

**THESE GENERAL TERMS AND CONDITIONS OF SALE ARE INCORPORATED INTO THE CONTRACT**

This Contract between Teck and the Buyer in respect of the Product to be supplied by Teck is made on, and subject to the following terms and conditions. No other terms or conditions contained in any order by the Buyer or any correspondence or other document communicated to Teck in written or electronic form shall form part of this Contract except to the extent they are contained in a written or electronic document signed by an authorized Teck representative. These terms and conditions apply in lieu of any course of dealing between the parties or usage of trade in the industry. Acceptance or execution of the Contract by the Buyer constitutes the Buyer's acceptance of these terms and conditions. In the absence of a signed Contract acceptance of delivery by the Buyer of the Product shall constitute a binding Contract on, and subject to, these terms and conditions.

**1. DEFINITIONS AND INTERPRETATION**

1.1. In this Contract, the following terms have the following meanings:

**"Affiliate"** means any other party which is affiliated with Teck, and for the purposes hereof, two companies will be considered to be affiliated with one another if one of them controls the other or if both of them are controlled by a common third party.

**"Buyer"** means the company or other entity listed as "Buyer" or "Sold To" in the document titled Original Sales Contract.

**"Contract"** means the document titled Original Sales Contract signed by the Buyer and Teck and includes these General Conditions of Sale, all as amended, supplemented and restated from time to time.

**"Destination"** means the Ship To Destination set out in the document titled Original Sales Contract.

**"Product"** means the product or products listed under "Product" in the document titled Original Sales Contract.

**"Teck"** means Teck Metals Ltd.

**2. PRICE, TAXES AND QUOTATIONS**

- 2.1. Notwithstanding whether the sale to the Buyer is a direct sale or a warehouse sale, unless otherwise specifically stated in the Contract, all prices are exclusive of any present or future sales, revenue or excise tax, value-added tax, turnover tax, import duty (including brokerage fees) or other tax applicable to the manufacture or sale of any product including any such duties, levies, fees or taxes incurred by Teck on the import of any product sold to the Buyer or imposed upon the Product by the country in which the Destination is located. Such duties, levies, fees and taxes, when applicable, are the entire responsibility of and shall be paid or reimbursed by the Buyer unless Buyer provides a tax exemption certificate satisfactory to Teck.
- 2.2. Payments by Buyer to Teck are to be made in accordance with the terms on the front of this Contract. If payment terms are not on the front of the Contract, payment terms are net thirty (30) days from date of invoice. Teck reserves the right to charge interest at the Bank of Canada Prime Rate in effect on the due date plus 2%, compounded monthly, not to exceed the maximum rate allowed by law, on the portion of Buyer's outstanding balance which is not paid when due. If legal action is taken by Teck, the Buyer shall be liable for Teck's legal fees, plus all other costs related to such action.
- 2.3. All sums due to Teck under this Contract shall be paid by the Buyer as provided in the Contract without deduction, set-off or counter-claim.
- 2.4. Teck shall prepare and deliver invoices to Buyer. Invoicing will be in the Teck format, showing the total net weight of the Product with taxes and surcharges shown as a separate line item.
- 2.5. Unless otherwise agreed to by Teck, if Buyer disputes the amount of an invoice, Buyer shall notify Teck, within ten (10) Business Days of receipt by Buyer of the invoice, of the amount disputed and the reasons therefore, failing which Teck's invoice shall be deemed final and binding.
- 2.6. Notwithstanding anything in the Contract, Teck shall have no obligation to deliver any Product unless (i) Buyer has strictly complied with the payment terms set forth in the Contract for the payment of such Product; and (ii) Buyer is not in default of any payment terms in respect of any prior shipment of Product under this or any other contract with Teck. If Buyer fails to strictly comply with such payment terms Teck may, in its sole discretion, suspend the Contract, in its entirety or in respect of a specific shipment only, without prejudice to any other remedies it may have at law, equity or under this Contract, upon notice to Buyer.
- 2.7. If any pricing index (e.g. LME or LBMA) referred to in the Contract ceases to be published or ceases to be representative of the pricing of the Product or any payable metals contained in the Product, Buyer and Teck shall negotiate in good faith to establish a mutually acceptable pricing method. If the Parties are unable to agree, such dispute shall be referred to resolution in accordance with subsection 7.2.

**3. NO WARRANTIES**

- 3.1. **THE PRODUCT SHALL CONFORM TO THE DESCRIPTION EXPRESSLY STATED ON THE FACE OF THIS CONTRACT AND THERE ARE NO REPRESENTATIONS OR WARRANTIES WHICH EXTEND BEYOND THIS DESCRIPTION, EXPRESS OR IMPLIED. THIS WARRANTY IS EXCLUSIVE AND ALL OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS OR OTHER OBLIGATIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE ARE SPECIFICALLY EXCLUDED.**

- 3.2. No reliance has been made upon, and there are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, between the Parties in connection with the subject matter of this Contract except as set forth in this Contract or any document required to be delivered pursuant to this Contract.

#### **4. TERMINATION BY TECK**

- 4.1. Teck may terminate this Contract upon notice to the Buyer if:
- (a) Buyer fails to make payments in accordance with the terms of either this Contract or of any other contract between the Buyer and Teck;
  - (b) Buyer fails to take, or unreasonably delays, delivery under the terms of this Contract; or
  - (c) the credit rating of the Buyer is materially downgraded.

Notwithstanding termination of this Contract for any reason, the Buyer shall not be relieved from any obligations or liabilities arising prior to such termination, including any obligation to pay any amount owing prior to such termination or relating to any Product where risk has transferred prior to such termination.

- 4.2. Regardless of whether Teck terminates this Contract under 4.1 above or 4.3 below, Teck may immediately and without notice resell the Product, in whole or part, listed on the face of this Contract into the open market or through the London Metal Exchange, if applicable ("**Market Price**"). In such event, the Buyer shall be liable to Teck for any and all damages, losses, costs, charges, professional fees and other expenses incurred by Teck, including the difference between the Contract price and the Market Price (with reference to actual sales or applicable published indices), broker's fees and legal fees.
- 4.3. Either party may terminate this Contract if the other party becomes insolvent, bankrupt or enters into any form of arrangement with creditors.

#### **5. LIMITATION OF LIABILITY**

- 5.1. **NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT TO THE CONTRARY, EXCEPT IN RESPECT OF ANY CLAIM TO WHICH A PARTY IS ENTITLED TO INDEMNIFICATION HEREUNDER, A PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY IN RELATION TO A SHIPMENT OF PRODUCT, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT, UNDER STATUTE, IN TORT (FOR NEGLIGENCE OR OTHERWISE) OR ANY OTHER BASIS IN LAW OR EQUITY SHALL NOT EXCEED THE PURCHASE PRICE OF THAT SHIPMENT PAID OR TO BE PAID BY THE BUYER.**

- 5.2. To the maximum extent permitted by law, except to the extent included in any claim for which a party is entitled to indemnification hereunder, neither party is liable to the other party for any incidental or consequential damages, loss of opportunity, loss of revenue (other than in respect of non-payment of the purchase price), loss of profits or anticipated profit, loss of goodwill or exemplary damages whether arising out of or in connection with this Contract under statute, in tort (for negligence or otherwise) or any other basis in law or equity.
- 5.3. Each party shall exercise all commercially reasonable endeavours to mitigate any losses suffered, sustained or incurred which might be the subject of a claim by one party against the other party under this Contract.

#### **6. FORCE MAJEURE**

- 6.1. Subject to section 6.5, no party shall be liable to the other for any delay, interruption or failure to deliver any shipment under this Contract which is affected by or subject to the following circumstances:
- (a) labour difficulties or a strike, fire, flood, pandemics, acts of terrorism or war;
  - (b) any delay, interruption, cancellation, suspension or other non-performance of any transportation contract under which Teck has arranged for delivery under this Contract;
  - (c) any requirement or regulation of any government (including any requirement which affects any raw material required for the production of the Product); or
  - (d) any and all disabling causes or contingencies beyond a party's reasonable control
- (each a, "**Force Majeure Event**")
- 6.2. In no event shall a party be required to negotiate or settle a labour dispute or strike.
- 6.3. As soon as practicable following the occurrence of a Force Majeure Event, a party shall provide notice to the other Parties declaring the occurrence of such Force Majeure Event and a good faith estimate of the duration of such Force Majeure Event. The party declaring force majeure shall use all reasonable efforts to resume performance of its obligations under this Contract as soon as possible and shall give prompt notice of the termination thereof.
- 6.4. In the event that a Force Majeure Event continues for a period of more than 90 consecutive days, either party may terminate this Contract by written notice to the other party, without recompense (except for payments due and owing up to the date of termination).
- 6.5. This Section 6 does not apply to goods which are in transit prior to the declaration of a Force Majeure Event. Nothing in this Section 6 shall affect any financial obligation, including any obligation to make a

payment under this Contract, arising or incurred prior to the commencement of a Force Majeure Event or relating to any Product for which risk has transferred prior to a Force Majeure Event.

## **7. GOVERNING LAW AND ARBITRATION**

- 7.1. This Contract is governed by, and construed in accordance with, the laws of British Columbia, Canada. The parties agree that the *United Nations Convention on Contracts for the International Sale of Goods* shall not apply to this Contract.
- 7.2. All disputes arising in connection with this Contract, not otherwise settled by consultation and discussion by the Parties, shall be finally settled by binding arbitration administered by the Vancouver International Arbitration Centre by a single arbitrator appointed in accordance with its applicable Rules. The arbitration shall take place in Vancouver, British Columbia, Canada and shall be conducted in English. To the extent permitted by law, any right to appeal or challenge any arbitral decision or award, or to oppose enforcement of any such decision or award before a court of competent jurisdiction or any governmental authority, is hereby waived by the Parties except with respect to the limited grounds for modification or non-enforcement provided by any applicable arbitration statute or treaty.

## **8. COMPLIANCE WITH LAWS**

- 8.1. Both Teck and Buyer shall comply with all applicable laws of federal, provincial, and local authorities which relate to this Contract and its performance, including the sale, use and disposal of the Product, including those governing environmental protection and enhancement, including those relating to manufacturing, processing, handling, packaging, transportation, provision, disposal and waste management.
- 8.2. Teck shall notify Buyer, in writing, within five (5) calendar days of receiving notice from any authority governing environmental protection and enhancement that any such legislation has been breached in relation to this Contract. Buyer shall notify Teck, in writing, within five (5) calendar days of receiving notice from any authority governing environmental protection and enhancement that any such legislation has been breached in relation to this Contract or the Product.
- 8.3. Without limiting the generality of subsection 8.1, in the performance of the transactions contemplated by this Contract, the Parties shall comply with all applicable anti-bribery and anti-corruption laws. Each Party represents, warrants, and covenants to all other Parties that, with respect to the matters which are the subject of this Contract, neither such Party nor any of its officers, directors, shareholders, owners, employees, or agents has received, made, offered, authorized or accepted or will receive, make, offer, authorize or accept if offered, any payments, gift, promise or other advantage, whether directly or through any other Person or entity, to or for the use or benefit of any public or government official (as defined in the applicable anti-corruption law) where such payment, gift, promise or advantage would violate applicable anti-bribery laws and anti-corruption laws including, the *Corruption of Foreign Public Officials Act* (Canada) or the *Foreign Corrupt Practices Act* (USA).
- 8.4. Each Party hereby represents, warrants and covenants to the other Parties that, as of the date of this Contract and throughout its duration, it is or will be, as applicable, in compliance with all economic sanctions and trade embargoes imposed by the United Nations Security Council, the European Union, the United Kingdom, the United States of America or Canada (collectively, "**Economic Sanctions Laws**") against countries and Persons designated in such laws (collectively, "**Embargoed Targets**"). Each Party further represents, warrants and covenants to the other Parties that, at the date of the Contract and throughout its duration, it is not and will not be, as applicable, an Embargoed Target or otherwise subject to any Economic Sanctions Laws. Without limiting the generality of the foregoing, each Party shall comply with all Economic Sanctions Laws, and shall not:
- (a) directly or indirectly export, re-export, transship or otherwise deliver any of the Product to an Embargoed Target; or
  - (b) broker, finance or otherwise facilitate any transaction in violation of any Economic Sanctions Law.

If any Party, acting reasonably, determines that compliance with any aspect of this Contract will cause it to act in a manner (including failing to take any actions in connection with a transaction) which is inconsistent with or penalized or prohibited under any applicable Economic Sanctions Law or any law, statute, rule or regulation applicable to such Party which relates to foreign trade controls or export controls, that Party shall promptly notify the other Parties in writing of the same. Upon receipt of such notification, this Contract shall be deemed to be indefinitely suspended until the other Parties, acting reasonably, determine that the transactions contemplated hereby may be completed in compliance with all applicable laws, statutes, rules and regulations, including all Economic Sanctions Laws. No damages arising from the suspension of this Contract shall be payable by any Party, except to the extent that Product has been delivered to Buyer prior to the suspension but has not been paid for in full by Buyer, in which case Buyer shall be liable to pay the full amount invoiced. If the period of suspension extends beyond a period of 180 consecutive days, any Party may by notice to the other Parties terminate this Contract, provided such termination shall not terminate any outstanding financial obligation, which such obligation shall remain suspended until it may be completed in compliance with all applicable Economic Sanctions Laws.

- 8.5. The Product is being sold to Buyer for use in a manufacturing or commercial process or for resale by Buyer for use in a manufacturing or commercial process. It is explicitly agreed by the parties that the Product is

not being transferred to Buyer for purposes of disposal or recycling and Teck has no intent to arrange for disposal or recycling of the Product by Buyer or any other party.

- 8.6. The Safety Data Sheets for the Product are available at: <https://www.teck.com/products/data-sheets/>. It is the exclusive responsibility and obligation of the Buyer to instruct its employees, contractors or agents in the safe handling, storage, transportation, sale, use or disposal of the Product and nothing herein or therein shall relieve Buyer of its duties in relation to the safe handling, storage, transport, use, sale and disposal of the Product.
- 8.7. Buyer shall be liable for, and shall indemnify and save harmless Teck and its shareholders, directors, officers, personnel and agents and their respective heirs, representatives, successors and assigns from any claim, liability, action, damage, loss, cost and expense, including the costs of any investigation, remediation, and monitoring, resulting directly or indirectly, in whole or in part, from any handling, storage, transportation, sale, release, spilling, leaking, use or disposal of the Product howsoever caused, from and after the time risk for the Product has transferred to the Buyer.

## **9. INSPECTION/WEIGHT**

- 9.1. The Product shall be subject to inspection to determine conformity with the description of the Product included under "Product" in the Contract. Buyer has a period of ten (10) business days following the delivery of the Product to the Destination to inspect and accept the Product. After ten (10) business days, acceptance will be deemed to have taken place and Buyer will have been deemed to accept the Product in the specified quantities.
- 9.2. The weight of the Product shall be determined by utilizing a certified for trade scale at Teck's Trail Operation. The weight of the Product so determined shall be binding on the parties unless challenged by Buyer. Buyer shall have ten (10) business days following the delivery of the Product to the Destination in which to challenge the weight of the Product or, in the event an EXW Incoterm is used, following the date the Product is removed from its place of origin.
- 9.3. If Buyer challenges the weight of the Product within the time limits of this Contract, Buyer shall have the right, at its sole cost, to independently weigh the Product using a certified for trade scale. If there is any discrepancy between the Buyer's weight determination and Teck's weight determination, the parties will meet and agree upon an equitable adjustment of the weight of the Product.
- 9.4. Buyer and Teck shall have the right to observe any of the weighings.
- 9.5. Subject to this Section 9, Teck's weights and assays to govern.

## **10. NON-CONFORMING PRODUCT**

- 10.1. Any shipment, or portion thereof, of Product received by Buyer which reasonably fails to meet the quantity ("**Quantity Deficiency**") or quality or description specifications ("**Non-Conformity**") as provided in this Contract shall be reported to Teck within (10) business days following the delivery of the Product to the Destination (or in the case an EXW Incoterm is used, following the removal of the Product from Trail), along with written evidence or other documentation of such Quantity Deficiency or Non-Conformity as reasonably required by Teck. With respect to a demonstrated Quantity Deficiency or Non-Conformity issue, Teck will, in its sole discretion, elect to a) deliver additional quantity of Product to remedy a Quantity Deficiency; b) replace Non-Conforming Product with conforming goods; or c) refund to the Buyer the purchase price of the Product. The foregoing are the Buyer's sole and exclusive remedies in the event of a Quantity Deficiency or Non-Conformity.
- 10.2. If Teck elects option (b) or (c) under subsection 10.1 above, title to any Product which is being replaced or in respect of which the purchase price is being refunded, which has previously transferred to Buyer shall automatically transfer back to Teck upon notice from Teck to Buyer and Buyer shall make such Product available for collection by Teck, unless an alternate arrangement is agreed between the Parties.

## **11. GENERAL**

- 11.1. Buyer and Teck shall abide by all the provisions of the applicable Standard Specifications of the American Society for Testing Materials unless otherwise specified in writing.
- 11.2. Each shipment made under this Contract is considered a separate sale.
- 11.3. The Contract and these terms and conditions are the entire agreement between the parties and any modifications or amendments must be made in writing and signed by each Party.
- 11.4. Any condonation, excusing or overlooking by Teck of any default, breach or non-observance by the Buyer of any term or condition of this Contract shall not in any way affect, limit or waive Teck's right to enforce strict compliance with every other term and condition of this Contract.
- 11.5. This Contract shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. No third party shall have any rights hereunder unless expressly stated to the contrary.
- 11.6. Notwithstanding any expiration or earlier termination of the Contract, Article 15 shall survive for a period of one (1) year following the date of expiration or termination of this Contract; and Articles 5 and 11 and subsections 8.5 and 8.7 shall survive indefinitely.
- 11.7. This Contract may be executed in any number of counterparts, each of which is deemed an original, and all of which taken together constitute one and the same agreement. No counterpart of this Contract shall be

effective until each party has executed and delivered at least one counterpart. A counterpart may be delivered by facsimile, email attachment (of a PDF document), or other electronic means, which shall be as effective as hand delivery of the original executed counterpart.

- 11.8. Time of payment is of the essence.
- 11.9. The language used in this Contract is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party. If any term or provision of this Contract is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract, or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 11.10. The 2020 edition of the International Chamber of Commerce official international commerce terms ("**Incoterms**") for the interpretation of trade terms are incorporated into this Contract provided that in the event of any conflict between this Contract and the Incoterms, this Contract shall govern.
- 11.11. Headings of Sections and subsections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Contract. Where the word "including" or "includes" is used in this Contract, it means "including (or includes) without limitation".
- 11.12. Any notice, consent or approval required or permitted to be given in connection with this Contract (a "**Notice**") shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery) or if transmitted by email, in each case: (i) if to Teck to Attention: Director, Metals Sales & Marketing, Teck Metals Ltd., 100 Wellington Street West, Toronto, Ontario, M5J 2R2, email: dl-tor-metalsales-managers@teck.com with a copy to corporate.secretary@teck.com; and (ii) if to Buyer, to the address for Buyer set out in the Contract. Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a business day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a business day then the Notice shall be deemed to have been given and received on the next business day. Any Party may, from time to time, change its address by giving Notice to the other Parties in accordance with the provisions of this subsection 11.12.
- 11.13. Buyer will not, without Teck's prior written approval, make any statement or publish or release to any other person any photograph, advertisement, testimonial, letter of commendation or approval or any other document or written matter which might imply Teck's approval of the products, actions or performance of Buyer.

## **12. NO ASSIGNMENT**

- 12.1. This Contract shall not be assigned (including the liability of Teck to transfer or deliver the Product to the Buyer) by either party without the prior written consent of the other party, such consent not to be unreasonably withheld.
- 12.2. Notwithstanding subsection 12.1, Teck may assign its rights and obligations hereunder without the consent of the Buyer to: (a) any corporation resulting from any merger, consolidation or other reorganization to which Teck is a party; (b) any corporation, partnership, association or other entity or person to which Teck transfers all or substantially all of its assets; or (c) any Affiliate of Teck.

## **13. INSURANCE**

- 13.1. Teck shall be responsible for transportation cargo insurance on each shipment hereunder for which an Incoterm of CIP or CIF is used in accordance with the terms and conditions of this Section. Such insurance shall be placed with large, well-known companies of good international repute.
- 13.2. Insurance shall be affected in U.S. Dollars in the amount of 110% of the estimated value of the Product of each shipment and any claims would be made on the final value of the settlement.
- 13.3. Insurance shall be written to provide coverage against all risks (as that term is generally understood in the insurance industry) to the extent commercially available, including inter alia the following clauses:
- (a) American Institute Cargo Clauses;
  - (b) American Institute War Clauses (CARGO);
  - (c) American Institute Strikes, Riots and Civil Commotion Clauses (CARGO); and
  - (d) Institute Classification Clause 01/01/01.

Exclusions shall include ordinary loss in weight or volume and losses caused by fraud, insolvency, or by inherent vice or the nature of the cargo.

- 13.4. The insurance shall provide coverage from the time the Product has been loaded for transportation at Trail Operations until the Product is unloaded at Destination. Claims shall be submitted by the Buyer within 30 (thirty) calendar days after discharge at Destination or no cover given. In the event that the Buyer has a claim, the Teck will use its commercially reasonable efforts to assist the Buyer in making that claim.
- 13.5. In the event of a partial or total loss of or damage to a shipment after the risk for the Product has transferred to the Buyer, Buyer shall remain liable for the purchase price. Buyer shall not be entitled to await settlement of any insurance claim before making payment for such lost or damaged shipment of Product.

**14. MATERIAL ADVERSE CHANGE**

14.1. Notwithstanding any payment terms set out on the front of this Contract, if:

- (a) Teck is of the opinion, acting reasonably, that there has been or is likely to be a material deterioration in: (A) the credit worthiness of the Buyer or any other party providing direct or indirect financial support to the Buyer; or (B) the ability of the Buyer to pay for the Product in accordance with the terms of the Contract;
- (b) the Buyer has failed to provide all documentation requested by Teck, acting reasonably, in order to determine whether (a) above has occurred; or
- (c) the Buyer has failed to strictly comply with the payment terms prescribed by the Contract in relation to any previous delivery of Product during the Contract Term,

Teck may, in its sole discretion and in addition to any other rights it may have under the Contract, upon reasonable notice to the Buyer require the Buyer to pre-pay for the Product or provide a form of security satisfactory to Teck, acting reasonably, for all deliveries of Product remaining in the Contract Term, and notwithstanding anything to the contrary set out in the Contract, until the Buyer complies with such pre-payment or security requirement, all of the Teck's obligations under the Contract, including any obligation to load the Product for delivery to the Buyer, shall be suspended without any liability to Teck. If the Buyer fails to promptly comply with the foregoing requirement, the Buyer shall be in default of its payment obligations and Teck may, in its sole discretion, suspend or terminate the Contract, without prejudice to any other remedies it may have at law, equity or under this Contract, upon notice to the Buyer.

**15. TITLE AND RISK**

15.1. Risk shall transfer from the Seller to the Buyer in accordance with the applicable Incoterm used.

15.2. Title shall transfer from the Seller to the Buyer at the time risk is transferred in accordance with subsection 15.1.

**16. CONFIDENTIALITY**

16.1. In the course of their communications the Parties may disclose Confidential Information to each other. For the purposes of this Contract, "**Confidential Information**" means the content of this Contract and any information related to Teck's products, costs, prices, marketing plans and any similar information and shall include any information relating to or arising during any dispute, including the existence thereof. The Party receiving Confidential Information shall maintain the confidence of such Confidential Information and use all reasonable efforts to prevent unauthorized dissemination; provided, however, that disclosure of Confidential Information to a Party's Affiliates or that Party's or its Affiliates' directors, officers, employees, agents, representatives, lenders, other Persons directly involved in financing, legal counsel, accountants, consultants, financial advisers or other independent professionals or contractors is permitted provided (i) such third parties are under an obligation to such disclosing Party to hold such Confidential Information in confidence and to use such Confidential Information only in the performance of their respective obligations to such disclosing Party; and (ii) receiving Party is responsible for any disclosure or use by such persons not authorized by this Contract. Notwithstanding the foregoing, this Contract shall impose no obligation with respect to maintaining the confidence of Confidential Information that: (i) is generally known or available by publication, commercial use or otherwise through no fault of the receiving Party; (ii) is known by the receiving Party at the time of disclosure and is not subject to restriction; (iii) is independently developed or learned by the receiving Party; (iv) is lawfully obtained from a third party which has the right to make such a disclosure; or (v) is required to be disclosed by any applicable laws or governmental authority.