

## Goldcorp Standard Terms and Conditions for the Purchase of Goods and Related Services (May 2010)

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### 1. Interpretation

**1.1 Definitions.** In these Standard Terms and Conditions, unless there is something in the subject matter or content inconsistent therewith or unless otherwise specifically provided herein, the following terms shall have the meanings set forth below:

- (a) **"Affiliate"** means any body corporate, limited liability company, partnership, joint venture, firm or other form of enterprise which directly or indirectly Controls or is Controlled by or is under common Control with a Buyer or a Seller, as the case may be;
- (b) **"Agreement"** means a written contract between a Buyer and a Seller for the purchase and sale of Goods evidenced by a Purchase Order, these Standard Terms and Conditions and all documents annexed to such Purchase Order or incorporated by reference therein;
- (c) **"Buyer"** means the person identified as the buyer or purchaser of Goods in a Purchase Order;
- (d) **"Buyer Documents"** means Purchase Orders, confirmations and all other documents issued by a Buyer in connection with a purchase of Goods from a Seller;
- (e) **"Buyer Related Party"** means any of a Buyer's Affiliates and the shareholders, directors, officers, employees, agents, representatives, contractors, subcontractors, licensees and invitees of a Buyer and any of its Affiliates; in this section 1.1(e), **"invitee"** means any person who a Buyer or a Buyer Related Party invites on or otherwise causes to be on a Site, other than a Seller or a Seller Related Party;
- (f) **"Cause"** has the meaning set forth in section 7.4;
- (g) **"Change Order"** means a written or electronic document issued by a Buyer that contains changes to a Purchase Order;
- (h) **"Compensation"** means the amounts payable for any Services, including all taxes, insurance and other miscellaneous charges associated with the Services;
- (i) **"Control"** means the right to the exercise, directly or indirectly, of at least fifty per cent (50%) of the voting rights attributable to the shares or other ownership interests in any body corporate, limited liability company, partnership, joint venture, firm or other enterprise;
- (j) **"Delivery Location"** means the location for the delivery of Goods as specified in a Purchase Order or as otherwise agreed in writing by the Buyer and the Seller;
- (k) **"Delivery Schedule"** means the schedule for the delivery of Goods as specified in a Purchase Order or as otherwise agreed in writing by the Buyer and the Seller;
- (l) **"Goods"** means the goods to be supplied to a Buyer by a Seller as set forth in a Purchase Order;
- (m) **"Laws"** means all laws, statutes, acts, codes, regulations, bylaws, ordinances, rules, restrictions, regulatory policies, common law principles, equitable principles, treaties, conventions (except as provided in section 12.10) and international laws and any and all other lawful requirements from whatever source, of or applicable in any national, federal, state, provincial, municipal, regional or other jurisdiction now or hereafter in force, including any and all directions, orders, judgments, decrees, awards or writs of any court, tribunal or governmental authority having jurisdiction;

- (n) **"Lien"** means any lien, hypothec, prior claim or other right of a person having produced Goods for delivery to the Buyer, having delivered Goods to the Buyer or having provided Services to the Buyer;
- (o) **"Parties"** means the Buyer and the Seller named in an Agreement;
- (p) **"person"** includes, unless the context otherwise requires, any individual, body corporate, firm, partnership, joint venture or other form of enterprise;
- (q) **"Price"** means the price to be paid by the Buyer to the Seller for Goods purchased pursuant to an Agreement;
- (r) **"Purchase Order"** means a written or electronic purchase order issued by a Buyer to a Seller for the purchase of Goods;
- (s) **"Seller"** means the person identified as the seller, vendor or supplier in a Purchase Order;
- (t) **"Seller Documents"** means confirmations, invoices and all other documents issued by a Seller in connection with the sale of Goods to a Buyer;
- (u) **"Seller Related Party"** means any of a Seller's Affiliates and the shareholders, directors, officers, employees, agents, representatives, dealers, distributors, contractors, subcontractors, licensees and invitees of the Seller and its Affiliates; in this section 1.1(t), **"invitee"** means any person who the Seller or a Seller Related Party invites on or otherwise causes to be on a Site, other than the Buyer or a Buyer Related Party;
- (v) **"Services"** means installation, modification, maintenance, repair or other services to be performed by a Seller or a Seller Related Party in respect of Goods purchased or proposed to be purchased by a Buyer from a Seller as may be provided in a Purchase Order;
- (w) **"Site"** means a minesite, exploration site or other worksite to which Goods may be delivered under an Agreement;
- (x) **"Standard Terms and Conditions"** means these Goldcorp Standard Terms and Conditions for the Purchase of Goods and Related Services (May 2010); and
- (y) **"Terms"** means the terms and conditions set forth in a Purchase Order and these Standard Terms and Conditions.

**1.2 Construction.** In these Standard Terms and Conditions and any Purchaser Order (a) the singular includes the plural and vice versa; (b) reference to any document means such document as amended from time to time; (c) headings are for convenience only and are not intended to interpret, define or limit the scope, extent or intent of any Agreement or any provision thereof; (d) **"include"** or **"including"** means including without limiting the generality of any description preceding such term; and (e) all references to currency are to the lawful currency of Canada.

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### 2. Agreement

**2.1 Entire Agreement.** The Purchase Order and these Standard Terms and Conditions constitute the entire agreement between the Buyer and the Seller in respect of the purchase of Goods specified in a Purchase Order, and supersede any prior or contemporaneous oral or written agreements or communications between the parties relating to the subject matter thereof. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Buyer and the Seller under an Agreement except as expressly set forth in the Purchase Order and these Standard Terms and Conditions.

**2.2 Seller Documents.** The Parties anticipate that Goods may from time to time be delivered by a Seller to a Buyer pursuant

to Seller Documents and that such Seller Documents may contain terms or conditions that are different from, or in addition to, the Terms (“**Proposed Terms**”). Unless otherwise provided herein or as may be agreed in writing by the Buyer and the Seller (a) no Proposed Terms in the Seller’s order acknowledgment or invoice forms or in any other Seller Documents that are inconsistent with the Terms shall be of any force or effect; and (b) the Buyer expressly rejects all Proposed Terms contained in any Seller Document, regardless when the Seller Document containing Proposed Terms is received by the Buyer.

**2.3 Incorporation into Purchase Orders.** These Standard Terms and Conditions shall be deemed incorporated into and made a part of each Purchase Order issued by a Buyer to a Seller. In the event of any inconsistency between these Standard Terms and Conditions and a Purchase Order, the Purchase Order shall prevail.

**2.4 Acceptance.** A Purchase Order shall be deemed to have been accepted by the Seller and an Agreement formed (a) in the absence of written notification of non-acceptance by the Seller within a reasonable period of time after receipt of the Purchase Order; or (b) upon timely delivery of the Goods to the Delivery Location; whichever occurs first.

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### **3. Purchase of Goods**

**3.1 Purchase of Goods.** A Purchase Order may be placed by a Buyer either (a) orally and followed by a written or electronic Purchase Order; or (b) by delivery of a written or electronic Purchase Order. The quantity of Goods to be purchased under the Purchase Order, the delivery requirements specific to the Delivery Location (including days of week and times of day that deliveries will be accepted and packaging and delivery system requirements), the Delivery Schedule and shipping instructions and directions applicable to shipments to the Delivery Location shall be as set out in the Purchase Order and these Standard Terms and Conditions.

**3.2 Delivery.** Upon receipt of a Purchase Order, the Seller shall deliver the Goods specified therein as provided in the Purchase Order and in accordance with the Delivery Schedule. Unless otherwise specified in the Purchase Order, the Seller shall be solely responsible for transporting and delivering the Goods to the Delivery Location. The Seller shall comply with all requirements under applicable Laws relating to the production, handling, loading, transporting, delivery and unloading of the Goods in and to each jurisdiction in which the Goods are transported and delivered and shall comply with such other requirements as may be specified in the Purchase Order. All transport vehicles shall be professionally operated and shall comply with all such Laws and other requirements. The Seller shall ensure that all of its employees and any other applicable Seller Related Parties have been properly trained and are properly supervised with respect to the production, handling, loading, transporting, delivery and unloading of the Goods. If the Seller engages any third party carriers to deliver the Goods, the Seller shall exercise due care to select carriers who will perform to the same standards as are required of the Seller hereunder, and the Seller shall monitor any such third party carriers to ensure that each carrier complies with all Laws applicable to the handling, loading, transporting, delivery and unloading of the Goods.

**3.3 Delivery to a Site.** Where Goods are to be delivered to a Site, the Seller shall consult with the Buyer’s Site management to establish an appropriate time for delivering the Goods and the Seller shall use all reasonable efforts to ensure that the Goods are delivered at such time and in accordance with the Delivery Schedule. No deliveries may be made prior to the scheduled delivery date without the prior approval of the Buyer’s Site management.

**3.4 Packaging.** The Goods shall be packaged in accordance with all applicable Laws and any Buyer specifications set forth in the Purchase Order and in such manner as may be required for the protection of the Goods from damage or destruction by any hazard prior to acceptance of the Goods by the Buyer. All packages shall include labels and tags containing adequate and accurate information with respect to use, safety and treatment of the Goods. The Seller shall ensure that the Goods are properly contained, secured, labelled, safety marked, documented and inspected at all times during the course of handling, loading, transporting, delivery and unloading so as to comply with all applicable Laws. No separate or additional charges for containers, crating, boxing, bundling or other packaging materials shall be payable unless specified in the Purchase Order. A packing list showing the Purchase Order number and release number if applicable shall be included with each shipment. The shipping label on the shipping container shall be marked to show the Purchaser Order number of all Purchase Orders contained within the container and each interior container shall be marked to show the Purchase Order number.

**3.5 Title and Risk of Loss.** Title to the Goods and the risk of loss with respect thereto shall pass to each Buyer as specified in the applicable Purchase Order, or if not so specified, then upon physical receipt of the Goods by the Buyer and acceptance by the Buyer at the Delivery Location. The Buyer shall have no responsibility whatsoever for the Goods or any liabilities in connection therewith arising prior to the time title to the Goods has so passed to the Buyer.

**3.6 Inspection.** The Buyer may inspect the Goods during their manufacture, processing, construction, preparation, completion and delivery at reasonable times upon reasonable advance notice and subject to compliance with the Seller’s policies regarding site safety and the Seller’s policies regarding the use of identification badges and rules concerning hours of arrival to and departure from the Seller’s Site.

**3.7 Rejection.** Goods may be rejected by the Buyer for defects or non-conformance revealed by inspection or, if such defects or non-conformance are latent and may not be detected upon reasonable inspection, then within ninety (90) days after the date the Buyer receives the Seller’s invoice for such Goods, or within such other period of time as may be specified in the Purchase Order. Rejected Goods may be returned by the Buyer to a Seller at the Seller’s expense.

**3.8 Cancellation and Returns.** Purchase Orders for Goods may be cancelled by the Buyer in whole or in part as provided in section 7.3 hereof. Subsequent to shipment, cancellation of Purchase Orders for Goods, other than defective Goods, shall be subject to the Seller’s return policy, provided that the Seller shall not unreasonably withhold approval for requests to return Goods.

**3.9 Product Warranties.** In addition to and without limiting any specific product warranties and guarantees set forth in the applicable Purchase Order and in any Seller Documents, the Seller represents, warrants and agrees that with respect to the Goods sold to a Buyer under an Agreement (a) such Goods will conform to the specifications set forth in the applicable Purchase Order; (b) such Goods will be of the quality, size and dimensions ordered and be free from defects in material and workmanship; (c) such Goods will be fit for their intended purpose; (d) good and merchantable title to such Goods will be transferred to the Buyer upon acceptance of the Goods; (e) such Goods will be free and clear of all Liens, encumbrances or claims of any nature whatsoever; (f) such Goods will comply with all applicable government standards and all Laws relating to health, safety and environmental matters; and (g) neither the sale nor the use of such Goods will infringe the claims of any patent, design, copyright, trade-mark, trade secret, obligation of confidentiality or any other intellectual

property right of any person. The foregoing representations and warranties shall survive any inspection, delivery, acceptance or payment by the Buyer.

**3.10 License to Use Intellectual Property.** The Seller grants to the Buyer an irrevocable license to use any patent, design, trade secret or other intellectual property right relating to the Goods necessary in order for the Buyer to make full use of the Goods.

**3.11 Licenses to Sell Goods.** The Seller shall hold and keep in good standing and shall cause each Seller Related Party involved in the sale of Goods to a Buyer to hold and keep in good standing in each applicable jurisdiction all licenses, permits, authorizations, registrations, exemptions, consents and approvals required to be held by the Seller or such Seller Related Party under applicable Laws in such jurisdictions in order to sell and deliver Goods to the Buyer.

**3.12 Compliance with Laws.** The Seller shall comply and shall cause each Seller Related Party involved in the sale of Goods to a Buyer to comply with all applicable Laws in each jurisdiction relating to the sale and delivery of the Goods.

**3.13 Distributors.** Where it is not feasible under an Agreement for a Buyer to acquire Goods directly from the Seller by reason of import restrictions on the Buyer in the jurisdiction of the Delivery Location, the Seller may with the Buyer's consent delegate to one or more other distributors acceptable to the Buyer (each an "**Approved Distributor**") such of the obligations of the Seller as may be necessary to enable the Seller to make deliveries of Goods under an Agreement. Any such delegation shall not release the Seller from any of its obligations under the Agreement, provided that performance in full by an Approved Distributor of any Seller's responsibility so delegated to the Approved Distributor shall be deemed performance by the Seller. Nothing herein shall restrict the Buyer from entering into any independent agreement with any Approved Distributor if required in order to qualify Goods supplied by such Approved Distributor for import into the jurisdiction of the Delivery Location.

**3.14 Tariff Documentation.** The Seller shall provide to the Buyer on request any certificates of origin, affidavits of manufacturer or other tariff documentation for any Goods which receive preferential tariff treatment under any trade agreement or special tariff agreement (collectively, "**Tariff Documentation**"). The Tariff Documentation shall be provided with each shipment of the Goods. The Seller shall update any Tariff Documentation and shall notify the Buyer of any changes affecting eligibility under any applicable trade agreement or special tariff agreement within thirty (30) days after any change occurs. The Seller shall ensure that all Goods with foreign origin are marked in English and French with the country of origin.

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#### **4. Supply of Services**

**4.1 Supply of Services.** The Seller shall perform or shall cause Seller Related Parties to perform any Services described in a Purchase Order.

**4.2 Performance.** The Seller shall perform and shall cause each Seller Related Party performing Services to perform the Services safely and in accordance with industry standards and all applicable Laws. If the Seller engages a Seller Related Party to provide the Services, the Seller shall exercise due care to select a Seller Related Party who will perform the Services to the same standards as are required of the Seller under the Agreement. Any such engagement shall not release the Seller from any of its obligations under the Agreement, provided that performance of any Services in full by a Seller Related Party shall be deemed performance of such Services by the Seller.

**4.3 Equipment.** Unless the Purchase Order provides otherwise, the Seller must supply all equipment, parts and materials necessary to perform the Services, at the Seller's expense.

**4.4 Access to Site.** The Seller and Seller Related Parties shall have access to any Site to the extent required for the performance of any Services described in a Purchase Order.

**4.5 Compliance with Buyer Policies.** For Services performed at a Site, the Seller shall be aware of and comply with and ensure that all Seller Related Parties performing Services at the Site are aware of and comply with (a) all occupational health and safety requirements as set out in all manuals, procedures, safety and sustainability policies, regulations and other written materials provided by the Buyer to the Seller, including the Goldcorp Inc. Occupational Health and Safety Policy and all Goldcorp Inc. Group Safety Standards, together with all amendments made from time to time to any of the foregoing; (b) the Buyer's policies regarding mine safety, including mine safety training, the use of identification badges and contractor cards and rules concerning hours of work and arrival to and departure from the Site; and (c) all lawful directions and orders given by the Buyer and management at the Site.

**4.6 Knowledge of Hazards and Acceptance of Risks.** For Services performed at a Site, the Seller shall have knowledge of mining operations and conditions and shall have fully inspected the condition of the Site and the Buyer's operations and the ingress and egress to the Site. The Seller shall have knowledge of and shall accept all hazards and risks that may be present in the performance of the Services except such hazards and risk that are caused by the negligence or wilful default of the Buyer or any Buyer Related Party, and the Seller acknowledges that the Buyer assumes no affirmative duties with respect to the safety of Seller Related Parties at the Site. The Seller assumes full responsibility for all loss of or damage to the materials, machinery, equipment and other property of the Seller and any Seller Related Party used in performance of the Services at the Site except to the extent caused by the negligence or wilful default of the Buyer or any Buyer Related Party. The Seller shall ensure that all Seller Related Parties performing Services at the Site meet the same standards as are required of the Seller under this section 4.6.

**4.7 Removal of Persons from Site.** The Buyer may give notice in writing requiring the Seller to remove from the Site for any reason any persons providing the Services on behalf of the Seller. Upon receipt of such notice, the Seller shall, at its own cost, promptly arrange for the removal of such persons from work on the Services and their replacement with persons acceptable to the Buyer. If the Seller is unable to provide persons acceptable to the Buyer, the Buyer shall have the right to terminate the Agreement for Cause in accordance with section 7.4.

**4.8 Service Warranties.** The Seller represents, warrants and covenants to the Buyer that (a) the Services will be performed to the standard of care, skill and diligence normally provided by competent professionals in their performance of services similar to the Services contemplated in the Purchase Order; (b) the Seller will proceed diligently, continuously and expeditiously in accordance with accepted industry practices and standards to perform or cause to be performed the Services; (c) the persons performing the Services on behalf of the Seller will not unreasonably interfere with the Buyer's activities or the activities of any other person at the Site; and (d) the persons performing the Services on behalf of the Seller have been properly trained with respect to occupational health and safety concerns associated with the Seller's activities and the performance of the Services and are familiar with and compliant with the Goldcorp Inc. Occupational Health and Safety Policy and the Goldcorp Inc. Group Safety Standards.

**4.9 Employment Costs and Charges.** Unless and except to the extent otherwise provided in a Purchase Order, the Seller shall be responsible for paying and remitting or causing to be paid and remitted all costs and charges related to and arising from the performance of the Services, including all fees, wages,

holiday pay, medical insurance payments, employment taxes, workers compensation assessments, workers insurance premiums and all other statutory deductions and benefits relating to persons performing the Services.

- 4.10 Withholding Tax.** If the Seller or any Seller Related Party performing Services is not a resident of Canada, the Buyer shall be entitled to withhold and remit to the Canada Revenue Agency (the “CRA”) an amount equal to fifteen percent (15%) of the gross amount paid to the Seller for the performance of any Services rendered in Canada to the Buyer (excluding disbursements accompanied by proper receipts) unless the Seller or such Seller Related Party has obtained from the CRA a waiver of such withholding tax or a reduction in the rate of such withholding tax. If the Seller or any Seller Related Party performing Services is not a resident of Canada, the Buyer shall be entitled to withhold and remit to the Ministry of Revenue Québec (the “MRQ”) an amount equal to nine percent (9%) of the gross amount paid to the Seller for the performance of any Services rendered in Québec to the Buyer (excluding disbursements accompanied by proper receipts) unless the Seller or such Seller Related Party has obtained from the MRQ a waiver of such withholding tax or a reduction in the rate of such withholding tax.
- 4.11 Licenses to Perform Services.** The Seller shall hold and keep in good standing and shall cause each Seller Related Party performing Services to hold and keep in good standing in each applicable jurisdiction all licenses, permits, authorizations, registrations, exemptions, consents and approvals required to be held by the Seller and each such Seller Related Party under applicable Laws in order to perform the Services.
- 4.12 Services in Ontario.** Before commencing performance of any Services in Ontario, the Seller shall deliver or cause to be delivered to the Buyer a clearance certificate issued by the Workers Safety Insurance Board of Ontario (the “WSIB”) confirming that the Seller or, if the Services are to be performed by a Seller Related Party, such Seller Related Party, is registered with the WSIB and has an account in good standing under the Workers Safety Insurance Act (Ontario) (the “WSIA”). The Buyer shall have the right to retain holdbacks from any payments in respect of Services otherwise due to the Seller, such holdbacks to be in amounts sufficient to cover the obligations of the Seller and any Seller Related Party under the WSIA until the Seller or the Seller Related Party has provided clearance certificates from the WSIB covering the periods in which the Services were performed.
- 4.13 Services in Québec.** Before commencing performance of any Services in Québec, the Seller shall deliver or cause to be delivered to the Buyer sufficient evidence issued by the *Commission de la santé et de la sécurité du travail* (the “CSST”), confirming that the Seller or, if the Services are to be performed by a Seller Related Party, such Seller Related Party, is registered with the CSST and has an account in good standing with the CSST and that all assessments, reassessments, compensation, indemnities, fines and penalties assessed by the CSST have been paid. The Buyer shall have the right to retain holdbacks from any payments in respect of Services otherwise due to the Seller, such holdbacks to be in amounts sufficient to cover the obligations of the Seller and any Seller Related Party under the CSST until the Seller or the Seller Related Party has provided clearance certificates from the CSST covering the periods in which the Services were performed. Should a Seller or a Seller Related Party be exempt from registration with the CSST, a letter signed by the CSST to that effect shall be delivered to the Buyer.
- 4.14 Compliance with Laws.** The Seller shall comply and shall cause each Seller Related Party performing Services to comply with all applicable Laws in each jurisdiction relating to the performance of the Services.

- 4.15 Open Site.** Where the Buyer’s Site is an open site where contractors, subcontractors and suppliers providing goods or services may be union or non-union, the Seller shall perform the Services and shall cause any Seller Related Party performing Services to perform the Services in a manner so as to ensure that there is no work stoppage or other labour dispute and shall if so requested by the Buyer obtain written agreements with any unions representing its employees that non-affiliation rights in any collective agreement will not be exercised in connection with the provision of the Services.
- 4.16 Cancellation.** Any Services described in a Purchase Order may be cancelled by the Buyer in whole or in part as provided in section 7.3 hereof.

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## 5. Price, Compensation, Change Orders and Payments

- 5.1 Price and Compensation.** The Price to be paid for Goods and the Compensation to be paid for Services by the Buyer to the Seller shall be as set forth in the Purchase Order or as may be otherwise agreed in writing by the Buyer and the Seller. The Price and Compensation shall remain in effect regardless of any changes in currency rates, revenue Laws, treasury regulations or tariffs, increases in the appraisal of the value of the Goods or Services by customs authorities of any country or other variables, unless otherwise provided in the Purchase Order or agreed upon in writing by the Buyer and the Seller.
- 5.2 Change Orders.** Without limiting the rights of the Buyer under section 7.3, a Buyer may modify a Purchase Order so long as such modification is given in advance of shipment of Goods or the performance of Services by the issuance of a Change Order. If modifications contained in the Change Order can reasonably be expected to necessitate an adjustment to the Price, Compensation or Delivery Schedule, as the case may be, the Parties shall endeavour to reach an equitable adjustment as soon as practicable so as not to adversely affect the Price, Compensation or Delivery Schedule. Unless otherwise agreed, the amount of any Price adjustment shall be equal to the amount of the increase or decrease in the costs incurred by the Seller directly resulting from the Change Order.
- 5.3 Terms of Payment.** Payment of the Price for Goods and the Compensation for Services shall be made as specified in the Purchase Order or as may be otherwise agreed in writing by the Buyer and the Seller.
- 5.4 Taxes, Duties and Other Charges.** Unless and except to the extent otherwise provided in the Purchase Order, the Seller shall be responsible for remitting or causing to be remitted all taxes (including goods and services tax (“GST”), retail sales tax (“RST”), harmonized sales tax (“HST”), value added tax (“VAT”), Québec Sales Tax (“QST”) or similar taxes or charges where applicable), duties, imposts or other charges relating to or arising out of any Agreement and the purchase and sale and delivery of the Goods to the Buyer and the performance of any Services for the Buyer. If the Purchase Order provides for the Buyer to be responsible for any such taxes, duties, imposts or other charges, the Seller shall provide the Buyer with all necessary invoices, notifications and advices relating to such taxes, duties, imposts and other charges. If and to the extent that the Buyer pays any taxes, duties, imposts or other charges payable by the Seller, the Seller shall reimburse such payment promptly upon request. Upon the request of the Buyer, the Seller shall provide all reasonable assistance to cause the benefit of any credit, rebate, drawback or other recovery to which the Buyer is entitled to be passed along to the Buyer.
- 5.5 Customs and Regulatory Approvals.** Unless otherwise provided in the Purchase Order, the Seller shall obtain all customs approvals and permits and meet all other regulatory requirements to permit the sale of the Goods to the Buyer and

delivery of the Goods to the Delivery Location, other than any customs approvals, permits or other regulatory requirements which by their nature can only be obtained by the Buyer.

- 5.6 **Lien Holdbacks.** The Buyer shall have the right to retain Lien holdbacks from any payments in respect of Goods or Services otherwise due to the Seller in such amount and for such period as may be permitted or required in accordance with applicable Laws relating to Liens.
- 5.7 **Delivery of Clearance Certificates.** Before commencing to perform Services the Seller shall deliver to the Buyer any clearance certificates obtainable under applicable Laws relating to occupational health and safety. A Buyer shall have the right to hold back from payment of Compensation for Services an amount equal to the greater of ten percent (10%) of the Compensation for such Services and the current rate from time to time for employer premiums under applicable Laws relating to workers safety insurance in the jurisdictions in which the Services are performed until final clearance certificates are provided.
- 5.8 **Setoff.** A Buyer shall be entitled to set off any amount payable by the Buyer to the Seller against any financial obligations the Seller may have to the Buyer, whether contractual or statutory.
- 5.9 **Invoices and Payment Terms.** Unless otherwise provided in the Purchase Order, the Seller shall invoice the Buyer monthly on the basis of one invoice per month. All invoices from the Seller shall be delivered to the Buyer at the Delivery Location. Any transportation charges paid by the Seller for which the Seller is entitled to reimbursement shall be shown separately on the Seller's invoices as a separate line items, with the receipted freight bill attached to the invoice. Subject in each case to the requirements of sections 4.10, 5.6 and 5.7, payment by the Buyer shall be due to the Seller thirty (30) days from the date of receipt by the Buyer of a correct invoice.

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## 6. Mutual Representations and Warranties

- 6.1 **Representations and Warranties.** Each Party to an Agreement represents and warrants to the other that (a) the Agreement has been duly authorized by all necessary procedures; (b) the Agreement does not violate any provision of the Party's governing documents or any Laws applicable to such Party; (c) the Agreement will not result in the breach of any agreement by which such Party is bound, and (d) the Party has the requisite power, capacity and authority to carry out all of its obligations under the Agreement.

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## 7. Correction of Errors, Cancellations and Termination for Cause

- 7.1 **Correction of Errors.** If the Seller fails to deliver any Goods or perform any Services within the deadlines specified in the applicable Purchase Order or to provide Goods or perform Services in accordance with the Buyer's Site management specifications and requirements, then the Buyer may, at its option, without limitation (a) extend the delivery period or allow a correction to be made; (b) suspend the Buyer's obligations under the Agreement until the failure to deliver is addressed to the Buyer's satisfaction or the error is corrected; or (c) terminate the Agreement for Cause under section 7.4.
- 7.2 **Suspension of Payment.** Without limiting the Buyer's other rights and remedies under an Agreement, the Buyer may suspend any payment in whole or in part if the Seller has not performed its obligations under the Agreement. If the Buyer exercises its rights under this section 7.2, the Seller shall continue to perform its obligations under the Agreement unless the Buyer otherwise agrees in writing.
- 7.3 **Cancellation of Purchase Orders.** A Buyer may cancel a Purchase Order or the delivery of some of the Goods or Services referred to therein at any time for its sole

convenience. Upon notice of such cancellation, the Seller shall immediately stop all production and shipment of any Goods and any Services referred to in the notice of cancellation and shall cause any applicable Seller Related Parties to do the same. In the case of such cancellation, the Seller shall be paid a reasonable cancellation charge consisting of a pro rata percentage of the Price and, if applicable, Compensation reflecting the percentage of work performed prior to notice of cancellation, plus actual direct costs resulting from the cancellation. The Seller shall not be paid for the creation of Goods or the performance of Services incurred after receipt of notice of cancellation, nor for costs incurred by the Seller or any Seller Related Parties that the Seller or such Seller Related Parties could reasonably have avoided.

- 7.4 **Termination for Cause.** An Agreement may be terminated as between the Seller and a Buyer by a non-breaching Party for Cause. "Cause" means (a) a material breach of the Agreement; (b) if a Party (deemed for purposes hereof to be the breaching Party) is adjudged insolvent, proposes a compromise or arrangement to its creditors generally, files for protection from its creditors under any applicable bankruptcy or other Laws for the administration of insolvent estates, files or has filed against it any proceedings to have it declared bankrupt, takes or has taken against it any proceedings to have it wound up, or files or has filed against it any proceeding to have a receiver appointed over any of its assets; (c) an event of force majeure as described in section 10.1 occurs that prevents a Party (deemed for purposes hereof to be the breaching Party) from complying with any of its obligations under the Agreement and that has not concluded within three (3) months; or (d) an event of force majeure as described in section 10.1 occurs and the Buyer is entitled to terminate under section 10.2. If a determination is made that the Buyer has improperly terminated an Agreement for cause under this section 7.4, such termination shall be deemed to have been a cancellation under section 7.3.

- 7.5 **Obligations Upon Termination.** Any right or obligation of a Party based on either performance or a breach of an Agreement prior to the effective date of termination of the Agreement shall survive the termination. Without limiting the scope of the preceding sentence, if Goods have been ordered by the Buyer prior to a notice of termination given by the Seller, then at the option of the Buyer, the Terms of the Agreement shall govern until final delivery, inspection and acceptance of the Goods and the Seller shall (a) ensure that any Purchase Orders outstanding on the effective date of termination are timely filled; and (b) remove from the Site all equipment and materials owned by the Seller. If the Goods are being sold to the Buyer on the basis of installment deliveries and the Buyer has the right to terminate the Agreement as provided in section 7.4, the termination of the Agreement shall apply to all installments not delivered prior to the effective date of termination.

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## 8. Indemnification

- 8.1 **Seller.** The Seller agrees to indemnify, defend and hold harmless the Buyer and the Buyer Related Parties (each a "Buyer Indemnitee") against any damages (whether direct or indirect), claims, actions, causes of action, suits, proceedings, liabilities, penalties, fines and demands (including reasonable legal fees) against the Buyer Indemnitee arising out of or relating in any way to (a) a breach by the Seller or any Seller Related Party of any of the Seller's obligations or representations under an Agreement not timely cured; (b) a breach of any of the product warranties set forth in section 3.9; (c) a breach of any of the service warranties set forth in section 4.8; (d) the safety of Seller Related Parties at any Site; or (e) accidents, occurrences, injuries or losses to or for any persons

or property due to or resulting from, in whole or part, the design, preparation, manufacture, processing, fabrication, handling, construction, completion, shipping or delivery of the Goods or performance of the Services by the Seller or any Seller Related Party, except to the extent caused by the gross negligence or willful misconduct of a Buyer or a Buyer Related Party.

**8.2 Buyer.** The Buyer agrees to indemnify, defend and hold harmless the Seller and its Seller Related Parties (each a “**Seller Indemnitee**”) against any damages (whether direct or indirect), claims, actions, causes of action, suits, proceedings, liabilities, penalties, fines and demands (including reasonable legal fees) against the Seller Indemnitee arising out of or relating in any way to (a) a breach by the Buyer or any Buyer Related Party of any of the Buyer’s obligations or representations under an Agreement not timely cured; or (b) accidents, occurrences, injuries or losses to or for any persons or property due to or resulting from the negligent or willful misuse of the Goods by the Buyer or any Buyer Related Party after acceptance thereof, except to the extent caused by the gross negligence or willful misconduct of the Seller or a Seller Related Party.

**8.3 Procedure.** The Buyer Indemnitee or Seller Indemnitee (as applicable, the “**Indemnified Party**”) shall give the other Party (the “**Indemnifying Party**”) prompt written notice of any claim made pursuant to the foregoing indemnifications (as applicable, a “**Claim**”), including any inquiry or investigation by a government agency that the Indemnified Party believes may involve or expect to lead to a Claim. The Indemnifying Party shall have the responsibility of contesting, defending, litigating, settling or satisfying any Claim made against the Indemnified Party. The Indemnified Party shall have the right to be represented by separate counsel at the Indemnified Party’s expense in connection with any such Claim. The Indemnifying Party shall not settle any such Claim without the Indemnified Party’s prior written consent, which consent shall not be unreasonably withheld.

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## 9. Insurance

**9.1 Liability Insurance.** The Seller shall carry comprehensive general liability insurance covering liabilities relating to the provisions of the Goods and any Services, including contingent employer’s liability coverage, and including coverage for injury (including death) and property damage (including sudden and accidental pollution), with a combined single limit of not less than five million dollars (\$5,000,000) per occurrence. The Buyer shall be added as an additional insured and such coverage shall contain cross liability, severability of interest and waiver of subrogation provisions and be without right of contribution by any Buyer’s insurance.

**9.2 Additional Coverage for Services.** If the Seller or any Seller Related Party performs any Services, the Seller shall carry (a) insurance against loss or damage to plant and equipment, machinery, tools, temporary buildings and any other property used in the performance of the Services, such coverage to be for not less than the full replacement value of such property; (b) motor vehicle liability insurance coverage for death or injury to any person or for loss or damage to property arising from the use of all owned and non-owned vehicles and mobile equipment used by the Seller or any Seller Related Party in the performance of Services, in the amount of five million dollars (\$5,000,000) per occurrence, with the Buyer to be named as an additional insured in such policy; and (c) professional liability insurance with a limit not less than five million dollars (\$5,000,000) for any one claim.

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## 10. Force Majeure

**10.1 Force Majeure.** No Party shall be liable for any delay or non-performance, other than for non-payment of money, resulting from acts of God, labour disturbances, strikes and lockouts, casualty, severe weather conditions, war, riots, acts of a public enemy or terrorist, civil disorder, earthquakes, insurrections, freight embargoes, custom delays at the port of shipment or destination, unforeseeable and irresistible event or other condition or occurrence of a similar nature beyond the Party’s reasonable control. If performance is delayed, prevented, restricted, or interfered with by such event (as applicable, a “**Delay**”), (a) the Party whose performance is Delayed (the “**Delayed Party**”) shall give prompt written notice to the other Party of the event and shall be excused from performance to the extent Delayed; provided, however, that the Delayed Party shall take reasonable steps to avoid or remove such causes of non-performance and shall continue performance whenever and to the extent such causes are removed; and (b) if it appears that a scheduled time for delivery of Goods shall be extended for a time which would cause the other Party unreasonable hardship, in such other Party’s good faith judgment, the Party receiving notice of the Delay shall have the right to terminate, by written notice to the Delayed Party, shipments of any portion of the Goods to be delivered or Services to be performed which have been so Delayed.

**10.2 Termination under Force Majeure.** If the Delayed Party is the Seller, a Buyer may procure elsewhere goods similar to the Goods for which shipment is terminated pursuant to section 10.1, and unless the Seller commits in writing to the Buyer within fifteen (15) days after written notice from the Buyer given at any time during the period of Delay to be liable for any amount by which the price paid by the Buyer for substitute goods exceeds the Price for such Goods, the Buyer shall have the right upon further notice to the Seller given at any time during the period of Delay to terminate an Agreement with respect to any Goods for which deliveries have been so Delayed.

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## 11. Notices

**11.1 Notices.** All notices or other communications which are required or permitted to be given to the Parties under an Agreement shall be sufficient in all respects if given in writing and delivered in person or by electronic mail, facsimile, courier or certified mail, postage prepaid, return receipt requested, to the receiving Party at the address shown in the applicable Purchase Order or to such other address as the receiving Party may have given to the other Party by notice in writing. Notice shall be deemed given on the date of delivery, in the case of personal delivery, electronic mail, or facsimile, or on the delivery or refusal date as specified on the return receipt in the case of certified mail or on the tracking report in the case of delivery by courier.

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## 12. General Provisions

**12.1 Confidential Information.** The Parties acknowledge that during the term of an Agreement the Buyer may disclose to the Seller and the Seller may disclose to the Buyer certain technical, commercial or pricing information or technical know-how of a confidential nature (“**Confidential Information**”). Such Confidential Information will either be indicated to be confidential or will evidently be so because of its nature. Each Party shall keep in confidence and prevent the unauthorized disclosure of all such Confidential Information, except Confidential Information (a) which is required to be disclosed by applicable Laws, court orders, court proceedings or the rules or policies of any stock exchange or government or

regulatory authority having jurisdiction; (b) which is in the public domain at the date of the applicable Purchase Order or which becomes a part of the public domain after the date of the applicable Purchase Order other than through a breach of the Agreement by the recipient Party; or (c) which has become known to the recipient Party independently on a non-confidential basis, whether before or after the date of the applicable Purchase Order, other than through a breach of the Agreement by the recipient Party or by a third party subject to any confidentiality agreement between the third party and the disclosing Party. No Party shall make any use of Confidential Information of the other Party for any purpose other than the purpose for which the Confidential Information was provided by the other Party. The obligations under this section 12.1 shall survive the termination of the Agreement and shall continue for a period of two (2) years thereafter.

- 12.2 Use of Goldcorp Name.** A Seller shall not use and shall ensure that no Seller Related Party uses the name of Goldcorp Inc. or any of its Affiliates in any sales promotion, advertising or other publication without the Buyer's prior written consent.
- 12.3 Assignment.** An Agreement may not be assigned by the Seller in whole or in part without the prior written consent of the Buyer, which consent may in the Buyer's absolute discretion be withheld. Unless otherwise agreed by the Parties in writing, the Seller shall remain liable to the Buyer in the event that a permitted assignee cannot perform its obligations hereunder.
- 12.4 Relationship between Parties.** Nothing contained in an Agreement shall be construed as creating a joint venture or partnership or employment or fiduciary relationship between the Parties to the Agreement. No Party shall have the power to control the activities or operations of the other Party, and their status shall at all times be that of independent contractors. No Party shall hold itself out as having any authority or relationship in contravention of this section.
- 12.5 Legal Fees.** If a Party shall commence any action or proceeding against the other Party in order to enforce the provisions of an Agreement or to recover damages as a result of the alleged breach of any of the provisions of an Agreement, the prevailing Party shall be entitled to recover all reasonable costs in connection therewith, including reasonable legal fees.
- 12.6 Further Assurances.** The Parties to an Agreement shall cooperate fully with each other and execute such further instruments, documents, and agreements and shall give such further written assurances as may be reasonably requested by the other Party to better evidence and reflect the transactions described herein and contemplated hereby, and to carry into effect the intent and purposes of the Agreement.
- 12.7 Amendments.** An Agreement may not be modified or amended except by an instrument in writing signed by the Seller and the Buyer.
- 12.8 Severability.** If any of the provisions of an Agreement shall for any reason be held void or unenforceable, the remaining provisions shall remain in full force and effect.
- 12.9 Governing Law.** Unless the Parties to an Agreement otherwise agree in writing, (a) the Agreement shall be governed by and construed in accordance with the Laws of Ontario and the Laws of Canada applicable therein if the Agreement is for the purchase and sale of Goods and any related Services to be delivered and provided to the Buyer in Ontario or in any other jurisdiction apart from Québec; and (b) the Agreement shall be governed by and construed in accordance with the Laws of Québec and the Laws of Canada applicable therein if the Agreement is for the purchase and sale of Goods and any related Services to be delivered and provided to the Buyer in Québec. Where the Agreement is governed by the Laws of Ontario, the Parties voluntarily submit to the non-exclusive jurisdiction of the courts of Ontario situated in Toronto, Ontario. Where the Agreement is

governed by the Laws of Québec, the Parties voluntarily submit to the non-exclusive jurisdiction of the Courts of Québec situated in the judicial district of Montreal.

- 12.10 United Nations Convention.** The United Nations Convention on Agreements for the International Sale of Goods, or any amendment thereto, (the "**Convention**") shall not apply to any Agreement. If the Convention is incorporated by reference as a Law of any jurisdiction, then to the extent permitted under the Laws of such jurisdiction the Convention shall not apply to any Agreement.
- 12.11 Waiver.** The failure of one Party to insist upon the strict performance of any provision of an Agreement or to exercise any right, power, or remedy upon a breach thereof shall not constitute a waiver of that or any other provision of the Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.
- 12.12 Remedies.** Except as otherwise expressly provided in a Purchase Order, the rights, powers and remedies of each Party shall be cumulative. Without limiting any other remedy available at law or in equity, if an Agreement is breached, injunctions, restraining orders, specific performance and other forms of equitable relief shall be available.
- 12.13 Survival of Terms and Conditions.** All representations, warranties and Terms contained in an Agreement shall survive the expiration or termination of the Agreement to the full extent necessary for their enforcement and for the protection of the Party in whose favour they operate.
- 12.14 Parties Bound by Agreement.** Each Agreement is binding upon the Parties thereto and upon their respective heirs, executors, administrators, successors and permitted assigns.
- 12.15 Language.** The Parties hereto have expressly required that the Agreement and all documents and notices relating thereto be drafted in the English language. *Les Parties aux présentes ont expressément exigé que cette entente et tous les documents et avis qui y sont afférents soient rédigés en langue anglaise.*