

SCHEDULE 1

CHANGE ORDERS

1. DEFINITIONS

In this Schedule 1, in addition to the definitions set out in Section 1.1 of this Agreement, the following expressions have the following meanings (and, where applicable, their plurals have corresponding meanings):

“**Change Order**” means a variation, addition, reduction, substitution, modification, deletion, removal or other change, other than one which does not have a material effect, to the whole or any part of the Project or the Technical Requirements;

“**Change Order Confirmation**” means a written confirmation provided by the City of the Estimate, and, if applicable, of any adjustments to Project Co’s Works Schedule;

“**Change Order Directive**” means a written instruction and description of a Change Order, designated as a “Change Order Directive” and signed by the City, directing Project Co to immediately proceed with the work associated with the Change Order;

“**Change Order Enquiry**” means a written notice and description of a proposed Change Order, including, where applicable, the method of procurement for the Change Order;

“**Construction Equipment Cost**” means the actual cost of invoices from an arm’s-length third party of rented or owned construction equipment, including the cost of loading, transporting, unloading, erecting, maintaining, dismantling and removing equipment;

“**Design Cost**” means the actual cost of invoices for design work from an arm’s-length third party required in connection with a Change Order, including consultant fees and associated expenditures;

“**Direct Cost**” has the meaning given in Appendix A to this Schedule 1;

“**Estimate**” means a detailed breakdown, estimate and other information attributable to a Change Order prepared by Project Co in accordance with and meeting the requirements of Section 3.3;

“**Estimate Dispute**” has the meaning indicated in Section 3.3(f);

“**Expert**” has the meaning indicated in Schedule 6 (Dispute Resolution Procedure);

“**Own Forces Work**” has the meaning indicated in Section 4.4(a);

“**Project Co Change Notice**” has the meaning indicated in Section 5.1(a);

“**Subcontractor Work**” has the meaning indicated in Section 4.4(b);

“**Third Party Input**” has the meaning indicated in Section 3.2;

2. GENERAL PROVISIONS

2.1 Change Order

Subject to the provisions of this Schedule 1 and without invalidating this Agreement, the City may from time to time propose or require Project Co to carry out and implement a Change Order. Project Co shall not be entitled to any payment, compensation or extension of time for a Change Order except in accordance with this Agreement and this Schedule 1. A Change Order shall not be regarded as confirming an extension to the Substantial Completion Target Date unless expressly stipulated.

2.2 Valuation and Payments for Reductions or Avoided Costs

If a Change Order involves any reduction in the Project or the Technical Requirements and results in net savings in costs (in the context of a reduction in the Project or the Technical Requirements having regard, without limitation, to any reasonable make whole premiums, hedging or other breakage costs, or prepayment fees and all reasonable redemption implementation costs reasonably incurred by Project Co as a result of any adjustments to debt service payments that are directly attributable and limited to the reduction in the Project or Technical Requirements) to Project Co for completing the Project or performing the Technical Requirements, then:

- (a) the value of all such savings shall be reflected in a lump sum payment to the City or in adjustments to the Contract Price to the extent determined by the parties, acting reasonably.
- (b) Project Co shall not be entitled to claim for any losses, costs or damages for fixed overhead or profit due to the reduction, deletion or removal of any part of the Project or the Technical Requirements, except to the extent that any of such amounts would have been incurred by Project Co and included in the Contract Price payable by the City after the date on which the Project or the Technical Requirements are reduced, deleted or removed.

2.3 Valuation and Payments for Increased Costs

- (a) If a Change Confirmation has been issued and is not subject to financing, or if the requirement for financing has been satisfied by Project Co or has been waived by the City, a price adjustment for the Change, as set out in the Estimate and as adjusted and confirmed by the Change Confirmation, shall be made as follows:
 - (i) the Milestone Payments and/or Substantial Completion Payment shall be adjusted as set out in the Change Confirmation; and
 - (ii) payment for Capital Expenditures as set out in the Change Confirmation and not financed by Project Co shall be paid as follows:

- (A) the City shall pay such Capital Expenditures in lump sum payments based on a payment schedule agreed by the City and Project Co, acting reasonably, to reflect the amount and timing of the Capital Expenditures to be incurred by Project Co in carrying out the Change, to the extent borne by the City; and
- (B) where payment for part of the Change reflects the carrying out of, or specific progress towards, an element within the Change, Project Co shall provide satisfactory evidence confirming that the part of the Change corresponding to each occasion when payment is due under the payment schedule has been duly carried out.

In the event the City and Project Co fail to agree as to the terms of the payment schedule, the payment schedule shall be determined in accordance with Schedule 6 – Dispute Resolution Procedure; provided that, where all or any part of the Change is being carried out by a third party under a contract with Project Co, subject to the terms of any contract between Project Co and that third party in relation to the implementation of the Change having been approved by the City (such approval not to be unreasonably withheld or delayed), the process under Schedule 6 – Dispute Resolution Procedure shall determine a payment schedule which would enable Project Co to be funded by the City in time to make payments to that third party in accordance with its contract with Project Co.

- (b) The City shall make payment to Project Co within 20 Business Days of receipt by the City of invoices presented to the City in accordance with the agreed payment schedule accompanied (where applicable) by the relevant evidence that the relevant part of the Change has been carried out.
- (c) Payments by the City in respect of a Change shall be subject to applicable holdback provisions of the *Builders' Lien Act* (Saskatchewan), as applicable.
- (d) Project Co shall not be entitled to any amount in excess of the amount of the Estimate confirmed in the Change Confirmation.
- (e) Upon request by Project Co, the City shall provide to Project Co copies of any consent or approval issued by the City in connection with a proposed Change.

2.4 Restrictions on Changes

The City shall not at any time during the Term require, and Project Co may refuse to implement, a Change Order, Change Order Directive or Change Order Confirmation which:

- (a) would be contrary to Applicable Law;
- (b) would render the insurance policies required under this Agreement void or voidable and the City does not agree to provide replacement security satisfactory to Project Co acting reasonably;

- (c) would cause the revocation of any Permits and Approvals required by Project Co to perform its obligations under this Agreement, and such Permits and Approvals would not, using reasonable efforts, be capable of amendment or renewal;
- (d) would require new Permits and Approvals for Project Co to perform its obligations under this Agreement, which Permit would not, using reasonable efforts by Project Co or the City, as applicable, be obtainable; or
- (e) would cause Project Co to be unable to obtain Permits and Approvals required by Project Co to perform its obligations under this Agreement, provided that such Permits and Approvals were previously required but at the time of the Change Order Inquiry had not been obtained and such Permits and Approvals would not, using reasonable efforts by Project Co or the City, as applicable, be obtainable.

3. CHANGE ORDER ENQUIRY PROCESS

3.1 Initiating a Change Order Enquiry

- (a) If the City wishes to propose a Change Order, it shall deliver to Project Co a Change Order Enquiry. The Change Order Enquiry shall describe the proposed Change Order with sufficient detail to enable Project Co to prepare an Estimate.
- (b) If the City would be required by Applicable Law or interprovincial agreements to require Project Co to seek invitational tenders or to competitively tender any contract in relation to the proposed Change Order, then the City may include in the Change Order Enquiry a requirement that Project Co seek and evaluate invitational tenders or quotations, or seek and evaluate competitive tenders, for the proposed Change Order in preparing the Estimate.

3.2 Project Co's Delivery of Estimate

As soon as practicable and in any event not more than 15 Business Days after receipt of a Change Order Enquiry, or such longer period as the parties agree, Project Co shall deliver to the City an Estimate prepared in accordance with and meeting the requirements of Section 3.3. If Project Co is of the reasonable opinion that the accuracy of the Estimate will benefit from certain third party design work or third party detailed cost estimating (including design work or detailed cost estimating done by the Design and Construction Subcontractor (the "**Third Party Input**")), Project Co may propose to the City that the Third Party Input be arranged by Project Co at the City's expense. If the City gives its written agreement to such proposal, which written agreement may be expressly subject to any terms and conditions that the City deems appropriate, then such Third Party Input expenses shall be paid by the City whether or not the Change Order Enquiry is ultimately withdrawn, or deemed to have been withdrawn, by the City. In deciding whether or not to give its written agreement, the City shall give consideration to the reasonableness of the Third Party Input expenses and the reasonableness of the assurances given by Project Co that the sum of the Estimate with the Third Party Input plus the Third Party Input expenses may be materially less than an Estimate without the Third Party Input.

3.3 Estimate Requirements

- (a) The Estimate shall include such of the following information as is applicable, sufficient to demonstrate to the City's reasonable satisfaction:
- (i) the steps Project Co will take to implement the Change Order, in such detail as is reasonable and appropriate in the circumstances;
 - (ii) any impact on the Substantial Completion Date and any impact on Project Co's Works Schedule, which information must be provided if Project Co intends to claim compensation from the City for delays to the Substantial Completion Date resulting from the Change Order;
 - (iii) an estimate of and explanation for the reasonable incremental financing costs and reasonable breakage costs or make whole premiums on financing to be paid in the event the Substantial Completion Date is delayed by the Change Order;
 - (iv) any subcontractors required in addition to or in substitution for the Design and Construction Subcontractor;
 - (v) the estimated Direct Cost attributable to the Change Order;
 - (vi) any permits that are required to be obtained or amended attributable to the Change Order, and the estimated time for obtaining or amending same;
 - (vii) the proposed methods of certification of any Technical Requirements required by the Change Order if not currently contemplated within the provisions of this Agreement; and
 - (viii) any other impact of the Change Order on this Agreement,

in each case, together with such supporting information and justification as is reasonably required. All Estimates shall be broken down by individual trades and cost components with quantity take offs and unit prices associated with the various identifiable elements of each trade. Estimates shall also include a description of limitations, scope, conditions, assumptions, quality standards and other such relevant considerations.

- (b) In preparing an Estimate, Project Co shall include sufficient information to demonstrate that:
- (i) Project Co has used, or has obliged each Subcontractor to use, commercially reasonable efforts, including the use of invitational tenders or competitive tenders if appropriate or required, to oblige its subcontractors to minimize any increase in costs and to maximize any reduction in costs;

- (ii) the full amount of any and all expenditures that have been reduced or avoided have been taken into account and applied in total to reduce the amount of all Change Order costs;
- (iii) Project Co has mitigated or will mitigate the impact of the Change Order, including on Project Co's Works Schedule for completion of the Project;
- (iv) Project Co will perform all work associated with a Change Order in accordance with the times allowed for Project Co access to the Lands and the Infrastructure described in Schedule 15 (Technical Requirements); and
- (v) Project Co is in compliance with all Applicable Laws or interprovincial agreements to which the City is a party with respect to invitational tenders, quotations or competitive tenders.
- (vi) except as otherwise set out herein, all costs of Project Co and each Subcontractor are limited to Direct Costs;
- (vii) Project Co and each Subcontractor shall charge only the margins for overhead and profit as set out in Appendix B hereto (such margins each calculated on the basis of the applicable Direct Costs so that no margin of Project Co and each Subcontractor is calculated on any other margin of Project Co and each Subcontractor and no other margins or mark ups;
- (viii) the margins for overheads and profit as set out in Appendix B hereto as applicable to Project Co's Direct Costs shall only be chargeable on Direct Costs of Project Co, such that Project Co shall not charge any margins on any amounts charged by any Subcontractor; and
- (ix) all costs of performing the Works, including Capital Expenditures, reflect:
 - (A) labour rates applying in the open market to providers of services similar to those required by the Change;
 - (B) any and all changes in the Output Specifications arising out of the proposed Change; and
 - (C) any and all changes in risk allocation.
- (c) Project Co shall use commercially reasonable efforts to obtain the best value for money when procuring any work, services, supplies, materials or equipment required by the Change Order and shall use commercially reasonable efforts to comply with prevailing Good Industry Practice in relation to any such procurement to a standard no less than Project Co would apply if all costs incurred were to its own account.
- (d) As soon as practicable, and in any event not more than 15 Business Days after the City receives an Estimate or such longer period as the parties agree, including any

consequential changes to the Estimate resulting from a modification thereof or an addition of a requirement to seek invitational bids or competitive tenders, Project Co and the City shall discuss and seek to agree on the Estimate and, if applicable, an adjustment to Project Co's Works Schedule.

- (e) The City may modify a Change Order Enquiry in writing, at any time prior to the agreement between the parties referred to in Section 3.3(d), in which case Project Co shall, as soon as practicable and in any event not more than 10 Business Days after receipt of such modification or such longer period as the parties agree, notify the City in writing of any consequential changes to the Estimate and, if applicable, to an adjustment to Project Co's Works Schedule.
- (f) If the parties cannot agree on an Estimate provided pursuant to a Change Order Enquiry, and, if applicable, an adjustment to Project Co's Works Schedule ("**Estimate Dispute**"), the Estimate Dispute shall be determined in accordance with the Dispute Resolution Procedure.

3.4 Change Order Confirmation

- (a) As soon as practicable, and in any event not more than 10 Business Days (unless an extension is agreed to by Project Co, acting reasonably) after the date the Estimate, and, if applicable, an adjustment to Project Co's Works Schedule, were agreed to, the City shall either:
 - (i) issue a Change Order Confirmation; or
 - (ii) withdraw the Change Order Enquiry by written notice to Project Co.
- (b) If the City does not issue a Change Order Confirmation within 10 Business Days (or such extended period as may have been agreed to) after the date the Estimate and, if applicable, an adjustment to Project Co's Works Schedule, were agreed to, then the Change Order Enquiry shall be deemed to have been withdrawn and the City shall pay to Project Co any expenses payable under Section 3.2 within 15 Business Days.
- (c) If the City has required Project Co to seek and evaluate invitational tenders or to seek and evaluate competitive tenders in relation to the Change Order and the City either withdraws or is deemed to have withdrawn the Change Order Enquiry, the actual costs necessarily and properly incurred by Project Co directly attributable to the invitational or competitive tendering process, including any Design Cost, as the parties agree, will be invoiced by Project Co in a form satisfactory to the City and will be paid by the City, on similar terms as the Milestone Payments as set out in Section 10.1 of the Agreement.
- (d) Upon the Change Order Confirmation being issued:
 - (i) the parties shall, as soon as practicable, do all acts and execute all documents necessary to implement the Change Order, including provision for payment to

Project Co in the amount set out in the Estimate, and, if applicable, implementation of an adjustment to Project Co's Works Schedule; and

- (ii) Project Co shall as soon as practicable thereafter implement the Change Order as provided for in the Change Order Confirmation.

4. CHANGE ORDER DIRECTIVE PROCESS

4.1 Initiating a Change Order Directive

- (a) At any time and from time to time (including whether or not the City has made a Change Order Enquiry, or Project Co fails to provide an Estimate, or an Estimate is not promptly agreed upon by the parties, or there is an Estimate Dispute), if the City wishes to proceed immediately with a Change Order, the City shall issue a Change Order Directive. The Change Order Directive shall describe the Change Order with sufficient detail to enable Project Co to prepare an Estimate and to proceed immediately with the work associated with the Change Order.
- (b) If the City would be required by Applicable Law or interprovincial agreements to require Project Co to seek invitational tenders or to competitively tender any contract in relation to the proposed Change Order, then the City may include in the Change Order Directive the requirement that Project Co must seek and evaluate invitational tenders or quotations, or seek and evaluate competitive tenders, in relation to the Change Order.

4.2 Proceeding with Work

Project Co will proceed to immediately implement the work associated with the Change Order, including the appropriate method of procurement, if applicable, upon receipt of the Change Order Directive.

4.3 Estimate and Change Order Confirmation

- (a) If Project Co has not previously done so, Project Co shall, as soon as practicable, and in any event not more than 15 Business Days after the issuance of the Change Order Directive, or such longer period as the parties agree, provide an Estimate to the City prepared in accordance with and meeting the requirements of Section 3.3.
- (b) As soon as practicable, and in any event not more than 15 Business Days after the City receives an Estimate, or such longer period as the parties agree, Project Co and the City shall discuss and seek to agree on the Estimate and, if applicable, an adjustment to Project Co's Works Schedule.
- (c) As soon as practicable, and in any event not more than 10 Business Days (unless an extension is agreed to by Project Co, acting reasonably) after the date the Estimate was agreed to, the City shall issue a Change Order Confirmation.

- (d) As soon as practicable after the City has issued the Change Order Confirmation, the parties will do all acts and execute all documents necessary to implement the Change Order, including provision for payment to Project Co in the amount set out in the Estimate and, if applicable, implementation of an adjustment to Project Co's Works Schedule.
- (e) Pending issuance of the Change Order Confirmation, the undisputed value of the work performed by Project Co pursuant to the Change Order Directive, as the parties agree, will be invoiced by Project Co and will be paid by the City monthly on a progress basis and all such amounts paid will be accounted for in determining the Total Cost of Materials and Labour under Section 4.4.

4.4 Valuation of Change Order Directive

If the City has issued a Change Order Directive and the City and Project Co have not been able to reach agreement on the Estimate and, if applicable, an adjustment to Project Co's Works Schedule, then adjustments to Project Co's Works Schedule shall be determined by the Dispute Resolution Procedure and having regard to the manner in which value and payment are determined in Sections 4.4(a) and 4.4(b), and the work attributable to the Change Order shall be valued and payment to Project Co shall be determined as follows:

- (a) for the work associated with the Change Order Directive that is to be performed by Project Co's own forces or by the Design and Construction Subcontractor, that portion of the work associated with the Change Order (the "**Own Forces Work**") shall be valued as the Direct Cost for the Own Forces Work, plus the appropriate overhead and profit margin described in Appendix A to this Schedule 1;
- (b) for the work associated with the Change Order Directive that is to be performed by a subcontractor of Project Co other than the Design and Construction Subcontractor, that portion of the work associated with the Change Order (the "**Subcontractor Work**") shall be valued as the Direct Cost for the Subcontractor Work, plus the appropriate overhead and profit margin described in Appendix A to this Schedule 1;
- (c) notwithstanding Section 4.4(b), if the City has required Project Co to seek and evaluate competitive tenders for the work associated with the Change Order Directive, then for the work associated with the Change Order Directive that is to be performed by a subcontractor of Project Co other than the Design and Construction Subcontractor arising from the awarding of the competitive tender, that portion of the Change Order shall be valued as the amount of the accepted bid or tender plus, for Project Co's work (including without limitation direct costs, indirect costs, overhead and profit) on the such tendered subcontractor work, an amount equal to 5% of the amount of the accepted bid or tender; and
- (d) for any work associated with the Change Order Directive, an estimate of and explanation for the reasonable incremental financing costs to be paid in the event Substantial Completion is delayed by the Change Directive, and an estimate of and explanation for

any reasonable breakage costs or incremental make whole premiums on financing should the Project Financing be terminated.

5. PROJECT CO CHANGES

5.1 General

- (a) Project Co shall deliver to the City a written notice (a “**Project Co Change Notice**”) for each Change Order proposed by Project Co.

5.2 Project Co Change Notice

- (a) A Project Co Change Notice shall:
 - (i) set out details of the proposed Project Co change in sufficient detail to enable the City to evaluate it in full;
 - (ii) specify Project Co’s reasons for proposing the change;
 - (iii) indicate all reasonably foreseeable implications of the change, including whether there are any costs or cost savings to the City; and
 - (iv) indicate the latest date by which a Change Order Enquiry must be issued.
- (b) If the City, in its sole discretion, elects to consider the Change Order proposed by Project Co, the City may issue to Project Co a Change Order Enquiry and the procedure set out in Section 3 will apply.

6. SRFC FIT OUT WORKS

The City and Project Co agree that, not later than November 1, 2015, the City will deliver to Project Co a Change Order Enquiry for the SRFC Fit Out Works. With respect to such Change Order Enquiry the following principles shall apply:

- (a) the procurement for the subcontractor who will perform the SRFC Fit Out Works will be conducted on an open-book basis;
- (b) the City, Project Co and SRFC shall jointly participate in identifying eligible subcontractors to tender for the SRFC Fit Out Works;
- (c) Project Co shall run the procurement process and provide all bids submitted in accordance with the procurement process to the City;
- (d) Project Co shall, if requested by the City and SRFC, provide input to the City and SRFC with respect to the selection of the subcontractor;
- (e) the City and SRFC shall select a subcontractor from the list of eligible subcontractors;

- (f) if Project Co is selected as subcontractor to perform the SRFC Fit Out Works, the SRFC Fit Out Works shall be valued and payment to Project Co shall be the amount set out in Project Co's bid and, for greater certainty, shall not include any additional amounts for Overhead Costs and profit;
- (g) if Project Co is not selected as subcontractor to perform the SRFC Fit Out Works, the SRFC Fit Out Works shall be valued and payment to Project Co shall be the total amount owing to the selected subcontractor set out in such subcontractor's bid plus, as a construction management fee, the appropriate overhead and profit margin described in Appendix B to this Schedule 1;
- (h) notwithstanding Section 3.3(a)(ii), Project Co shall not be entitled to an amendment to the Substantial Completion Target Date or the Works Schedule unless the City misses the date set out in this Section 6 for delivery of the Change Order Enquiry; and
- (i) the City and Project Co agree that the Estimate with respect to the Change Order Enquiry referred to in this Section 6 shall not include any Third Party Input.

Appendix A

Calculation of Direct Costs

1. DIRECT COSTS

1.1 Subject to Section 1.2 of this Appendix A, the term "Direct Cost" means the cumulative total, without duplication, of only the following amounts, as paid or incurred by Project Co or each Subcontractor, as applicable, to the extent that they specifically relate to, and are attributable to, the Change under which Project Co is expressly entitled to its Direct Cost and would not otherwise have been incurred:

- (a) wages and benefits paid for labour in the direct employ of Project Co or each Subcontractor while performing that part of the Works on the Lands and/or Site;
- (b) salaries, wages and benefits of Project Co's or each Subcontractor's personnel when stationed at the site office in whatever capacity employed, or personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment;
- (c) salaries, wages and benefits of Project Co's or each Subcontractor's office personnel engaged in a technical capacity;
- (d) without limiting Sections 1.1(a), 1.1(b) and 1.1(c) of this Appendix A, contributions, assessments or taxes incurred for such items as employment insurance, provincial health insurance, workers' compensation, and Canada Pension Plan, insofar as such costs are based on the wages, salaries, or other remuneration paid by Project Co for employees pursuant to Sections 1.1(a), 1.1(b) and 1.1(c) of this Appendix A, but excluding for certainty all income taxes on such wages, salaries and other remuneration;
- (e) travel and subsistence expenses of Project Co's or each Subcontractor's officers or employees referred to in Sections 1.1(a), 1.1(b) and 1.1(c) of this Appendix A;
- (f) the cost of materials (including hand tools which have a retail value of \$2000 or less), products, supplies, equipment, temporary services and facilities, including transportation and maintenance thereof, which are consumed in the performance of the Change;
- (g) the rental costs of all tools (excluding hand tools which have a retail value of \$2000 or less), machinery, and equipment used in the performance of the Change, whether rented from or provided by Project Co or others, including installation, minor repair and replacement, dismantling, removal, transportation and delivery costs thereof;
- (h) deposits lost;
- (i) the amount of all Subcontracts with Subcontractors;
- (j) subject to Sections 6.5 and 6.6 of the Project Agreement regarding the SRFC Design Works, the amount paid for any design services;

- (k) the cost of third party quality assurance required by the City, such as independent inspection and testing services;
- (l) charges levied by Governmental Authorities, but excluding fines or penalties not related to the implementation of the Change;
- (m) subject to Section 1.1(d) of this Appendix A, Taxes, but excluding:
 - (i) PST, where applicable;
 - (ii) taxes imposed on Project Co or a Subcontractor based on or measured by income or profit or otherwise imposed under federal or provincial taxation statutes or any similar statute in any other jurisdiction;
 - (iii) capital taxes based on or measured by the capital of Project Co or a Subcontractor;
 - (iv) taxes relating to withholdings on any payments by Project Co or a Subcontractor; and
 - (v) taxes relating to any business or activity other than the business or activities related to, and conducted for, the purposes of the Project Operations;
- (n) the cost of removal and disposal of contaminants, hazardous substances, waste products and debris for which Project Co is not responsible under this Project Agreement;
- (o) termination payments which are required under Applicable Law to be made to employees of Project Co reasonably and properly incurred by Project Co arising as a direct result of any Change reducing the scope of the Works, except to the extent that such termination payments are provided for in contracts of employment, agreements or arrangements that were not entered into in the ordinary course of business and on commercial arm's length terms;
- (p) the cost of financing, including additional financing costs related to any delay caused by the implementation of the Change;
- (q) the cost of competitively tendering any contract in relation to the proposed Change which is required by Applicable Law or any policy applicable to the City;
- (r) the cost of any additional insurance or performance security required or approved by the City;
- (s) the cost to Project Co of obtaining all Permits and Approvals; and
- (t) reasonable fees and disbursements of Project Co's legal advisors.

1.2 The Direct Cost otherwise payable shall be subject to and limited by the following:

- (a) the Direct Cost shall be net of all discounts, rebates and other price reductions and benefits, which relate to the Direct Cost incurred;
- (b) the amount paid for materials, products, supplies and equipment incorporated into the Works as a result of the Change shall not exceed commercially competitive rates available in the Province of Saskatchewan for such materials, products, supplies and equipment from arms-length third party suppliers;
- (c) the amount paid for any design services included in the Direct Cost, whether provided by Project Co's personnel, consultants, manufacturers or manufacturers' consultants, for hourly paid personnel shall not exceed two times the actual salary received by those personnel (actual salary to be inclusive of all benefits, statutory remittances and holidays), and for salaried personnel, the actual salary per hour shall be calculated by dividing the annual salary (inclusive of all benefits, statutory remittances and holidays) by 2080 hours;
- (d) the amount paid for machinery and equipment rental costs shall not exceed the prevailing competitive commercial rate for which such equipment or machinery can be obtained in the City of Regina; and
- (e) the Direct Cost shall not include any cost incurred due to the failure on the part of Project Co to exercise reasonable care and diligence in its attention to the prosecution of that part of the Project Operations.

Appendix B

Applicable Margins

Type of Work Performed:	Total Overhead and Profit Margin (as % of Direct Cost)		
	<i>For changes under \$100,000</i>	<i>For changes between \$100,000 and \$1,000,000</i>	<i>For changes over \$1,000,000</i>
Own Forces Work	██████	██████	██████
PCL Construction Management Own Forces Work	██████	██████	██████
Subcontractor Work	██████	██████	██████