Applicable Sub-subcontractor pursuant to a BCIB-Subcontractor Agreement in respect of the same delinquent amount;
 - (k) any WorkSafeBC levies, assessments, reassessments, fines, penalties or other amounts ordered to be paid by BCIB or assessed against BCIB under the *Workers Compensation Act* (British Columbia), including by a court of competent jurisdiction, but which are in respect specifically to the Subcontractor and which are not payroll WorkSafeBC assessments as described in Section 7.6; and
 - (l) the Subcontractor's *pro rata* share of any WorkSafeBC levies, assessments, reassessments, fines, penalties or other amounts ordered to be paid by BCIB or assessed against BCIB under the *Workers Compensation Act* (British Columbia), including by a court of competent jurisdiction, which are applied on a Project-wide basis and which are not payroll WorkSafeBC assessments as described in Section 7.6. Such levies, assessments, reassessments, fines, penalties and other amounts will be shared amongst all entities having a contract with BCIB in respect of the Project and be calculated based on the total number of hours worked by the Employees provided to each such entity up to the date of such levy, assessment, reassessment, penalty or other amount.
- 11.2 BCIB will, from time to time but not more frequently than monthly, prepare and deliver an invoice (each, a "**Cost Invoice**") to the Subcontractor setting out the amount of BCIB Costs owing by the Subcontractor to BCIB for the relevant time period. The Subcontractor will pay the amount of such BCIB Costs plus all applicable taxes to the account specified in the Cost Invoice no later than ten Business Days after receipt of the Cost Invoice. The Subcontractor will pay the full amount set out in the Cost Invoice without prejudice to the Subcontractor's rights of dispute under Section 22.0.

11.3 The Subcontractor or its authorized agent may, at the Subcontractor's discretion and expense, at any time and from time to time during the time BCIB is required to keep records pursuant to applicable law, during normal business hours and with reasonable notice and without undue disturbance of BCIB's business operations, enter upon BCIB's premises and, subject to solicitor-client privilege, audit the records of BCIB which relate in any way to BCIB Costs. BCIB will make all such records available for examination and copying by the Subcontractor at BCIB's premises.

12.0 PAYMENT BY OWNER UPON A FAILURE TO PAY

12.1 The Subcontractor acknowledges that if at any time the Subcontractor or any Applicable Sub-subcontractor fails to pay any amount required to be paid to BCIB under this Agreement or under another BCIB-Subcontractor Agreement, as the case may be, beyond any period permitted for the payment of such amount as set out in this Agreement or in the BCIB-Subcontractor Agreement, as the case may be, BCIB may advise the Owner in writing and may request payment by the Owner of such amount.

12.2 In the event that the Owner pays BCIB the amount requested by BCIB under the provisions of Section 12.1, and provided that the Subcontractor compensates BCIB for its administration costs as described in Section 11.1(j) in accordance with Section 11.2, then the Subcontractor will not be in default of its obligation to pay such amount under this Agreement. For clarity, the payment by the Owner of an amount requested by BCIB will be deemed to satisfy the Subcontractor's obligation to pay that same amount to BCIB.

13.0 OCCUPATIONAL HEALTH AND SAFETY

13.1 The parties acknowledge that each has obligations under applicable law as an "employer" for the health and safety of the Employees provided to the Subcontractor by BCIB. For the purposes of clearly defining and establishing respective responsibilities without duplication of any overlapping responsibilities, and for the purposes of achieving a consistent, proactive and preventative health and safety culture, and implementing effective health and safety programs, the following will apply with respect to occupational health and safety:

- (a) The Subcontractor will comply with all applicable law relating to occupational health and safety, including:
 - (i) the *Workers Compensation Act* (British Columbia); and
 - (ii) the *Mines Act* (British Columbia).
- (b) The Subcontractor will be responsible for and will fulfill all of its obligations as an "employer" (as that term is used in Part 2 of the *Workers Compensation Act* (British Columbia)) pursuant to Part 2 of the *Workers Compensation Act* (British Columbia), including as such obligations relate to the Employees provided to the Subcontractor by BCIB.

- (c) The Subcontractor will, as an “employer” (as that term is used in Part 2 of the *Workers Compensation Act* (British Columbia)), ensure that:
- (i) any Employee provided to the Subcontractor by BCIB that will be acting in the capacity of “supervisor” (as that term is used in Part 2 of the *Workers Compensation Act* (British Columbia)); and
 - (ii) any person not provided to the Subcontractor by BCIB but who will be acting in the capacity of “supervisor” (as that term is used in Part 2 of the *Workers Compensation Act* (British Columbia)) of any Employees,

has the information, instruction, training and supervision necessary to effectively discharge their responsibilities, such information, instruction and training to be provided by the Subcontractor prior to such person commencing work as a “supervisor”. In addition, the Subcontractor will ensure such persons are provided with any updated and additional information, instruction, training and supervision necessary to ensure that the person has the necessary supervisory skills and knowledge to discharge their responsibilities at all times during the performance of the Subcontract Work. Where the Subcontractor fails to meet the requirements of this Section 13.1(c) within a reasonable time after receipt of written notice from BCIB’s Representative to provide such information, instruction, training and supervision, the same may be provided by or on behalf of BCIB, and the Subcontractor will facilitate such training to occur as and when required by BCIB and the Subcontractor will reimburse BCIB in accordance with Section 11.1(i).

- (d) The Subcontractor acknowledges receipt of the Health and Safety Program. The Subcontractor will, as part of and not in substitution for any health and safety obligations that the Subcontractor must meet under the Subcontract and applicable law, including the *Workers Compensation Act* (British Columbia), implement the Health and Safety Program in order to achieve or exceed the objectives set out in the Health and Safety Program. For certainty, and notwithstanding anything to the contrary contained in this Agreement, the Subcontractor acknowledges and agrees that no Employees will be provided to the Subcontractor by BCIB unless and until the Health and Safety Program has properly been implemented as determined by BCIB, acting reasonably.
- (e) Each party acknowledges that the Health and Safety Program and the Subcontractor’s health and safety program, policies and work procedures will in no way fetter the authority and responsibilities of the applicable designated “prime contractor” under the *Workers Compensation Act* (British Columbia), and each of the parties will recognize the authority of such “prime contractor” and will comply with such “prime contractor’s” health and safety program, policies, systems, processes and procedures.
- (f) The parties will, within ten Business Days after the Effective Date, establish a system for ongoing communication and liaison for the purpose of ensuring the

timely exchange of information that is necessary for the effective coordination and implementation of the Health and Safety Program and the Subcontractor's health and safety program, policies and work procedures, and the ongoing health and safety of all Employees provided to the Subcontractor by BCIB. The parties will meet as required by either of the parties to review such system and make whatever adjustments to such system as are necessary to ensure that the intent of this provision is put into practice during the Project.

- (g) The Subcontractor will, in respect of the Employees provided to the Subcontractor by BCIB, fulfill all health and safety-related obligations required by the Community Benefits Agreement, and the Subcontractor will, for certainty:
- (i) provide to all such Employees such safety equipment and clothing as required by the Community Benefits Agreement, the Health and Safety Program and applicable law, including the *Workers Compensation Act* (British Columbia) and the *Mines Act* (British Columbia); and
 - (ii) when such an Employee becomes ill or is injured in an accident not covered by WorkSafeBC while being lodged in supplied accommodation and the first aid attendant or a doctor recommends off-Site treatment or return to the Employee's Point of Hire (as defined in the Community Benefits Agreement), provide transportation to off-Site treatment or to the Point of Hire and back to the Site, in each case as applicable, as well as provide transportation for a sick or injured Employee's tools to the Point of Hire whether or not such Employee is being lodged in supplied accommodation.

Where the Subcontractor fails to meet the requirements of this Section 13.1(g), the same may be provided by or on behalf of BCIB and the Subcontractor will reimburse BCIB in accordance with Section 11.1(h).

- (h) Where the Subcontractor fails to meet the requirements of Section 5.2(j) within a reasonable time after receipt of written notice from BCIB's Representative to provide such orientation, the same may be provided by or on behalf of BCIB and the Subcontractor will reimburse BCIB in accordance with Section 11.1(h).
- (i) The Subcontractor will, provided reasonable written notice has been provided to the Subcontractor's Representative and to the applicable designated "prime contractor" under the *Workers Compensation Act* (British Columbia), provide BCIB representatives full access to all parts of the Site and the activities of the Subcontractor on the Site. All BCIB representatives will be required to comply with the health and safety protocols for attendance on the Site as required by the applicable designated "prime contractor" under the *Workers Compensation Act* (British Columbia).
- (j) Each party will fully cooperate with the other party in any activity performed by the other party to ensure both party's fulfilment of the health and safety

obligations under this Agreement, including inspections, investigations, assessments, audits and attending and participating in initiatives such as Joint Health and Safety Committee meetings and tool box talks.

- (k) Prior to commencing performance of the Subcontract Work at the Site, and at any time on BCIB's Representative's request, the Subcontractor will deliver to BCIB's Representative a statement from WorkSafeBC that the Subcontractor is registered and in good standing.
- (l) The Subcontractor will provide to BCIB's Representative:
 - (i) a copy of the Subcontractor's safety management plan (or equivalent document) for review by BCIB. The Subcontractor will also provide to BCIB's Representative a copy of any and all updates or revisions to such plan for review by BCIB;
 - (ii) notice of any worker compensation claims that are made against the Subcontractor by the Employees provided to the Subcontractor by BCIB;
 - (iii) copies of any safety investigation reports which relate to the Employees provided to the Subcontractor by BCIB, and will keep BCIB's Representative informed of the status and progress of all safety investigations which relate to the Employees provided to the Subcontractor by BCIB, and will consult and collaborate with BCIB, and take into account BCIB's input, with respect to any such safety investigations; and
 - (iv) copies of all correspondence and forms, including claim forms, papers and reports, received by or sent to Governmental Authorities concerning any worker compensation claims that are made against the Subcontractor by the Employees provided to the Subcontractor by BCIB and any other health and safety matters on the Site or at a worker camp which relate to the Employees provided to the Subcontractor by BCIB.
- (m) For the purpose of this Agreement only, the Subcontractor acknowledges and agrees that any claims made by Employees provided to the Subcontractor by BCIB under and pursuant to the *Workers Compensation Act* (British Columbia) will be reported to WorkSafeBC under the Subcontractor's account with WorkSafeBC and will be considered and reflected in and may therefore adversely affect the experience rating (for purposes of assessments made under the *Workers Compensation Act* (British Columbia)) of the Subcontractor and not of BCIB. BCIB will not be liable to the Subcontractor, and the Subcontractor will have no claim against BCIB, for any loss, cost, damage, assessments, reassessments, penalties or expense suffered or incurred by the Subcontractor by reason of any claim brought under the *Workers Compensation Act* (British Columbia) by any such Employee, including for any increase in the

Subcontractor's experience rating under the *Workers Compensation Act* (British Columbia) arising as a result of any such claim.

- (n) For the purpose of this Agreement only, BCIB hereby gives and grants to the Subcontractor authority to act on behalf of BCIB in all matters related to WorkSafeBC claims management and in all adjudications of WorkSafeBC claims, as such relate to the Employees provided to the Subcontractor by BCIB, and the Subcontractor undertakes to provide all such claims management and adjudications of claims. For certainty, in all such matters involving Employees provided to the Subcontractor by BCIB, the Subcontractor will keep BCIB informed of the status and progress of such matters, and will consult and collaborate with BCIB, and take into account BCIB's input, prior to resolving any such matters with WorkSafeBC.

14.0 GENERAL TRAINING AND APPRENTICESHIPS

- 14.1 The Subcontractor will provide, at its sole cost and expense, any and all on-the-job skills development and specialized task-specific training beyond that provided under a general trade curriculum.
- 14.2 The Subcontractor acknowledges receipt of the Apprenticeship and Training Targets. The Subcontractor will, as part of and not in substitution for any apprenticeship and training obligations that the Subcontractor must meet under the Subcontract, seek from BCIB, pursuant to Employee Requests, a sufficient number and type of apprentices that if provided by BCIB would achieve or exceed the objectives set out in the Apprenticeship and Training Targets.

15.0 POLICIES AND PROCEDURES

- 15.1 The Subcontractor acknowledges receipt of:

- (a) the Workplace Discrimination and Harassment Policy and Procedures;
- (b) the Workplace Drug and Alcohol Policy and Procedures; and
- (c) the BCIB Policies and Procedures,

and acknowledges that all such policies and procedures, as each appears as of the Effective Date and as each may be amended, supplemented or restated from time to time, apply with respect to the Employees provided to the Subcontractor by BCIB. BCIB will act reasonably, taking into account what a prudent employer would consider in the then current circumstances, with regard to any amendments, supplements or restatements of such policies and procedures.

- 15.2 The Subcontractor will, as part of and not in substitution for any workplace discrimination and harassment obligations and workplace drug and alcohol obligations that the Subcontractor must meet under the Subcontract and applicable law, including the *Workers Compensation Act* (British Columbia), implement the Workplace Discrimination

and Harassment Policy and Procedures and the Workplace Drug and Alcohol Policy and Procedures in order to achieve or exceed the objectives set out in such policies and procedures, and will give effect to, and will observe, comply with and perform the terms and conditions of such policies and procedures such that the terms, conditions and spirit of such policies and procedures are adhered to. Without limiting the generality of the foregoing and notwithstanding anything to the contrary in the Workplace Drug and Alcohol Policy and Procedures, the Subcontractor will provide round-trip transportation for any Employee provided to the Subcontractor by BCIB to submit to Substance Testing. Each party will fully cooperate with the other party in any investigation conducted pursuant to such policies and procedures.

15.3 Without limiting the generality of Section 15.2:

- (a) the Subcontractor will ensure that all of the Subcontractor's employees and representatives working or attending at the Site are aware of, and are trained with respect to, the contents and obligations contained in the Workplace Discrimination and Harassment Policy and Procedures, and that all such employees and representatives will give effect to, and will observe, comply with, including fully cooperating in any investigation conducted by BCIB pursuant to such policy and procedures, and perform the terms and conditions of such policy and procedures to the extent necessary such that the terms, conditions and spirit of such policy and procedures are adhered to;
- (b) the Subcontractor will ensure that all of the Subcontractor's employees and representatives working or attending at the Site are aware of, and are trained with respect to, the contents and obligations contained in the Workplace Drug and Alcohol Policy and Procedures, and that all such employees and representatives will give effect to, and will observe, comply with, including fully cooperating in any investigation conducted by BCIB pursuant to such policy and procedures, and perform the terms and conditions of such policy and procedures to the extent necessary such that the terms, conditions and spirit of such policy and procedures are adhered to. In addition, the Subcontractor will ensure that all persons acting in the capacity of "supervisor" (as that term is used in Part 2 of the *Workers Compensation Act* (British Columbia)) have the necessary information, instruction and training to effectively support the proper implementation of the Workplace Drug and Alcohol Policy and Procedures; and
- (c) the Subcontractor will provide:
 - (i) such content awareness and training to such Subcontractor's employees and representatives immediately upon them commencing work or attending at the Site; and
 - (ii) such information, instruction and training to any person who will act as a "supervisor" of Employees prior to such person commencing to so act. In addition, the Subcontractor will ensure such persons are provided with any updated and additional information, instruction and training necessary to

ensure that the person has the necessary supervisory skills and knowledge to discharge their responsibilities at all times during the performance of the Subcontract Work.

Where the Subcontractor fails to meet the requirements of this Section 15.3 within a reasonable time after receipt of written notice from BCIB's Representative to provide such content awareness, information, instruction and training, the same may be provided by or on behalf of BCIB, and the Subcontractor will facilitate such training to occur as and when required by BCIB and the Subcontractor will reimburse BCIB in accordance with Section 11.1(i).

- 15.4 In addition to the policies and procedures identified in Section 15.1, the Subcontractor acknowledges and agrees that BCIB may implement other policies and procedures that will apply with respect to the Employees provided to the Subcontractor by BCIB in circumstances where such other policies and procedures (or the contents of such) are required to comply with applicable law. BCIB will provide written notice to the Subcontractor of the implementation of such policies and procedures and will provide the Subcontractor with a copy of any such policies and procedures. Such policies and procedures may be amended, supplemented or restated from time to time as required to comply with applicable law. The Subcontractor will ensure that all of the Subcontractor's employees and representatives working or attending at the Site are aware of, and are trained with respect to, the contents and obligations contained in such policies and procedures, including the BCIB Policies and Procedures.
- 15.5 With respect to the BCIB policies and procedures described in Section 15.4, including the BCIB Policies and Procedures, the Subcontractor, in performing its obligations under this Agreement, will give effect to, and will observe, comply with, including fully cooperating in any investigation conducted by BCIB pursuant to any such policies and procedures, and perform the terms and conditions of each such policy and procedure to the extent necessary such that the terms, conditions and spirit of each such policy and procedure are adhered to. Additionally, the Subcontractor will ensure that all of the Subcontractor's employees and representatives working or attending at the Site will give effect to, and will observe, comply with, including fully cooperating in any investigation conducted by BCIB pursuant to any such policies and procedures, and perform the terms and conditions of each such policy and procedure to the extent necessary such that the terms, conditions and spirit of each such policy and procedure are adhered to.
- 15.6 Without limiting the generality of Section 15.2 or Section 15.5, if any of the policies and procedures referred to in Section 15.1 or Section 15.4 place obligations on the Subcontractor as a "Contractor" (as that term may be used in such policies and procedures), including through a delegation of responsibility by BCIB pursuant to such policies and procedures, then the Subcontractor will give effect to, and will observe, comply with and perform all terms and conditions of those policies and procedures that are specified to apply to or which become applicable to the Subcontractor as a "Contractor" (as that term may be used in such policies and procedures), as well as all consequent functions, obligations and responsibilities that are associated with such terms and conditions.

- 15.7 BCIB will process and investigate any complaint made under any BCIB policy and procedure by or against an Employee provided to the Subcontractor by BCIB in accordance with such policy and procedures, and the outcome will be binding on the Subcontractor, and the Subcontractor will comply with such outcome. To the extent the outcome applies to those for whom the Subcontractor may in law be responsible, the Subcontractor will ensure that those persons or entities also comply with the outcome.
- 15.8 The Subcontractor will fully cooperate in any investigation conducted by BCIB which is required by law.

16.0 INDEMNIFICATION

- 16.1 The Subcontractor will indemnify and save harmless BCIB, the Owner and their respective officers, directors, servants (including BCIB's Representative), agents and shareholders (collectively, the "**BCIB Indemnified Parties**"), from and against any and all losses, liabilities, damages, fines, penalties, costs, expenses and claims of any and every kind whatsoever which at any time or from time to time may be paid, incurred or asserted by or against the BCIB Indemnified Parties, or any one of them, for, with respect to, or as a result of:
- (a) any act or omission of the Subcontractor, the Subcontractor's Representative, or any other person or entity not subject to or otherwise excluded from coverage of the Community Benefits Agreement but who is engaged, directly or indirectly, by the Subcontractor to perform a portion of the Subcontract Work, including with respect to any breach or violation of any of the BCIB policies and procedures which are applicable to the Site or worker camp;
 - (b) any act or omission of an Employee which occurs while such Employee is under the direction of the Subcontractor, including with respect to any breach or violation of any of the BCIB policies and procedures which are applicable to the Site or worker camp, whether or not such losses, liabilities, damages, fines, penalties, costs, expenses or claims arise by reason of the employment relationship existing between BCIB and such Employee;
 - (c) any failure by the Subcontractor to perform its obligations under this Agreement, including any failure to give effect to, observe, comply with or perform the terms and conditions of the Community Benefits Agreement, or the functions, obligations or responsibilities of the Community Benefits Agreement, that have been expressly delegated or allocated to the Subcontractor by this Agreement and any failure (including any failure of the Subcontractor's employees and representatives working or attending at the Site and any failure of a Sub-subcontractor described in Section 9.2(a) and any failure of such Sub-subcontractors' employees and representatives working or attending at the Site) to give effect to, observe, comply with or perform the terms and conditions of any of the BCIB policies and procedures which are applicable to the Site or worker camp; and

- (d) any failure by the Subcontractor to perform its obligations under applicable law.

For certainty, the obligations of the Subcontractor set forth in this Section 16.1 shall not apply to the extent that the losses, liabilities, damages, fines, penalties, costs, expenses and claims for which indemnity is being sought were caused by the negligence or willful misconduct of any of the BCIB Indemnified Parties.

- 16.2 BCIB will indemnify and save harmless the Subcontractor, its officers, directors, servants (including the Subcontractor's Representative), agents and shareholders (collectively, the "**Subcontractor Indemnified Parties**"), from and against any and all losses, liabilities, damages, fines, penalties, costs, expenses and claims of any and every kind whatsoever which at any time or from time to time may be paid, incurred or asserted by or against the Subcontractor Indemnified Parties, or any one of them, to the extent resulting from the negligent act or negligent omission of the BCIB Indemnified Parties in connection only with BCIB's relationship as employer of the Employees provided to the Subcontractor by BCIB.

For certainty, the obligations of BCIB set forth in this Section 16.2 shall not apply to the extent that the losses, liabilities, damages, fines, penalties, costs, expenses and claims for which indemnity is being sought were caused by the negligence or willful misconduct of any of the Subcontractor Indemnified Parties.

- 16.3 The obligations of indemnification set forth in Section 16.0 will survive termination of this Agreement and will continue in full force and effect.

17.0 CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

- 17.1 Subject to Section 17.3, each party will keep confidential all matters respecting the Employees provided to the Subcontractor by BCIB and all commercial, financial and legal issues relating to or arising out of this Agreement and will not disclose such information, except as follows:

- (a) with the prior written consent of BCIB's Representative or the Subcontractor's Representative, as the case may be, which consent may be arbitrarily withheld;
- (b) in the case of BCIB, BCIB may disclose information regarding the Subcontractor's non-payment of BCIB to the Contractor, any entity engaged by the Contractor who has entered into a BCIB-Subcontractor Agreement and which is in the same subcontract chain but in a tier higher than the Subcontractor or the Owner, or all of them, in order for BCIB to seek recovery of such non-payment;
- (c) in the case of the Subcontractor, the Subcontractor may disclose information respecting the Employees provided to the Subcontractor by BCIB to the Contractor but only to the extent the information to be disclosed is specifically required by the Owner pursuant to the Construction Contract;
- (d) in strict confidence to the party's professional advisors; or

- (e) as otherwise required by applicable law.

17.2 The obligations of confidentiality described in Section 17.1 will not apply to:

- (a) information that is, or subsequently becomes, publicly available other than through a breach of this Agreement or through a breach of a confidentiality agreement which another entity has entered into concerning such confidential information;
- (b) information which the disclosing party already possessed before commencing to participate in the Project;
- (c) information which is rightfully received from a third party without breach of any obligation of confidence by such third party; or
- (d) information which is independently developed without the use of such confidential information.

17.3 Notwithstanding anything to the contrary contained in this Agreement, the Subcontractor acknowledges and agrees that BCIB may disclose any and all information created or obtained as a result of this Agreement or in respect of the Subcontractor performing its obligations under this Agreement, or both, including the existence and terms of this Agreement and any other BCIB-Subcontractor Agreement, workforce reports identifying the Subcontractor, the nature and number of permits requested and issued as described in Section 10.0, the Subcontractor's fulfillment of its obligations pursuant to Sections 13.0, 14.0 and 15.0, the Subcontractor's fulfillment and compliance with the functions, obligations and responsibilities described in Sections 6.3 and 6.4 and any other Records, to the Owner, and to any provincial ministry, other Governmental Authority or educational institution, which requires or requests the information in relation to the Project or to permit BCIB to comply with applicable law.

18.0 FREEDOM OF INFORMATION AND PRIVACY PROTECTION

18.1 The Subcontractor acknowledges that:

- (a) it is aware that FOIPPA applies to this Agreement and to all documents and records relating to this Agreement;
- (b) BCIB is required to fully comply with FOIPPA; and
- (c) no action taken or required to be taken by BCIB for the purpose of complying with FOIPPA shall be considered a breach of any obligation under this Agreement.

18.2 To the extent the Subcontractor has access to, whether direct, indirect or incidental, or the opportunity to access, any Personal Information, the Subcontractor will inform all of its personnel and Sub-subcontractors having access to any Personal Information in the course of performing the Subcontract Work of the confidential nature of the Personal

Information and will ensure that its personnel and Sub-subcontractors maintain the confidentiality of the Personal Information in accordance with the terms of Schedule 4. BCIB and the Subcontractor will have the respective rights and obligations applicable to each of them as provided in Schedule 4, and Section 17.0 will not apply in respect of such Personal Information.

19.0 SUBCONTRACTOR'S RECORDS

19.1 The Subcontractor will record and maintain within British Columbia during the term of this Agreement, and for so as long as required by applicable law, full, true, proper and accurate records relating to the Employees provided to the Subcontractor by BCIB (collectively, the "**Records**"), including:

- (a) records of the time worked by Employees;
- (b) records relating to the Subcontractor's fulfillment of its obligations pursuant to Sections 13.0, 14.0 and 15.0; and
- (c) records relating to the Subcontractor's fulfillment and compliance with the functions, obligations and responsibilities described in Sections 6.3 and 6.4,

utilizing such recording system and in such form as BCIB may from time to time require. Promptly upon the reasonable written request of BCIB's Representative, the Subcontractor will deliver such Records to BCIB at BCIB's expense.

19.2 The Subcontractor will advise BCIB's Representative of the location of the Records upon the written request of BCIB.

19.3 Upon expiration of the retention period(s) described in Section 19.1, and prior to disposing of the applicable Records, the Subcontractor will notify BCIB in writing as to what the Subcontractor intends to do with such Records. BCIB may, within 40 days of receipt of such notice, require the Subcontractor to deliver to BCIB, at BCIB's sole cost and expense, all such Records.

19.4 BCIB or its authorized agent may, at BCIB's discretion and expense, at any time and from time to time during the time the Subcontractor is required to keep the Records under this Agreement, during normal business hours and with reasonable notice and without undue disturbance of the Subcontractor's business operations, enter upon the Subcontractor's premises and audit the Records and any other records of the Subcontractor which relate in any way to the Employees provided to the Subcontractor by BCIB. The Subcontractor will make all such records available for examination and copying by BCIB at the Subcontractor's premises.

20.0 TERMINATION

20.1 This Agreement will continue in effect for so long as the Subcontractor requires Employees to perform the Subcontract Work at the Site.

20.2 The obligations of the Subcontractor to pay any amounts which are payable to BCIB under this Agreement will survive termination of this Agreement and will continue in full force and effect.

21.0 DISCLAIMERS

21.1 BCIB does not warrant nor guarantee to the Subcontractor that BCIB will provide to the Subcontractor any particular quality of Employee or that BCIB will provide all or any of the Employees for which the Subcontractor may submit Employee Requests.

21.2 Neither party will be responsible or liable (whether in contract, tort (including negligence), for breach of statutory duty, pursuant to equitable principles or under any other theory of law) to the other party, and neither party will have a claim against the other party, for any economic loss, loss of anticipated revenue, overhead or profit, loss of production, business or contracts, loss by reason of shutdowns, slowdowns, non-operation or increased costs of construction, manufacturing or operation, or loss of business reputation or opportunities, in connection with this Agreement or the Project and whether or not such losses or costs were foreseeable even if the relevant party was advised of the possibility of them. For certainty, nothing in this Section 21.2 will apply to, or be interpreted so as to preclude, or otherwise limit recovery of liquidated damages specified as payable to BCIB pursuant to this Agreement, if any.

21.3 Notwithstanding any other provision of this Agreement, including Section 16.2, but without limiting the other provisions of Section 21.0, BCIB will not be responsible or liable (whether in contract, tort (including negligence), for breach of statutory duty, pursuant to equitable principles or under any other theory of law) to the Subcontractor, and the Subcontractor will have no claim against BCIB, for:

- (a) any loss, cost, damage or expense suffered or incurred by the Subcontractor by reason of or in respect of the Subcontractor being delayed in performing the Subcontract Work or having to re-perform the Subcontract Work, whether such delay or re-performance is caused by work stoppage, work slowdown, labour shortages, lack of appropriately qualified or skilled labour or otherwise; or
- (b) the operation, direction or supervision of Employees provided to the Subcontractor by BCIB nor for the performance of the Subcontract Work by such Employees; or
- (c) paying any of the Subcontractor's costs of providing Employees with room or board or commissary facilities or commissary supplies whether or not such costs are recovered or are recoverable by the Subcontractor from Employees; or
- (d) any loss, cost, damage or expense suffered or incurred by the Subcontractor by reason of or in respect of the implementation of any additional BCIB policies and procedures, or any change, modification or revision to any BCIB policy and procedure or to the Community Benefits Agreement. Without limiting the generality of the foregoing, the Subcontractor will not have any right to or claim

for any payment from BCIB in respect of any such implementation or any such change, modification or revision, that results in or has as a consequence an increase in the expenditures the Subcontractor must make in order to comply with and fulfill the terms and conditions of this Agreement (as compared to the expenditures the Subcontractor anticipated making as of the Effective Date); or

- (e) any loss, cost, damage or expense suffered or incurred by the Subcontractor by reason of or in respect of any change in law. Without limiting the generality of the foregoing, the Subcontractor will not have any right to or claim for any payment from BCIB in respect of any such change that results in or has as a consequence an increase in the expenditures the Subcontractor must make in order to comply with and fulfill the terms and conditions of this Agreement (as compared to the expenditures the Subcontractor anticipated making as of the Effective Date), including with respect to any change in law that necessitates changes to any BCIB policy and procedure or the implementation of additional BCIB policies and procedures.

The Subcontractor acknowledges and agrees that its sole remedies, if any, in respect of any such foregoing matters lie against its counterparty under the Subcontract.

- 21.4 Nothing done in connection with, in respect of, as a result of or in furtherance of this Agreement or omitted to be done will be cause for a justifiable delay by the Subcontractor under the Subcontract or a justifiable increase in the Subcontractor's price under the Subcontract, and the Subcontractor will not have any right to or claim for an extension of time under the Subcontract nor any right to or claim for any payment or additional payment from BCIB or the Third Party Beneficiaries, or any one of them, as a result of such matters.
- 21.5 The Subcontractor will be fully responsible for all costs and expenses incurred by it in performing its obligations under this Agreement and in providing assistance or input to and in cooperating, consulting or collaborating with BCIB as contemplated by this Agreement and in participating in any formal process set out in the Community Benefits Agreement, and including for all costs and expenses incurred by the Subcontractor with respect to grievances initiated by the Subcontractor. The Subcontractor will not be entitled to, nor will BCIB be liable to the Subcontractor for, any compensation or reimbursement of such costs and expenses in respect of the foregoing, such compensation and reimbursement will be deemed to be fully addressed pursuant to the Subcontract.

22.0 DISPUTE RESOLUTION

- 22.1 The parties agree that, both during and after the term of this Agreement, each of them will make *bona fide* efforts to resolve any disputes arising between them by amicable negotiations.
- 22.2 Either party may require the dispute be mediated by a skilled commercial mediator chosen jointly by the parties. If a mediator is appointed pursuant to this Section 22.2, the

mediated negotiations will be terminated ten Business Days after the appointment unless the parties agree otherwise.

- 22.3 Any unresolved dispute arising out of or in connection with this Agreement or in respect of any defined legal relationship associated with it or derived from it, will be referred to and finally resolved by arbitration under the Domestic Arbitration Rules of the Vancouver International Arbitration Centre. Any arbitration will be conducted in Vancouver, British Columbia and heard by a single arbitrator chosen jointly by the parties, or in the absence of mutual agreement appointed by a court of competent jurisdiction.
- 22.4 If the parties agree, any unresolved disputes referred to arbitration under this Agreement may be:
- (a) held in abeyance until completion of the Subcontract Work; and
 - (b) consolidated into a single arbitration.
- 22.5 Notwithstanding any dispute, the parties will continue to fulfill their obligations pursuant to this Agreement, without prejudice to either party's rights relating to the dispute.

23.0 NOTICES

- 23.1 Unless otherwise expressly required to be given to BCIB's Representative or the Subcontractor's Representative pursuant to this Agreement, any notice or communication required or permitted to be given under this Agreement will be in writing and will be considered to have been sufficiently given when delivered by hand or by email to the address or email address of the applicable party set out below:

- (a) if to BCIB:

BC Infrastructure Benefits Inc.
Suite 1050 – 89 West Georgia Street
Vancouver, BC V6B 0N8

Attn: Gareth Bowley, Director, Workforce Operations

Email: gbowley@bcib.ca

with a copy to:

Email: XXXSite@bcib.ca;

- (b) if to the Subcontractor:

[insert address]

Attn: [insert appropriate addressee, i.e. President]

Email: [insert appropriate email address]; or

- (c) to such other address or email address as either party may, from time to time, designate in the manner set out above.

23.2 Any such notice or communication will be considered to have been received:

- (a) if delivered by hand or by a courier service during business hours on a Business Day, when delivered, and if not delivered during business hours, upon the commencement of business hours on the next Business Day; and
- (b) if sent by email during business hours on a Business Day, upon receipt, and if not delivered during business hours, upon the commencement of business hours on the next Business Day, provided that:
 - (i) the receiving party has, by email or by hand delivery, acknowledged to the notifying party in writing that it has received such notice; or
 - (ii) within 24 hours after sending the notice, the notifying party has also delivered a copy of such notice to the receiving party by hand delivery.

24.0 ASSIGNMENT RESTRICTED

24.1 This Agreement and the rights, duties and obligations of the Subcontractor under this Agreement will not be assigned, transferred, encumbered or otherwise alienated in whole or in part by the Subcontractor without the prior written consent of BCIB, which consent may be arbitrarily withheld, and any attempt by the Subcontractor to assign, transfer, encumber or otherwise alienate its rights, duties or obligations under this Agreement without such consent will be of no effect. Notwithstanding the above, BCIB will provide its consent to any assignment, transfer, encumbrance or other alienation of this Agreement to the extent necessary to give effect to any permitted assignment, transfer, encumbrance or other alienation of the Construction Contract.

25.0 MISCELLANEOUS

25.1 Schedules. The following Schedules are incorporated into this Agreement by reference and are deemed to be fully included as part of this Agreement and to be an integral part of this Agreement:

- (a) Schedule 1 – Definitions and Interpretation;
- (b) Schedule 2 – Functions, Obligations and Responsibilities;
- (c) Schedule 3 – BCIB Policies and Procedures; and
- (d) Schedule 4 – Privacy Protection.

- 25.2 No Agency. The Subcontractor acknowledges and agrees that BCIB is entering into this Agreement for itself and on its own behalf as principal and that BCIB is not an agent of the Owner, the Government of British Columbia or any other entity for purposes of this Agreement or for purposes of the Subcontract or otherwise.
- 25.3 Third Party Beneficiary. The provisions of Section 21.4 are intended for the benefit of the Third Party Beneficiaries and will be enforceable by the Third Party Beneficiaries, or any one of them, and are in addition to, and not in substitution for, any other rights that the Third Party Beneficiaries may have by contract or otherwise. For clarity, BCIB will also be able to enforce the provisions of Section 21.4.
- 25.4 Independent Contractor. The Subcontractor is an independent contractor in the performance of the Subcontract Work and nothing in this Agreement will constitute the Subcontractor as an agent, partner, joint venture or employee of BCIB for any purpose.
- 25.5 Currency. All payments to be made pursuant to this Agreement will be made in lawful money of Canada.
- 25.6 Public Announcements. The Subcontractor will not make any public releases, announcements, other disclosure or issue advertising pertaining to this Agreement or the Community Benefits Agreement without the prior written approval of BCIB, approval of which may be arbitrarily withheld. The Subcontractor will refer any media enquiries to BCIB's Representative, but will not otherwise respond to media enquiries.
- 25.7 Further Assurances. Each of the parties hereby covenants and agrees to execute any further and other documents and instruments and to do any further and other things that may be reasonably necessary to implement and carry out the intent of this Agreement.
- 25.8 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia which will be deemed to be the proper law of this Agreement.
- 25.9 Survival. All rights, obligations and remedies of the parties which accrued prior to the termination of this Agreement, or which are by their nature continuing, or which by their express terms survive, and all other provisions necessary for the interpretation or enforcement of such rights, obligations and remedies, will survive termination of this Agreement. Without limiting the generality of the foregoing, the provisions of Sections 5.2(a), 5.2(b), 6.7, 7.3, 7.6, 9.4, 9.5, 11.0, 12.2, 13.1(l)(ii), 13.1(l)(iii), 13.1(l)(iv), 13.1(m), 13.1(n), 15.2, 15.3(a), 15.3(b), 15.5, 15.7, 15.8, 16.0, 17.0, 18.0, 19.0, 20.2, 21.0, 22.0, 25.2, 25.3, 25.4, 25.6, 25.7, 25.8, 25.9, 25.10, 25.11, 25.12 and 25.13, including each other provision necessary for the interpretation or enforcement of such provisions, will survive termination of this Agreement and will continue in full force and effect.
- 25.10 Modification and Waiver. No amendment or waiver of this Agreement or any provision of this Agreement will be binding unless executed in writing by both the parties. No waiver of any provision of this Agreement will be deemed or will constitute a waiver of

any other provision nor will any such waiver constitute a continuing waiver unless otherwise expressly provided in writing signed by each of the parties.

25.11 Enurement. This Agreement will enure to the benefit of and be binding upon the parties and their respective heirs, personal representatives, successors and permitted assigns.

25.12 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement, expressing superseding all prior communications, understandings and agreements (both oral and written) between the parties with respect to all matters contained in this Agreement. There are no representations, warranties, terms, conditions, undertakings or collateral agreements express, implied or statutory, between the parties other than as expressly set forth in this Agreement.

25.13 Joint and Several.

(a) If the Subcontractor is comprised of more than one legal entity, the obligations and liabilities of the Subcontractor under this Agreement shall be the obligations and liabilities of each legal entity comprising the Subcontractor, jointly and severally with each other such legal entity.

(b) If the Subcontractor is a general partnership, the obligations and liabilities of the Subcontractor under this Agreement shall be the obligations and liabilities of the Subcontractor and each of its partners, jointly and severally with each other.

25.14 Counterparts. This Agreement may be executed by counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. Delivery by email in portable document format (PDF) of an executed counterpart of this Agreement is as effective as delivery of an originally executed counterpart of this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement as of the Effective Date.

BC INFRASTRUCTURE BENEFITS INC.

Per: _____
Name:
Title:

[INSERT LEGAL NAME OF SUBCONTRACTOR]

Per: _____
Name:
Title:

**SCHEDULE 1
DEFINITIONS AND INTERPRETATION**

1. **Definitions.** In this Agreement, except as otherwise expressly provided or unless the context otherwise requires:
- (a) “**Affiliated Unions**” has the meaning set out in the Community Benefits Agreement;
 - (b) “**Agreement**” means this BCIB-Subcontractor Agreement, as it may be amended, supplemented or restated from time to time;
 - (c) “**Applicable Sub-subcontractor**” has the meaning set out in Section 9.3;
 - (d) “**Apprenticeship and Training Targets**” means the apprenticeship and training targets established by BCIB dated [insert date of targets], as may be amended, supplemented or restated from time to time;
 - (e) “**BCIB**” has the meaning set out on the first page of this Agreement;
 - (f) “**BCIB-Contractor Agreement**” means the agreement between BCIB and the Contractor pursuant to which the Contractor will obtain Employees from BCIB;
 - (g) “**BCIB Costs**” has the meaning set out in Section 11.1;
 - (h) “**BCIB Indemnified Parties**” has the meaning set out in Section 16.1;
 - (i) “**BCIB Policies and Procedures**” means those BCIB policies and procedures described in Schedule 3;
 - (j) “**BCIB-Subcontractor Agreement**” has the meaning set out in Section 9.3;
 - (k) “**BCIB’s Representative**” has the meaning set out in Section 2.1;
 - (l) “**Business Day**” means a day other than a Saturday, Sunday or Recognized Holiday (as described in Article 16.100 of the Community Benefits Agreement) on the days observed in British Columbia;
 - (m) “**CBA Name Hires**” has the meaning set out in Section 4.3(b);
 - (n) “**Community Benefits Agreement**” has the meaning set out in Recital A;
 - (o) “**Contractor**” means [insert legal name of the contractor who entered into the Construction Contract with the Owner], and any assignee of the Contractor permitted by BCIB;
 - (p) “**Construction Contract**” means the agreement between the Owner and the Contractor pursuant to which the Contractor will undertake the Work;

- (q) “**Cost Invoice**” has the meaning set out in Section 11.2;
- (r) “**Council**” has the meaning set out in Recital A;
- (s) “**Council’s Representative**” means the person designated from time to time by the Council who will represent the Council in the administration and application of the Community Benefits Agreement;
- (t) “**Effective Date**” means the effective date of this Agreement as set out on the first page of this Agreement;
- (u) “**Employees**” has the meaning set out in the Community Benefits Agreement, but for clarity, does not include employees of Sub-subcontractors described in Section 9.2(a) or Section 9.2(b) or employees granted a permit pursuant to Article 8.400 of the Community Benefits Agreement;
- (v) “**Employee Request**” has the meaning set out in Section 4.3;
- (w) “**FOIPPA**” means the *Freedom of Information and Protection of Privacy Act* (British Columbia);
- (x) “**Governmental Authority**” means any federal, provincial, territorial, regional, municipal or local authority, quasi-governmental authority, court, government, or self-regulatory organization, commission, board, tribunal, organization, or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing, having jurisdiction in any way over or in respect of any aspect of the performance of the Construction Contract, the Subcontract, this Agreement or the Project;
- (y) “**Health and Safety Program**” means the health and safety program established by BCIB dated [insert date of program], as may be amended, supplemented or restated from time to time;
- (z) “**Job Classifications**” means those job classifications set out in the applicable “Trade Sections” of the Community Benefits Agreement;
- (aa) “**Owner**” means His Majesty the King in right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure;
- (bb) “**Payroll Amount**” has the meaning set out in Section 7.2;
- (cc) “**Payroll Invoice**” has the meaning set out in Section 7.2;
- (dd) “**Personal Information**” means recorded information about an identifiable individual, other than contact information (as defined in FOIPPA), collected, created or otherwise acquired by the Subcontractor as a result of this Agreement or any previous agreement between BCIB and the Subcontractor dealing with the same subject matter as this Agreement;

- (ee) “**Project**” means the Trans Canada Highway 1 – Selkirk Mountain Project;
- (ff) “**Records**” has the meaning set out in Section 19.1;
- (gg) “**Site**” means “Site” as defined in the Construction Contract, and will be deemed to include the sites of all facilities purpose built for the Project;
- (hh) “**Subcontract**” means the agreement entered into by the Subcontractor pursuant to which the Subcontractor will undertake the Subcontract Work;
- (ii) “**Subcontractor**” has the meaning set out on the first page of this Agreement;
- (jj) “**Subcontractor Indemnified Parties**” has the meaning set out in Section 16.2;
- (kk) “**Subcontractor’s Representative**” has the meaning set out in Section 2.2;
- (ll) “**Subcontract Work**” means the portion of the Work to be performed by the Subcontractor;
- (mm) “**Sub-subcontractor**” has the meaning set out in Section 9.1;
- (nn) “**Third Party Beneficiaries**” means the Owner, the Contractor and the Subcontractor’s counterparty in respect of the Subcontract;
- (oo) “**Work**” means “Work” as defined in the Construction Contract;
- (pp) “**Workplace Discrimination and Harassment Policy and Procedures**” means the workplace discrimination and harassment policy and procedures established by BCIB dated [insert date of policy and procedures], as may be amended, supplemented or restated from time to time; and
- (qq) “**Workplace Drug and Alcohol Policy and Procedures**” means the Construction Industry of British Columbia Substance Abuse Testing and Treatment Program Policy (see a copy at: [Canadian Drug Testing \(clra-bc.com\)](http://Canadian Drug Testing (clra-bc.com))), as may be amended, supplemented or restated from time to time, including pursuant to any interpretation bulletins issued in respect of such policy and **[Note to Proponents: To be updated to reflect any final BCIB cover wording.]**

Any words or phrases defined elsewhere in this Agreement will have the particular meaning assigned to such words or phrases.

2. Interpretation. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:
 - (a) the provision of headings and the division of this Agreement into Sections, paragraphs and other subdivisions are for convenience only and will not define or limit the scope, extent or intent of this Agreement or affect the interpretation of this Agreement or any provision of this Agreement;

- (b) any reference to a statute will include such statute and its corresponding regulations, together with all amendments made to such statute and regulations and in force from time to time, and any statute or regulation that may be passed which has the effect of amending, supplementing or superseding the statute referred to or such statute's corresponding regulations;
- (c) any reference to the *Mines Act* (British Columbia) will include the Health, Safety and Reclamation Code for Mines in British Columbia, together with all amendments made to such code and in force from time to time, and any instrument established pursuant to the *Mines Act* (British Columbia) which has the effect of amending, supplementing or superseding the Health, Safety and Reclamation Code for Mines in British Columbia;
- (d) any reference to an entity will include and will be deemed to be a reference to any entity that is a successor to such entity;
- (e) words in the singular include the plural, and vice-versa, wherever the context requires;
- (f) references in this Agreement to a Recital, a Section, a paragraph, a Schedule or other subdivision are to the corresponding Recital, Section, paragraph, Schedule or other subdivision of this Agreement, unless otherwise indicated;
- (g) where a reference is made to a "day", "week", "month" or "year", the reference is to the calendar period;
- (h) the word "including" is deemed to be followed by "without limitation";
- (i) if the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act will be extended to the next Business Day;
- (j) in the calculation of time, the first day will be excluded and the last day included; and
- (k) the parties confirm that they each have obtained independent legal advice, or elected not to obtain such advice, and accordingly agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party will not be applicable in the interpretation of this Agreement.

SCHEDULE 2
FUNCTIONS, OBLIGATIONS AND RESPONSIBILITIES

The following are the functions, obligations and responsibilities referred to in Section 6.4 of this Agreement:

1. General:

The Subcontractor will provide to Employees:

- (a) all food and beverages; and
- (b) all room and board and living out allowances, as applicable,

as required by the Community Benefits Agreement.

2. Master Section:

CBA Article	Function, Obligation or Responsibility
14.501	The Employer may establish a flex work week schedule which allows for a work week starting on a day other than Monday (for example: Tuesday to Saturday).
17.300	An Employee who takes a leave of absence or vacation of one (1) week or more may be requested by the Contractor or camp management to vacate the assigned room for that period. If the Employee is so requested, the Employee shall vacate the room and move all belongings out of the room and shall receive one (1) hour's straight time pay at the regular rate. If an Employee wishes to store belongings, a lockup shall be provided.
17.402	Where the accommodation is a hotel/motel the Employee may be required to vacate the room and remove all belongings out of the room. If an Employee wishes to store belongings, a lockup shall be provided.
19.203	The Employer agrees to transport a sick or injured Employee's tools to the Employee's Point of Hire at the Employer's expense.
23.100	On commercial and institutional projects, heated lunchroom and women's and men's change rooms shall be provided for Employees for drying clothes, and changing clothes. The lunch and change rooms shall have tables, and benches, and provision for drying clothes. Such lunch and change rooms shall have windows and venting with adequate lighting and provision for continuous heat twenty-four (24) hours a day. The lunch and change rooms will be cleaned on each working shift and kept cleared of working materials and other construction paraphernalia. Lunchrooms shall provide enough room for all the workers to be seated at a table for lunch.
23.302	Chemical or flush toilets shall be provided for both women and men from the commencement of work on all jobs. Toilet paper shall be provided and

CBA Article	Function, Obligation or Responsibility
	facilities shall be cleaned on each working shift.
23.304	Where clean-up facilities are not provided and in mechanical and trade shops, hand cleanser and paper towels shall be provided at no cost to the Employee.
23.401	When working in a fabrication shop, proper ventilation shall be provided. In the event of a dispute, WorkSafeBC Regulations shall prevail.
23.402	When working in confined spaces with fibreglass or toxic fumes or smoke, proper ventilation and/or proper respiratory equipment shall be provided.
23.700	Telephone service shall be made available to all Employees at all times for incoming or outgoing emergency purposes and incoming emergency messages shall be relayed immediately.

3. Interior Road Building Addendum, if applicable to the Project:

CBA Article	Function, Obligation or Responsibility
General re Trade Sections – 1(b)	Where the Employer requires a specific Employee to upgrade or renew a certification or license, or perform a private procedure skills test on Site, unless the applicable Trade Sections indicates another party will pay, the Employer will pay the applicable costs and provide the time necessary.

4. Lower Mainland Road Building Addendum, if applicable to the Project:

CBA Article	Function, Obligation or Responsibility
General re Trade Sections – 1(b)	Where the Employer requires a specific Employee to upgrade or renew a certification or license, or perform a private procedure skills test on Site, unless the applicable Trade Sections indicates another party will pay, the Employer will pay the applicable costs and provide the time necessary.

5. Trade Sections:

CBA Article	Function, Obligation or Responsibility	Additional Subcontractor Obligation
BM.414	<u>Handicapped Workers</u> The Employer agrees, subject to prior consultation with the Affiliated Union, to employ any member on work which suits their physical ability and which is acceptable to the member (this shall include but not be limited to tool crib). Those who have suffered injury or disability in the trade should be employed when their capabilities are considered suitable, provided workers have the approval	The Subcontractor will support and cooperate with BCIB to encourage the use of Handicapped Workers.

CBA Article	Function, Obligation or Responsibility	Additional Subcontractor Obligation
	of the Workers' Compensation Board.	
FL.420	<p><u>Older Workers</u></p> <p>An Employee incapacitated by age or accident may be permitted to be employed at less than the regular scale of wages at a rate of pay mutually agreed upon by the Employee, the Employer, and the Affiliated Union. The conditions of employment shall be amended so as to enable such Employees to continue with their employment.</p>	The Subcontractor will cooperate with BCIB in determining the reduced scale of wages and conditions of employment.
OPR.412	<p>All Mechanics, Welders, Servicepersons, Drill Doctors, Steel Sharpeners, Vehicle Body Painters, and Mechanics and Welder Apprentices who request coveralls shall have these supplied and cleaned by the Employer. There shall be one change a week available in the Employee's proper size.</p> <p>Employees are expected to take reasonable care of coveralls supplied. In the event that an Employee does not return the coveralls supplied by the Employer, the Employer shall charge the cost of same to the Employee and deduct this cost from any monies owing to the Employee.</p> <p>When requested, coveralls shall be supplied on a temporary basis to Employees who assist on work as described above, or where the Employer and the Union mutually agree that coveralls are required.</p> <p>Employees entitled to receive coveralls as provided herein may obtain an additional change of coveralls in any one week providing the condition of the coveralls requires a change. The shop Foreperson shall use discretion in authorizing the additional change.</p>	<p>If such items are not returned, the Subcontractor will advise BCIB and BCIB will deduct the applicable amount of the next Payroll Invoice.</p> <p>The Subcontractor will provide input to BCIB to assist in the determination of whether coveralls are required.</p>

**SCHEDULE 3
BCIB POLICIES AND PROCEDURES**

The following are the BCIB Policies and Procedures:

1. Contractor Discipline Process Policy dated [insert date], as may be amended, supplemented or restated from time to time.
2. Health & Safety Policy dated [insert date], as may be amended, supplemented or restated from time to time.
3. Whistleblower Policy dated [insert date], as may be amended, supplemented or restated from time to time.
4. Workplace Monitoring Policy dated [insert date], as may be amended, supplemented or restated from time to time.