



GOVERNMENT OF NUNAVUT
COMMUNITY AND GOVERNMENT SERVICES

REQUEST FOR PROPOSALS
RFP # 2011- 109

ARCTIC RE-SUPPLY OF DRY CARGO
Qikiqtaaluk, Kivalliq and Kitikmeot Regions

ISSUE DATE November 14, 2011

CLOSING DATE January 27, 2012

INTRODUCTION

The Government of Nunavut (GN) Department of Community and Government Services is requesting proposals from qualified proponents for the provision of the Arctic Re-supply of Dry Cargo to the service areas described in this Request for Proposal. Proponents may submit for any or all of the service areas listed.

The Arctic Re-supply of Dry Cargo services includes receiving, loading, transportation by water and delivery of cargo to above high water mark in the service areas described in this Request for Proposal

The term of any resulting contracts will be for 5 years with two options to renew for one year each.

In this document:

- a) “Proponent” means an individual, sole proprietor, partnership or a company or corporate body that holds this request document, intends to submit a proposal in response to this request, or has submitted a proposal in response to this request;
- b) “Contractor” means a successful Proponent who enters into a written Agreement with the GN for these services; and
- c) “Arctic Re-supply User operating in Nunavut” includes the Government of Nunavut and its departments and agencies, the Legislative Assembly, “public agencies” within the meaning of the Financial Administration Act (such as, but not limited to the Nunavut Housing Corporation, Housing Authorities or Housing Associations, Nunavut Power Corporation, Nunavut Arctic College, Nunavut Liquor Board) municipalities, schools, hospitals, all bodies performing a function under the Nunavut Land Claims Agreement, any person or entity providing public services in Nunavut, non-profit, charitable and religious organizations, persons carrying on a business, trade or occupation, and private individuals who are shippers of cargoes covered by the Arctic Re-supply Program or who have a property interest in cargoes carried under the Arctic Re-supply Program.
- d) Definitions of other terms used in this RFP will be found in Part 1 of the Pro-Forma Agreement on page 97

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Section 1 - Instructions to Proponents

1. Proposals must be received before **January 27, 2012** at 4:00pm, Local time **Iqaluit** at:

Government of Nunavut
Department of: Procurement and Logistics
Attention: Mark McCulloch, Senior Manager, Procurement and Logistics
Telephone: (867) 975-5427

Deliver to W. G. Brown Building, 3rd Floor, Iqaluit, Nunavut
Or documents may be telefaxed to (867) 975-5450

Original documents sent by mail must be sent to:
Government of Nunavut Procurement and Logistics Department
PO Box 1000, Station 1600
Iqaluit, NU
X0A 0H0

2. Proposals received after the exact time and date noted above will be rejected.
3. One signed original and eight **(8)** copies are to be submitted, quoting **“RFP 2011 - 109, “Arctic Re-supply of Dry Cargo”**, closing date and Proponent’s name on the outside of the package.
4. After the closing, only the identity and addresses of the proponents will be disclosed.
5. The GN will not be responsible for any proposal that:
 - a) does not indicate the Request for Proposal Title, closing date, and proponents name on the outside of the envelope,
 - b) is delivered to any address other than that provided above,

- c) does not meet all Mandatory requirements set out in this RFP, or does not meet all required submissions forms and Schedules or
 - d) is not signed as required.
- 6. Facsimile transmitted proposals will be accepted under the following conditions:
 - a) the proposal is received, fully printed before the submission deadline at the facsimile number stated;
 - b) the GN will not accept liability for any claim, demand or other actions for any reason should a facsimile transmission be interrupted, not received in its entirety, received after stated closing time and date, received by any other facsimile unit other than that stated herein, or for any other reasons;
 - c) the GN cannot guarantee the complete confidentiality of information contained in a proposal received by facsimile;
 - d) the proponent shall submit one signed original proposal and eight (8) copies to the address stated herein immediately following the transmission of the facsimile by the most expedient means.
 - e) in addition to the facsimile proposal, waybill information for prepaid air cargo or courier delivery of the hard copy proposal submission is also received by facsimile on or before the submission deadline, and
 - f) in addition to the facsimile proposal and waybill information received on or before the RFP closing deadline, the GN receives the original proposal and eight (8) copies at the address stated in the preceding clause 1 by prepaid air cargo or courier delivery following the RFP closing,
 - g) To ensure the proposal is received before the closing, it is recommended that if sending proposals by facsimile to send well in advance of the tender closing date and time, and to confirm receipt by a telephone enquiry. (The facsimile line may be very busy prior to a proposal closing and is also used for other government business.)

7. All questions or enquiries concerning this Request for Proposals must be in writing and be submitted to the address provided above no later than thirty (30) calendar days prior to the proposal deadline. Verbal responses to any enquiry cannot be relied upon and are not binding on either party. To ensure consistency and quality of information provided to proponents, any information with respect to issues and questions received, which the GN considers significant, will be documented in a RFP amendment without indicating the source.
8. This is **not** a Request for Tenders or otherwise an offer. The GN is not bound to accept the Proposal that provides for the lowest cost or price to the GN nor any proposal of those submitted.
9. If a contract is to be awarded as a result of this Request for Proposal, it shall be awarded to the proponent who is responsible and whose proposal for the relevant service area provides, after application of the NNI policy, potentially the best value to the GN. Responsible means the capability in all material respects to fully perform the contract requirements and the integrity and reliability to assure performance of the contract obligations.
10. Proposals may be accepted in whole or in part, and the GN may enter into contract with or without negotiation. Proposals, in respect of any particular service area will remain open for acceptance for a period of one hundred and twenty (120) days from the closing date. If a written contract in respect of any particular service area cannot be negotiated within 30 days of notification to the proponent, the GN may, at its sole discretion at any time thereafter, terminate negotiations with that proponent and either negotiate a contract with the next proponent for such service area, or choose to terminate the RFP process for such service area and not enter into a contract as a result.
11. Notice in writing to a proponent and the subsequent execution of a written agreement shall constitute the making of a contract. No proponent shall acquire any legal or equitable rights or privileges whatever until the contract is signed.
12. The contract will contain the relevant provisions of this Request for Proposals, the accepted proposal as well as such other terms as may be mutually agreed upon, whether arising from the accepted proposal or as a result of any negotiations prior or subsequent thereto. The GN reserves the right to negotiate modifications with any proponent who has submitted a proposal.

13. In the event of any inconsistency between this Request for Proposal, and the ensuing contract, the contract shall govern.
14. The GN has the right to cancel this Request for Proposal at any time for any, some or all the service areas and to amend or reissue it in respect of one, some or all the service areas for any reason whatsoever, without incurring any liability and no proponent will have any claim against the GN as a consequence.
15. Any amendments made by the GN to the Request for Proposals will be issued in writing and sent to all who have requested RFP documents.
16. The GN is not liable for any costs of preparation or presentation of proposals.
17. An evaluation committee will review each proposal. The GN reserves the exclusive right to appoint the members of the committee and to determine the qualitative aspects of all proposals relative to the evaluation criteria.
18. **This RFP contains certain ‘Mandatory’ requirements. If the Mandatory requirements are not met in substantially unaltered form, the proposal may be rejected without further consideration. Mandatory requirements in this RFP documents are identifiable by use of the words ‘must’, ‘mandatory’, ‘shall’ or ‘required’.**
19. Proponents may amend their proposal up to the closing date and time by facsimile. But after the closing date and time a proposal may not be amended, but may be withdrawn by the proponent at any time prior to acceptance.
20. The *Access to Information and Protection of Privacy Act* will define the Contract Authority’s responsibilities with respect to any information received by it pursuant to the RFP process.
21. The GN also has given priority to strengthening of the Nunavut economy and improving the situation of Inuit, using incentives and preferences for Inuit and Nunavut businesses and providing economic and training opportunities for Inuit and other Nunavut residents. This will promote the growth of the economic base of Nunavut and ensure proper Inuit participation in it. Pursuant to the *Government Contract Regulations*, the Nunavummi Nangminiqaqtunik Ikajuuti (NNI Policy) applies to this Request for Proposals. To receive the benefits of this Policy, proponents

are required to identify those elements of this RFP evaluated under the NNI Policy and comply with Section 4.2.

Proponents can obtain information about the NNI Policy from the NNI Policy Secretariat at tel. (888) 975-5999, fax. (867) 975-7870. email nniadmin@gov.nu.ca A registry of approved Nunavut Businesses can be accessed at the website <http://www.nni.gov.nu.ca/search>. A listing of approved Inuit owned firms can be obtained from Nunavut Tunngavik Inc. (NTI) at tel. (867) 975-4900 or at their website www.tunngavik.com. Proponents should note that under the NNI policy, they have 5 days to challenge an award and 25 days to give notice of appeal.

22. Proposals may be short listed. Proponents who are short listed may be requested to make a formal presentation. Such presentations shall be made at the cost of the proponent.
23. The proposal and accompanying documentation submitted by the proponents are the property of the GN and will not be returned.
24. The GN will hold a Proponent information session after the release of this RFP for all interested parties. This meeting will take place in Ottawa at a The Southway Hotel and Conference Centre on December 9th 2011. The meeting will commence at 13:00hrs and close at 16:00hrs. The purpose of this meeting is to offer clarification, as may be required, to this RFP. Attendance at the meeting is not mandatory. Addendums with questions and corresponding answers will be issued as necessary. If unable to attend in person, proponents may call in to the meeting using the following:

Telephone: 1 866 969 8429
Conference ID: 6967263

Questions regarding the RFP should be forwarded in writing no later than 4:00pm Monday November 28th to the person designated in Clause 1 above. The questions and answers will be reviewed at the bidders meeting and will be the main, but not sole agenda item. Oral questions will be allowed at this meeting; however, questions of a complex nature, or questions where the Proponent requires anonymity, should be forwarded in writing, prior to the meeting, to the person designated in Clause 1 no later than the date given in this clause. Information arising from this meeting that the GN considers significant will be distributed to all Proponents.

The purpose of questions being submitted in advance is to permit the GN to prepare adequate responses in a timely manner.

25. Proponents should be advised that all contracts for goods and or services awarded by the Government of Nunavut (GN) are made public. The GN releases a Contract Activity Report (CAR) and a Procurement Activity Report (PAR) which makes public the names of the successful contractor / Vendor and the contract price.
26. Notwithstanding any other provision, a Proponent who responds to this RFP agrees that any claim for damages or compensation of any kind related directly or indirectly to a breach of contract or other cause of action arising from the RFP process, the evaluation of responses, or the final award of the contract shall be limited to the Proponent's actual proposal preparation cost. Proposal preparation cost is the actual cost borne by a Proponent to prepare and submit its response to this RFP. By responding to this RFP, the Proponent acknowledges and accepts this limitation.
27. The GN reserves the right to reject any proposal submitted by any proponent against whom it has an unresolved claim for damages of any kind, which claim is not in litigation or to reject any submission by any proponent who in like manner, has an unresolved claim against the GN which claim is not yet in litigation. The GN, at its sole discretion, may reject any submission from any proponent with whom it is engaged in litigation or arbitration, regardless of the subject matter in dispute
28. Proponents should be advised that in consideration of work references, in those situations where the GN has been a client of the Proponent in the past, the GN is automatically considered as a reference. The GN reserves the right to consider the work performance and or management experience as part of the evaluation process.

SECTION - 2 TERMS OF REFERENCE

2.1 Purpose

- 2.1.1 The purpose of this RFP is to secure competitive rates and levels of service for Arctic Re-Supply users in the service areas described in this RFP, and to ensure these rates and service levels are accessible to other levels of government and to the public for the term of the Agreement(s).
- 2.1.2 Sea transportation has played an essential role in the economic, social and cultural heritage of Nunavummiut. Nunavut's requirements for sea transportation are unique and critical to the health, unity and self-reliance of our many small, widely scattered communities, located in Canada's harshest environment.
- 2.1.3 The primary document that defines the objectives of Nunavut's transportation strategy is "Building our Future Together" - Tamapta see http://www.gov.nu.ca/files/tamapta_english.pdf

2.2 BACKGROUND

2.2.1 Need for New Arctic Re-supply Contract(s)

Current re-supply agreements will expire with the conclusion of the 2011 season. The agreements were the result of an RFP process in 2006 for five (5) seasons, with a one season extension of the two seasons permitted within the contract. The GN elected not to exercise the option for a further season extension, and directed the department of Community and Government Services to issue a proposal call and put new Arctic Re-supply agreement(s) in place.

2.2.2 Transportation Strategy Objectives

- To reduce transportation costs so as to reduce the cost of living and cost of doing business in Nunavut thus providing additional incentives for economic development.
- To enhance the safety and reliability of the existing and future transportation systems. To improve the transportation system in and to Nunavut with the purpose of promoting and serving economic development.

- To provide opportunities for Inuit training, employment and business development in transportation and logistics, which would be useful in the mining and other sectors of the economy.

2.3 Communities

The following is a list of the communities serviced by Arctic Re-supply Operations:

QIKIQTAALUK	KIVALLIQ	KITIKMEOT
Clyde River	Baker Lake	Cambridge Bay
Grise Fjord	Chesterfield Inlet	Gjoa Haven
Nanisivik	Rankin Inlet	Kugluktuk
Kugaaruk*	Whale Cove	Kugaaruk
Pond Inlet	Arviat	Taloyoak
Resolute Bay	Coral Harbour	Bathurst Inlet
Igloolik	Repulse Bay	Umingmaktok
Hall Beach	Sanikiluaq	
Arctic Bay		
Iqaluit		
Cape Dorset		
Kimmirut		
Pangnirtung		
Qikqtariuaq		

* At present, Kugaaruk is serviced out of the Eastern Arctic with trans-shipment at Nanisivik.

2.3.0 Role of the GN

2.3.1 The Department of Community and Government Services (CGS) enters into Agreements for water transportation services on behalf of all GN Departments. The CGS Manager Logistics is the contact person for the Contractor regarding Arctic Re-supply services and coordinates GN cargo declarations, approves Arctic Re-supply cargo delivery Schedules, and generally administers the Agreements. CGS may also nominate an agent to be located at a Port of Exit to assist the Manager Logistics. Although CGS generally administers Arctic Re-supply services, individual GN departments and other entities shipping cargo under the contract have their own budgets for Arctic Re-supply services and therefore must be invoiced separately.

2.3.2 The GN reviews its purchasing practices to ensure the GN receives the best value when purchasing of goods for Nunavut. To ensure the best value, the **total cost** of goods including transportation and crating are considered.

2.3.3 The GN:

- a) provides the Contractor with a final GN Department's tonnage listing no later than the "Declaration Date", in each of the years of the contract term,
- b) directs its cargo to be delivered to the Contractor's Facilities,
- c) provides the Contractor with information related to anticipated requirements,
- d) requires its suppliers to deliver cargo in a timely manner that meets the Contractor's cut-off Schedule,
- e) requires its suppliers or contracted packaging company to ensure that packaging and markings conform to acceptable standards,
- f) requires its suppliers to provide necessary documentation including Dangerous Goods documentation,
- g) requires that all mobile equipment is in working condition,
- h) specifies and provides the Contractor with a representative at destination community authorized to receive GN cargo,
- i) accepts properly presented invoices, and remit payment in timely manner, in accordance with the Agreement.

2.4.0 How Nunavut's Regions are Served

See Appendix 1 Cargo Re-Supply Areas for a listing of Re-Supply service areas and the communities in them.

2.4.1 Kivalliq Region

The Kivalliq is a single service area and is currently served under GN contracts from Churchill and the Montreal area by NSSI for both exit points. Other carriers may provide private service from the Montreal and Churchill areas.

2.4.2 Kitikmeot Region

The Kitikmeot is a single service area and is currently served under GN contract from Hay River. NTCL holds the GN contract for the region, but other carriers from the Montreal area may offer private service. The Kitikmeot region was also served for two seasons from the Vancouver (BC) area. Note that because of constraints imposed by the ASPPR, Kugaaruk is currently served via cargo transfer to Canadian Coast Guard (CCG) vessels at Nanisivik as part of the High Arctic Region Region.

2.4.3 Qikiqtaaluk Region

The Qikiqtaaluk Region is divided into four service areas, High Arctic, South Baffin, Foxe Basin and Iqaluit. NEAS holds the contract for the High Arctic, while NSSI holds the contract for the other areas.

2.4.4 Indicative cargo quantities are provided in Appendix 2. Proponents should note that historical information for cargo to communities and regions may not be reflective of future trends.

2.5.0 Conditions Related to GN Construction Contractors Shipping Requirements

2.5.1 The GN requires that Construction Contractors for GN major works projects use the designated Arctic Re-supply carrier for the Arctic Re-Supply Area in which the community is located. However, it is recognized that situations may arise where sailings and contract schedules do not match. The GN thus reserves the right to use an alternate carrier, or charter additional capacity, if scheduled calls or vessel capacity, are not available. Under these circumstances, the GN will work diligently with the designated carrier to resolve the problem, and will only use alternate resources if resolution cannot be achieved.

2.5.2 The 2012-16 Capital Estimates includes the GN's current plans for major construction projects. The web link to download this plan is provided in Appendix 3

2.6.0 Alternative Methodology for Kitikmeot (Kugaaruk) Arctic Re-supply

2.6.1 Traditionally, Arctic Re-supply for Kugaaruk for both dry cargo and fuel has been via trans-shipment at Nanisivik. Since the 2004 season, Petroleum Products Division (PPD), working with Federal authorities and the contract carrier for Arctic Oil Re-supply, has been able to make direct deliveries into Kugaaruk.

2.6.2 Proponents are urged to consider alternative Arctic Re-supply options that might enable dry cargo to be moved in a similar manner. Proposals for Kugaaruk are therefore sought both into Nanisivik for trans-shipment, and direct to Kugaaruk. It is the responsibility of the proponent to confirm with Canadian Coast Guard that ice breaker support would be available for direct shipment to Kugaaruk.

2.6.3 For delivery to Kugaaruk via Nanisivik, the latest date for completion of cargo discharge for effective handling via CCG icebreaker is 15th August. This date is critical and is to be honoured by the selected proponent. If cargo is delivered more than 3 days later than the designated completion date for Kugaaruk transshipment cargo, subject to terms described in Annex E, the successful contractor will be required to indemnify the GN for additional hire and demurrage payable by the GN to CGS as a result of the delay

2.6.4 The 2011 MOU between the GN and CCG includes Icebreaker costs per day of \$51,500 for the Terry Fox and \$38,500/day for Degroselliers, both plus a fleet administrative fee of 10%. Demurrage costs have been waived during the current contract. They will not be waived in future contracts.

SECTION 3 – SCOPE OF WORK AND SPECIAL REQUIREMENTS

3.1 Overview

3.1.2 Services to be provided under the Arctic Re-supply of Dry Cargo contract include but are not necessarily limited to the receiving, temporary storage as may be required by the shipment, loading, transportation by water and delivery of dry cargo to 'above high water mark' at communities in the applicable Service Area(s), as further detailed in the attached Schedules and Pro-forma Agreement.

- 3.1.3 The general requirements of the work are outlined below. The specific work requirements and contractual terms and conditions under which the successful Proponent will be required to carry out the work are more specifically set out in the Pro-forma Agreement and Schedules attached with this RFP, therefore, Proponents are advised to become familiar with the Work Requirements and Terms and Conditions set out in the Agreement and Schedules.
- 3.1.4 The special requirements related to provision of the services include maintenance of a Arctic Re-supply website, toll-free telephone and facsimile numbers, email addresses and requirements to provide information and reports which are described with more detail below in section 3.3, and in Schedule J of the Agreement.
- 3.1.5 Proponents should note that all requirements in this section are mandatory and must be met in a substantially unaltered form. It is the responsibility of the Proponent to obtain clarifications if necessary prior to submitting a proposal.
- 3.1.6 Proponents should be aware that the use of Containers for GN Department's cargo currently is very limited. Ordering and packaging by Department and the lack of a central warehousing facilities in communities for de-stuffing, etc, are not well suited to the use of Containers. However, Proponents are welcome to provide information on their current levels of service and capability to provide an efficient and effective 'direct dock to door' container service to the GN and/or other users as part of their proposal.
- 3.1.7 In the 2006 RFP process, the GN recognised the uncertainty of fuel costs in providing fixed forward prices and invited proponents to offer a marine fuel adjustment factor calculated in a manner that could be readily confirmed by the GN and from data that was independently accessible to GN for monitoring purposes. The marine fuel adjustment factor is required to be reversible. Proponents responding to this RFP may offer such an adjustment factor and may also offer marine fuel pricing formulas based on hedging or futures contracts offered by regulated futures markets.
- 3.1.8 The GN recognises carriage of certain Hazardous and Noxious Substances (HNS) substances requires the carrier to take additional administrative and operational steps. Proponents may offer an HNS cargoes adjustment factor that is calculated as a percentage premium above the regular Northbound or retrograde cargo rate to recover only those marginal expenses above freight that are incidental to requirements of carriage under the *Transportation of Dangerous Goods Act, 1992* or the IMDG Code.

3.1.9 The GN requests proposals for the use of retrograde cargo capacity to transport abandoned vehicles, scrap steel, obsolete electronic equipment and other waste from pre-stuffed containers at collection points above high water at Nunavut delivery schedule communities to vessel 's tackle at the Port of exit. Proponents should be aware that logistics facilities at Nunavut communities are very limited and therefore contractors will require their own capacity for weighing such backhaul cargo on site, transferring containers, bins or flats from above high water mark to lighters and loading such containers onboard. Proponents may wish to consider consolidating break bulk northbound package cargo onto half height containers, container flats or bins which are suitable for carrying retrograde waste cargoes. Containers being positioned for retrograde or recyclable cargoes should not shut out re-supply cargo. The GN will pay reasonable costs for cleaning containers as a result of carrying retrograde waste.

3.2 General Requirements

3.2.1 The Contractor shall provide all appropriate facilities for the receiving and storage of cargo from the GN and/or its suppliers prior to the loading of such materials for water transportation to communities in the Area(s) set out in the Agreement. Days of the week and time of day for cargo receiving shall be provided on the Contractor's web site. The Contractor's Facilities **must** be open to accept cargo commencing May 1st each year. Facilities must also be available for storage of cargo outside of the Re-Supply season upon 48 hrs notice from the GN Manager Logistics or designate. Reasonable storage fees will be paid by the GN or the Arctic Re-Supply user.

3.2.2 The Contractor shall provide a seaworthy vessel, or vessels, to transport and deliver cargo from the Contractor's Port of Exit to communities within the Service Area(s) set out in the Agreement, according to the Sailing Schedule that will be incorporated into Schedule E of the Agreement. (The Proponent may propose to use seaworthy tugs and barges rather than self-propelled ships provided the barges have adequate breakwaters forward and side walls to protect cargo from shipped seas). Tug and barge operators must be able to meet the terms and conditions of the RFP having contingency plans in place and demonstrate that they can perform to the satisfaction of the contract. Proponents who propose to use non-geared barges should describe methods for handling containerized and break bulk cargoes from vessel's deck to above high water mark.

The GN will consider proposals from Proponents who own or charter non-Canadian flagged vessels. It is the Contractor's responsibility to obtain licenses under the *Coasting Trade Act* and to ensure that crew have immigration

clearances to operate contracted for services, including cargo operations for delivery and for lateral and retrograde cargo.

- 3.2.3 The “Arctic Re-supply Cargo Delivery Schedule” **must** provide at least one ‘guaranteed sailing’ to each community in the Area(s) (or more than one guaranteed sailing if this is set out in the Agreement), and guaranteed sailings **must not** be contingent upon cargo quantities (inducement). Proponents should note that the number of guaranteed sailings is an important factor in the evaluation component “Methodology and Schedule”. Generally, re-supply users prefer early season visits and more guaranteed sailings.
- 3.2.4 For Area A - High Arctic, the **required** delivery date for cargo for Kugaaruk to be delivered to Nanisivik is to be determined each year by the GN Arctic Re-supply Manager Logistics and the date determined is to be reflected in the “Arctic Re-supply Cargo Delivery Schedule”.
- 3.2.5 The Contractor shall provide an “Arctic Re-supply Cargo Delivery Schedule”, listing all ports of delivery, departure date and estimated arrival date at each community. The proposed Schedule, and any changes, shall be subject to acceptance by the Arctic Re-supply Manager Logistics. It is anticipated that proposed cargo delivery schedules will remain consistent over the life of the contract.
- 3.2.6 The Contractor shall deliver cargo according to the “Arctic Re-supply Cargo Delivery Schedule” to a designated point, above the high water mark, at each community and delivery must be evidenced by copies of receipts signed by the consignee or his representative. The “Arctic Re-supply Cargo Delivery Schedule” shall be the schedule proposed by the Contractor, accepted by the GN and incorporated into the Agreement for each year of the term of the Agreement.
- 3.2.7 The Contractor shall guarantee to carry all Arctic Re-Supply Cargo, declared prior to the designated declaration date, and delivered prior to the carrier’s cut off date for the communities within the Service Area(s) set out in the Agreement.
- 3.2.8 The Contractor shall ensure the GN is provided with the opportunity to utilize any Space Available for any additional cargo up to the date of sailing.
- 3.2.9 Whenever the Contractor takes measurements of GN Cargo loaded, the Contractor shall record these measurements and report any variances to the GN for verification. Any such cargo shall be made accessible to a representative of the GN for such verification.

- 3.2.10 The Contractor shall issue a dock receipt to any Sealift User upon acceptance of Cargo, and shall stamp on each delivery bill the date and time of arrival at and departure from the Contractor's Facilities, of each vehicle delivering goods to be shipped under the Agreement.
- 3.2.11 The Contractor shall immediately inform the GN or other shipper of any refusal to receive cargo at the Contractor's Facilities.
- 3.2.12 The Contractor shall notify the GN or other shipper, in writing, of any loss or damage to cargo while in the Contractor's possession.
- 3.2.13 The Contractor shall facilitate the procurement of optional "all risks" cargo insurance and cargo insurance coverage for cargoes which are subject to the *Transportation of Dangerous Goods Act 1992* and the IMDG Code for purchase by the GN and Arctic Re-supply Users (reference Schedule G, Part 2).
- 3.2.14 The Contractor shall receive, load and deliver Retrograde Cargo to the Contractor's Facilities from communities within the Area(s) set out in the Agreement (reference Schedule C).
- 3.2.15 The Contractor shall receive, load and transport Lateral Cargo between communities as may be required by the GN (reference Schedule D).
- 3.2.16 The successful Proponent **must** provide the required Contract Security and proof of necessary Insurances to the GN in accordance with Schedules F and G of the Agreement.
- 3.2.17 The Contractor shall allow the public access to Arctic Re-supply service to the communities within the Areas(s) set out in the Agreement, and at the rates that will be incorporated into Schedule I of the Agreement.

3.3 Special Requirements

The following special requirements are also mandatory and must be accounted for in the proposal.

- 3.3.1 Inuit Employment and Training: The Proponent shall provide details of Inuit Training and Employment for each year of the agreement. This information will, subsequently, be incorporated into Schedule H of the Agreement.

- 3.3.2 Website: The Contractor shall maintain a website publishing Arctic Re-supply rates, cut-off dates and sailing schedule information, contact information, insurance information, general conditions of carriage and toll-free telephone and facsimile numbers (reference Schedules G, J and K).
- 3.3.3 Toll Free Telephone and Facsimile Number: The Contractor shall maintain a toll free telephone and facsimile number accessible from Nunavut communities (reference Schedule J).
- 3.3.4 Information to GN: (reference Schedule J)
- 3.3.5 The Contractor shall provide complete manifests for all Arctic Re-supply cargo carried on behalf of the GN.
- 3.3.6 The Contractor shall provide by January 15th of the year, following each year of the Agreement, a report containing the information outlined in clause 11 of schedule J.
- 3.3.7 The Contractor shall provide by January 15th of each year of the Agreement, a report on Inuit Content, including Inuit employment and Inuit Training provided during the previous calendar year.

3.4 Schedules A through K

The Schedules, attached with this RFP in Section 7 – Attachments, further set out the work requirements and will form part of any Agreement resulting from this RFP. Therefore, Proponents are advised to become familiar with the contents of these Schedules.

- SCHEDULE A – Contractor's Care, Custody and Control of Arctic Re-supply Cargo
- SCHEDULE B – Conditions of Sea Transportation and Delivery
- SCHEDULE C – Retrograde Cargo
- SCHEDULE D – Lateral Cargo
- SCHEDULE E – Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule)
- SCHEDULE F – Contract Security Requirements
- SCHEDULE G – Insurance Requirements
- SCHEDULE H – Inuit Employment and Training Requirements
- SCHEDULE I – Arctic Re-supply Rates
- SCHEDULE J – Administrative Requirements
- SCHEDULE K – General Conditions of Carriage

SECTION 4 - PROPOSAL REQUIREMENTS AND RESPONSE GUIDELINES

4.1 Overview

- 4.1.1 This Section defines the proposal preparation requirements and guidelines to be followed by all Proponents. Proponents are cautioned to carefully read and follow the requirements, as any deviation may be cause for rejection. It is the responsibility of the Proponent to obtain clarifications, if necessary, prior to submitting a proposal.
- 4.1.2 The proposal **must** be signed by the person(s) authorized to sign on behalf of the Proponent and bind the Proponent to the statements made in response to this RFP. Proponents are also reminded that submission of a proposal in response to this RFP indicates an acceptance of all the terms and conditions of the RFP, and will be understood to be incorporated in the proposal.
- 4.1.3 At the GN's discretion, all Proponent's facilities, equipment, vessels are subject to inspection and acceptance by the GN or its authorized representatives.
- 4.1.4 Proponents may submit a proposal for one or for more than one Service Area, and for one, or for more than one Port of Exit. A separate Proposal must be submitted for each Service Area, and for each Port of Exit. For each Port of Exit the Proponents must clearly indicate any differences to the services from those set out in the RFP, including the type of vessels and methodology.
- 4.1.5 Proponents may submit alternate proposals with pricing, Schedules, etc., based on combined Service Areas, for example, South Baffin combined with Foxe Basin with pricing, Schedule, etc. based on the award of both Service Areas, and may also submit separate proposals for South Baffin alone and/or Foxe Basin alone; however, except in the case of Sanikiluaq, Proponents are not permitted to alter the communities specified for each Service Area.
- 4.1.6 Information that is applicable to all proposals such as company experience, corporate profile, brochures, etc., may be referenced rather than submitted with each proposal. For information applicable only to an individual proposal, it will be necessary for the Proponent to submit the relevant Schedules or other information with the applicable proposal.
- 4.1.7 Alternative proposals will be assessed to ensure the GN's objectives will be met.

- 4.1.8 Proponents are hereby advised that where proposals do indicate that they are conditional upon the GN requiring Construction Contractors to use the GN Arctic Re-supply, under any Agreement resulting from this RFP, the Agreement will set out that in circumstances where the GN Carrier's Arctic Re-supply schedule is in conflict with the construction project schedule and the project would benefit significantly by using a private sailing for a portion of the cargo, then the GN may at their sole discretion and without penalty, permit the Construction Contractor to ship such cargo with another carrier.
- 4.1.9 For cargo to Kugaaruk beyond Nanisivik, Proponents must provide information about the methodology to carry out this service.

4.2 Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy)

- 4.2.1 The NNI Policy applies to this RFP. To receive the benefits of this Policy, proponents are required to identify those elements evaluated under the NNI Policy, including identifying cost components for Inuit Content, Local Content and Nunavut Content (as defined in the NNI Policy). Where appropriate, consideration will also be given under the NNI Policy for the Proponent's status as an Inuit Firm, a Local Business or a Nunavut Business (as defined in the NNI Policy).
- 4.2.2 For the purposes of applying the NNI Policy in evaluating the proposals, Proponents are required to identify all the companies that will be involved in carrying out the services and at what level of involvement and to identify the names of any subcontractors, suppliers, and the residency of project team members or other labour proposed to carry out the work. It would be to the Proponent's benefit to provide a work breakdown structure, or similar schedule of values, indicating the value of involvement of companies carrying out the work including Inuit employment and training opportunities to be provided, if the Proponent is awarded a contract as a result of this RFP.
- 4.2.3 For the purposes of evaluating cost criteria in accordance with the NNI Policy, an adjustment of 7% will be made for a Nunavut Business and an additional adjustment of 7% will be made for an Inuit Firm (as defined in the NNI Policy). A Local Business in Iqaluit will receive an additional 7% adjustment for services provided to Area C Iqaluit and a Local Business in Kugaaruk will receive an additional adjustment of 7 % for services provided Area F Kugaaruk. The adjustment for Local Business will not apply under this RFP to areas other than Area 'C' Iqaluit, Area 'F' Kugaaruk and Area H Sanikiluaq. since the Proposal applies to many Nunavut communities, rather than one particular community. The bid adjustment will be applied to the rate, and will reflect the Proponent's

status under the NNI Policy as well as the status of subcontracts and/or other companies that will carry out the work. Refer to Appendix 4 for the method of calculating contract value and how Nunavut, Inuit and Local Business information should be provided.

- 4.2.4 Proponents who choose to make a proposal based on use of vessels registered outside of Canada are encouraged to consider the employment of vessel's masters, officers and crew who are original peoples of circumpolar regions.
- 4.2.5 Where a Proponent gives undertakings or goals as to the level of Nunavut Content, Local Content, Inuit Content and Inuit Training, evaluation of proponent's response to this RFP will take into consideration past performance relative to previous undertakings or goals for Inuit Employment and Training.

4.3 Proposal Format

- 4.3.1 To allow for a thorough yet timely evaluation, proposals should be presented in a clear and concise manner. Failure to present information in the manner requested may be to the proponent's disadvantage. It is suggested that the following format and sequence be followed in order to provide consistency in proponent response and to ensure each proposal receives full consideration.
 - a) Title page showing RFP number, Proponent's name and address, closing date and time, Proponent's telephone and telefax number, and a contact person, together with email address;
 - b) Proposal cover letter identifying the Proponent and outlining key features of the proposal, that **must** be signed by the person or persons authorized to sign on behalf of and bind the Proponent to statements made in the proposal;
 - c) Proposal Form, and required information, to be submitted as Annexes A through K as follows:
 - Annex A – Contractor's Facilities,
 - Annex B – Vessel Particulars,
 - Annex C – Provision for Reefer Cargo,
 - Annex D – Equipment Particulars,
 - Annex E – Proposed Arctic Re-supply Cargo Delivery and Sailing Schedule

 - Annex F – Stevedores,
 - Annex G – Proponent's Experience,
 - Annex H – Identification of Legal Capacity,
 - Annex I – Proof of Ability to Obtain Contract Security,

Annex J – Proof of Insurability and Cargo Insurance for Shippers,
Annex K – Inuit Employment and Training;

- d) Brochures and/or any other information considered essential by the Proponent. However, the extent of this material should be kept to a minimum.
- e) Form of proposed website information in hard copy and on diskette or CD in html format, including all internal hyperlinks and forms which the Proponent proposes to publish

4.4.0 Proposal Content

4.4.1 Proposal Outline Letter

The Proposal outline letter should identify key features of the proposal. If the proposal is for Area E - Kivalliq, or for Area F - Kugaaruk beyond Nanisivik, the methodology must be outlined.

4.4.2 Proposal Form

The proponent shall propose fixed rates for the receiving, loading, transportation by sea and delivery of Arctic Re-supply cargo to above high water mark at communities within the Re-Supply area(s) of Nunavut, for the years (April 1 to March 31): **2012, 2013, 2014, 2015, 2016**, and the optional extension years of **2017** and **2018** using the Proposal Form provided.

The GN will adjust rates according to the NNI Policy when evaluating proposals.

The rates quoted in the Proposal Form must be in Canadian dollars and exclusive of GST or HST. The Arctic Re-Supply User will pay the GST or HST and the successful Proponent shall remit the appropriate amount of GST or HST to Revenue Canada in accordance with the applicable legislation.

4.4.3 Proposal Annexes

Contractor's Facilities (Annex A)

The Proponent shall submit as Annex A, a description of the facilities the Proponent intends to use for the purposes of carrying out the work. This description should include, but not be limited to the following:

- the location of the facilities
- whether the Proponent has warehousing or other facilities for the receiving and storage of cargo
- the location and size of inside and outside storage area(s) and a general description
- details regarding whether this storage area is owned, or if leased or licensed, from whom
- dates of operation of the facilities for the Arctic Re-supply season
- whether the inside and outside storage facilities are secure and accessible, on request, throughout the year

Vessel Particulars (Annex B)

Proponents shall submit as Annex B a listing of the vessel(s), including self propelled ships and/or tugs and barges, and their current location, that they propose to use for carrying out this work. This information may be in summary, or tabular format. Full vessel specification information is not required, but reference to a web site where such information is available is required.

The vessel particulars listing shall include but not be limited to

- name of the vessel (or tug and barge(s))
- the type of the vessel (or tug and barge);
- the carrying capacity of the vessel (or tug and barge);

and, the information for all vessels (or tugs and barges) offered must include the following:

- The vessel particulars shall be accompanied by a written indication from all parties involved stating that, within **30** days of the award date, or, **15** days prior to the scheduled arrival alongside of the vessel for commencement of loading at the proposed marine terminal of the vessel, whichever is the earliest, the vessel will be owned or chartered (time, voyage or demise) by the Proponent;
- The vessels must be registered in Canada or within **30** days of the award date, or, **15** days prior to the scheduled arrival alongside of the vessel for commencement of loading at the proposed marine terminal of the vessel, whichever is the earliest, the vessel will be duty paid and registered in Canada or have obtained a coasting trade license and have all of its inspection certificates valid and in force;
- The vessels must be in conformity with all regulatory and operational requirements, including marine environmental legislation.
- Methodology, including lighterage and cargo handling equipment for transport of containerized break bulk cargoes from vessels deck to above high water mark.

Any substitution of vessel(s) or tugs and barges shall be subject to the prior approval of the Manager Logistics.

Provision for Reefer Cargo (Annex C)

Several GN initiatives and the recent implementation of the federal Nutrition North programme may lead to a need for the carriage of freezer or chill cargo for other Sealift Users, for the communities set out in the Agreement.

Proponents shall submit as Annex “C” a description of their arrangements for transport of freezer and chill cargo, including the number and capacity (weight and volume) of their reefer containers and the Proponent’s capability of loading and transporting reefer cargo, or a description of alternate arrangements available to the public for transporting their freezer or chill cargo. Information on pricing and any other conditions of carriage should be provided.

Equipment Particulars (Annex D)

Proponents shall submit as Annex D a list of equipment to be used for each Area inclusive, inter alia, of cranes, forklifts, carry lifts, barges and any other equipment the Proponent deems necessary for the purposes of providing the services. Proponents must also provide a brief description of the method of discharge for the communities in each Area proposed.

The list of equipment shall include, but not necessarily be limited to:

- a description of the equipment,
- an indication of whether it is owned, leased or rented and from whom,
- the current location of equipment,
- the maximum lifting capacity of equipment,
- evidence that the equipment listed is duly and properly registered with the authorities having jurisdiction and that all personnel charged with operating said equipment have obtained, or will obtain before operating, all permits and licenses required for the safe and lawful operation of the equipment listed.

Proposed Arctic Re-supply Cargo Delivery Schedule (Annex E)

Proponents shall submit as Annex E a proposed Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule) for each vessel described in Annex B, including the dates vessels are to leave the point of departure and the estimated dates vessels will arrive at each community, and cut-off dates for delivery of cargo to the carrier.

Proponents must guarantee that there will be at least one sailing into each community in the proposed Area, regardless of cargo quantities and may choose to propose more than one guaranteed sailing into some communities, and/or additional sailings that are not guaranteed but are subject to cargo quantities (inducement). Proponents **must** identify whether additional sailings are guaranteed or are subject to inducement. The GN would view proposals that offer additional 'guaranteed sailings' most favourably.

Where more than one guaranteed sailing is proposed, the GN generally prefers a sailing early in the season and the second sailing later in the season, rather than two closely spaced sailings. Except for Iqaluit, sailings should not be closer together than 45 days. The availability of vessels to handle cargo quantities will also be considered in evaluating proposals.

In addition, Proponents must warrant that a similar proposed Arctic Re-supply Cargo Delivery Schedule for each of the subsequent years of the Agreement will be provided to the Manager Logistics within seven (7) days after the Declaration Day.

The proposed schedule shall be subject to acceptance by the Manager Logistics and shall form part of any Agreement between the parties. Any alternate arrangements shall be subject to the written approval of the Manager Logistics. Should a request for an amendment be denied, the Contractor shall not deviate from the agreed Schedule. Any deviations by the Contractor from the agreed schedule or approved amendment shall constitute default by the Contractor.

Proposed Schedules should take into consideration dates set by ice regimes, vessel deployment plans for Coast Guard Ice-breakers, and ice class of proposed vessels.

This Annex should also include the Proponent's contingency plan details, alternate delivery routes or carrier, or any other methodology conducive to mitigating losses on the part of both the Proponent and the GN, in the event that ice conditions, marine casualties or any other events, be they unforeseen or not, that may interfere with timely delivery of Arctic Re-supply cargo in accordance with the Schedule. Potential delays associated with contingency plans should be identified.

Proponents are advised that delivery of the Kugaaruk Cargo at Nanisivik must be coordinated with CCG Schedules. Coordination of this schedule is primarily between the Contractor and the GN Manager Logistics. The current target date is August 15th and this date is subject to approval by the GN Manager Logistics each Arctic Re-supply season.

Unless timely performance of the contractor's obligation to deliver Kugaaruk destination cargo to Nanisivik is excused by force majeure, the liberty not to force ice, or directed diversion to alternate discharge ports as provided in clauses 8, 25 and 26 of Schedule K, the contractor shall indemnify and hold harmless the GN for any additional day or part day of charter hire or demurrage which the GN is obligated to pay the CCG for cargo capacity for on carriage from Nanisivik to Kugaaruk as a result of contractor's delay beyond three days from the designated date for completion of delivery of such cargo.

Stevedores (Annex F)

This Annex shall include the name of the stevedoring firm contracted for loading/discharging government cargo at the Contractor's Facilities and/or the Contractor's Port of Loading.

The firms nominated for discharge or delivery of cargo in Nunavut must comply with the laws of Nunavut, be registered under the Business Corporations Act and be in compliance with laws on workers compensation

Proponent's Experience (Annex G)

Proponents shall submit as Annex G a description of the Proponent's experience that demonstrates proven capability to organize and deliver the services.

This Annex shall include but not be limited to the following:

- Particulars of the experience of both management and on board personnel, or a programme for acquisition of the necessary expertise, to enable the Proponent to effectively deliver all required re-supply services. Proponents should be able to demonstrate that their personnel have experience in at least two situations where they have successfully provided, or currently provide, cargo water transportation services to or from an ice infested environment, particularly, north of the 55th parallel North or south of the 60th parallel South.
- Summary of the methodology used
- Description of relationships with any other company involved in carrying out the work including the Proponent's leadership or management role
- Identification of the types and quantities of cargo carried
- Identification of the parties the service was provided for and provide contact names and telephone numbers
- Information about the Proponent's personnel including identity and experience of the of the Proponent's operational Team; including key personnel, with particular detail given for the persons responsible for making major decisions on behalf of the Proponent, resumes and an organizational chart
- Identification of the companies that will be involved in carrying out the work, describe the business relationship with the company, provide the identity and resumes for key personnel and a description of the roles these persons will play
- Information about the staff of each vessel and a brief description of the role of these persons in the delivery of Arctic Re-supply operations, and the experience and/or qualifications of key personnel.
- Ownership of the proponent carrier company.

The GN reserves the right to contact parties for references to confirm experience.

Identification of Legal Capacity (Annex H)

Proponents shall submit as Annex H a copy of the Articles of Incorporation, or registration of business name if a sole proprietorship, or the trade name if a partnership, in order to identify the legal capacity under which a Proponent proposes to enter into a contract, in accordance with clause 9 of the Instructions to Proponents.

Proponents which are extra - territorial corporations shall submit proof of registration in Nunavut pursuant to the *Business Corporations Act* (Nunavut)

Proof of Ability to Obtain Contract Security (Annex I)

Proponents must submit with their proposal as Annex I, evidence from a reputable Security or Guaranty, Bank or other Financial Institution, certifying that in the event of contract award, Contract Security will be provided in accordance with Schedule F Contract Security Requirements.

Proof of Insurability and Cargo Insurance for Shippers (Annex J)

Proponents shall submit as Annex J proof of insurability from a reputable insurance company, mutual insurer or a member of the International Group of protection and indemnity clubs acceptable to GN for the insurances specified in Schedule G Insurance Requirements, as well as the insurances they feel necessary for their own protection when carrying out services under this Agreement.

This annex must also include an outline of the cargo insurances the carrier will offer for purchase to the shipper, and the rates for the types of insurance offered.

Proposed Inuit Employment and Training (Annex K)

Proponents shall submit as Annex K a description of the Inuit Employment and Training initiatives that will be made available to Inuit employees throughout the term of the Agreement. Proponents are encouraged to maximize as much as possible, the level of Inuit Training and Employment created in all areas of the GN Arctic Re-supply Operations. Proposals should be reflective of Inuit involvement to the fullest extent possible, using Inuit firms registered in the NNI and NTI data bases for Arctic Re-supply operations and be conducive to establishing firm contractual requirements for the resulting Agreements.

In accordance with the NNI Policy in relation to the GN's RFP process, all Proposals containing a labour component with an estimated cost in excess of \$300,000 must include a detailed training plan for Inuit workers. In addition, the GN is required to include Inuit Content as one of the rating criteria in RFPs.

For this RFP, a total assigned weight of 20% is given for the Inuit Content. Inuit Content is assessed as follows:

- Inuit employment 10%
- Inuit ownership 5%
- Training of Inuit 5%

SECTION 5 – PROPOSAL FORM

Arctic Re-Supply OF DRY CARGO

QIKIQTAALUK, KIVALLIQ & KITIKMEOT REGIONS, NUNAVUT

**FOR THE RECEIVING, TEMPORARY STORAGE, LOADING,
TRANSPORTATION BY WATER AND DELIVERY OF CARGO
TO ABOVE HIGH WATER MARK AT:**

SITES IN AREA: _____

FROM PORT OF EXIT: _____

5.1 PROPOSAL SUBMITTED BY: _____

(Please print complete business or corporate name and address; telephone and facsimile number and email address. Where mailing address is a post office box number, provide a street address as well.)

5.2 The Proponents offer to perform the work in accordance with the full intent of the RFP and, more particularly, the Agreement and Schedules set out in Section 7.

5.3 The Proponents hereby offer to enter into an Agreement with the Government of Nunavut (GN) as represented by the Minister of Community and Government Services in the manner and form set out in Section 7 of the RFP, to furnish all necessary materials, equipment, labour, and all things and services necessary to expeditiously perform and complete in a satisfactory and workmanlike manner, all work necessary for the receiving, loading, water transportation and delivery of cargo to above high water mark at all sites in this Area throughout the term of the Agreement.

5.4 The Proponent warrants that the prices offered herein apply to all Arctic Re-supply Cargo carried under the terms of this agreement, including but not limited to, all Declared Cargo including dry cargo, dangerous goods or explosives, freeze and chill cargo, and also any Cargo carried on a space available basis, and are inclusive of all the services described in their proposal and all the documents together forming this Request for Proposals package.

5.5 The Proponent warrants that pricing in the proposal includes **all costs** to provide the services including among other things: the Marine Services Fee that is charged by Canada Coast Guard, wharfage fees, all port and pilotage dues and charges, costs of facilities and stevedores, vessels, administration, and any other costs or fees payable by the Contractor. Accordingly, any subsequent handling of goods at or from the Contractor's Facilities to the Contractor's Port of Loading will be at the cost of the Contractor, who will also assume all required liability and insurance coverage.

Where the Proponent proposes a Marine Fuel Adjustment Factor, the Proponent warrants that such Marine Fuel Adjustment Factor is calculated in a manner that can be readily confirmed by the GN and from data that is independently accessible to GN for monitoring purposes.

Where the Proponent proposes an HNS Cargoes Adjustment Factor, the Proponent warrants that the HNS Cargoes Adjustment Factor is calculated in conformity with the classification of types and quantities of substances listed or classified pursuant to the *Transportation of Dangerous Goods Act, 1992 (Canada)* and the IMDG Code, and represents only the additional expenses of the Contractor marginal to the pricing for carriage of non-HNS goods.

5.6 The services at the rates quoted herein shall be made available to the GN and all Arctic Re-supply Users for the duration of the Agreement with the GN.

5.7 RATES/PRICES

Northbound for Area _____ , Port of Exit _____

a) Northbound Price per tonne (t) of 1,000 kilograms (kg) or 2.5 cubic metres (m³) based on weight or measurement whichever produces the greater revenue:

Year	2012
	2013
	2014
	2015
	2016
	2017 (Extension 1)
	2018 (Extension 2)

\$ per tonne

b) Northbound Price per Container 20 foot, ISO Certified container:

Year	2012
	2013
	2014
	2015
	2016
	2017 (Extension 1)
	2018 (Extension 2)

\$ per tonne

Max Weight /Container in Kg

5.8 RECYCLABLES- BACKHAUL

The price to transport recyclable cargo, from sites within the designated Area to the Contractor's Facilities in accordance with Schedule C of the attached Agreement, shall not exceed **65%** of the applicable Northbound rate(s) accepted by the Minister. This percentage may be amended from time to time, during the term of the Agreement, as mutually agreed between the parties. Special consideration may be given for not-for-profit organizations, at the sole discretion of the Contractor.

5.9 RETROGRADE

The prices to transport retrograde cargo from sites within the designated Area to the Contractor's Facilities in accordance with Schedule C of the Agreement, shall not exceed **65%** of the applicable Northbound rate(s) listed in paragraph 5.7 a) above. This percentage may be amended from time to time, during the term of the Agreement, as mutually agreed between the parties.

5.10 SOLID WASTE

The prices to transport solid waste cargo from sites within the designated Area to the Contractor's Facilities in accordance with Schedule C of the Agreement, shall not exceed **65%** of the applicable Northbound rate(s) listed in paragraph 5.7 a) above. This percentage may be amended from time to time, during the term of the Agreement, as mutually agreed between the parties.

5.11 EMPTY DRUMS AND CYLINDERS

For Empty 204 litre (L) POL drums and propane gas, oxygen and acetylene cylinders whether loose, palletized or crated, please propose a price for each such drum or cylinder transported from sites within the designated Area to the Contractor's Facilities. This price may be amended from time to time, during the term of the Agreement, as mutually agreed between the parties.

5.12 EMPTY CONTAINERS

Proponents should propose a lump sum price to transport each empty metal I.S.O. standard type container, measuring up to 6.71m (20 feet), from certain sites in the designated Area to the Contractor's Facilities. This lump sum price may be amended from time to time, during the term of the Agreement, as mutually agreed between the parties.

5.13 VEHICLES: CARS, PICK-UP TRUCKS AND PASSENGER VANS

The rate for vehicles transported from certain sites within the designated Area to the Contractor's facilities shall be a maximum of \$1,500.00 each, and shall be adjusted annually by not more than the CPI at the anniversary date of the contract. Vehicles up to 24 cubic meters per unit shall be at the applicable lateral or retrograde rate per Revenue Ton to a maximum of \$1,500 each. Inoperable Vehicles accepted by the Contractor for transport shall be subject to the applicable rate per Revenue Ton shall also be subject to the maximum.

5.14 LATERAL

The Contractor shall be paid the following price per tonne (t) of 1,000 kilograms (kg) or 2.5 cubic meters, based on weight or measurement whichever produces the greater revenue for all lateral cargo, transported in accordance with Schedule "D" of the attached Agreement:

Year

- 2012
- 2013
- 2014
- 2015
- 2016
- 2017 (Extension 1)
- 2018 (Extension 2)

\$ per tonne

Particulars of Marine Fuel Adjustment Factor

Particulars of HNS Cargoes Adjustment Factor

5.15 GOODS AND SERVICES AND HARMONIZED SALES TAX

The rates quoted are in Canadian dollars and exclusive of GST or HST. The Arctic Re-Supply User will pay the GST or HST and the Contractor agrees to remit the appropriate amount of GST or HST to Revenue Canada in accordance with the applicable legislation.

5.16 CHECKLIST

The Proposal Form and the following Annexes, as specified in Section 4, clause 4.4.3, are to be attached and will form part of this Proposal, and Proposals which do not contain the following Annexes will be considered incomplete and may be rejected:

1. Proposal Form
2. Annex A - Contractor's Facilities
3. Annex B - Vessel Particulars
4. Annex C - Provision for Reefer Cargo
5. Annex D - Equipment Particulars
6. Annex E - Proposed Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule)
7. Annex F - Stevedores
8. Annex G - Proponent's Experience
9. Annex H – Identification of Legal Capacity
10. Annex I - Proof of Ability to Secure Contract Security
11. Annex J - Proof of Insurability
12. Annex K - Inuit Employment and Training

SECTION 6 - PROPOSAL EVALUATION

6.1 Selection Methods

- 6.1.1 An evaluation committee will review each proposal and proposals will be assessed in light of the evaluation criteria. The GN reserves the exclusive right to appoint members of the evaluation committee and to determine the qualitative aspects (point ratings) of all proposals relative to the rating criteria. Rating of Proposals will follow the process of multiplying the 'Unit Points' by the 'Assigned Weight' as indicated on the 'Proposal Rating Schedule' form. Evaluations will be confidential and details will not be released to any of the proponents or to the public.
- 6.1.2 This RFP contains certain 'Mandatory' requirements. If Mandatory requirements are not met in substantially unaltered form, the proposal will be rejected without further consideration. Mandatory requirements in this RFP document are identifiable by use of the words 'must', 'mandatory', 'shall' or 'required'.
- 6.1.3 When an alternative is proposed regarding any specific requirement, it will be evaluated to ensure that the desired results will be achieved.
- 6.1.4 The Evaluation Committee reserves the right, but is not obligated to perform any of the following:
- a) seek clarification or verify any or all information provided by the Proponent,
 - b) contact any or all references supplied,
 - c) short-list proponents using the evaluation criteria to do so,
 - d) verify that the proposal is responsive to the RFP ,
 - e) verify the Proponent has the capability in all material respects to fully perform the contract requirements and the integrity an reliability to assure performance of the contract obligations.
- 6.1.5 Proponents who are short-listed may be requested to make a formal presentation or to provide written clarification to their proposal; however, there will be no obligation for the GN to receive further information whether written or oral, from any Proponent. A formal presentation requested by the GN shall be made at the cost of the Proponent.

6.2 Rating Criteria

6.2.1 Each proposal will be evaluated using the following criteria and assigned weights:

35% - Rates/Price

The evaluation will be based primarily on the northbound tonnage rate (reference 5.7a of Section 5, Proposal Form); other pricing may be considered.

Rates/Price will be evaluated in the following manner. The rates will first be adjusted according to the NNI Policy adjustments applicable to the Proponent's business status under the NNI Policy, e.g. Inuit Firm, Local Business or Nunavut Business. The lowest (NNI adjusted) rate will receive the maximum points (10). Higher (NNI adjusted) rates will be awarded points as follows: for each 1% higher than the lowest rate, there will be a corresponding 3% reduction in points from the maximum points (10). See Appendix 4 for the NNI Adjustment.

For example, a rate that is in excess of 30% of the lowest rate would receive the minimum points (1). After rating and awarding points, the point score will be multiplied by the assigned weight of 40 to arrive at the 'Weighted Points' as set out in the Proposal Rating Schedule. The rates proposed for all years will be considered.

The GN is cognizant of other related freight costs (packaging, rail and transport costing) and will take them into account. Such costs are not directly included in the evaluation formula.

25% - Methodology and Schedule

Including, but not limited to:

- Sailing Schedule, particularly 'guaranteed sailings'
- Cargo insurances offered to shippers
- Contingency Plan
- Approach to handling cargo for Kugaaruk
- Approach to carrying retrograde cargo, including, but not limited to recyclables
- Approach to handling scrap materials offered for shipment south.

Whether or not the proposal is conditional on GN Construction Contractor's Cargo will be considered when awarding points under the Methodology criteria and will not affect points awarded under the Rates/Price criteria

20% - Capabilities and Experience

Including, but not limited to:

- Level of experience for similar services of the Proponent and other companies carrying out the work
- Experience and qualifications of the operational team
- Proponent's Vessels, Facilities, Equipment, Stevedores.
- The GN's past experience dealing with the Proponent, including, but not necessarily limited to the following:
 1. Adherence to previous undertakings regarding delivery schedules
 2. Management style and overall business decorum
 3. Prior contract performance

20% - Inuit Content

Inuit Content is assessed as follows:

- Inuit employment 10%
- Inuit ownership 5%
- Training of Inuit 5%

Inuit Employment will be awarded points under the 'Inuit Employment' rating criteria (maximum 10 points). 'Inuit Employment' is defined in the NNI Policy as employment, including professional services, provided in any capacity by an Inuk or Inuit, and not necessarily through an Inuit Firm.

Any proposed Inuit management training will be awarded points under the 'Training of Inuit' rating criteria (maximum 5 points).

Inuit ownership criteria will be based on the NNI definition of Inuit Firm and registrations under the NNI Policy and NTI company registration, which considers company ownership. This RFP outlines that Contractors are encouraged to identify their associations and business dealings with Inuit Firms. This will be taken into consideration under the Inuit Content evaluations.

Where Proponents have had a previous contractual relationship with the GN, and made commitments regarding Inuit Employment and Training, the evaluation will take into account past performance in fulfilling such undertakings.

PROPOSAL RATING SCHEDULE

Item	Rating Criteria	Unit Points Awarded (A)	Assigned Weight (B)	Weighted Points (A) x (B) = C
1	Rates/Price (adjusted for Inuit and Nunavut content)		35	
2	Methodology and Schedule		25	
3	Capabilities and Experience		20	
4	Inuit Content Inuit Employment Inuit Firms Training of Inuit		10 5 5	
PROPONENT:			TOTAL WEIGHT: 100	— Total possible points: 1,000

Comments: _____

Committee Member: _____ Date: _____

<p>LEGEND:</p> <p>A – Unit Points Awarded B – Assigned Weight C – Weighted Points (A times B)</p>	<p>RATING POINTS:</p> <p>Poor 0 - 3 points Fair 4 - 6 points Good 7 - 8 points Excellent 9 - 10 points</p>
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Appendix 1: CARGO RE-SUPPLY SERVICE AREAS

Proponents may submit a proposal for one, or for more than one Area, and for the Kivalliq and Kitikmeot Regions, they may submit for one, or for more than one Port of Exit. A separate Proposal must be submitted for each Area, and for the Kivalliq and Kitikmeot Regions, for each Port of Exit.

Proponents may submit alternate proposals with pricing, Schedules, etc., based on combined Areas, for example, South Baffin combined with Foxe Basin with pricing, Schedule, etc. based on the award of both Service Areas, and may also submit separate proposals for South Baffin alone and/or Foxe Basin alone; however, Proponents are not permitted to alter the communities specified for each Area.

For Kugaaruk, proponents should submit proposals with shipment via Nanisivik or direct. If shipment is via Nanisivik, then cargo is considered to be part of Area A. If shipping direct, then cargo comes under area F.

For Sanikiluaq, proponents should submit proposals with shipment as part of the Kivalliq region under Area E or other logical Service Area. If shipping direct, then cargo comes under Area H

Area A - High Arctic (incl. North Baffin)

1. Arctic Bay
2. Qikiqtarjuaq
3. Clyde River
4. Grise Fiord
5. Nanisivik
6. Kugaaruk (as far as Nanisivik)
7. Pond Inlet
8. Resolute Bay

Area B - Foxe Basin

1. Igloolik
2. Hall Beach
3. Repulse Bay

Area C - Iqaluit

1. Iqaluit

Area D - South Baffin

1. Cape Dorset
2. Kimmirut
3. Pangnirtung

Area E - Kivalliq

1. Baker Lake
2. Chesterfield Inlet
3. Rankin Inlet
4. Whale Cove
5. Arviat
6. Coral Harbour
7. Sanikiluaq

Area F - Kugaaruk

1. Kugaaruk

Area G - Kitikmeot Region

1. Cambridge Bay
2. Gjoa Haven
3. Kugluktuk
4. Taloyoak
6. Bathurst Inlet
7. Umingmaktok

Area H - Sanikiluaq

1. Sanikiluaq

Appendix 2: HISTORICAL CARGO INFORMATION

The historical cargo information provided herein is prepared from information available to Community and Government Services and its advisor at the time of RFP. This information is provided to Proponents for information purposes only and the GN gives no warranty or representation whatsoever as to the accuracy or reliability of this information whether it is used for purposes of submitting a proposal or whether it is used for carrying out the work.

Information is provided in cubic metres for Northbound cargo only. Lateral and retrograde cargo is highly variable. Proponents should be aware that 2010 was an unusually heavy year for cargo shipments

RE-SUPPLY CARGO INFORMATION	CARGO CUBE ESTIMATES 2010	GN CARGO ONLY. MONTREAL 2010
AREA A – HIGH ARCTIC		
1. Arctic Bay		2,600
2. Qikiqtarjuaq (formerly Broughton Island)		2,700
3. Clyde River		5,700
4. Grise Fjord		750
5. Nanisivik		0
6. Kugaaruk (as far as Nanisivik)		2,600
7. Pond Inlet		4,100
8. Resolute Bay		780
TOTAL	40,000m³	19,230 m³
AREA B – FOXE BASIN		
1. Igloodik		7,200
2. Hall Beach		2,700
3. Repulse Bay		3,200
TOTAL	20,000m³	13,100
AREA C – Iqaluit		
1. Iqaluit		
TOTAL	90,000m³	25,400 m³
AREA D – SOUTH BAFFIN		
1. Cape Dorset		5,600
2. Kimmirut		1,200
3. Pangnirtung		5,400
TOTAL	20,000m³	12,200 m³
AREA E – KIVALLIQ		
1. Baker Lake		5,500

2. Chesterfield Inlet		850
3. Rankin Inlet		10,700
4. Whale Cove		1,500
5. Arviat		7,200
6. Coral Harbour		2,900
7. Sanikiluaq		4,700
TOTAL Exit Montreal Area		33,350 m ³
TOTAL Exit Churchill & Winnipeg		28,500 m ³
TOTAL all KIVALLIQ	75,000m ³	
AREA F – KUGAARUK		
1. Kugaaruk		No direct cargo
TOTAL		
AREA G - Kitikmeot		Exit Hay River & Richmond BC
Cambridge Bay		7,800
Kugluktuk		6,300
Gjoa Haven		4,000
Taloyoak		5,700
Umingmaktok		None reported
Bathurst Inlet		None reported
TOTAL	45,000m ³	23,800 m ³

Estimated Annual Volumes from selected Arctic Re-supply users.

2010 ESTIMATES

Nunavut Power Corporation

- Kivalliq 1,800m³
- Qikiqtaaluk 2,000m³
- Kitikmeot 1,600m³

Nunavut Housing Corporation 30,000m³

Local Housing Corporations 2,500m³

Appendix 3: 2012-2016 Capital Estimates (five year roll-out)

The 2012-2016 capital can be downloaded at the following link:

<http://www.finance.gov.nu.ca/apps/authoring/dspPage.aspx?page=index-budgets>

Proponents should note the following relative to Iqaluit shipments

The GN is currently developing background information and funding requirements for delivery of a major project to upgrade and improve the Iqaluit Airport. This project, if it receives approval to proceed, is expected to include the following elements:

- Construction of a 10,000 square meter Air Terminal Building. Approximately 10,000m³ of building materials.
- Construction of a 3,500 square meter Combined Services Building for an airport fire hall and airport equipment storage and maintenance. Approximately 2,500m³ of building materials.
- Rehabilitation and paving of 180,000 to 280,000 square meters of aircraft movement surfaces, requiring possible mobilization of an asphalt plant and 5,000 – 7,000 tonnes of bitumen.

If approved, materials for construction of the project are expected to be delivered by sealift between 2013 and 2016, although specific volumes per year are not known at this time.

During 2012, Nunavut Power Corporation plans to bring 2,400m³ of material for upgrades to the Iqaluit generating plant

Appendix 4: RFP NNI Adjusted Price Calculation Information

The following information **MUST** be completed by proponents to receive any NNI bid adjustments. If the information is not completed, bid adjustments will **NOT** be granted. Values provided must be substantiated by the information contained within the RFP response.

Proponent Name: _____

1.0 Total Unadjusted Price of Contract \$

2.0 Labour Component:

Value of Labour/Work to be completed by the Contractor or Sub-Contractors

Supplier Name & Residence of Worker(s)	Value	Nunavut Business 7%	Inuit Business 7%	Local Business 7%	Other 0%	Total 0%
	\$					
	\$					
	\$					
	\$					

Total \$ _____

3.0. Supplies/Materials Contractor or Sub-Contractor:

Value of Supplies / Materials to be provided by NNI Named Companies

Supplier Name & Residence of Worker(s)	Value	Nunavut Business 7%	Inuit Business 7%	Local Business 7%	Other 0%	Total 0%
	\$					
	\$					
	\$					
	\$					

Total \$ _____

4.0 Total contract price (Total of 2.0 & 3.0) \$

Note: The values in both 1.0 and 4.0 above should be the same.

Instructions

1.0 Total Unadjusted Price of Contract

For the purpose of calculating the contract value in this RFP, the Proponent shall take 80% of the estimated volume of Arctic Re-Supply Cargo in 2010 given in Appendix 2, for each re-supply area, divide these cubic metres by 2.5 to give revenue tons and then multiply by the freight rate bid for the Re-Supply Area or Community.

If the proponent is bidding separately for either Kugaaruk or Sanikiluaq, ie not as part of a service area, then the 2010 volume to be used for either community is 5,500m³. The calculation is then as given in the above paragraph.

If the Inuit Content is expected to increase over the period covered by the RFP, then a separate calculation should be presented for each year using the bid amount for freight in each of the years.

Proponents should note that the quantities in Appendix 2 and in paragraph 2 above are for the purposes of estimating the value of the contract. The GN makes no warranties as to the actual cargo volume for the service areas or communities.

2.0 Labour:

This section is for both the main Contractor and any Sub-Contractors. The work being done by the employees who don't live in Nunavut doesn't qualify for a bid adjustment. Any portion of payroll dollars for the work that will be done by Nunavut Residents does qualify (NNI 7%). If the Nunavut Residents are also Inuit, they qualify for the additional Inuit adjustment (7%). If the Inuit employees are not Nunavut Residents, they do not get the Nunavut bid adjustment. If the Nunavut Residents are also local to the benefiting community, they qualify for the additional Local adjustment (7%). If the Inuit employees are Local Nunavut residents, they get the full 21%.

3.0 Supplies / Materials:

This section is for both the main Contractor and any Sub-Contractors. If the materials and supplies for the completion of the contract are being provided by a Nunavut Business that is local to the project community and included on the Nunavut NNI Listing, they would receive a bid adjustment of 7% for each (7% for Nunavut Firm listing and 7% for being local to the benefiting community). The

NNI List must be checked to confirm that this supplier is listed and approved to supply *the specific type of materials* required for this contract and qualify for a 7% Bid Adjustment. Companies must be listed NNI to get a local adjustment.

4.0 Subcontract:

Some of the work may have to be done by another contractor. This is referred to as a 'sub-contract'. If this contractor is not on the NNI or NTI List, they do not qualify for a bid adjustment of any kind. If the sub contractor is listed on the NNI or NTI listings, they would receive the bid adjustments as outlined in 3.0 above.

5.0 Total Adjustment:

This is a total of all of the adjustments under each category.

6.0 Total Adjusted Price:

This is the price that will be used in the analysis, and will be treated as if it was the price submitted by the Proponent.

**The following Schedules are in conjunction with the
“Scope of Work and Special Requirements” set out in Section 3 of
This RFP. Arctic Re-supply of Dry Cargo, Qikiqtaaluk, Kivalliq and
Kitikmeot Region**

- Schedule A – Contractor’s Care, Custody and Control of Arctic Re-supply Cargo
- Schedule B – Conditions of Sea Transportation and Delivery
- Schedule C – Retrograde Cargo
- Schedule D – Lateral Cargo
- Schedule E – Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule)
- Schedule F – Contract Security Requirements
- Schedule G – Insurance Requirements
- Schedule H – Inuit Employment and Training Requirements
- Schedule I – Arctic Re-supply Rates
- Schedule J – Administrative Requirements
- Schedule K - General Conditions of Carriage

Schedules A,B,C,D,E,F,G,H,J are confidential
Schedules K &I are publicly available contract terms of carriage.

The contractor shall abide by all schedules

SCHEDULE A

CONTRACTOR'S CARE, CUSTODY AND CONTROL OF ARCTIC RE-SUPPLY CARGO

1. CARGO RESERVATIONS

- 1.1 In each year of the term of this Agreement, the GN will declare the tonnages of GN Cargo for transportation by sea, from the Contractor's Port of Loading to the communities set out in this Agreement by the Declaration Date. The Declaration Date is an agreed date between GN and the Contractor, and is not to be confused with cut off dates established by the carrier for cargo delivery to the dock or to the Marshalling and Packaging centre.
- 1.2 Should space not be available on any sailing, the GN or other shipper shall be advised of all potential shut-out cargo.
- 1.3 The Contractor shall guarantee to carry all GN Cargo, declared prior to the designated declaration date, and delivered prior to the carrier's cut off date for the communities within the Area(s) set out in the Agreement.
- 1.4 The Contractor shall ensure the GN is provided with the opportunity to utilize any Space Available for any additional cargo up to the date of sailing.

2.0 ACCEPTANCE, CUSTODY AND DELIVERY OF CARGO

The following requirements shall apply to the acceptance, custody and delivery of cargo carried from the Contractor's Port of Exit to the high water mark at the communities in this Agreement.

- 2.1 In each year of the term of this Agreement, the Contractor shall start accepting delivery of Arctic Re-supply cargo at the Contractor's Facilities located at the following physical address: _____ commencing May 1st, or such earlier or later date as may be mutually agreed upon. Final deliveries of arctic re-supply cargo shall be made not later than....., or such later date as may be mutually agreed upon.

The Contractor's facilities must be available for deliveries outside the dates in 2.1 above, provided 48 hours advance notice is provided.

- 2.2 The receiving, temporary storage, loading, stowage, and delivery of dangerous goods or explosives shall be carried out in accordance with the IMDG Code, the *Transportation of Dangerous Goods Act 1992*, *Canadian Environmental Protection Act 1999*, together with relevant Transport Canada regulations, and with the highest standards of safe industry practice.
- 2.3 The Carrier shall not be obliged to accept cargo that is not packaged according to standards generally recognized as appropriate for carriage by sea, i.e. not properly packaged wooden crates or open frame crates, or mobile equipment that is not in running order, or to accept cargo that is not clearly identified with the consignee's name and destination community on each cargo unit. In such circumstances, the GN or other shipper shall be notified immediately so that the situation may be resolved.
- 2.4 The Contractor shall issue a Dock Receipt upon acceptance of the cargo, and the Contractor shall stamp on each delivery bill the date and time of arrival of each vehicle delivering cargo that is to be carried under this Agreement to the Contractor's Facilities.
- 2.5 In the event that Cargo is lost or damaged prior to loading aboard a Vessel, the Carrier, together with the GN representative or other shipper if available will file an OS&D report, and if GN Cargo, will advise the Manager Logistics
- 2.6 The Contractor shall provide a competent checker to take measurements of GN Cargo loaded, record the measurements and report any variances to the GN for verification. Any such cargo shall be made accessible to a representative of the GN for such verification.
- 2.7 Immediately, upon departure of the Vessel, the Vessel's manifest indicating all cargo shipped shall be forwarded to the GN Manager Logistics or designate. (Schedule J, Clause 2, sets out requirements for content and distribution of the manifest).
- 2.8 The Contractor shall provide a competent cargo supervisor to:
 - Ensure that all Arctic Re-supply cargo destined to the communities is discharged at above the high water mark, at the community indicated on the vessel's manifest.

- Provide consignees with a copy of their respective manifest, and obtain signatures of receipt from consignees.
 - Annotate the manifest to indicate any discrepancies or damage to Arctic Re-supply cargo, and, if applicable, ensure OS&D reports are completed, and provide copy of same to the GN or other shipper.
- 2.9 For cargo carried from any port of exit the methodology proposed will be reviewed and agreed by the GN, and shall be attached to, or otherwise set out in the Agreement.
- 2.10 The Vessel(s) shall be at the contractor's Port of Loading, ready to accept cargo according to the Arctic Re-supply Cargo Delivery Schedule accepted by the GN Manager Logistics and included as Schedule E for each year of the Agreement.
- 2.11 Within four working days of the date of sailing of the Vessel, the Contractor shall provide documentation to the GN as set out in Schedule J, Clause 5.
- 2.12 The latest delivery date to communities in the applicable Area is the date for the final sailing, as set out in the Arctic Re-supply Cargo Delivery Schedule, Schedule E of the Agreement.
- 2.13 The Contractor shall load Arctic Re-supply Cargo onto Vessels at the Contractor's Port of Loading for water transportation to communities in the Area(s) set out in the Agreement, and shall deliver such cargo in accordance with the Arctic Re-supply Cargo Delivery Schedule set out in Schedule E of this agreement.
- 2.14 The Contractor shall transport by water and deliver Arctic Re-supply Cargo from the Port of Loading to the communities in the Area(s) set out in the Agreement.

3.0 **GOODS OF PERISHABLE NATURE**

- 3.1 The Contractor shall ensure that transport of freezer or chill cargo is available for the public, for the communities set out in the Agreement, although the Contractor may set reasonable conditions for carriage of freezer or chill goods including, but not necessarily limited to, minimum quantities and prior notice requirements.
- 3.2 If such goods of perishable nature are received into the Contractor's care, custody and control, the Contractor shall be responsible for having and maintaining suitable space for the storage and preservation of perishable food products at the Contractors Facilities, the Contractor's Port of Loading, and

during the voyage. The temperature in the space should be maintained at -17.5°C and in any event not in excess of -15.0°C for the freezer space and at 1.50°C and in any event not in excess of 4.0°C for the chill space.

- 3.3 The Contractor will notify the shipper in writing at least three working days in advance of the date and the hour that the frozen or chill cargo will be required to be received at the Contractor's Facilities. It is understood that such cargo will be delivered directly to the Contractor's Facilities.
- 3.4 If any goods or articles of a perishable nature, shall at any stage become decayed, injurious or offensive, or be condemned or discharged by health or other authorities, the same may be disposed of or discharged without notice in an approved manner, either before or after arrival.
- 3.5 The Contractor shall exercise all reasonable care and diligence to avoid any deterioration during the delivery of goods of perishable nature from the Vessel(s) to above high water mark at ports of discharge. Provided notice is given to the Shipper or person delegated by the Shipper to receive perishable cargo, the Contractor may discharge goods or articles that are of a perishable nature immediately when the Vessel is ready for discharge, notwithstanding danger to such goods or articles from freezing, heating or other weather conditions, and all such goods or articles are received subject to the risk of such discharge above high water mark at the port of discharge.

4.0 **LIABILITY FOR FINES, DUES, DUTY, ETC.**

- 4.1 The owner of the goods or cargo shall be liable for any fines, dues, duty tax, impost, loss, damage or detention sustained or incurred by or levied upon the Contractor or the vessel in connection with the goods caused by any action or requirement of any Government or Governmental authority or person purporting to act under the authority thereof, seizure under legal process or attempted seizure, incorrect or insufficient marking, numbering or addressing of packages or description of the contents, failure to procure Agriculture Canada, Canadian Food Inspection Agency or other certificate to accompany the goods, failure to comply with laws or regulations of any kind imposed with respect to the goods by the authorities at any port or place, or any act or omission of the GN unless said fines, dues, duty tax, impost, loss, damage or detention were caused or occurred as a result of any act or omission of the Contractor in contravention of its obligation set out in this Agreement.

SCHEDULE B

CONDITIONS OF SEA TRANSPORTATION AND DELIVERY

1. A minimum of one free berth and meals shall be supplied on each vessel for an employee of the Government of Nunavut (or otherwise appointed by the GN), or agency associated with the Arctic Re-supply operation, who may occasionally accompany the vessel to, from and between sites, solely for the purpose of liaison with field officers and to examine any cargo which may be damaged in the process.
2. If required by the GN, the Contractor shall, at no extra cost, provide clean, suitable office accommodation for a representative of the Department of Community and Government Services. This office accommodation is to be located at the Carriers facilities with a locking door and 24-hour access 7 days per week, telephone line with call waiting feature, a business class plain paper facsimile machine, a telephone answering service or machine, and photocopy privileges. The accommodations will be available to the Department commencing June 1 in each of the years of the Agreement.
3. The Contractor shall give the Manager Logistics, Shippers representatives, and the Municipality at the next port of call at least 48 hours advance notice of arrival. Upon arrival, the Vessel may immediately commence discharging Arctic Re-supply cargo designated for such port above high water mark or designated areas. The Contractor may discharge the Arctic Re-supply cargo continuously, Sundays and holidays included, at all hours by day or by night as the Contractor may determine.
4. Discharge at above high water mark, notation of any damage, and obtaining the consignee's signature to verify receipt shall constitute delivery of the cargo. However in the event that the Contractor has made best efforts to obtain the consignee's signature, but is not able to do so, the Contractor shall obtain the signature of a credible witness to the effect that the applicable consignee's cargo was delivered.
5. For conditions related to perishable goods, refer to Schedule "A", clause 3.

6. Ships or Tugs and Barges

- 6.1 The Contractor shall provide Vessels of sufficient capacity and seaworthiness satisfaction to Transport under the *Canada Shipping Act*, to the extent that it continues in force, and *Canada Shipping Act 2001* as it comes into force, and amendments thereto, and any subsequent Federal regulations governing the seaworthiness of vessels under that or any other federal legislation during the term of this contract, and the Vessels used for this Agreement must:
- 6.1.1 be owned or chartered (time, voyage or demise) by the Contractor prior to acceptance for loading;
 - 6.1.2 be registered in Canada or hold a coasting trade license for Arctic Re-supply Program voyage or voyages issued pursuant to the *Coasting Trade Act (Canada)* or analogous successor legislation. All expenses of application for a coasting trade license and duties payable on the vessel for its temporary import into Canada are for the account of the Contractor without recovery from the GN or any Arctic Re-supply User whose cargo is carried under the Arctic Re-supply Program
 - 6.1.3 If a vessel or lighter holding a coasting trade license is tendered, its master, officers and crew must, before the vessel is tendered to load or the lighter is used, have obtained full customs and immigration clearances to enter Canada, to come ashore at places of loading and discharge and other places in Canada for all vessel's business under this Agreement, including operation of lighters and shore cargo operations necessary for performance of this Agreement, and for loading, transport and discharge of Lateral or Retrograde Cargo.. All consular and immigration fees and expenses are for the account of the Contractor without recovery from the GN or any Arctic Re-supply Users whose cargo is carried under the Arctic Re-supply Program. The master, officers and a substantial proportion of such non-Canadian flag vessel's or lighter's crew shall have experience in Arctic or Antarctic navigation;
 - 6.1.4 The Contractor and all vessels and lighters shall adhere to the *Arctic Waters Pollution Prevention Act 1999*, and other federal and Nunavut marine operational and environmental legislation, including, but not limited to, the *Canadian Environmental Protection Act, 1999* and the *Migratory Birds Convention Act 1994* and all orders and regulations made under such legislation.
 - 6.1.5 All vessels must have Canadian Cargo Ship Safety Certificates or international safety certificates recognized by Transport Canada or otherwise be approved by

Transport Canada for the intended voyages or trades. All inspection and certification fees are for the account of the Contractor without recovery from the GN or any other Arctic Re-supply Users whose cargo is carried under the Arctic Re-supply Program.

- 6.1.6 As set out in Schedule E, Vessels are to be indicated on the approved Arctic Re-supply Cargo Delivery Schedule, and any substitution of vessel(s) or tugs and barges shall be subject to the prior approval of the Manager Logistics, as it relates to GN cargo.

7.0 Cargo Stowage

- 7.1 Cargo that has been accepted for carriage shall be loaded and stowed in accordance with DFAIT guide for safe stowage and the highest standard of industry practice.
- 7.2 Cargo may be stowed on or under deck. Cargo carried on deck shall contribute to a general average.
8. Subject to any particular rights accorded only to the Government of Nunavut under this contract generally, carriage under the Arctic Re-supply Program for Arctic Re-supply Users, including Lateral and Retrograde Cargo, is subject to the General Conditions of Carriage included as Schedule K.
9. If the liability for any collision in which the Vessel is involved while performing the services, fails to be determined in accordance with the laws of Canada or Nunavut as they apply, the following clause shall apply:
- 9.1 If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the master, mariner, pilot or the servants of the Contractor's Carrier in the navigation or in the management of the vessel, the owners of the goods carried hereunder will indemnify the Carrier against all loss or liability to the other or non carrying vessel or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of goods, paid or payable by the other or non carrying vessel, or her owners as part of their claim against the carrying vessel or carrier
- 9.2 The foregoing provisions shall also apply where the owners, operators, or those in charge of any vessel(s), or objects other than, or in addition to, the colliding vessel or objects are at fault in respect to a collision or contact.

10.0 Equipment

- 10.1 All motorised vehicles and trailers, including amphibious vehicles used by the Contractor in Nunavut and their operators must be operated and licensed in conformity with the *Motor Vehicles Act* (Nunavut) and the regulations thereunder.

11.0 Inland Transportation

- 11.1 Where a Contractor undertakes to carry any Arctic Re-supply Cargoes inland from above the high water mark or inland from a shore warehouse or terminal, the Contractor shall comply with the *Transportation of Dangerous Goods Act, 1990* (Nunavut) and any other laws of Nunavut applicable to such carriage.

12.0 Waste Cargo Transportation

- 12.1 The GN or other shippers designated by GN shall be responsible for the operation and maintenance of waste cargo collection and transportation to points above high water marks and for the stuffing or consolidation of waste cargo into containers. The Contractor shall provide facilities or and be responsible for weighing containers of waste cargo and transporting them from above high water areas to below vessel 's tackle at the Contractor's marine terminal or other discharge sites within Canada.
- 12.2 Containers used for waste cargo all shall bear identifying serial numbers, be suitable for the types of waste stuffed and be stuffed in conformity with applicable environmental regulatory standards and prudent industry practice.
- 12.3 The GN or other shippers designated by the GN shall provide appropriate information on the content of containers stuffed with waste cargo to the Contractor before the Contractor receives such containers for transport.
- 12.4 The Contractor shall give the GN or other designated shippers 72 and 24 hours notice of the estimated commencement of and the location of discharge of waste cargo.
- 12.5 The GN or other designated shippers shall be responsible to arrange and pay for motor vehicles, railcars or discharge port storage facilities to receive waste cargo from carrying vessel 's tackle in conformity with discharge facility practices.

12.6 Containers used for waste cargo transport under this Agreement shall either be cleaned after each such transport, so they are safe for use in consolidating packaged Northbound Cargoes, or safe for pre-positioning for further use.

SCHEDULE C

RETROGRADE CARGO

Subject to the Vessel's Schedule and the conformity of the cargo with Shipper's responsibilities, the Contractor shall approve for acceptance and receive Retrograde Cargo at above the high water mark.

1. The Contractor shall take delivery of such Retrograde Cargo at above high water mark at each site, load onboard vessel(s), transport it to the Contractor's Facilities and discharge into sheds or other appropriate area at the Contractor's Facilities.
2. In the event identification becomes illegible in transit, the Contractor shall notify the Manager Logistics
3. The Contractor shall prepare clear and concise manifests for the Retrograde Cargo loaded.
4. The Contractor may refuse empty drums that are not bung-tight.
5. "Empty" gas cylinders are required to have a 0.34475 bar to 1.6548 bar (524 psi) pressure level and a destination tag attached over stamped with the symbol "MT" to signify that the cylinder is empty but serviceable.
6. The Contractor must refuse drums or cylinders, which are not properly documented, labeled or described in accordance with the *Transportation of Dangerous Goods Act 1992* and Regulations.
7. Recyclable Materials will consist of clean glass bottles, aluminum pop and beer cans, pre-washed food tins and recyclable plastics, and paper (e.g., bond and newsprint), plastic containers and bags to be delivered in palletized open crate or metal Containers.

SCHEDULE D

LATERAL CARGO

Subject to the Vessel's schedule, and the conformity of the cargo with shipper's responsibilities, the Carrier shall approve for acceptance and receive Lateral Cargo at above the high water mark.

1. The Contractor shall take delivery of such Lateral Cargo at above high water mark at each community indicated, load onboard vessel(s), transport it to and discharge same at above high water mark at the applicable community.
2. In the event identification becomes illegible in transit, the Contractor shall notify the Manager Logistics
3. The Contractor shall prepare clear and concise manifests for the Lateral Cargo loaded.

SCHEDULE E

Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule)

1. For each year of the Agreement, the vessel(s) belonging to, or chartered by, the Contractor shall be at the Contractor's Port of Loading, ready to accept cargo for the communities set out in the Agreement, as per the proposed Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule) which shall be subject to acceptance by the Manager Logistics
2. Vessels submitted to the GN in the proposal Annex B and approved by the GN, are to be indicated on the Arctic Re--supply Cargo Delivery Schedule, and any substitution or replacement of vessel(s) or tugs and barges shall be subject to the prior approval of the Manager Logistics
3. The latest delivery date to communities in the applicable Area is the date for the final sailing, as set out in the Arctic Re-supply Cargo Delivery Schedule in this Schedule.
4. For the initial year of the Agreement, this Sailing schedule shall be the schedule that was proposed and approved by the GN. The Contractor shall provide a similar Sailing Schedule for each of the subsequent years of the Agreement, which will be provided to the Manager Logistics within seven (7) days after the Declaration Day.
5. The following Sailing Schedule will apply for the 2012 Arctic Re-supply Operations season, and subsequent seasons shall be similar. Any deviation must be approved by the GN Manager Logistics or designate:

(The Sailing Schedule proposed and approved by the GN will be attached or otherwise set out in the Agreement as Schedule E.)

6. For the initial year of this Agreement, the Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule) shall be the schedule that was proposed and accepted by the GN (Accepted Schedule), and is incorporated herein as Schedule E. The Contractor shall provide a similar Sailing Schedule for each of the subsequent years of this Agreement which must be substantially the same as the Accepted Schedule (accepted by the GN for the first year of this Agreement) and more specifically must have the same number of guaranteed sailings as the Accepted Schedule, and which will be provided to the Manager Logistics within seven (7) days after the Declaration Day and which shall be

subject to acceptance by the GN. Any proposed changes to the Accepted Sailing Schedule port rotation, cut off dates, or number of sailings, should be communicated to the Manager Logistics in the form of an anticipated schedule by mid-March, for operational reasons.

7. Any alternate arrangement subsequent to the acceptance by the GN of the Sailing Schedule shall be subject to the written acceptance of the Manager Logistics, and, such acceptance shall not be unreasonably withheld. Should a request for a change to the accepted schedule be denied, the Contractor shall not deviate significantly from the Accepted Schedule.

SCHEDULE F

CONTRACT SECURITY REQUIREMENTS

1. OBLIGATION TO PROVIDE CONTRACT SECURITY

1.1 Within 14 days of notification of award of the contract, the Contractor shall, at his own expense, provide one or more of the forms of contract security prescribed in paragraph 2 below.

2. PRESCRIBED TYPES AND AMOUNT OF CONTRACT SECURITY

2.1 The Contractor shall deliver to the Minister responsible for Community and Government Services pursuant to paragraph 1:

- a) a performance bond and a labour and material payment bond each in an amount that is equal to not less than **50%** of the total estimated contract is required for the first year of the Agreement, and in subsequent years of the Agreement, **50%** of the previous year amount of the contract is required, or
- b) a contract security deposit equal to **10%** of the total estimated contract value for the first year of the Agreement, and in subsequent years of the Agreement, **10%** of the previous year amount of the contract.

2.2 A performance bond and a labour material payment bond referred to in 2.1 a) above shall be in the Federal form and be issued by a bonding company or surety company whose bonds are acceptable to the GN. The performance bond and labour and material payment bond must be payable to the GN. The bond may be issued for a period of one year from commencement of the contract and be renewable on an annual basis.

2.3 A contract security deposit referred to in paragraph 2.1b) above shall be in the form of a certified cheque, Bank Draft, a bank Irrevocable Letter of Guarantee in a form acceptable to the GN, or such other contract security as the GN considers acceptable. The contract security must be payable to the GN.

2.4 For the purposes of this Schedule, the contract amount will be based on GN Cargo and, if the volume is indicated in advance, GN Construction Contractor's Cargo.

2.5 Estimated Contract Value shall be defined as 80% of the estimated quantity of cargo to be moved under the contract (as outlined in Appendix 2 – Historical Cargo Information), multiplied by the rate to move the cargo.

3. CONTRACT SECURITY DEPOSIT

- 3.1 The contract security deposit will be retained by the GN until such time as the GN determines that the Contractor's obligations under the contract have been fulfilled, or until the contract otherwise comes to an end, whichever comes first.
- 3.2 The contract security deposit shall be returned to the Contractor except that, if the Contractor fails to perform its obligation under the contract, the GN may apply the contract security deposit or any part thereof to any damages incurred by the GN.
- 3.3 The application of the contract security deposit by the GN shall not constitute a waiver, nor in any way defeat or affect the rights and remedies which the GN has by law.
- 3.4 The GN will not pay interest upon contract security deposits.

SCHEDULE G

PART 1 – INSURANCE REQUIREMENTS

1. Contractor shall, without limiting any obligations or liabilities hereunder, obtain, maintain and pay for, during the term of this Agreement, the following insurance with limits not less than those shown:
 - a) Workers' Compensation insurance covering all employees engaged in the work in accordance with the statutory requirements of the Territory or Province or state of nationality, domicile or employment, having jurisdiction over such employees. If the Contractor is assessed any additional levy, extra assessment or super-assessment by a Workers' Compensation Board, as a result of an accident causing injury or death to an employee of the Contractor or Subcontractor, or due to unsafe working conditions, then such levy or assessment shall be paid by the Contractor at its sole cost, and the Contractor will not be reimbursed by the GN.
 - b) Employer's liability insurance with limits not less than five hundred thousand dollars (\$500,000) for each accidental injury to or death of the Contractor's employee engaged in the work. If Workers' Compensation insurance exists, then in such event, the aforementioned Employer's Liability insurance shall not be required, but the Comprehensive General Liability insurance policy referred to in item d) herein shall contain an endorsement providing for Contingent Employers Liability insurance.
 - c) Motor Vehicle Liability insurance covering all vehicles owned or non-owned, operated and/or licensed by the Contractor and used by the Contractor in the performance of this Agreement, in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, death and damage to property.
 - d) Comprehensive General Liability insurance with limits of not less than two million dollars (\$2,000,000) inclusive per occurrence for bodily injury, death and damage to or loss of use of property. Such insurance shall include but not be limited to the following terms and conditions:

Contractor's Protective Liability*;
Broad Form Property Damage;
Personal Injury Liability;
Cross Liability;
Medical Payments; and
Non-owned Automobile Liability*
Contingent Employers Liability*

** Where Applicable*

- e) Protection and Indemnity insurance including Cargo Legal Liability.
 - f) If not covered under the terms of the policy or applicable P&I club rules, insurance for cargo legal liability during the entire period that cargo carried under this Agreement is under the responsibility of the Contractor and the Carrier.
2. The policies shall name the GN and all subcontractors as additional insureds only with respect to the terms of this Agreement (except on Workers' Compensation insurance) and shall extend to cover the employees of the insureds thereunder.
 3. Contractor shall be responsible for deductibles, exclusions and/or insufficiencies of coverage relating to such policies or P&I Club entries.
 4. All required insurance shall be endorsed or insurers or P&I clubs at interest will provide a letter of undertaking to provide the GN with 30 days advance written notice of material change, cancellation or termination. Such notices shall be addressed to:

Insurance and Risk Management
Department of Finance
Government of Nunavut
Building 917B
P. O. Box 2260
Iqaluit, Nunavut X0A 0H0
Attention: Mario Fournier
Facsimile:(867) 975-5845

and

Manager Logistics
Department of Community and Government Services
Government of Nunavut
3rd Floor W.G. Brown Bldg.
Bag 1000, Stn. 700
Iqaluit, Nunavut X0A 0H0

Attention: John Paton

Facsimile: (867) 975-5450

5. It shall be the sole responsibility of the Contractor to decide whether or not any other insurance coverage, in addition to the insurance requirements set out above, is necessary for its own protection or to fulfill its obligations under this Agreement. Any such additional insurance shall be provided and maintained by the Contractor at its own expense.
6. To meet the insurance requirements of this Agreement, and upon the GN's request, the Contractor shall forward to the GN, prior to commencing the Work, either a certified true copies of the insurance policies, P&I club rules or a certificates of insurance or P&I club entry issued and executed by, or on behalf of a P&I club, an insurance company or companies. Such certificates will provide reasonable details of the insurance coverage, exclusions, deductibles and conditions applying to policies set out in this section, and confirming that the insurance is in force to meet these requirements and that:
7. These policies apply to all operations of the Contractor, including use or ownership of motor vehicles owned or leased by Contractor; and these policies will not be cancelled or allowed to be cancelled by the Insurer or Insurers, nor will the scope or the amounts of coverage be lessened, nor the policy be allowed to lapse, unless identical coverage continues without interruption under a replacement policy issued by the same Insurer, unless a 30-day prior written notice is given to those persons set out in paragraph 4 above, by registered mail or its equivalent.
8. Upon GN's request, the Contractor will provide the GN within 30 days with a certificate of insurance issued and executed by the appropriate Workers Compensation Board to verify coverage for death or bodily injury of Contractor's employees during the performance of this Agreement.
9. In the event Contractor is proven in default with insurance provisions set out above, the GN may withhold payment for any of the Services provided

hereunder, without penalty, until such time as Contractor complies.

PART 2 – CARGO INSURANCE OFFERED FOR PURCHASE

10. The Contractor shall facilitate the procurement of optional “all risks” cargo insurance under Institute Cargo Clauses ‘A’ or substantially equivalent terms and for cargo insurance for cargoes which are subject to the Transportation of Dangerous Goods Act or the IMDG Code. The Contractor’s website shall include a notice to the Shipper that cargo insurance in addition to “all risks” cargo insurance is required if the Shipper wishes to insure cargoes which are subject to the *Transportation of Dangerous Goods Act* or the IMDG Code. This shall be available to the GN or other shipper or customer at the time of booking, or up to the time of acceptance of the cargo by Contractor.

(The rates and conditions for optional cargo insurances proposed in the Schedule “G” and accepted by the GN will be attached or otherwise set out in the Agreement as part of this Schedule ‘G’).

11. All information on insurance being made available to shippers under this contract shall be made available on the Proponent’s web site

SCHEDULE H

INUIT EMPLOYMENT AND TRAINING REQUIREMENTS

1. The Contractor shall meet the following undertakings for Inuit Employment and Inuit Training Plans for each year of the Agreement. The Contractor is also required to submit an annual report of Inuit Employment and Training as set out in Annex K.

(The Contractor's Inuit Employment and Inuit Training Plans proposed in the Proposal Schedule and accepted by the GN shall be attached or otherwise set out in the Agreement as Schedule H).

SCHEDULE I

ARCTIC RE-SUPPLY RATES

1. The amounts payable to the Contractor that are set out in this Agreement include all costs involved in the movement of Arctic Re-supply Cargo, i.e., receiving, storage and preparation of Arctic Re-supply Cargo for loading, any subsequent handling of Arctic Re-supply Cargo at or from the Contractor's Facilities to the Contractor's Port of Loading and loading onboard Vessels at the Contractor's Port of Loading, discharge above high water mark at destination, loading Retrograde Cargo and discharge at the Contractor's Facilities. Wharfage at loading and discharging ports; all port and pilotage dues and charges; issuance of dock receipts; discharge of trucks or other conveyances at the terminal; any and all costs incurred by the Contractor as a result of the loading or discharging of dangerous goods or explosives.
2. The GN and Arctic Re-supply Users agree to pay Freight adjusted by a Marine Fuel Adjustment Factor, as described and set out in this Schedule.
3. Where the GN or Arctic Re-supply Users tender Cargo for transport which is covered by the *Transportation of Dangerous Goods Act 1992* or the IMDG Code, the Contractor may, in addition to Freight, charge an HNS Carriage Adjustment Factor, as described and set out in this Schedule.

Note 1:

This Schedule will set out particulars of any Marine Fuel Adjustment Factor, including:

- a) base price
- b) period of notice for application of adjustments
- c) method of calculation
- d) source of data for calculation
- e) right of GN monitoring and audit

Note 2:

This Schedule will set out particulars for any HNS Carriage Adjustment Factor for carrying goods covered by the *Transportation of Dangerous Goods Act 1992* or the IMDG Code. This adjustment factor also applies to explosives.

Note 3:

The Arctic Re-supply Rates for each year and rate application statements set out in the Proposal and agreed by the Contractor and the GN, will be attached or otherwise set out in this Schedule.

4. A contractor is permitted to charge dead freight, if cargo space booked by a shipper cannot be utilized. Dead Freight shall be defined as 90% of the quantity, by weight, of Declared or booked cargo, by voyage, minus the quantity, by weight, of cargo shipped. Dead Freight will be paid at 70% of the applicable Northbound Rate(s), subject to the conditions set out in Schedule A, Contractors care, custody and Control of Arctic Re-supply Cargo.

SCHEDULE J

ADMINISTRATIVE REQUIREMENTS

1. Administrative procedures are to be read in conjunction with Schedule A Care Custody and Control of Cargo, Schedule B Conditions of Sea Transportation and Delivery and Schedule K General Conditions of Carriage, and further set out in administrative requirements for the Arctic Re-supply Agreement.

(Any administrative procedures outlined in the Proposal that are negotiated with or agreed to by the GN shall also be incorporated into this Schedule).

2. Cargo reservation provisions are set out in Schedule A, Clause 1.
3. The Contractor shall issue a Dock Receipt upon acceptance of cargo, as set out in Schedule A, Clause 2.4.
4. The following apply to the preparation of and distribution of the Vessel's manifest:
 - a) Immediately, upon departure of the Vessel, the Contractor shall forward the Vessel's manifest indicating all cargo shipped on the sailing to the GN Manager Logistics or designate.
 - b) The Vessel's manifest shall indicate on-deck stowage where applicable and shall include, but is not necessarily limited to the following:
 - Port of Discharge
 - Consignee's name
 - Dock receipt number
 - Cargo unit number
 - Cargo description including dimensions if charged on a volume basis,
 - Weight and volume for each Cargo Unit
 - c) A copy of the manifest shall be made available on board the Vessel to the GN representative that may accompany the Vessel.
 - d) A copy of the manifest shall be provided to consignees upon delivery of their respective cargo, and if any discrepancies or damage to cargo, this shall be annotated on the manifest
 - e) Each manifest for Arctic Re-supply Cargo shall be annotated with the following: "Government of Nunavut Arctic Re-supply Agreement" or "GNARA".

5. Within four working days of the date of sailing of the Vessel, the Contractor shall provide documentation to the Manager Logistics including, but not limited to:
 - a copy of the stowage plan
 - list of Ports of Discharge for the sailing, and the actual date and time of departure and estimates for the dates of arrival and departure for each port of discharge
 - recapitulation sheets
 - dock receipts for GN cargo (if not already provided to the Manager Logistics)
 - the vessel's manifest (if not already provided to the Manager Logistics)
6. In the event that Cargo is lost or damaged, OS&D reports will be completed as set out in Schedule "A", Clauses 2.6 and 2.8 3rd bullet.
7. The Contractor shall submit invoices for each GN Department to the GN, and shall submit invoices for all Arctic Re-supply Users directly to those Shippers. GN invoices shall be submitted in accordance with the Terms of Payment set out in the Agreement.
8. The Contractor shall provide office accommodations, if required by the GN, as set out in Schedule "B", Clause 3.
9. The Contractor shall maintain a website in both of Canada's official languages, proponents are encouraged to provide information in Inuktitut as well. The web sites should be easy to navigate and contain Arctic Re-supply rates, cut-off dates, sailing schedule information, contact information, the terms of the General Conditions of Carriage (Schedule K) information on availability of insurance and toll-free telephone and facsimile number. The terms of the General Conditions of Carriage shall be directly accessible by a clearly labeled hyperlink on the homepage of the Contractor or homepage of the Contractor's website relating to the Arctic Re-supply Program. This information shall be kept current throughout the Term of the Agreement.
10. The Contractor shall maintain a toll-free telephone and facsimile numbers, accessible from Nunavut communities, throughout the Term of the Agreement.

11. The Contractor shall provide by January 15th of each year of the Agreement, a report of information for all Arctic Re-Supply Cargo carried under the terms of Schedule K containing the following information:
 - weight,
 - volume
 - Revenue Tons delineated by community, and by voyage.

This information is essential for insurance purposes covering General Average provisions.

12. The Contractor shall provide by January 15th of each year of the Agreement, a report on the Inuit Content, including Inuit Employment and Inuit Training, either direct or indirect, provided during the previous calendar year.
13. The GN or its designate shall provide the Contractor, by May 10th of each year during the term of this Agreement, an estimate of the number and types of containers required at which communities for retrograde waste cargo. The Contractor shall endeavor to position such containers during the first scheduled voyage to a particular community for each season.
14. Unless the entire reach and burthen of the carrying vessel for any particular voyage is dedicated to GN cargoes, the whole carrying capacity of a vessel for any particular voyage may be booked for Northbound Cargoes without reservation of any space for pre-positioning of empty containers intended for retrograde carriage of waste cargoes. The carriage of revenue cargo shall take precedence over the pre-positioning of empty containers for waste cargoes.
15. The Contractor shall provide the GN, by May 15 of the first season, a copy of any waste cargo transportation plan and any emergency response plan as may be required under the Transportation of Dangerous Goods Act, 1992 (Canada), the Canadian Environmental Protection Act and any other applicable regulatory regime for the transportation of waste cargoes as may be applicable during the term of this Agreement, and thereafter from time to time as such plan or plans may be amended or superseded.

SCHEDULE K

GENERAL CONDITIONS OF CARRIAGE

THIS CONTRACT GIVES YOU RIGHTS AND RESPONSIBILITIES. THIS CONTRACT LIMITS THE LEGAL RESPONSIBILITY OF THE CARRIER. PLEASE READ IT CAREFULLY.

The Hague-Visby Rules on the water carriage of goods do not apply to this contract.

This contract is not covered by any bill of lading.

The persons who are part of this contract

1. This contract applies to the person who is named as the shipper on the booking note, any person who owns the goods described on the booking note and any person who receives the cargo described on the booking note at the place of delivery. In this contract, all of these persons are called the Shipper.
2. This contract also applies to _____. In this contract, this is called the Carrier

The Types of Goods Covered under this contract

In this contract:

Cargo means goods presented by the Shipper for transport by the Carrier and goods received for transport by the Carrier for carriage to or from Nunavut communities under scheduled voyages covered in this Agreement. Cargo does not include live animals or gold, silver, precious stones or other high value cargo unless it is declared to and accepted by the Carrier.

Lateral Cargo means goods received for transport by the Carrier between Nunavut communities for carriage on scheduled voyages covered by this agreement.

Retrograde Cargo means goods received for transport by the Carrier at Nunavut communities for carriage on return voyages from scheduled voyages covered by this Agreement;

What the Shipper needs to do before the goods are carried

3. The Shipper needs to contact the Carrier and reserve space for the cargo
4. The Shipper needs to give the Carrier the information requested on the booking note form.
5. After the Carrier tells the Shipper space for the cargo is reserved, the Shipper must pay the price that the Carrier charges for transporting the cargo before the Carrier will accept the cargo for transport. In this contract, this price is called the Freight. If the Shipper wants extra time to pay Freight, the Shipper must apply to the Carrier for credit. The Carrier will decide for itself if it wants to give the Shipper extra time to pay Freight and on what terms. The Carrier has agreed to carry cargo shipped by the Government of Nunavut on Freight credit terms.
6. If the size or weight of the cargo when it arrives at the Carrier's marine terminal is different than the size or weight given by the Shipper on the booking note, the Carrier has the right to ask the Shipper to pay adjusted Freight. If the difference in size or weight is so much that the cargo cannot be loaded on board the planned vessel safely or would shut out other booked cargo, the Carrier will choose for itself to transport the cargo on a later voyage or to return the cargo to the Shipper at the Carrier's marine terminal. The Shipper will pay any terminal storage charges before the cargo is returned to the Shipper.
7. If a Shipper reserves space for cargo but does not get the cargo to the carriers marine terminal before the cutoff date, the Carrier may charge the Shipper an extra fee for unused cargo space on the scheduled carrying vessel. This fee is called dead freight.
8. The Shipper has to arrange and pay for getting the cargo to the Carrier's marine terminal before the cutoff date that the Carrier gives the Shipper. If the cargo is late getting to the Carrier's marine terminal and there is another voyage to the delivery port planned for the season, the Carrier will try to fit the cargo on a later voyage. If there is not enough capacity for the cargo on the vessel's next voyage, the Carrier will tell the Shipper and the Shipper has to arrange and pay for taking the cargo away from the marine terminal or pay for its storage until the next

available vessel or next season. If the Shipper chooses to take the cargo away from the marine terminal, the Carrier will refund the freight, less any terminal storage charges, and any dead freight.

Even if the Carrier already has confirmed space for the Cargo with the Shipper, or accepted Cargo for transport, the Carrier is allowed to refuse or delay accepting the Cargo at the Carrier's marine terminal, or refuse or delay loading of Cargo if the Carrier cannot operate or faces serious difficulties in operating, because of natural disasters, war, public violence, damage to port areas, severe port congestion, strikes, lockouts or labour disputes, or any happening which is not the fault of the Carrier or which did not arise from something the Carrier did or did not do.

9. The Shipper needs to package general cargo strongly so the cargo can be safely carried by sea and the packages can be palletized or stacked up to 3.7 metres (12 feet) feet high.
10. The Shipper must properly mark or label each package, crate, barrel or other unit of the cargo so the Carrier can know what it needs to unload at each destination port and the name of the person it needs to deliver the cargo to.
11. If the Shipper stuffs the cargo into shipping containers, the shipping containers must meet ISO standards for international shipping containers and the containers must allow the use of forklifts or other reasonable equipment to take the cargo out of the containers at delivery port. The Shipper is responsible to properly tie down and brace the cargo inside the shipping container so the container is safe to be transported by sea. Bracing and dunnage needs to be clean and free from fungus, insects and rodents. The Shipper must load the container so the cargo inside, the delivery port and names of persons taking delivery of the cargo match the information which the Shipper gives to the Carrier in the booking note.
12. Before the Carrier agrees to accept frozen or refrigerated cargo for transport, the Shipper must tell the Carrier the range of temperatures to keep the cargo and confirm with the Carrier if the carrying vessel has power sources suitable for any refrigerated containers which the Shipper plans to use. If the Carrier agrees to accept frozen or refrigerated cargo for transport, the Shipper must arrange to have the cargo arrive at the Carrier's marine terminal within required temperature limits.

13. If the cargo includes explosives, chemicals, or other things that are covered by the *Transportation of Dangerous Goods Act 1992* or the International Maritime Dangerous Goods Code. The Shipper must do everything required by the *Transportation of Dangerous Goods Act 1992* and its regulations and the IMDG Code, which includes giving the Carrier full information about the type of cargo and properly packaging and labeling the cargo. The Carrier may charge additional Freight for transporting such cargoes. The Carrier has the right to refuse to accept any dangerous or hazardous cargo for transport if the Carrier believes reasonably the Shipper has not done everything that the Shipper is required to do before handing over that type of cargo for transport.
14. The Shipper is responsible to pay the Carrier and the Carrier's contractors and employees for any government seizure, fines, claims by other Arctic Re-supply Users, legal expenses, delay, or any other damage or loss to the Carrier or its contractors or employees caused by Shipper's wrongful or negligent acts in allowing illegal substances such as drugs, diseased plant or animal material or waste products to be hidden or present in the Cargo, or in handing over contaminated Cargo unfit for transport. The carrier has the right to refuse any cargo that it has reason to suspect is illegal or does not have the correct documentation.
15. Where the Cargo is construction equipment, prefabricated building sections, or other types of heavy or large size cargo, the Shipper must properly prepare the cargo for ocean transport, such as fitting weather tight coverings for sensitive equipment, marked lifting points or lugs and skids. When booking such cargo, the Shipper must warn the Carrier about unusual cargo features such as off center points of balance. The Carrier has the right to refuse cargo that is too bulky or heavy for its vessel's handling equipment.
16. The Carrier can consolidate non-containerized cargo with other Arctic Re-supply Users' cargo. If the Carrier does this, it will separate packages and units for different Shippers at the discharge port.

The Carrier's responsibility

17. The Carrier agrees to take responsibility for the cargo from the time non - containerized cargo leaves railcars or truck tailgates at the Carrier's marine terminal or from the time Shipper stuffed containers arrive at the Carrier's marine terminal, until the time cargo is transported above high water mark at destination

ports, and for Retrograde or Lateral Cargo, at all times when the Cargo is under the operational control of the Carrier.

18. The Carrier will take reasonable steps to keep, care for, load, transport, discharge and deliver the cargo under this contract during the whole time the Carrier takes responsibility for the Cargo
19. The responsibilities and defences of the Carrier apply to Cargo that is loaded on deck and under deck.
20. The Carrier agrees to receive, temporarily store, load, stow and deliver dangerous goods and explosives to meet the requirements of the *Transportation of Dangerous Goods Act*, 1992, the IMDG Code, and the highest standards of safe industry practice. If certain types of dangerous goods or explosives cannot by law be handled at the Carrier's regular marine terminal or port of loading, the loading will be done at places permitted by law. The Carrier will tell the Shipper at the time of booking the alternate places to receive such cargo for transport and tell the Shipper about any additional Freight for handling charges.
21. The Carrier does not provide heated or ventilated cargo space. The Carrier is not required to accept bookings for un-refrigerated perishable goods if the Carrier believes the Cargo could be damaged from lack of ventilation or low temperatures. The Carrier has the right at any time before loading or during the voyage to refuse to load or to remove and dispose of perishable Cargo that the Carrier reasonably believes has become spoiled or infested. The Carrier has the right, after giving notice to the person receiving the Cargo, to discharge perishable Cargo immediately after the vessel arrives at discharge ports even if the Cargo could be damaged by weather conditions.
22. If the Carrier agrees to transport refrigerated containers, the Carrier must supply power to operate container refrigeration plant from the time the refrigerated containers arrive at the Carrier's marine terminal to the time of offloading at the discharge ports of the refrigerated containers, with sufficient reserves of power and fuel for reasonably foreseen delays during the voyage. The Carrier is not responsible for providing power to refrigerated containers during transfer between the carrying vessel and above high water mark.
23. The Carrier agrees to:
 - a) use due diligence to make the carrying vessel seaworthy;

- b) to secure that the vessel is properly manned, equipped and supplied; and
 - c) to make the holds, refrigerating and cool chambers and all other parts of the vessel in which goods are carried fit and safe for their reception and carriage.
24. The Carrier agrees to take reasonable steps to follow the scheduled order of ports. The Carrier has the right to transship the Cargo. The Carrier has the choice to change port rotations, discharge a part cargo and return to the same port to complete discharge or change the order of discharge of Cargo during any one voyage if reasonably necessary to avoid being trapped in ice, to use the whole cargo space efficiently or for the safety of the carrying vessel.
25. To service intended discharge ports, the Carrier will use all reasonable efforts to select carrying vessels whose capacity and ice class will permit them to complete voyages to planned ports under ice and weather conditions forecast for the season and the voyage. The Carrier agrees to use all reasonable efforts to transship Cargo or use substitute carrying vessels of a higher capacity or ice class if forecasted or actual ice and weather conditions for planned voyages worsen over a shipping season. The carrying vessel is not required to force ice. Where icebreaking assistance is arranged for voyages to certain discharge ports named by agreement between the Carrier and the Government of Nunavut, the Carrier agrees to follow icebreakers in conditions within the carrying vessel's and icebreaker's permitted combined ice class capacity and where prudent under Arctic navigation.
26. If the Carrier foresees that an intended discharge port will be icebound beyond the vessel's ice class capacity or ice or weather conditions will prevent the safe completion of a voyage to any intended discharge port, the Carrier will give notice to the Government of Nunavut and to the senior administrative officer or other responsible municipal officer at the intended discharge port. These parties will consult with a view to agreeing on an alternate way to transport the Cargo by water to the intended discharge port or to an alternate discharge port. The carrying vessel may sail to a convenient open place to await the Government of Nunavut's instructions. Instructions will be provided by the Government of Nunavut within two days of the Carrier giving notice under this clause. By this contract, the Shipper gives the Government of Nunavut the power to agree on the Shipper's behalf for delivery to an alternate discharge port. If this type of agreement is made, delivery to an alternate discharge port of all Cargo in an undamaged condition is complete performance of the Carrier's responsibility to deliver to the originally planned discharge port on that voyage. The consultation

is to avoid the Cargo being returned to the loading port or being shut out of the Arctic for the season. The Carrier will give notice to Shippers about the location of the alternate discharge port.

27. The Shipper understands the Carrier has to use lighters to transfer the cargo from vessel to shore at Nunavut discharge ports. The Carrier may use any reasonable floating vessel or amphibious vehicle as a lighter. The Carrier may use any reasonable method to shift cargo from lighters to above the high water mark.

Shipper's responsibility at delivery

28. The Shipper agrees to be ready itself or to give to the Carrier the name and address or telephone number of a responsible person to take delivery of the Cargo from the Carrier above high water mark at discharge ports.
29. The Carrier agrees to give two days prior notice to Shippers or Shippers' named persons to take delivery, of the estimated actual time of beginning of unloading of the carrying vessel at discharge ports.
30. In discharge ports without a warehouse, the Shipper is responsible for taking delivery of Cargo from the Carrier as soon as the Cargo is landed above the high water mark.
31. Where the Shipper keeps a Carrier's shipping container after the Cargo is landed, the Shipper is responsible to deliver the shipping container back to the Carrier at the usual wharf or landing place above the high water mark in an undamaged condition, fair wear and tear excepted. The Shipper agrees to pay the Carrier a fee for keeping back the shipping container until the time the Shipper returns the shipping container to the Carrier. This rate is shown in the Carrier's list of fees.

Defences and Limits of Liability of the Carrier

32. The Carrier is not responsible for loss of or damage to the cargo caused by reasons which are listed in article 4 of the Hague-Visby Rules. These reasons are listed as part of this contract. These reasons apply during the whole time the Carrier is responsible for the Cargo under this Contract.
33. The Carrier's contractors, agents and employees have the same defences and limits of liability that the Carrier has under this contract. The wording of article

4bis of the Hague-Visby Rules applies to the Carrier's contractors, agents and employees. The modified wording of this article is included as part of this contract.

34. The Carrier is not responsible for any loss or damage to the Cargo or loss to the Shipper caused by delay, unless the damage resulted from an act or omission of the Carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.
35. Unless the Carrier intentionally or recklessly destroys or damages the Cargo as described in paragraph 34, the amount of money the Carrier has to pay is limited to:
 - \$2,600 per package or unit of Cargo lost or damaged; or
 - Where the cargo is a motor vehicle, \$3.60 per kilogram of the motor vehicle lost or damaged, up to the lesser of the amount of the damage, the value of the Motor vehicle or \$72,000.
36. The Carrier has the right to abandon, destroy or damage cargo without responsibility to pay the Shipper if this is necessary to save the vessel and the rest of the cargo. The Carrier only has this right where it is given under the York Antwerp Rules 1994 and the Carrier gives notice to the Shippers of General Average. General Average will be adjusted in Canada under the York-Antwerp Rules 1994. The providing of security for General Average is subject to any agreement between the GN and Carriers as amended from time to time. The Carrier agrees that it will not demand any security for Shippers' contribution to General Average or seize or lien any Cargo or begin any legal proceeding in rem against the Cargo as security for Shippers' contribution to General Average if there is no applicable agreement in force between the Carrier and the Government of Nunavut concerning a system to fund Shippers' contribution to General Average. If the Carrier's failure to follow its responsibilities under this contract caused or contributed to the situation of danger leading to General Average, the carrier must credit or refund all or part of the Shipper's contribution to General Average in proportion to the degree to which the Carrier is found to be at fault, to the Shippers or the persons giving security on the Shippers' behalf

Making claims under this contract

37. If damage to cargo is foreseen before the carrying vessel reaches a discharge port, or cargo is seen to be damaged at the time of discharge, the Shipper and

Carrier agree to co-operate to make a joint inspection and keep records of the damage.

38. All claims under the contract need to be made under the Sealift Claims Handling Rules, effective June 1, 2010 as amended from time to time. The Sealift Claims Handling Rules and claims forms which the Shipper and Carrier need to complete are available at: www.gov.nu.ca/sealift,
39. If a Shipper believes cargo is damaged, the Shipper must give notice of claim to the Carrier within thirty (30) days of the discharge of the Cargo for hidden damage, or within ten (10) days of discharge for damage which can be seen on the outside of the cargo. If the Shipper believes that the cargo has been lost by the Carrier, the Shipper must give notice of claim to the Carrier within thirty (30) days of the date lost cargo was scheduled to be discharged.
40. The Carrier must send to the Shipper the Carrier's decision whether to pay or settle the Shipper's claim within one hundred and eighty (180) days of the date the Cargo related to the claim was discharged or if the Cargo related to the claim was lost, the date that Cargo was scheduled to be discharged.
41. *Claims for damage \$2,500 or less*
If the Carrier rejects the Shipper's claim, or offers to pay an amount that the Shipper does not agree with, and the Shipper's claim is for a total of \$2,500 or less, the Shipper must apply for arbitration under the Sealift Claims Handling Rules and pay the arbitration fee within forty five (45) days of the Shipper receiving the Carrier's reply to the Shipper's notice of claim. If the Shipper does not apply for arbitration within forty five (45) days under the Sealift Claims Handling Rules, the Shipper loses any right to claim against the Carrier.
42. *Claims for damage of more than \$2,500 and all claims relating to General Average*
If the Shipper's claim is for more than \$2,500, or the claim relates to General Average under clause 36, the Shipper must begin a lawsuit in the Federal Court or the Nunavut Court of Justice within one year of the date of discharge of the Cargo related to the claim, or within one year of the date lost Cargo related to the claim was scheduled to be discharged. This contract time limit does not apply to claims between the Shipper and the Carrier for contribution or indemnity under Part 2 of the *Marine Liability Act*. If a claim is started in the Federal Court, the Shipper and the Carrier agree that both will request the Federal Court that all pre-trial hearings will be heard in Nunavut or by video- or teleconference access to any Carrier or Shipper in Nunavut and to request that the trial of the action will be heard in Nunavut.
43. If the Sealift Claims Handling Rules are no longer in place as a result of

agreement between the Government of Nunavut and the Carrier, the time limits for the Shipper to give notice of claim under clause 39 and clause 42 apply to all types of claims for any amount of money.

44. This Contract is governed by Canadian Maritime Law.

**PART OF ARTICLE IV WORDING AND MODIFIED ARTICLE IV bis WORDING OF
HAGUE-VISBY RULES INCLUDED AS PART OF THIS CONTRACT**

Altered wording in italics

Rights and Immunities

1. Neither the carrier nor the *vessel* shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the *vessel* seaworthy, and to secure that the *vessel* is properly manned, equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the *vessel* in which goods are carried fit and safe for their reception, carriage and preservation.

Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this article.

2. Neither the carrier nor the *vessel* shall be responsible for loss or damage arising or resulting from

- (a) act, neglect, or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the *vessel*;
- (b) fire, unless caused by the actual fault or privity of the carrier;
- (c) perils, dangers and accidents of the sea or other navigable waters;
- (d) act of God;
- (e) act of war;
- (f) act of public enemies;
- (g) arrest or restraint of princes, rulers or people, or seizure under legal process;
- (h) quarantine restrictions;
- (i) act or omission of the shipper or owner of the goods, his agent or representative;

- (j) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general;
- (k) riots and civil commotions;
- (l) saving or attempting to save life or property at sea;
- (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the goods;
- (n) insufficiency of packing;
- (o) insufficiency or inadequacy of marks;
- (p) latent defects not discoverable by due diligence;
- (q) any other cause arising without the actual fault and privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3. The shipper shall not be responsible for loss or damage sustained by the carrier or the vessel arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants.

4. Any deviation in saving or attempting to save life or property at sea or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. (a) *Wording in first clause of Article 5(a) not included in this contract.*

- Neither the Carrier nor the vessel shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding \$2,600 per package or unit; or
- Where the Cargo is a motor vehicle, \$3.60 per kilogram of the motor vehicle lost or damaged, up to the lesser of the amount of damage, the value of the motor vehicle or \$72,000.

(b) The total amount recoverable shall be calculated by reference to the value of such goods at the place and time at which the goods are discharged from the vessel in accordance with the contract or should have been so discharged.

The value of the goods shall be fixed according to the commodity exchange price, or, if there be no such price, according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

(c) Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the cargo manifest as packed in such article of transport shall be deemed the number of packages or units for the purpose of this paragraph as far as these packages or units are concerned. Except as aforesaid such article of transport shall be considered the package or unit.

(d) Not included as part of this contract

(e) Neither the carrier nor the vessel shall be entitled to the benefit of the limitation of liability provided for in this paragraph if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

(f) *Not included as part of this contract*

(g) By agreement between the carrier, master or agent of the carrier and the shipper other maximum amounts than those mentioned in sub-paragraph (a) of this paragraph may be fixed, provided that no maximum amount so fixed shall be less than the appropriate maximum mentioned in that sub-paragraph.

(h) Neither the carrier nor the vessel shall be responsible in any event for loss or damage to, or in connection with, goods if the nature or value thereof has been knowingly mis-stated by the shipper *Additional phrase not included as part of this contract*

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier has not consented, with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the vessel or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

ARTICLE IV BIS

Application of Defences and Limits of Liability *Added words in italics*

1. The defences and limits of liability provided for in these Rules shall apply in any action against the carrier in respect of loss or damage to goods covered by a contract of carriage whether the action be founded in contract or in tort.
2. If such an action is brought against a *contractor*, servant or agent of the carrier, such *contractor*, servant or agent shall be entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke under these Rules.
3. The aggregate of the amounts recoverable from the carrier, and such *contractors*, servants and agents, shall in no case exceed the limit provided for in these Rules.
4. Nevertheless, a *contractor*, servant or agent of the carrier shall not be entitled to avail himself of the provisions of this Article, if it is proved that the damage resulted from an act or omission of the *contractor*, servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Pro-Forma Agreement

ARCTIC RE-SUPPLY OF DRY CARGO

**FOR THE RECEIVING LOADING, TEMPORARY STORAGE,
TRANSPORTATION
BY WATER AND DELIVERY OF CARGO
TO ABOVE HIGH WATER MARK AT:**

COMMUNITIES IN SERVICE AREAS

As outlined In RFP 2011- 109

FROM PORT OF EXIT _____

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THIS AGREEMENT dated this _____ day of _____, 2012, is made

BETWEEN:

THE GOVERNMENT OF NUNAVUT as represented by the Minister responsible for the Department of Community and Government Services (hereinafter referred to as the "GN")

AND

Supplier Name of the **City of _____, Province / Territory/ Country,**
(hereinafter referred to as the "Contractor")

WHEREAS:

- A. The GN requires certain minimal levels of Arctic Re-supply of dry cargo service by water at competitive rates to communities in the Qikiqtaaluk, Kivalliq and Kitikmeot Regions of Nunavut;
- B. The GN requires that the aforesaid Arctic Re-supply of dry cargo rates and services are also made available to shippers other than the GN;
- C. The GN requested proposals for the Arctic Re-supply of dry cargo services;
- D. The GN determined the Contractor to be responsible and to have submitted a proposal that, after the application of the NNI policy, will potentially provide the best value for the Government in accordance with *GN Contract Regulations* made pursuant to the *Financial Administration Act*, (Nunavut).

NOW THEREFORE, in consideration of the foregoing, the mutual covenants and conditions and other good and valuable consideration herein contained the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **INTERPRETATION**

As used in this Agreement, unless their subject matter or context is inconsistent, the following terms shall have the following meanings:

- 1.1 "**Agreement**" means this written contract for Arctic Re-supply of Dry Cargo including the Schedules, Annexes and Appendices attached herein;
- 1.2 "**Arctic Re-supply Cargo**" means cargo (regardless of ownership) that is carried and/or to be carried under the terms and rates set out in this Agreement and includes GN Cargo, and Arctic Re-supply User's cargo;
- 1.3 "**Arctic Re-supply Users**" means all shippers that are not the GN or a GN Department, including but not limited to the Legislative Assembly, municipalities, schools, hospitals, Nunavut Liquor Board, Nunavut Power Corporation, Nunavut Housing Corporation, Nunavut Arctic College, all bodies performing a function under the Nunavut Land Claims Agreement, any person or entity providing public services in Nunavut, non-profit, religious and charitable organizations, persons carrying on a profession, business, trade or occupation, and private individuals who are Shippers of cargoes covered by the Arctic Re-supply Program or who have a property interest in cargoes carried under the Arctic Re-supply Program.
- 1.4 "**Area(s)**" means the geographical communities as set out in Appendix 1, Arctic Re-Supply Service Areas;
- 1.5 "**Contractor's Facilities**" means the premises of the Contractor identified in Schedule "A" located at *Street number name city, province*, where the cargo will be received;
- 1.6 "**Containers**" means I.S.O. Standard type metal containers measuring up to 6.71 m (20 feet);
- 1.7 "**Cut-off Date**" means the date by which Cargo must be received at the Contractor's Facilities in order to be loaded on the Vessel, and is the date set out in the Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule);
- 1.8 "**Declared Cargo**" means all the GN Cargo, the tonnage of which is declared on or before Declaration Day, and for which the GN guarantees to the Contractor, the delivery of ninety percent (**90%**) of this tonnage prior to the Cut-off Date;

- 1.9 "**Declaration Day**" means the day on which the GN guarantees a tonnage of GN Cargo intended to be delivered to the communities in the Area(s) under this Agreement. Declaration Day is no later than the first day of the month which precedes the month in which the Vessel shall set sail each year of the Term of this Agreement;
- 1.10 "**Dollars**" or "**\$**" means in Canadian currency and all sums, prices, payments and amounts otherwise stated or contemplated are or shall be in Canadian currency;
- 1.11 "**Extension Term(s)**" has the meaning attributed to that term in Clause 6 of this Agreement;
- 1.12 "**GN**" means the Government of Nunavut;
- 1.13 "**GN Cargo**" means GN Department's Cargo solely and does **not** include the cargo of Arctic Re-supply Users;
- 1.14 "**GN Construction Contractor**" means a contractor that has a "Major Works Construction Contract" with the GN, which requires the GN Construction Contractor to provide construction labour and materials;
- 1.15 "**GN Department**" means a Department of the Government of Nunavut, and does **not** include the Legislative Assembly, "public agencies" within the meaning of the *Financial Administration Act* (such as, but not limited to, the Nunavut Housing Corporation, Housing Authorities or Housing Associations, the Nunavut Power Corporation, the Nunavut Arctic College, the Nunavut Liquor Board), or municipal corporations unless specifically included by written advice from the Manager Logistics;
- 1.16 "**Initial Term**" has the meaning attributed to that term in Clause 5.1 of this Agreement;
- 1.17 "**Inuit**" (singular "**Inuk**") has the same meaning as in Article 1.1.1 of the Nunavut Land Claims Agreement (NLCA) or as defined in the NLCA;
- 1.18 "**Lateral Cargo**" means cargo, that is not Northbound Cargo or Retrograde Cargo, carried or to be carried from one community to another community within the same area, and during the same voyage, execution of which is dependent on port rotation, as identified in the accepted Schedule;

- 1.19 "**Load Ready Date**" means the date in accordance with the Arctic Re-supply Cargo Delivery Schedule set out in Schedule "E" when the Vessel must be at the Contractor's Port of Loading, ready to load cargo;
- 1.20 "**Major Works Construction Contract**" means the standard construction tender and contract agreement form used by the GN or the NHC to contract for the construction of large value buildings or works, which requires the provision of the labour and materials required for construction of such buildings or works;
- 1.21 "**Manager Logistics**" means Manager Logistics, Department of Community and Government Services, Government of Nunavut acting directly or through his/her duly authorized representative(s);
- 1.22 "**Montreal Area**" means the Greater Montreal area, including but not limited to the ports of Ste-Catherine and Valleyfield;
- 1.23 "**Northbound Cargo**" means cargo carried and or to be carried from the Contractor's Facilities to communities within the Area(s) set out in this Agreement;
- 1.24 "**Northbound Rate(s)**" means the Arctic Re-supply rates set out in Schedule "I" for Northbound Cargo;
- 1.25 "**NNI Policy**" means the Nunavummi Nangminiqagtunik Ikajuuti (in the Inuktitut language) meaning "assistance for Nunavut businesses" when translated into the English language;
- 1.26 "**Parties**" means the GN and the Contractor collectively and "**Party**" means any one of them;
- 1.27 "**Port of Loading**" or "**Port of Exit**" means the Port located at *City Name, Province or Territory* where the Contractor shall load Arctic Re-supply Cargo onto Vessels;
- 1.28 "**Retrograde Cargo**" means cargo to be transported to the Port of Loading or other point agreed to, from communities set out in this Agreement;
- 1.29 "**Recyclable Materials**" means clean glass bottles, aluminum pop and beer cans, pre-washed food tins, plastic containers and recyclable paper to be returned in palletized open crates or metal Containers from communities set out in this Agreement;

- 1.30 "**Revenue Ton**" means 1,000 kilograms (kg) or 2.5 cubic metres (m³) based on weight or measurement, whichever produces the greater revenue for the Contractor;
- 1.31 "**Space Available**" means sufficient space to accept and carry fifteen percent (15%) over the Declared Cargo tonnage at Declaration Day;
- 1.32 "**Statute**" or "**Regulation**" means an applicable statute of a government of competent jurisdiction and includes the regulations and statutory instruments made pursuant to it and any amendments that have the effect of supplementing, superseding or repealing such statute or regulation;
- 1.33 "**Term**" means the duration of this Agreement and includes Initial Term and, to the extent applicable, any Extension Term(s);
- 1.34 "**Vancouver Area**" Means the Greater Vancouver Area;
- 1.35 "**Vessel**" means a self-propelled ship, or a tug and barge that fully meets the requirements of the RFP;
- 1.36 "**Vehicles**" means motor vehicles, pick-up trucks, and passenger vans up to 24 cubic metres per unit to be brought back from communities set out in this Agreement.

2. **SCHEDULES**

2.1 The following Schedules are attached and are hereby incorporated into and are made a part of this Agreement as fully and effectively as if expressly set out herein:

SCHEDULE A	Contractor's Care, Custody and Control of Arctic Re-supply Cargo
SCHEDULE B	Conditions of Sea Transportation and Delivery
SCHEDULE C	Retrograde Cargo
SCHEDULE D	Lateral Cargo
SCHEDULE E	Arctic Re-supply Cargo Delivery Schedule (Sailing Schedule)
SCHEDULE F	Contract Security Requirements
SCHEDULE G	Insurance Requirements
SCHEDULE H	Inuit Employment and Training Requirements
SCHEDULE I	Arctic Re-supply Rates
SCHEDULE J	Administrative Requirements
SCHEDULE K	General Conditions of Carriage

3. **HEADINGS**

3.1 The headings are for convenience only, and do not in any way limit or amplify the terms and conditions of this Agreement.

4. **ACCESS TO SERVICES AND RATES**

4.1 Arctic Re-supply Users shall be entitled to the rates and services set out in this Agreement, save and except those services specifically required for the GN.

- 4.2 The Contractor shall not charge the GN or Arctic Re-supply Users higher rates than those set out in Schedule I, but a lower rate may be charged to Arctic Re-supply Users.

5. INITIAL TERM OF AGREEMENT

- 5.1 This Agreement shall be in effect as of Month, Day, Year, and shall continue for an Initial Term ("**Initial Term**") commencing April 1, 2012, and terminating on March 31, *insert year*, subject to the termination and renewal provisions contained in this Agreement.
- 5.2 For greater certainty, but in no way detracting from the foregoing, nothing in this Agreement shall operate as to prevent the GN from seeking tenders or proposals and awarding a contract for all or part of the same or similar services prior to the expiration or termination of this Agreement, provided that such a contract shall not commence prior to expiry or termination of this Agreement.

6. GN'S RIGHT TO EXTEND TERM

- 6.1 In the event that this Agreement is not terminated during the Initial Term, the Contractor agrees that the GN shall have the right to extend the terms and conditions of this Agreement for two additional one year Extension Terms, at the applicable rates set out in Schedule I, commencing simultaneously with the expiration of the Initial Term. In the case of extension, the GN must give notice to the Contractor at least 30 days prior to the expiry of the Initial Term.
- 6.2 In the event that this Agreement is not terminated during the additional one year Extension Term, the Contractor agrees that the GN shall have the right to extend the terms and conditions of this Agreement for a second additional one year Extension Term, at the applicable rates set out in Schedule I, commencing simultaneously with the expiration of the first one year Extension Term. In the case of extension, the GN must give notice to the Contractor at least 30 days prior to the expiry of the first extension year.

7. CONTRACTOR'S OBLIGATIONS

- 7.1 The Contractor shall offer and provide the services subject to the terms and conditions set forth in this Agreement, and is also obliged to:

- 7.1.1 adhere to all safety statutes, regulations and labour codes in force in all jurisdictions where the services required by this Agreement are to be performed;
- 7.1.2 equip each Vessel employed in the execution of the services of this Agreement, with one Federal Department of Transportation approved immersion suit for each berth;
- 7.1.3 obtain and maintain all permissions, permits, licenses and certificates of approval, which may be required for the services to be performed under any applicable federal, territorial, provincial or municipal statutes or regulations. The Contractor shall be responsible for any charges imposed by such statutes or regulations. Upon request, the Contractor shall provide a copy of any such permit, license or certificate to the GN;
- 7.1.4 keep proper records during the Term of the Agreement, and for a period of seven (7) years from the date of the expiration or termination of this Agreement, and shall make them available for copy, audit or inspection by any persons acting on behalf of the GN at any time during the Term of the Agreement, or up to seven (7) years after the expiration or termination of the Agreement;
- 7.1.5 provide the administrative functions described in Schedule J in conjunction with carrying out the services;
- 7.1.6 employ persons with appropriate levels of experience, skills and qualifications, in accordance with industry standards, necessary to carry out the obligations under the Agreement;
- 7.1.7 grant the GN or a designated representative of the GN, access during normal working hours to the Contractor's Facilities and offices at such locations, as well as any other site on land or aboard the Vessel, for the purpose of reviewing the Contractor's procedures and processes with respect to this Agreement;

8. PRICE

- 8.1 In consideration of the observance and performance on the part of the Contractor of all covenants, provisos and conditions contained in this Agreement, the GN shall pay, to the Contractor for services related to GN

Cargo, in accordance with the rates set out in Schedule I – Arctic Re-supply Rates.

9. TERMS OF PAYMENT

- 9.1 The Arctic Re-Supply user shall pay the applicable Goods and Services Tax (GST) or Harmonized Sales Tax (HST) for invoiced services related to Arctic Re-Supply Cargo and the Contractor shall remit the appropriate amount of GST or HST to the Canada Customs and Revenue Agency in accordance with the applicable legislation. Any amount to be levied against the Arctic Re-Supply User in respect of the GST or HST is to be shown separately on all invoices for goods supplied or services provided in accordance with this Agreement.
- 9.2 Each GN Department and agency must be invoiced separately in accordance with the actual measured weights and/or volumes for the applicable GN Cargo.
- 9.3 Northbound – All Sailings for each GN Department: Upon completion of loading of the Vessels, the Contractor may invoice for one hundred percent (**100%**) of the price calculated on the basis of the rates set out in Schedule I – Arctic Re-supply Rates; and the GN shall pay the Contractor for services related to GN Cargo within twenty (20) days for a Nunavut Business (as defined by the NNI Policy) or thirty (30) days for a Contractor that is not a Nunavut Business; after presentation to the GN of:
- a. one copy of the dock receipts and of the carrier's booking notes with the applicable supporting documentation;
 - b. one copy of the stowage plan and of the receipt (non-negotiable), signed by or on behalf of the Contractor;
 - c. two copies of the recapitulation sheet;
 - d. two copies of the vessel 's manifest for GN cargo; and
 - e. two copies of each GN Department's invoice(s) including consignees' signature of receipt. The GN will accept a facsimile copy of the consignee's signature of receipt.
- 9.4 After presentation of the billings and receipt of documentation signed by the consignee or their representative as evidence of delivery of GN cargo carried on **all sailings** and verification by the GN of all documentation submitted and determination of the Revenue Tons of GN Cargo carried all to the satisfaction of the Manager, and in the absence of any need for

retention of monies pursuant to **Clause 9.5** below, the GN shall pay the Contractor for that part of the service related to GN Cargo within twenty (20) days for a Nunavut Contractor or thirty (30) days for a Contractor that is not a Nunavut Business (as defined by the NNI Policy).

- 9.5 Monies may be retained from the invoiced amount(s) for:
- i) failure to acknowledge claims for loss resulting from lost, damaged or destroyed GN Cargo; and for
 - ii) remedying damages resulting from the Contractor's default as set out in Clause 15.
- 9.6 For the services more particularly set forth in Schedule "C" Retrograde Cargo and Schedule "D" Lateral Cargo attached hereto, upon completion of delivery, the Contractor may invoice the GN for 100% of the price calculated on the basis of the rate set in Schedule "I" – Arctic Re-supply Rates; and after presentation to the GN, of billings, receipts (non negotiable), shipping instructions, and documentation signed by the consignee or his/her representative as evidence of the delivery of GN Cargo, all to the satisfaction of the Manager Logistics, and in the absence of any need for retention of monies pursuant to **Clause 9.5**, the GN shall pay the Contractor within twenty (20) days for a Nunavut Business (as defined by the NNI Policy) or thirty (30) days for a Contractor that is not a Nunavut Business.
- 9.7 Interest is applicable to late payments by GN related to GN Cargo at the following rate: The Bank of Canada Prime Business Rate on April 1st, plus six percent (6%), per annum. This rate to be set each year, based on the Bank of Canada Prime Business Rate on April 1st of the applicable year.
- 9.7.1 An amount becomes "overdue" when it is unpaid on the first day following thirty (30) days after the day on which it is due and payable. "Date of Payment" means the date the cheque is issued by the GN, unless the Contractor provides proof that the cheque was mailed at a later date, and in this circumstance, date of mailing will be the Date of Payment.
- 9.7.2 If the GN is invoiced for interest on overdue payments, then the GN shall be liable to pay to the Contractor simple interest, compounded each year on December 31, at the interest rate defined in **Clause 9.7** above from the date such payment becomes overdue until the day prior to the Date of Payment, inclusive. Notwithstanding the foregoing, if the total amount of

interest payable to the Contractor by the GN is less than one hundred Dollars (\$100.00), then the GN will not be liable to pay.

- 9.7.3 Interest will not be paid on monies claimed by the Contractor where the claim results from invoices improperly prepared or addressed.
- 9.7.4 Interest charges, when applied, shall be reflected on a statement of account that will be issued and forwarded to the GN on a monthly basis, until such time as all monies owed are fully paid.
- 9.7.5 The Contractor agrees to repay the GN any overpayment received from the GN within thirty (30) days of the discovery of the overpayment. If such payment to the GN becomes overdue, the preceding interest provisions shall apply.

10. PRE AND POST-SEASON MEETINGS

- 10.1 In each year during the Term of this Agreement, the Parties shall schedule and participate in pre and post-season meetings in which the Parties will discuss operational, administrative, and other related matters.
- 10.2 The option to extend the Agreement Term shall be an agenda item for the post-season meeting in the final year of the Initial Term and, if applicable, for the post-season meeting in the first Extension Term.

11. GN CONSTRUCTION CONTRACTOR'S CARGO

- 11.1 In exceptional or extraordinary circumstances where the Contractor's Arctic Re-supply Cargo Delivery Schedule is in substantial conflict with a GN construction project Schedule, the GN will in consultation with the Arctic Re-supply Contractor review the circumstances, taking into account the adverse impact on the GN construction project, and may allow the relevant portion of the cargo to be shipped with a carrier other than the Arctic Re-supply Contractor at its sole discretion and without penalty to the GN. In ordinary circumstances, GN Construction Contractors will be required by the GN to use the Contractor for marine shipment of materials to carry out the construction and works set out in their Major Works Construction Contract. It is however understood that the GN shall act at all times reasonably in the exercise of its discretion hereunder.

12. CARRIAGE OF GOODS BY WATER – RIGHTS AND IMMUNITIES OF THE CONTRACTOR

- 12.1 Subject to any particular rights accorded only to the Government of Nunavut under this Agreement as a whole, carriage under the Arctic Re-supply Program for the GN and Arctic Re-supply Users is subject to the General Conditions of Carriage included as Schedule K
- 12.2 The Contractor shall not have a lien on any GN Cargoes for any freight, general average security or contribution or other charges due whether arising from statute or Canadian Maritime Law. The Contractor agrees not to make any claim in rem against GN cargoes or other GN property for claims which otherwise could be the subject of an action in rem.

13. LOSS OR DAMAGE TO GOODS

- 13.1 The GN has introduced a dispute resolution process for small claims (currently \$2,500 or less) that does not involve litigation. This process can be accessed through information contained in the Sealift Claims Handling Rules, posted on the Community and Government Services web site at www.gov.nu.ca/sealift.
- 13.2 The GN has introduced a mechanism, through special insurance, to guarantee delivery of cargo to communities in the event that a carrier declares General Average.

14. INDEMNITY

- 14.1 The Contractor shall indemnify and hold harmless the GN, its officers, employees, servants and agents from and against all claims, actions, causes of action, demands, costs, losses, damages, expenses, administrative penalties, suits or other proceedings by whomever made brought or prosecuted, in any manner based upon or related to the negligence, gross negligence, willful misconduct or breach of contract by the Contractor under this Agreement.

15. DEFAULT - TAKING THE WORK OUT OF THE CONTRACTORS HANDS

- 15.1 The GN, acting reasonably, may take all or any part of the work out of the Contractor's hands, and may employ such means as seems fit to have the work completed if the Contractor:
- i) has not, within six days after receiving notice given by the GN in

accordance with clause 17, remedied any delay in the commencement or any default in the diligent performance of the work to the satisfaction of the Manager Logistics, or provided a remedial plan that is acceptable to the GN for such delay or default;

- ii) has defaulted in the completion of any substantial part of the work, including a significant deviation from the time fixed for Arctic Re-supply delivery in accordance with Schedule E, without the consent of the Manager Logistics;
- iii) has become insolvent in any jurisdiction of the Contractor's operation or of any carrying vessel's flag ;
- iv) has committed an act of bankruptcy in any jurisdiction of the Contractor's operation or of any carrying vessel's flag ;
- v) has suffered any carrying vessel to be arrested or seized by a private creditor, or by government or other body acting under governmental authority during or after the time such carrying vessel has been tendered to load Cargo under this Agreement, without obtaining the release of such carrying vessel from arrest or seizure within 10 days of the date of arrest or seizure;
- vi) has abandoned of the work;
- vii) has made an assignment of this Agreement without the consent of the GN; or
- viii) has otherwise failed to observe or perform any substantial provisions of this Agreement and more specifically , but without restricting the generality of the foregoing has made a change to the Arctic Re-supply Delivery Schedule without the consent of the Manager Logistics.

15.2 If all or any part of the work is taken out of the Contractor's hands under clause 14 .1 above :

- i) the Contractor's right to any further payment that is due or accruing under this agreement is extinguished, subject only to clause 15 .4; and
- ii) the Contractor is liable to pay the GN, upon demand, an amount of money that is equal to the amount of all provable actual loss and damage incurred or sustained by the GN in respect of the contractor's failure to complete the work.

- 15.3 If the whole or any part of the work that is taken out of the contractor's hands pursuant to clause 15.1 is completed by the GN, the GN shall credit the amount, if any, that had accrued and was due the Contractor prior to the date on which the work was taken out of the Contractor's hands and is not required for the purposes of having the work performed or of compensating the GN for any other provable actual loss or damage incurred or sustained by reason of the Contractor's default.
- 15.4 The taking of the work or any part thereof out of the Contractor's hands pursuant to clause 15.1 does not operate so as to relieve or discharge the Contractor from any obligation under this Agreement or imposed upon the Contractor by law except the obligation to complete the performance of that part of the work that was taken out of the Contractor's hands.
- 15.5 The GN shall, at all times, act reasonably when exercising its discretion or its rights under the provisions of this clause.

16 DISPUTE RESOLUTION

- 16.1 In addition to the dispute resolution procedures outlined in The Sealift Claims Handling Rules the parties agree that, both during and after the performance of the terms of this Agreement, each party shall make bona fide efforts to resolve by negotiation any dispute between them. The parties shall on a without prejudice basis provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate such negotiation.
- 16.2 In the event of disagreement between the GN and the Contractor as to any Cargo Delivery Schedule for years subsequent to the initial year of this contract, or any dispute or difference respecting or arising from the performance of non-monetary obligations under this contract, the GN and the Contractor agree to summary determination before one arbitrator in Toronto, who shall be a lawyer. A party wishing to arbitrate such differences shall give notice of arbitration with a summary of its claim and nominating three alternate arbitrators. The other party may either accept one of the nominees or provide its list of three nominees within five business days. Notice of acceptance or rejection of alternate nominees must be given within five business days. Any party nominating the arbitrator shall give notice of only those nominees whose schedule permits the conduct and completion of a hearing within 30 days of acceptance of the arbitrator's nomination or appointment of the arbitrator. If the parties cannot agree on the acceptance of any nominated arbitrator, the arbitrator shall be selected within five business days of a request by either party to the President of

the Association of Maritime Arbitrators of Canada, or the President of the Vancouver Maritime Arbitrators' Association, or such President's nominee selector. Such nominee arbitrator will confirm his or her availability to conduct the arbitration and the hearing within 30 days of their appointment. The selection of the arbitrator by the selecting authority shall be final. Any party who wishes to instruct counsel shall retain counsel whose schedule permits the conduct and argument of a hearing within 30 days of acceptance of the arbitrator's nomination or appointment of the arbitrator. The arbitrator shall issue his or her award within 15 days of completion of the hearing. The arbitrator may extend time limits under this clause only if the arbitrator is satisfied that the extension of time shall not cause any prejudice to any party affected. Notwithstanding that the subject matter of the arbitration relates to non-monetary obligations, the arbitrator shall have the authority to award equitable damages or compensatory damages instead of or in addition to measures of interim relief and orders of specific performance.

17 NOTICE

17.1 Any notice under this Agreement shall be effectively given in writing or by facsimile transmission and addressed:

in the case of the contractor, to:

Contact Name: _____

Street Name & Number _____

City, Province, Post Code _____

Telephone _____ Facsimile _____

AND

in the case of the GN to:

Deputy Minister
Department of Community & Government Services
c/o Manager Logistics
Bag 1000, Station 700
Iqaluit, NU
X0A 0H0
Telephone (867) 975 5437
Facsimile (867) 975 5450

17.2 Any notice referred to in the above paragraph shall be deemed to be received by any party if it was delivered by courier, two days after the day that it was delivered, or if it was sent by mail, on the 10th day after it was mailed, or if it was transmitted by facsimile, 48 hours after it was transmitted.

18 PRIOR NEGOTIATIONS SUPERSEDED

18.1 This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter and supersedes all previous negotiations and documents in relation thereto. This Agreement sets forth all of the covenants expressed or implied forming part of or in any way affecting or relating to this Agreement. The Parties acknowledge that there is no representation either written or oral between the GN and Contractor other than those expressly set out in this Agreement. No implied terms or obligations of any kind by or on behalf of either the GN or contractor shall arise from anything in this agreement herein. The terms contained herein are the only covenants and agreements upon which any right against the GN or the Contractor which shall be asserted.

19 CONFLICTS OF INTEREST

19.1 Should an interest be promised or acquired during the life of this agreement that would cause a conflict of interests, the contractor shall declare it immediately to the Manager Logistics. No member of the Legislative Assembly shall be admitted to any share or a part of this Agreement or to any benefit to arise therefrom.

20 AMENDMENTS

20.1 The rights and obligations of either Party, with respect to this Agreement may not be amended, varied or altered in any respect without the prior written consent of both Parties.

21 GOVERNING LAW AND JURISDICTION

21.1 This Agreement shall be governed by, construed and enforced in accordance with the laws of Nunavut and the laws of Canada as applicable.

21.2 All actions not subject to the arbitration provisions in clause 15 for claims under this Agreement shall be commenced in the Nunavut Court of Justice or the Federal Court.

- 21.3 In the event of Default of the Contractor under this Agreement, the GN also shall have the right to commence or participate in legal proceedings, admiralty proceedings or insolvency proceedings in any jurisdiction where any vessel or property of the Contractor or of a subcontractor engaged by the Contractor may be located from time to time. By this clause, the Contractor on its own behalf and as agent and trustee on behalf of any subcontractor, owner or operator of any vessel engaged in the performance of this Agreement, attorn to the jurisdiction of the courts of Nunavut, the Federal Court and the courts of any jurisdiction where any such vessel or property of the Contractor or such subcontractor engaged by the Contractor, may be located from time to time.
- 21.4 The rights and obligations in this paragraph 21 shall survive the termination of this Agreement.

22 FINANCIAL ADMINISTRATION ACT REQUIREMENT

- 22.1 The GN is required to include the following statement in all contracts, and the Contractor accepts and acknowledges that this Agreement is subject to section 46 of the *Financial Administration Act* (Nunavut), which provides as follows :

It is a condition of every contract made by or on behalf of the government requiring an expenditure, that an expenditure pursuant to the contract will be incurred only if there is a sufficient uncommitted balance in the appropriated item for the fiscal year in which the expenditure is required under the contracts.

23 ASSIGNMENT AND SET OFF

- 23.1 The Contractor shall not, without the written consent of the GN, make any assignment of this Agreement for the performance of the services hereby contracted for.
- 23.2 The GN may set off any payment due to the contractor against any monies owed by the Contractor to the GN.

24. OTHER CONDITIONS

- 24.1 The Contractor and the GN agree to ensure that their respective employees shall communicate and co-operate with each other while performing their obligations under the Agreement to ensure a safe, effective, timely and proper transportation and delivery of the services set out in the Agreement.
- 24.2 This Agreement and all related information shall be confidential and shall not be

disclosed to any person except with the consent of both Parties and to the extent disclosure is required to fulfill the Parties' obligations under this Agreement or at law pursuant to the *Access to Information and Protection of Privacy Act (Nunavut)* The Parties shall take all reasonable steps to ensure that confidential information is secure and this confidentiality covenant be fulfilled except as required by any court, regulatory or governmental authority, as is required for purposes of the enforcement of this Agreement or as is required for governmental approval of this Agreement. This covenant shall survive the termination of this Agreement. This confidentiality requirement does not extend to the General Conditions of Carriage in Schedule K of this Agreement. During the performance of this Agreement, the Parties shall make the General Conditions of Carriage in Schedule K readily accessible without charge to Arctic Re-supply Users and the public.

- 24.3 The expiration or termination of this Agreement for any reason shall be without prejudice to the rights of the Parties hereto and shall not relieve the Parties hereto of any of their liabilities or obligations accrued hereunder at the time of such expiry or termination or from any liability or obligation continuing beyond or arising out of such expiry or termination of the Agreement.
- 24.4 Subcontracting, or a GN consent to subcontracting, shall not be construed to relieve the Contractor from obligations under the Agreement. The Contractor shall not change a subcontractor subsequent to the execution of this Agreement without the prior written consent of the GN and such consent will not be unreasonably withheld.
- 24.5 It shall be the sole responsibility of the Contractor to ensure that every subcontract entered into by the Contractor shall accept and be bound by the applicable terms and conditions of this Agreement. In the event that a subcontractor, for any reason, is unable to assume the obligations of the Contractor as set out in the Agreement, the Contractor shall promptly notify the GN and rectify the situation.
- 24.6 No waiver by either Party or any breach of any term, condition or covenant of the Agreement shall be effective unless the waiver is in writing and signed by both Parties. Any waiver with respect to a specific breach will not affect any right of the Parties relating to other or future breaches.
- 24.7 Each provision of this agreement is intended to be severable. If any provision herein is adjudged by a court of competent jurisdiction to be illegal or unenforceable, such unenforceability will not affect the remaining provisions of this Agreement.

24.8 There shall be no presumption that any ambiguity in this Agreement be resolved in favour of either Party. The *contra proferentum* rule shall not be applied in any interpretation of this Agreement.

24.9 the Contractor has all necessary authority and capacity to enter into this Agreement and to perform its obligations under this Agreement.

24.10 The Contractor shall take all necessary internal administrative steps and conduct itself in relation to governmental, fiscal, and regulatory authorities from time to time so as to remain in good standing during the term of this Agreement.

24.11 Each Party agrees that it will execute all documents and do such acts and things as the other Party may reasonably require and may be desirable and within its respective powers to do, to carry out or implement the provisions or intent of this Agreement

24.12 This Agreement may be signed in counterparts and each such counterpart shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument.

24.13 This Agreement shall be to the benefit of and be binding on the respective administrators, successors and permitted assigns of each of the Parties hereto.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED IN ACCORDANCE WITH THEIR RESPECTIVE INTERNAL AUTHORITY AND REGULATIONS

SIGNED, SEALED AND DELIVERED in the presence of:

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

(Seal)

Facsimile No: _____

• Signature: _____

Name: _____ Date: _____

Title: _____

GOVERNMENT OF NUNAVUT:

Department of: Procurement and Logistics

W. G. Brown Building, 3rd Floor, Iqaluit, Nunavut

Facsimile No: _____

• Signature: _____

Name: _____ Date: _____

Title: _____

• Witness, Signature: _____

_____ Date: _____

Witness Name & Title