

COLLECTIVE AGREEMENT

Between:

**BHP BILLITON DIAMONDS INC.
(the “Employer”)**

And:

**THE PUBLIC SERVICE ALLIANCE OF CANADA,
DIAMOND WORKERS LOCAL X3050
(the “Union”)**

Article 1 – Purpose of Agreement

- 1.01 The purpose of this agreement is to maintain harmonious and mutually beneficial relations between the parties, the Employer, BHP Billiton Diamonds Inc. and the Union, the Public Service Alliance of Canada, Local X3050.
- 1.02 The parties agree to set forth terms and conditions of employment upon which agreement has been reached through collective bargaining; and to ensure that all reasonable measures are provided for the safety and occupational health of the employees; and fosters the employment of workers in an economically viable enterprise that is able to adapt to changes in the economy in a workplace that promotes productivity and the development of workforce skills.

Article 2 – Definitions To be added after ratification, as needed.

Article 3 – Union Recognition

- 3.01 The employer recognizes the Union as the exclusive bargaining agent for all Employees in the Bargaining Unit.
- 3.02 This agreement covers all employees in the Bargaining Unit, with the exception of temporary employees on employment contracts of finite duration.
- 3.03 Where the parties have a dispute over whether a permanent position created after the effective date of this Agreement is within the Bargaining Unit, or whether changes to the job duties of positions currently within the Bargaining Unit justifies exclusion of the position from the Bargaining Unit, either party may submit the dispute to binding arbitration under Article 14 of this Agreement, or another mutually agreed upon method of dispute resolution.

New Article – Management Rights

X.01 Unless specifically restricted by a provision within this Agreement, the Employer reserves all management rights with respect to operating and managing its business, including but not limited to, the right to establish hiring policies, to select Employees for hire, to determine what work will be performed, what equipment and processes will be employed, how the workforce will be directed and evaluated, whether to increase or curtail operations, to schedule shifts and vacations, to grant leaves of absence, what security measures are required and including the right to make and enforce workplace rules that are not inconsistent with this collective agreement, and generally maintain order, discipline and efficiency.

Article 4 – Non-discrimination and Harassment

4.01 Non-discrimination

The Union and the Employer recognize the right of employees to work in an environment free from sexual and personal harassment and the Employer undertakes to ensure that sexual and personal harassment will not be tolerated in the workplace.

There shall be no discrimination, interference, restriction, coercion, harassment, intimidation, or any disciplinary action exercised or practiced with respect to an employee by reason of age, race, creed, colour, national origin, religious affiliation, sex, sexual orientation, family status, mental or physical disability, language, gender identity or expression, political affiliation, social condition, marital status and criminal record for which a pardon has been granted or membership or activity in the union.

4.02 The Employer acknowledges its duty to accommodate to the point of undue hardship employees who are unable to perform their normal job functions as a result of physical or mental disability.

4.03 Anti-harassment

The Union and the Employer recognize the right of employees to work in an environment free from sexual harassment, personal harassment and abuse of authority. The Employer undertakes that sexual harassment, personal harassment and/or abuse of authority will not be tolerated in the workplace.

- 4.04 a) Sexual harassment is defined as, but not limited to, any incident or series of incidents related to sexuality or gender where the person carrying out the incident knew or ought reasonably to have known would be unwelcome, and may be verbal, physical, non-verbal, deliberate or unintentional.
- b) Personal harassment shall be defined as behaviour directed at a person that is abusive, intimidating, malicious or insulting. It includes forms of bullying, which may make the recipient feel upset, threatened, humiliated or vulnerable.
- c) Abuse of authority occurs when an individual uses his/her authority or position with its implicit power to undermine, sabotage or otherwise interfere with or influence the career of an employee or in the provision of services. This definition includes blatant acts of misuse of authority such as intimidation, threats, blackmail and coercion.
- d) Notwithstanding any provision of this Agreement, it is understood that proper exercise of managerial authority for legitimate evaluation and performance management purposes does not constitute harassment or bullying or abuse of authority notwithstanding that it may be offensive to an employee.
- e) The Employer and the Union encourage everyone to make an effort to resolve conflicts as soon as possible. Situations resolved informally between the parties directly involved often have the most positive outcomes. Individuals who feel they have been subjected to harassment in the workplace and are unable to resolve the matter informally with the parties involved should contact Human Resources and initiate the formal process outlined in the Employer's Workplace Harassment Policy. All allegations of harassment regardless of whether a formal complaint has been made will be treated seriously and dealt with promptly and confidentially. Commencing proceedings under the Workplace Harassment Policy does not prevent an employee from enforcing any rights contained in the collective agreement or pursuant to any statute.

Article 5 – Application

- 5.01 The provisions of this Agreement apply to the Union, the Employer and the Employees of the Bargaining Unit.

Article 6 – Union Security

- 6.01 Any employee as at the date of tentative settlement by the parties of this collective agreement may make an election prior to ratification of the collective agreement to maintain or cease membership in the Union. The election shall be made as follows: employees who cast a vote in the ratification meetings held by the Union are deemed to be members of the Union, and those who do not cast a vote are deemed to have ceased membership in the Union. Nothing in this agreement precludes employees in the unit from joining the Union after the date of ratification. Any new employees hired into the bargaining unit for the first time after ratification shall, as a condition of employment, become a member and maintain membership in the Union in good standing.**

Article 7 – Strikes -Deleted

Article 8 – Union Dues and Check-Off

- 8.01 Subject to the provisions of this Article, the Employer shall, as a condition of employment, deduct an amount equal to the monthly membership dues from the monthly pay of all employees in the Bargaining Unit. Where an employee does not have sufficient earnings in respect of any month to permit deductions made under this Article, the Employer shall not be obligated to make such deduction from subsequent salary.
- 8.02 The Union shall inform the Employer in writing of the authorized deduction to be checked off for each employee.
- 8.03 For the purposes of clause 8.01, deductions shall be made per pay period.
- 8.04 The amounts deducted in accordance with clause 8.01 shall be remitted to the Comptroller of the Union by cheque no later than fifteen (15) days after deductions are made and shall be accompanied by particulars identifying each employee and the deductions made on his or her behalf.
- 8.05 Union dues deducted by the Employer shall be included on employee T4 slips.

Article 9 – Union Representatives

- 9.01 The Employer acknowledges the right of the Union to appoint or otherwise select a reasonable number of employees as stewards. Normally, the first point of contact in the following areas (Open Pit Mining, Process Plant, Supply and Operations Services) will be the designated steward in that area. In the event that the designated steward is not available, the point of contact shall be an alternate designated for that area.
- 9.02 All time spent performing the normal day-to-day administration of the Collective Agreement shall be paid for by the Employer, provided such business pertains to Employer scheduled meetings, joint meetings arising from the collective agreement and those meetings specifically called by the Employer.
- 9.03 The Union shall determine the jurisdiction of each steward or union representative, having regard to the plan of the organization, the number and distribution of employees and the administrative structure implied by the grievance procedure and shall notify the Employer in writing of the name of these individuals.
- 9.04 Stewards or union representatives shall obtain permission from their supervisor before leaving their work to carry out the duties of an employees' representative and report back to their supervisor before resuming their duties. Such permission shall not be unreasonably withheld.
- 9.05 Where practicable, when the Employer requests the presence of a steward or union representative at a meeting, such request will be communicated to the employee's supervisor by the Employer.
- 9.06 The Employer will provide the Union with the names of new hires within the Bargaining Unit each month.
- 9.07 The Union will designate a servicing officer from the Union who will be the person charged with administering the collective agreement and the Bargaining Unit. The Employer will grant this person reasonable access to the Ekati site in order to carry out union business. Provided the site access remains reasonable, the Employer will not charge the Union for air travel, accommodation or meals while on site. The Union agrees to cooperate with the Employer in terms of scheduling site visits to avoid times of peak occupancy. If the Union desires representatives other than the designated servicing officer to access the Ekati site, the parties will discuss this in advance.

Article 10 – Use of Employer’s Premises -Deleted

Article 11 – Information

11.01 Once every three months, the Employer will provide the Union with an updated electronic list of all employees in the Bargaining Unit indicating name, job title, work location, hire date, employment status, and contact information.

11.02 The cost of printing and distributing the collective agreement will be shared equally between the parties. The printing shall be performed in the Northwest Territories. Given the number of official languages in the Northwest Territories, and the number of employees who speak one as a first language, the Employer will provide an interpreter for any employee needing assistance to understand the provisions of the agreement on account of speaking one of these as a first language.

11.03 At the orientation of new employees, the Employer will advise the new employees that terms and conditions of employment are governed by the collective agreement, and will make available English copies of the collective agreement to any new hire.

Article 12 – Leave for Union Business

12.01 Leave without Pay for Union Business

Subject to operational requirements, the Employer will grant leave without pay to:

- (a) an employee who represents the Union in a hearing in front of the Canada Industrial Relations Board, Conciliation Board, an Arbitration Board, Labour Standards Board, Human Rights Board and/or Workers’ Compensation Board;
- (b) to a reasonable number of Union representatives for attending preparatory and contract negotiation meetings, meetings or conventions of the Union, the Canadian Labour Congress, and the Northwest Territories Federation of Labour or to undertake training related to the duties of a representative;
- (c) to an employee to work for the Union.

12.02 Leave without Pay for Full-Time Elected Officers

- (a) The Employer will grant leave without pay, to an employee elected or appointed to a full-time office of the PSAC or the Component. The duration of such leave shall be for the period the employee holds such

office but in any event the leave shall not exceed 3 years without prior mutual agreement of the parties.

- (b) An employee who returns to work after a period of leave without pay granted under clause (a) shall have time spent on such leave without pay deducted from continuous employment for the purpose of calculating severance pay and seniority if the leave is for a period of more than three (3) months. However, time spent on such leave shall count towards years of service for the purpose of the calculation of vacation leave.
- (c) An employee granted leave without pay under clause (a) shall be reinstated to the position or a similar position he/she held when the leave commenced.
- (d) If, during this leave, the employee's position is eliminated, the employee will, at this time, be treated as if the employee were still working in the same position and same salary prior to the leave. The employee shall be entitled to all the rights contained in the collective agreement.

12.03 For employees granted leave without pay under this article, the Employer shall continue to pay the employee an amount equal to his or her regular salary and Article 32 allowance in accordance with the terms of this collective agreement. This does not include any other amounts which would be payable if the employee was not on leave, including without limit, benefits, pension, premiums, or other allowances. Upon invoice by the Employer the union shall reimburse the Employer for the amount so paid within (30) days of the date of invoice.

Article 13- Management/Union Consultation Committee

13.01 The Employer and the Union acknowledge the mutual benefits of joint consultation and agree to maintain a Management/Union Consultation Committee which will have as its objective meaningful consultation on matters of mutual interest, except issues that are the subject of a grievance. The Committee shall consist of equal Union/Management Representatives and meet at least every three (3) months, unless the Employer and the Union agree otherwise. The Committee has no ability to amend any terms of the Collective Agreement. This can only be accomplished by mutual agreement through a Letter of Understanding.

Article 14 – Grievance and Arbitration Procedure

14.01 Whenever a difference arises between the parties concerning the interpretation, application, operation or alleged violation of this Agreement, including a question as to whether or not a matter is arbitrable, or the dismissal or discipline of an employee is for just cause, the alleged

grievance shall be dealt with in the following manner without stoppage of work.

14.02 The time limits set out for each step of the grievance procedure are mandatory and may only be extended by mutual agreement in writing between the Employer and the Union. If the Employer or the Union does not present a grievance to the next higher level within either the prescribed time limit or the agreed extended time limit, the grievance will be deemed to be abandoned.

14.03 Levels of the Grievance Procedure

Level 1

Within twenty-eight (28) calendar days of becoming aware of the matter giving rise to the complaint, the Grievor may submit a written grievance to the Shop Steward who will submit it to the employee's immediate supervisor. Within twenty-one (21) working days of the receipt of the grievance, the Employer representative will provide a written response to the Grievor.

Level 2

If a satisfactory answer has not been obtained, the Grievor may within twenty-one (21) calendar days of receipt of the decision at Level 1 advance the grievance to the Superintendent/Coordinator of the area in which the employee filing the grievance works who will consider the grievance and provide a decision, in writing, within twenty-one (21) calendar days.

Level 3

If a satisfactory answer has not been obtained, the Grievor may within twenty-one (21) calendar days of receipt of the decision at Level 2 advance the grievance to the Departmental Manager who will consider the grievance and provide a decision, in writing, within twenty-one (21) calendar days. When the Employer dismisses an Employee, a grievance may be initially presented at Level 3.

14.04 In the event of a conflict of interest at any level, the Union or Employer shall have the right to initiate and present a grievance commencing at the next level. Grievances concerning matters of policy may be initiated at Level 3.

- 14.05 Subject to Article 14.02, no proceedings under this Article are invalid by reason of any defect of form or any technical irregularity such as an incomplete grievance form, spelling error, or similar inconsistency, provided such errors or defects have no essential bearing on the substance of the grievance.
- 14.06 If the grievance is not satisfactorily settled at Level 3, the grievance may be referred to arbitration, within twenty-one (21) calendar days after the decision received at Level 3.
- 14.07 The parties agree that grievances will be heard by a single arbitrator who will be mutually agreed upon by the parties or, if the parties mutually agree, by a three person Arbitration Board. If mutual agreement is not reached by the parties to choose a single arbitrator or Chair of an Arbitration Board within thirty (30) calendar days from the date that either party receives notification of a wish to proceed to arbitration, the Minister of Labour shall be asked to appoint the single arbitrator, or Chair of the Arbitration Board as necessary. This appointment shall be accepted by both parties.
- 14.08 If the parties agree to utilize a three person Arbitration Board, then they each will appoint one person to the Arbitration Board, with the Chair being selected as set out above.
- 14.09 The Arbitrator or Arbitration Board has all the powers granted to arbitrators under the Canada Labour Code, in addition to any powers which are contained in this Agreement but shall not have the authority to alter or amend any of the provisions of this Agreement nor to substitute any new provisions in lieu thereof, nor to render any decision contrary to the terms and provisions of this Agreement, nor to increase or decrease wages.

The Employer and the Union shall each pay one half of the remuneration and expenses of the Arbitrator and each party shall bear its own expenses of every arbitration. The decision of the Arbitrator or Arbitration Board will be binding on both parties.

Article 15 – Discipline

- 15.01 Other than in exceptional circumstances, prior to disciplining an employee, the Employer will conduct an investigation into the alleged grounds for discipline and provide the employee with the opportunity to provide input into the investigation. If the employee is suspended without pay pending completion of an investigation, the Employer will maintain benefit coverage to the extent permitted under the terms of the benefits insurance plan documents until the investigation is concluded and a decision is made by the Employer. If the investigation has not been completed within (2) weeks of suspension, the suspended employee shall receive regular wages after two weeks until such time as the Employer's investigation is concluded and a decision is communicated to the employee or Union, provided the employee cooperates in the investigation.
- 15.02 a) When an employee is required to attend a meeting where the Employer intends to discipline the employee, the employee shall, upon request, be entitled to have a representative of the Union attend the meeting.
- (b) The employee shall receive advance notice of, and the reason for such a meeting.
- 15.03 Where disciplinary action has been taken, the employee and the Local shall be notified in writing of the disciplinary action and the circumstances, which made the action necessary.

Article 16 – Employee Performance Reviews and Files

- 16.01 When a formal assessment of an employee's performance is made, the employee concerned must be given an opportunity to sign the assessment form in question upon its completion to indicate that its contents have been read. A copy of the assessment form will be provided to the employee at the time. The employee's signature on the assessment form will be considered to be an indication only that its contents have been read and shall not indicate the employee's concurrence with the statements contained on the form.
- 16.02 An employee has the right to make written comments to be attached to the performance review form.
- 16.03 Prior to an employee performance review the employee shall be given the evaluation form which will be used for the review. If during the employee performance review, the form is changed, it shall be given to the employee.

Article 17 – Hours of work

- 17.01 It is understood that for employees on a 2 and 2 shift rotation, a workday consists of a continuous twelve (12) hour shift. This does not apply to shift changeout days when the length of the shift may be different.
- 17.02 In a 12 hour shift, employees are entitled to two 15 minute breaks and one 30 minute meal break, without loss of pay. Some departments may combine the two 15 minute breaks into one thirty minute break.
- 17.03 Time spent travelling from an employee's home to the Ekati mine site or to any other transportation marshalling site is not considered time worked for any purpose.
- 17.04 The Union agrees to execute a consent to the annual overtime averaging permit establishing the applicable shift rotation for the employee's department.

Article 18 – Overtime

- 18.01 Each department has its own system for allocation of overtime. Overtime work shall be distributed as equitably as possible amongst employees who normally perform the work. It is understood, that in most cases the incumbent in a position will be asked to work overtime first. The Employer agrees to discuss overtime allocations at least quarterly with Union representatives in each department.
- 18.02 (a) The allowance described in Article 32 includes compensation for all regularly scheduled overtime in each rotation.
- (b) Time worked in excess of 168 hours in a four-week rotation, or in excess of an employee's regularly scheduled daily shift shall be considered overtime, and the employee will be paid at one and one-half (1.5) times the regular rate. The overtime rate will be calculated by taking the employee's annual base salary and dividing by 2080.
- 18.03 If an employee is required to return to work on a flight changeout day due to delays in flights, the employee will return to work without additional pay for the balance of the shift the employee commenced on the changeout day. Pay for such events is included in the allowance described in Article 32.
- 18.04 If the employee works beyond the end of the shift commenced on the changeout day, overtime will be paid for all hours worked past the end of the first shift.
- 18.05 If an employee is required to work on the day following the scheduled changeout day, then overtime will be paid for all hours worked on that date with a minimum 12 hours of overtime paid.

Article 19 – Premiums (deleted)

Article 20 – Designated Paid Holidays

- 20.01 The allowance described in Article 32 includes compensation for all statutory holidays. The payment assumes employees work all statutory holidays and therefore employees are not entitled to any additional pay for working on a statutory holiday.
- 20.02 Any additional day(s) proclaimed by an Act of Parliament or the Northwest Territories Legislative Assembly as a general holiday shall result in an increase to the allowance equal to 1% of base salary for each full day so proclaimed.

Article 21 – Vacation leave

- 21.01 (a) **The vacation year shall be from January to December of each year.**
- (b) **After one year of completed service, employees are entitled to take one personal paid leave day per year, to be taken at a mutually agreed time. Personal paid leave days can be accumulated for up to three years. If they are not taken within three years of being earned they will be paid out.**
- (c) **After five years of completed service, employees are entitled to take two personal paid leave days per year, to be taken at a mutually agreed time. Personal paid leave days can be accumulated for up to three years. If they are not taken within three years of being earned they will be paid out.**
- 21.02 Employees are entitled to take 168 regularly scheduled hours of work off each year without loss of pay as vacation. Vacation in the first year of employment will be pro-rated. ~~Without the prior approval of an employee's supervisor, for employees on a 2 and 2 shift schedule vacation cannot be taken in blocks of less than one-half of a rotation.~~
- 21.03 Vacation entitlement may be carried over from year to year to a maximum of two years at which time vacation must be scheduled or paid out.
- 21.04 By March 31st of each year, employees will submit their preferences for their full vacation entitlement. By April 30th, the Employer will advise employees as to their approved selections. The Employer will recognize seniority for granting requested vacation. Requests for vacation entitlement submitted after March 31st shall be approved or denied upon a first come, first served basis. The Employer may stipulate the maximum number of employees from any department or work area that may be away for vacation at any one time. Nothing in this agreement prevents the Employer and the employees in a department or mutually agreed work area from agreeing on an alternate system which will apply to that department or work area, provided the Union approves the alternate system. If such agreement is reached, it may be cancelled by either party at least one

month in advance of a new vacation year, in which case the seniority system described above applies.

21.05 Where vacation dates have been approved, subsequent changes to a vacation leave schedule shall be based on availability and not on seniority.

21.06 Where an employee is hospitalized during a vacation leave or a death occurs for which they would be entitled to bereavement leave, they shall be allowed to substitute bereavement leave or available sick leave and reschedule that portion of their vacation leave. The Employer may require proof of hospitalization.

Article 22 – Other Leaves

Court Leave

22.01 The Employer will grant leave with pay to an employee who is absent from work by reason of being required:

- (a) to be available for jury selection;
- (b) to serve on a jury;

22.02 The Employer shall grant leave without pay to an employee who is absent from work by reason of subpoena or summons to attend as a witness in any proceeding held:

- a) in or under the authority of a court of justice or before a grand jury;
- b) before a court, judge, justice, magistrate, or coroner;
- c) before a legislative council, legislative assembly or house of assembly, or any committee thereof that is authorized by law to compel the attendance of witnesses before it; or
- d) before an arbitrator or umpire or a person or body of persons authorized by law to make an inquiry and to compel the attendance of witnesses before it.

Leave of Absence

22.03 The Employer may, in its discretion and subject to operational requirements, grant an employee an unpaid leave of absence. The duration of the leave will be established in advance of the leave commencing, but may be extended by mutual consent. Failure to return to work immediately upon the expiry of the leave may be deemed a resignation of employment. While on the leave, the employee will continue to accrue seniority, but will not be entitled to receive any compensation or remuneration under this Agreement, nor to be eligible for

income continuance coverage. However, the employee will continue to participate in the group benefits plan, excluding income continuance coverage, until the end of the first full month following the commencement of the leave.

Article 23 – Bereavement Leave

23.01 For the purpose of this clause, immediate family is defined as father, mother, stepfather, stepmother, foster parent, brother, sister, spouse, child (including child of spouse), stepchild or ward of the employee, grandchild, father-in-law, mother-in-law, grandparent, son-in-law, daughter-in-law, and any relative permanently residing in the employee's household or with whom the employee permanently resides.

23.02 When a member of the employee's immediate family dies, an employee shall be entitled to bereavement leave with pay of up to four (4) days.

23.03 The parties recognize that the circumstances which call for bereavement leave are based on individual circumstances and Aboriginal traditions. Therefore upon request the Employer may, after considering the particular circumstances involved, grant leave without pay for a period greater than that provided for, or grant leave without pay following the death of a person not included in the above noted definition. Such requests will not be unreasonably denied.

Article 24 – Maternity/Parental Leave

24.01 (i) Employees are entitled to pregnancy leave, parental leave, and adoption leave in accordance with the provisions of the Labour Standards Act of the Northwest Territories, and for any period for which the employee qualifies for maternity or parental benefits under the Employment Insurance Act.

(ii) Leave granted under this Article shall be counted for the calculation of service for the purpose of calculating severance pay, vacation leave, and pay increments under this Agreement.

(iii) When the employee returns to work from any period of leave under this Article, the Employer will return the employee to the same position which the employee held prior to the leave, provided the position exists, but in any event, the employee shall be reinstated to a comparable position with the same wages, benefits and seniority.

(iv) During the leave to which an employee is entitled under this Article, provided the employee pays his or her share of any premiums for pension, benefits, and group insurance plans, the Employer will pay its portion of any premiums and maintain applicable coverage for the employee during the period of the leave.

24.02 The Employer will continue to top-up maternity/parental benefits according to its current practice as of August 1, 2005. Employees shall be entitled to six (6) weeks of top-up to one-hundred percent (100%) of their base salary, following the two (2) week Employment Insurance benefit waiting period.

Article 25 – Health and Safety

25.01 The Employer and the Union recognize the benefits to be gained from a safe and healthy place of employment and agree that they shall cooperate in the promotion of safety practices in support of their joint goal of accident prevention and the elimination of health hazards.

25.02 The Employer, the Union and the employees each recognize that they have an important role to play in the area of health and safety. More specifically, these parties also acknowledge that they have certain obligations, responsibilities and are governed by the Mine Health and Safety Act (R.S.N.W.T. 1996).

25.03 The Employer recognizes the right of the Union to participate in the Occupational Health and Safety Committee established pursuant to the Mine Health and Safety Act.

25.04 An employee has a right to refuse to perform work that he or she has reasonable grounds to believe could endanger the health or safety of any person, in accordance with the Mine Health and Safety Act (R.S.N.W.T. 1996). In the event that an employee chooses to exercise his or her right not to work for this reason, he or she will report the reasons for the refusal to work to his or her supervisor without delay, and the procedures set out in the Act will be followed.

25.05 Upon request an employee is entitled to all their accident and/or injury reports on file with the Employer.

25.06 Employees who are elected to serve as members of the Occupational Health and Safety Committee will be paid in accordance with the Mine Health and Safety Act.

Personal Protective Equipment (PPE) (clothing)

25.07 (a) The Employer shall provide and pay for all reasonable protective devices, specialized environmental clothing, Personal Protective Equipment (PPE) that the employer requires employees to have to enable employees to perform their job duties safely.

(b) The Employer shall make provisions for all Employer-provided protective devices, specialized environmental clothing and PPE to be kept in serviceable and sanitary condition at no cost to the employees.

First-Aid Training

25.08 (a) The Employer will ensure that First Aid facilities at the worksite will be organized and maintained with such equipment and supplies as prescribed by the Mine Health and Safety Act regulations.

(b) The Employer will ensure that at all times on the Ekati site it complies with the requirements of the Mine Health and Safety Act with respect to having qualified First Aid and CPR personnel on site, and will assume the cost of training employees selected by it to be certified as First Aid and CPR providers.

Transportation of Injured Workers

25.09 The Employer will reimburse an employee injured while on duty and requiring transportation to Yellowknife for emergency treatment for reasonable transportation costs to Yellowknife not covered by WCB or medical insurance. If the employee is regularly transported to site by the Employer from a designated flypoint, then the Employer will also arrange for or reimburse the employee for transportation from Yellowknife back to the employee's flypoint when discharged from hospital, if the employee is unable to return to work. If the employee is not a Northern Resident, the Employer will permit the employee to access the Company charter, provided the service is being offered, to travel to Edmonton if the employee is unable to return to work upon discharge.

Article 26 – Seniority

26.01 Seniority is defined as length of service in the bargaining unit and shall be applied on a Bargaining Unit wide basis.

26.02 If an employee accepts a position outside of the Bargaining Unit, such time will not count as time towards Bargaining Unit seniority.

26.03 If a former employee is re-employed by the Employer after a break in service of less than ninety (90) calendar days he or she shall be credited with his or her total seniority based on earlier period(s) of employment.

Probationary Employees

26.04 All new employees will be considered probationary employees for three months (3) which is a total of a maximum of five-hundred and four (504) hours. Upon completion of probation the employee's seniority shall be retroactive to their date of hiring.

26.05 During this period, the Employer will be assessing the suitability of the employee for permanent hire, and as such, may decide that the employee is not suitable for permanent hire, even though the employee may be able to complete the basic requirements of the job. In making a decision on suitability for permanent hire the

Employer cannot act in a manner that is arbitrary, discriminatory or in bad faith. Probationary employees have access to the grievance procedure, but the Employer's decision as to suitability for permanent hire may only be reviewed on this basis.

Article 27 – Severance, Layoff and Recall

27.01 In the event of a reduction in the size of the workforce, the following will apply:

- (a) The Employer will attempt to achieve the reduction through attrition.
- (b) The Employer may, in its discretion, accept applications for redundancy packages to elicit volunteers to retire. Where voluntary redundancy packages are offered, the Employer will have regard to its requirement to retain an appropriate mix of skills and competencies, and accordingly, not all applicants for voluntary redundancy packages will be accepted.
- (c) The Employer will determine which employees will be laid off.

27.02 If a lay-off is necessary, the Employer will take steps appropriate to ensure that the mine is able to operate in a safe, productive and profitable manner, and in accordance with obligations made by the Employer pursuant to Socio-Economic Agreements and Impact Benefit Agreements the Employer has with government and Aboriginal organizations.

27.03 The Employer will take into account factors such as:

- (a) the necessary skills mix required by the business;
- (b) individual skills, proficiencies, and attitudes of employees;
- (c) the length of service of the employees involved;
- (d) individual employment records;
- (e) prior job performance; and
- (f) the ratios of Northerners and Aboriginal employees mandated by the agreements referenced above.

27.04 The Employer will provide each employee to be laid off with at least two weeks notice of the lay-off date, exclusive of vacation. If notice is not provided, the Employer will pay the employee two weeks of regular salary in lieu.

27.05 Employees who are laid off will retain a right of recall to employment for six months. If they are not recalled to work during this time, the lay-off will be deemed to be a permanent lay-off and the Employer will pay the employee severance pay in accordance with the table below:

<u>Length of Service</u>	<u>Severance</u>
Up to 5 years	One month salary
Over 5 years	Two months salary

27.06 Upon commencement of a lay-off, an employee can elect to receive severance in accordance with the above table immediately, in which case all seniority and recall rights are forfeited.

27.07 The Employer will not hire any new employees while employees with recall rights are on lay-off provided the laid-off employee is competent to perform the job at an efficient level, and subject to meeting hiring quota numbers under Socio-Economic Agreements and Impact Benefit Agreements.

Article 28 – Bargaining unit work

28.01 Prior to contracting out any work that directly results in a layoff of bargaining unit members, the Employer will notify the Union and provide the Union with the opportunity to present any proposals as an alternative. Such discussions will not delay the tendering of contracts.

Article 29 – Vacancies, Promotions, Job postings, Transfers

29.01 When the Employer elects to create and fill a new position, or to fill a vacancy in an existing position, within the Bargaining Unit, the Employer shall post notice of the position on the Union Notice Board for a period of twenty-one (21) days prior to the closing date. This requirement shall apply to part-time, and full-time positions. The job posting shall state the job position, range of pay, shift and required qualifications of the job. An employee who wishes to apply for a position so posted shall do so in writing on or before the closing date as advertised on the posting.

29.02 New positions created by the Employer and intended to be out of the scope of the Bargaining Unit will be discussed with the Union prior to implementation. If the parties are unable to agree on the position's designation, the matter will be resolved through the grievance and arbitration procedure in Article 14.

- 29.03 In making selections and appointments within the Bargaining Unit, the Employer will consider factors such as the necessary skills mix required in any department, the individual candidates' skills and proficiencies, the length of service with the employer, employment records and previous performance history in order to ensure a safe, productive and profitable operation.
- 29.04 Employees selected, promoted or appointed to a new position will have ninety (90) days worked in which to demonstrate that they can perform the new position duties in a safe, productive and efficient manner. If in the opinion of the Employer they cannot, then the employee will be returned to the previous position without loss of seniority, unless an extension of the familiarization period is mutually agreed upon.
- 29.05 At any time during the above familiarization period the employee wishes to return to their previous position, they may do so, and this will not be considered a demotion. The Employer may waive any or all of the familiarization period if it is satisfied the employee is proficient at the position.
- 29.06 Where applicable applicants for transfer and/or promotion shall be informed in writing of their acceptance or rejection within fourteen (14) working days before the date of appointment.
- 29.07 No employee shall be transferred to a position outside the Bargaining Unit without his or her consent. If an employee is transferred to a position outside the Bargaining Unit, he or she shall retain their seniority accumulated up to the date of leaving the Unit, but will not accumulate further seniority. If the employee returns to a position in the Bargaining Unit within ninety (90) calendar days, he or she shall do so with his or her seniority accumulated up to the date of transfer outside the Unit.
- 29.08 The Employer may request an employee to work in another department in a position with the same rate of pay on a short term basis and with duties that are not significantly different from her or his current duties.

Article 30 – Technological Change

30.01 For the purpose of this agreement, a technological change shall be defined as:

(a) the introduction by the Employer into its work, undertaking or business of equipment, or material or processes of a different nature or kind than previously utilized by the Employer in the operation of the work, processes, undertaking or business: and,

(b) a change in the manner in which the Employer carries on the work, undertaking or business that is directly related to the introduction of that equipment or material. This would include the automation of equipment or

automation of duties which may adversely affect employees in the Bargaining Unit.

30.02. (a) In order to lessen the effects on employees who are adversely affected as a result of technological change, it is agreed that the Employer shall notify the Union in writing not less than four (4) months in advance of intent to institute technological change. The Employer shall then meet with the Union to explain the technological change. The written notice shall contain:

- (1) the nature of the technological change;
- (2) the date on which the Employer proposes to effect the technological change;
- (3) the approximate number and type of employees likely to be affected;
- (4) the effect that the technological change is likely to have on the terms and conditions or security of employment of the employees affected.
- (5) the names of the employees who will likely be affected;
- (6) the rationale for the change.

(b) After providing the notice referred to above, the Union may notify the Employer that it wishes to enter discussions with the Employer, and after this notice has been given the Employer and the Union must meet, in good faith, and endeavour to develop an adjustment plan, which may include, but is not limited to, the following:

- i) consideration of alternatives to the proposed technological change;
- ii) training and/or retraining of employees;
- iii) human resource planning and employee counselling;
- iv) notice of termination;
- v) severance pay;
- vi) revisions to existing collective agreement provisions.

If the parties agree upon an adjustment plan, it is enforceable as part of this Agreement.

(c) Sections 52, 54 and 55 of the Canada Labour Code, R.S.C. 1985, L-2 and as subsequently amended, do not apply during the term of this collective agreement, to the Employer and the Union.

Article 31 – Apprenticeship

Purpose

31.01 The purpose of the apprenticeship program is to foster skilled trades among Northern Residents, and to attempt to secure qualified tradespeople through apprentices who have qualified through the apprenticeship program and are Northern Residents.

Position Posting

31.02 All apprenticeship positions shall be posted in accordance with Article 29.

Apprenticeship Training

31.03 The length of the apprentice training will be determined by the NWT Apprenticeship, Trade and Occupations Certification Board, or the applicable board in another jurisdiction, and will vary depending upon the trade. The Employer may request that the Board reduce the normal period of training if it is satisfied that the apprentice has sufficient credits in the form of previous vocational training or a number of years of work experience in that trade.

31.04 Provided there is sufficient work available, apprentices working on-site will be given the opportunity to accumulate the number of hours of job experience as required by their program, within a reasonable period of time. In the event that there are delays in offering an apprentice required work experience, the Employer will communicate the reasons for the delay to the apprentice and the Union in writing. The Employer shall endeavour to provide the apprentice with needed work experience as soon as is practicable.

Apprenticeship Wages

31.08 The salary rates for apprentices shall start at the rate set forth in Appendix “A”, and shall increase by \$5,000 after the successful completion of each year of the applicable apprenticeship program.

31.09 An apprentice attending apprenticeship school will receive their regular pay. Should an apprentice fail to pass his or her trade school examination, and is permitted to repeat, the Employer shall continue to subsidize the apprentice while repeating the examination, up to one repeated attempt.

31.10 The Employer shall not deduct pay from an apprentice for absences at school, provided such absences are justified by medical or compassionate reasons, and confirmed by appropriate supporting documentation. Apprentices are expected to attend school as if they were attending a regularly scheduled shift at work.

31.11 Apprentices shall receive any applicable pay increases whether they are at school or working on site.

Tools

31.12 The Employer will continue the current practice of providing all tools and equipment for apprentices as required.

Books

31.13 The Employer will reimburse apprentices for the cost of books and materials used at school upon successful completion of each course or stage of education/training.

Accommodation and Travel

31.14 The Employer will provide apprentices with access to company charter flights for the purpose of travelling to and from school at locations where the charter normally flies, subject to seat availability.

Article 32 – Allowance

32.01 The Employer shall continue its practice of paying employees an allowance equal to 17% of base salary. This payment includes compensation for all statutory holidays, scheduled overtime (8 hours per rotation), and flight delays.

32.02 The allowance will be treated as pensionable earnings for the pension plan.

Article 33 – Emergency Response Team -Deleted**Article 34 – Sick Leave**

34.01 The Employer shall continue to provide a sick leave income replacement plan equal to or better than the plan in place at August 1, 2005.

Article 35 – Benefits

35.01 The Employer shall continue to provide a health benefits plan equal to or better than the plan in place at August 1, 2005.

Article 36 – Duration

36.01 This agreement shall take effect upon ratification, and shall terminate on **August 31, 2007**.

36.02 Notwithstanding the preceding, the provisions of this Agreement shall remain in full force and effect during negotiations for its renewal until a lawful strike or lockout has occurred.

36.03 Within four (4) months preceding the termination of this Agreement, either party may, by written notice, require the other party to commence bargaining collectively with a view to a conclusion, renewal or revision of the Collective Agreement.

Article 37 – Re-Opener of the Collective Agreement- Deleted

Article 38 – Pay Administration

38.01 The Employer will provide employees with semi-monthly pay statements showing:

- a. base salary
- b. allowance
- c. Northern travel allowance
- d. unscheduled overtime (hours and amount)
- e. details of all earnings
- f. details of all deductions
- g. accrued vacation hours
- h. accrued incentive plan payments.

Article 39 – Pension

39.01 All employees must participate in either the BHP Billiton Diamonds Inc. Retirement Plan or the BHP Billiton Diamonds Salaried Employee Defined Contribution Pension Plan, as applicable.

39.02 Employees hired after July 1, 2004 will participate in The BHP Billiton Diamonds Salaried Employee Defined Contribution Pension Plan (the “DC Plan”).

39.03 Employees hired before July 1, 2004, and who made the election to remain in the BHP Billiton Diamonds Inc. Retirement Plan will remain in that defined benefits plan (the “DB Plan”). Those who elected to switch to the DC Plan must remain in the DC Plan.

- 39.04 Eligibility for benefits under each of the DB Plan and DC Plan will be determined solely in accordance with the Plan document itself. Neither the DB Plan nor the DC Plan forms part of this Agreement and any disputes concerning one or both of the said plans or entitlement to benefits under it must be pursued by the Employee directly with the appropriate Plan administrator and are not subject to the Grievance Procedure.
- 39.05 The parties agree to the formation of a Joint Union Management Pension Committee. The purpose of the Committee will be to disseminate and review all information listed in paragraph 39.06 below within the framework of existing contribution levels. It is understood and agreed that the Committee is not a negotiating committee and does not have the authority to make any changes in either the collective agreement or the pension plan.
- 39.06 With respect to bargaining unit members, the Employer agrees to annually furnish the Committee with the following information regarding the DB plan and the DC plan:
- a. net interest earned by the fund
 - b. net employer contributions
 - c. gross total contributions
 - d. total pension credits purchased
 - e. list of pensioners retiring each year
 - f. list of separation from the plan
 - g. list of members entering the plan
 - h. a copy of the actuarial report when the same is available.

Article 40 – Privacy

- 40.01 It is understood that the Employer produces an extremely valuable, highly marketable, and easily concealable commodity. Further, the remoteness and extreme environmental conditions at the mine site present significant security and protection challenges. Employees consent to the Employer collecting, storing, and using personal confidential information that identifies them and their activities on site, including the use of electronic surveillance and data collection. This does not constitute consent to the collection or storage of personal information relating to activities in private dormitory areas, toilets, or changing areas.

40.02 As a condition of employment all employees will provide consents as required by the Employer for collection, storage, use and dissemination of personal information excluding electronic surveillance for the limited following purposes:

- i. administering and maintaining personnel records,
- ii. paying and reviewing salary and other remuneration and benefits,
- iii. providing and administering benefits (including pension, superannuation, life assurance, health insurance, medical insurance and share plans)
- iv. undertaking performance appraisals and reviews
- v. undertaking investigations for safety and performance issues
- vi. succession and development planning
- vii. maintaining sickness and other attendance records
- viii. taking decisions as to fitness for work and accommodation
- ix. providing references and information to future employers, and if necessary, governmental bodies for social security and other purposes, including taxation authorities
- x. providing information to future purchasers of the Employer or of the business in which you work, and
- xi. transferring information concerning you to other operations of the Employer, including operations outside the Northwest Territories and Canada.

Article 41 – Employment Equity

41.01 The Union acknowledges that the Employer is bound to Impact Benefit Agreements with the Dogrib Treaty 11 Council, the Akaitcho Treaty 8 Council, the North Slave Métis Alliance and the Hamlet of Kugluktuk and Kitikmeot Inuit Association which requires the Employer to honour certain commitments to Aboriginal employees employed by the Employer.

41.02 If a party to an Impact Benefit Agreement provides the Employer with written consent to such disclosure, the Employer will provide the Union with a summary of hiring data involving employees of the Employer within the bargaining unit who are members of the First Nation that is signatory to that Impact Benefit Agreement. Disclosure will at all times be conditional on the continued existence and scope of the consent provided by the party to the Impact Benefit Agreement **and the Union undertaking in writing to the party authorizing the disclosure and the Employer to keep the information confidential.**

41.03 The Employer will receive and consider any written or oral submissions from the Union concerning issues faced by Aboriginal employees.

41.04 Through the Management/Union Consultation Committee, the Employer and Union will discuss educational and training initiatives which will enhance the security and employability of Aboriginal employees.

APPENDIX "A"

SALARIES

- A. For employees hired into the Bargaining Unit, the employee will be paid an annual salary within the range established pursuant to the attached table for the classification in question.
- B. To determine the employee's starting salary level, the Employer will consider factors such as:
- i. Existing skills and qualifications related to job duties;
 - ii. Related job experience;
 - iii. Prevailing market conditions, which may include factors related to Impact Benefit Agreements and/or Socio Economic Agreements.
- C. a) Each year, the Employer will review the salary levels of existing employees and determine whether adjustments within the established range are warranted. In making these decisions, the Employer will consider the following factors:
- i. Attainment of designated skills criteria;
 - ii. Job performance
 - iii. Safe work practices
 - iv. Disciplinary record
 - v. Culpable absenteeism
- b) For participating employees in departments with Progression Plans salary adjustments are not made annually, but are dependant upon achieving the designated criteria established in the Plan.
- D. The salary adjustments will be made each year effective **June 1st**. As employees currently receive salary reviews on their employment anniversary date, employees who have not had their annual review at the time of ratification will have their review deferred until **June 1, 2006**, but it will be adjusted to account for the delayed review.
- E. The Employer retains the discretion to adjust some or all salary ranges based upon prevailing market conditions. No employee will have their salary reduced as a result of a salary range adjustment.
- F. Employees who are receiving a salary at or above the top of the prevailing salary range for their classification will not receive any further increases to their salary until the range for their classification has been increased beyond their salary.

G. The Employer retains the right to award lump sum discretionary bonus payments to individual employees based upon merit. The awarding of such bonuses is not considered salary, does not change the employee's salary level, and the bonus does not constitute pensionable earnings.

H. The Employer retains the right to provide and administer general incentive compensation plans, including the right to establish criteria for the attainment of incentive compensation, the amount of compensation potentially available, the timing of payments pursuant to the plans, and also including the right to discontinue such incentive plans.

I. In each year of the collective agreement, running from **June 1st to May 31st** of the following year, the average salary increase for members of the Bargaining Unit will be not less than **4%**, and **no member of the Bargaining Unit shall receive an annual salary increase of less than 1.5%**.

SALARY RANGE TABLE

BARGAINING UNIT - CLASSIFICATIONS

Classifications	Range Min	Range Max
Drill & Blast		
<i>Helper</i>	\$ 45,000	\$ 53,000
<i>Driller</i>	\$ 57,500	\$ 70,000
<i>Blaster</i>	\$ 57,500	\$ 70,000
Mobile Mine Maintenance		
<i>Maintenance Services</i>	\$ 44,900	\$ 54,800
Mine Operations		
<i>Trucks - 777, 789, 793</i>	\$ 44,900	\$ 54,800
<i>Support Equipment - 834, D10, Grader, 992D Loader</i>	\$ 54,800	\$ 66,700
<i>Production Loaders - 992G, 994</i>	\$ 63,600	\$ 69,600
<i>PC8000 (Demag) Shovel, PC1800 & 5130 Excavators</i>	\$ 63,600	\$ 76,000
Plant Operations		
<i>Progression Plan</i>	\$ 42,000	\$ 72,600
Site Services		
<i>Heavy Equipment Operators (Labourers, bus, roll offs)</i>	\$ 42,000	\$ 50,000
<i>Utility Equipment D300, IT28, IT62, Grader, Loader, Crusher,</i>	\$ 50,000	\$ 69,600
Trades		
<i>Boiler Operator</i>	\$ 62,000	\$ 76,000
<i>Carpenter</i>	\$ 62,000	\$ 76,000
<i>Crane</i>	\$ 62,000	\$ 76,000
<i>Electrical</i>	\$ 62,000	\$ 76,000
<i>Mechanical (machinist/millwright/plumber)</i>	\$ 62,000	\$ 76,000
<i>Welder</i>	\$ 57,000	\$ 76,000
<i>Process Control</i>	\$ 62,000	\$ 79,000
<i>Warehouse Technician</i>	\$ 57,000	\$ 63,000

Carpenters Assistant	\$ 50,000	\$ 60,000
Airport Technician	\$ 52,000	\$ 60,000
Waste Management Assistant	\$ 42,000	\$ 50,000
Waste Water Treatment Technician	\$ 52,000	\$ 60,000
Apprentice	\$ 42,000	

Letter of Agreement

Discretionary Incentive Programs

For the year ending December 31, 2006, the Employer agrees that:

A. Ekati Incentive Program

For the EKATI Incentive Program for the period ending June 30, 2006 the incentive values for the Open Pit production and Process Plan production Key Performance Indicators will be removed from the plan as targets, and the values attributed to them will be added to the HSEC component. All other aspects of the plan remain unchanged.

B. Retention Bonus Program

The Employer will implement a retention bonus program to reward EKATI employees in the Bargaining Unit for remaining with EKATI for the balance of 2006.

The details of the bonus program are:

- a. The bonus payment will be a lump sum payment to each eligible employee payable after December 31, 2006. Any deductions required by law will be withheld by payroll.
- b. The amount of the bonus will be as follows:
 - i. For employees who have been Northern residents for the entire eligibility period, the bonus will equal 8% of the employee's regular base salary (not including things like unscheduled overtime, allowances or premiums) for 2006.
 - ii. For all other employees, the bonus will be 4% of the employee's regular base salary (not including things like unscheduled overtime, allowances or premiums) for 2006.
- c. Each employee will be eligible for the bonus, provided they are hired no later than June 30, 2006, and provided they remain employed by EKATI up to and including December 31, 2006, and have not given notice of resignation before that date.
- d. This is a discretionary program. The Employer will decide if it, or any similar program, will be offered again for future years.
- e. The bonus payments are not considered pensionable earnings.

This Letter of Agreement terminates effective December 31, 2006

Return to Work Bonus

Upon returning to work after ratification, each member of the Bargaining Unit will receive a one-time lump sum return to work bonus of \$1,000.00 (one thousand dollars) less any required deductions. The payment will be made on the first scheduled pay cheque after the employee has returned to work and will not be considered pensionable earnings.