



**12.4.4 (a):** the proposal may be processed without a review under Part 5 or 6; NIRB may recommend specific terms and conditions to be attached to any approval, reflecting the primary objectives set out in Section 12.2.5.

**RECOMMENDED PROJECT-SPECIFIC TERMS AND CONDITIONS**  
(pursuant to Section 12.4.4(a) of the NLCA)

The Board is recommending the following or similar project-specific terms and conditions be imposed upon the Proponent through all relevant legislation:

**General**

1. Hapag-Lloyd Kreuzfahrten (the Proponent) shall maintain a copy of the Project Terms and Conditions at the site of operation at all times.
2. The Proponent shall forward copies of all permits obtained and required for this project to the Nunavut Impact Review Board (NIRB) prior to the commencement of the project.
3. The NIRB shall be notified of any changes in operating plans or conditions associated with the project prior to any such change.
4. The Proponent shall operate in accordance with all commitments stated in correspondence provided to the NIRB (NIRB Part 1 Form, dated April 26, 2007) and the Canadian Wildlife Service (Application for CWS permit).
5. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

**Waste**

6. The Proponent shall not deposit, nor permit the deposit of any fuel, chemicals, wastes or sediment into any water body.
7. The Proponent shall ensure all garbage and food wastes are taken back to the cruise ship for disposal. All food and related wastes are to be kept in air-tight containers until disposed of, and inaccessible to wildlife at all times.
8. The Proponent shall ensure that food preparation is only conducted on board the cruise ship, and not during land-based activities.
9. The Proponent shall endeavor to minimize potential impacts from the deposition of human wastes while traveling on land. Human wastes shall not be deposited within 50 m of aircraft landing sites, travel routes, camping areas and water bodies.
10. The Proponent shall not dispose of any waste on sea-ice or offshore. The Proponent shall ensure that all wastes are disposed of at an approved on-shore waste management facility. It is strongly recommended that the Proponent seek permission to use approved waste management facilities located in Nunavut communities well in advance of conducting project activities.

**Fuel Use and Storage**

11. The Proponent shall report all spills of fuel, or other deleterious materials immediately to the 24 hour Spill Line at (867) 920-8130.

**Wildlife**

12. The Proponent shall ensure that all passengers (clients and staff) are aware of the Proponent's responsibilities and requirements regarding wildlife and wildlife habitat protection. This should include pre-landing briefings on wildlife sensitivities and potential hazards, proper wildlife viewing techniques and safety practices.
13. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.

14. The Proponent shall ensure that there is minimal disturbance to any nesting birds, migratory birds and wildlife while conducting activities on land. Harassment of wildlife is prohibited. This includes persistently worrying or chasing animals, or disturbing large groups of animals. Deliberate feeding of any wildlife is also prohibited.
15. The Proponent shall maintain a minimum distance of 300 m from known wildlife den sites, calving areas and nest sites.
16. The Proponent shall avoid raptor nesting sites and concentrations of nesting or moulting waterfowl at all times when traveling on land.
17. The Proponent shall follow procedures outlined in the "Safety in Bear Country Manual", and should contact the Regional Biologist or the Wildlife manager for information and advice on measures which should be taken to minimize the possibility of conflicts/interactions with bears.
18. The Proponent shall not hunt or fish, unless proper Nunavut authorizations have been acquired.
19. The Proponent shall ensure that no project activities interfere with Inuit wildlife harvesting or traditional land use activities. The Proponent shall not permit passengers (clients and staff) to approach any camps unless invited to do so by the occupants.
20. When approaching/departing concentrations of marine wildlife with the cruise ship or zodiacs, the Proponent shall enforce a gradual reduction/increase in vessel speed to ensure minimum disturbance to wildlife. For purposes of wildlife viewing, vessels are to be slowed to 5 knots within 400 m of marine wildlife, and are to maintain a minimum distance of 100 m away from wildlife at all times.
21. While on the cruise ship or zodiacs, the Proponent shall limit viewing time of each concentration of marine mammals to a maximum of 30 minutes in order to minimize disturbance.
22. The Proponent shall ensure that when vessels are approaching marine mammals, an indirect angle that provides a maximum visibility for the animals is used. Whales are to be approached from the side only.
23. The Proponent shall not pursue marine wildlife which attempts to avoid the cruise ship or zodiacs.
24. The Proponent shall not attempt to intersect or interfere with the movements of marine mammals. Strategic positioning of vessels ahead of the path being traveled by mobile whales and waiting for the whales to pass is also prohibited.
25. The Proponent shall ensure that visitation of cliffs used for nesting and breeding birds is restricted to zodiacs only, and then only during morning and early afternoon hours. Noise should be kept to a minimum when visiting these bird colonies.

### **Cultural Resources**

26. The Proponent shall ensure that all passengers (clients and staff) are aware of the Proponent's responsibilities and requirements regarding archaeological or palaeontological sites that are encountered during land-based activities. This should include pre-landing briefings explaining the prohibitions regarding removal of artifacts, and defacing or writing on rocks and infrastructure.

### **Other**

27. The Proponent is strongly advised to provide sufficient advance notice to communities where a landing is planned as part of project activities.

## **Regulatory Requirements**

The Proponent is also advised that the following legislation may apply to the project:

1. The *Fisheries Act* (<http://laws.justice.gc.ca/en/showtdm/cs/F-14///en>).

2. The *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (<http://www.canlii.org/ca/sta/n-28.8/whole.html>).
3. The *Migratory Birds Convention Act* and *Migratory Birds Regulations* (<http://laws.justice.gc.ca/en/showtdm/cs/M-7.01>).
4. The *Species at Risk Act* (<http://laws.justice.gc.ca/en/showtdm/cs/S-15.3>). Attached in **Appendix B** is a list of Species at Risk in Nunavut.
5. The *Nunavut Wildlife Act* which contains provisions to protect and conserve wildlife and wildlife habitat, including specific protection measures for wildlife habitat and species at risk.
6. The *Nunavut Act* (<http://laws.justice.gc.ca/en/showtdm/cs/N-28.6>). The Proponent must comply with the proposed terms and conditions listed in the attached **Appendix C**.
7. The *Canada Shipping Act* (<http://laws.justice.gc.ca/en/showtdm/cs/C-10.15>) and *Arctic Waters Pollution Prevention Act* (<http://laws.justice.gc.ca/en/showtdm/cs/A-12>) which contain regulations regarding ballast water control and management, and prevention of oil pollution in marine areas.

### **Validity of Land Claims Agreement**

#### *Section 2.12.2*

Where there is any inconsistency or conflict between any federal, territorial and local government laws, and the Agreement, the Agreement shall prevail to the extent of the inconsistency or conflict.

Dated July 24, 2008 at Sanikiluaq, NU.



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Lucassie Arragutainaq, A/Chair

## **Appendix A**

### **Procedural History and Project Activities**

#### ***Procedural History***

On April 27, 2007 the Nunavut Impact Review Board (NIRB) received Hapag-Lloyd Kreuzfahrten's "Hanseatic Cruise Vessel" project proposal from Canadian Wildlife Service (CWS). On July 8, 2008 the NIRB received a positive conformity determination (North Baffin Regional Land Use Plan) from the Nunavut Planning Commission for this file. NIRB assigned this project proposal file number 08AN072.

This application was distributed to the communities of Pond Inlet, Cape Dorset, Cambridge Bay, Arctic Bay and Pangnirtung, interested Federal and Territorial Agencies and Inuit Organizations. The NIRB requested that interested Parties review the application and provide their comments by July 18, 2008 regarding:

- Whether the project proposal is likely to arouse significant public concern; and if so, why;
- Whether the project proposal is likely to cause significant adverse eco-systemic and socio-economic effects; and if so, why;
- Whether the project is of a type where the potential adverse effects are highly predictable and mitigable with known technology, (please provide any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On or before July 18, 2008, NIRB received comments from the following interested Parties (see Comments and Concerns):

- Government of Nunavut – Department of Tourism
- Government of Nunavut – Culture Language, Elders and Youth (CLEY)

All comments provided to NIRB regarding this project proposal can be viewed on NIRB's ftp-site, at the following location: <http://ftp.nirb.ca/SCREENINGS/COMPLETED%20SCREENINGS/>

#### ***Project Activities***

The proposed project is a cruise ship voyage in Nunavut's waters during the summer of 2008. Wildlife viewing is proposed in the waters off Bylot Island Migratory Bird Sanctuary and Nirjutiqavvik (Coburg Island) National Wildlife Area. There are also landings proposed in the communities of Pond Inlet, Arctic Bay and Cambridge Bay.

The proposed project activities include:

- Cruise ship voyage in Nunavut's waters;
  - Ice-strengthened passenger ship the *MV Hanseatic*, with capacity of 200 passengers/crew
- Wildlife viewing using zodiacs in the waters adjacent to the Bylot Island Migratory Bird Sanctuary and Nirjutiqavvik (Coburg Island) National Wildlife Area;
- Landings in the communities of Pond Inlet, Arctic Bay and Cambridge Bay
  - Guided tours arranged within each community

## Appendix B

### SPECIES AT RISK IN NUNAVUT

This list includes species listed on one of the Schedules of SARA (*Species at Risk Act*) and under consideration for listing on Schedule 1 of SARA. These species have been designated as at risk by COSEWIC (Committee on the Status of Endangered Wildlife in Canada). This list may not include all species identified as at risk by the Territorial Government.

- Schedule 1 is the official legal list of Species at Risk for SARA. SARA applies to all species on Schedule 1. The term “listed” species refers to species on Schedule 1.
- Schedule 2 and 3 of SARA identify species that were designated at risk by the COSEWIC prior to October 1999 and must be reassessed using revised criteria before they can be considered for addition to Schedule 1.
- Some species identified at risk by COSEWIC are “pending” addition to Schedule 1 of SARA. These species are under consideration for addition to Schedule 1, subject to further consultation or assessment.

Schedules of SARA are amended on a regular basis so it is important to periodically check the SARA registry ([www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)) to get the current status of a species.

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Updated: January 3, 2007

Species at Risk	COSEWIC Designation	Schedule of SARA	Government Organization with Lead Management Responsibility <sup>1</sup>
Eskimo Curlew	Endangered	Schedule 1	EC
Ivory Gull	Endangered <sup>2</sup>	Schedule 1	EC
Peregrine Falcon (subspecies anatum)	Threatened	Schedule 1	Government of Nunavut
Ross's Gull	Threatened	Schedule 1	EC
Harlequin Duck (Eastern population)	Special Concern	Schedule 1	EC
Felt-leaf Willow	Special Concern	Schedule 1	Government of Nunavut
Peregrine Falcon (subspecies tundrius)	Special Concern	Schedule 3	Government of Nunavut
Short-eared Owl	Special Concern	Schedule 3	Government of Nunavut
Fourhorn Sculpin	Special Concern	Schedule 3	DFO
Peary Caribou	Endangered <sup>3</sup>	Pending	Government of Nunavut
Beluga Whale (Eastern Hudson Bay population)	Endangered	Pending	DFO
Beluga Whale (Cumberland Sound population)	Threatened	Pending	DFO
Beluga Whale (Western Hudson Bay population)	Special Concern	Pending	DFO
Beluga Whale	Special Concern	Pending	DFO

(Eastern High Arctic – Baffin Bay population)			
Bowhead Whale (Hudson Bay-Foxe Basin population)	Threatened <sup>4</sup>	Pending	DFO
Bowhead Whale (Davis Strait-Baffin Bay population)	Threatened <sup>4</sup>	Pending	DFO
Porsild's Bryum	Threatened	Pending	Government of Nunavut
Atlantic Walrus	Special Concern	Pending	DFO
Narwhal	Special Concern	Pending	DFO
Rusty Blackbird	Special Concern	Pending	Government of Nunavut
Barren-ground Caribou (Dolphin and Union population)	Special Concern <sup>3</sup>	Pending	Government of Nunavut
Grizzly Bear	Special Concern	Pending	Government of Nunavut
Polar Bear	Special Concern	Pending	Government of Nunavut
Wolverine (Western Population)	Special Concern	Pending	Government of Nunavut

<sup>1</sup> Environment Canada has a national role to play in the conservation and recovery of Species at Risk in Canada, as well as responsibility for management of birds described in the Migratory Birds Convention Act (MBCA). Day-to-day management of terrestrial species not covered in the MBCA is the responsibility of the Territorial Government. Populations that exist in National Parks are also managed under the authority of the Parks Canada Agency. EC = Environment Canada, DFO = Department of Fisheries and Oceans

<sup>2</sup> Designated as Endangered by COSEWIC in April 2006 and it is expected that the category of concern in SARA will also be changed from Special Concern to Endangered.

<sup>3</sup> Peary Caribou was split into three separate populations in 1991: Banks Island (Endangered), High Arctic (Endangered) and Low Arctic (Threatened) populations. The Low Arctic population also included the Barren-ground Caribou - Dolphin and Union population. In May 2004 all three population designations were de-activated, and the Peary Caribou, *Rangifer tarandus pearyi*, was assessed separately from the Barren-ground Caribou (Dolphin and Union population), *Rangifer tarandus groenlandicus*. The subspecies *pearyi* is composed of a portion of the former "Low Arctic population" and all of the former "High Arctic" and "Banks Island" populations, and it was designated Endangered in May 2004. Although SARA lists Peary Caribou on Schedule 2 as three separate populations, the most current designation is the COSEWIC designation of the subspecies *pearyi* as Endangered.

<sup>4</sup> The "Eastern and Western Arctic populations" of Bowhead Whale were given a single designation of Endangered in April 1980 by COSEWIC. These were split into two populations to allow separate designations in April 1986. The Eastern population was not re-evaluated in April 1986, but retained the Endangered status of the original "Eastern and Western Arctic populations". The Eastern Arctic population was further split into two populations (Hudson Bay-Foxe Basin population and Davis Strait-Baffin Bay population) in May 2005, and both these populations were designated as Threatened. Both these populations are under consideration for addition to Schedule 1. Although SARA lists the Eastern Arctic population as Endangered (Schedule 2), the most current designation is the COSEWIC designations of the Hudson Bay-Foxe Basin and Davis Strait-Baffin Bay populations as Threatened.

**Appendix C**  
**Archaeological and Palaeontological Resources Terms and Conditions for Land Use Permit Holders**



**BACKGROUND: Archaeology**

*As stated in Article 33 of the Nunavut Land Claims Agreement:*

The archaeological record of the Inuit of Nunavut is a record of Inuit use and occupancy of lands and resources through time. The evidence associated with their use and occupancy represents a cultural, historical and ethnographic heritage of Inuit society and, as such, Government recognizes that Inuit have a special relationship with such evidence, which shall be expressed in terms of special rights and responsibilities. [33.2.1]

The archaeological record of Nunavut is of spiritual, cultural, religious and educational importance to Inuit. Accordingly, the identification, protection and conservation of archaeological sites and specimens and the interpretation of the archaeological record is of primary importance to Inuit and their involvement is both desirable and necessary. [33.2.2]

In recognition of the cultural, spiritual and religious importance of certain areas in Nunavut to Inuit, Inuit have special rights and interests in these areas as defined by Article 33 of the Nunavut Land Claims Agreement. [33.2.5]

**BACKGROUND: Palaeontology**

Under the Nunavut Act<sup>1</sup>, the federal Government can make regulations for the protection, care and preservation of palaeontological sites and specimens in Nunavut. Under the *Nunavut Archaeological and Palaeontological Sites Regulations*<sup>2</sup>, it is illegal to alter or disturb any palaeontological site in Nunavut unless permission is first granted through the permitting process.

**Definitions**

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<sup>1</sup> s. 51(1)

<sup>2</sup> P.C. 2001-1111 14 June, 2001

As defined in the *Nunavut Archaeological and Palaeontological Sites Regulations*, the following definitions apply:

“archaeological site” means a place where an archaeological artifact is found.

“archaeological artifact” means any tangible evidence of human activity that is more than 50 years old and in respect of which an unbroken chain of possession or regular pattern of usage cannot be demonstrated, and includes a Denesuline archaeological specimen referred to in section 40.4.9 of the Nunavut Land Claims Agreement.

“palaeontological site” means a site where a fossil is found.

“fossil” includes:

- (a) natural casts
- (b) preserved tracks, coprolites and plant remains; and
- (c) the preserved shells and exoskeletons of invertebrates and the eggs, teeth and bones of vertebrates.

#### Terms and Conditions

- 1) The permittee shall not operate any vehicle over a known or suspected archaeological or palaeontological site.
- 2) The permittee shall not remove, disturb, or displace any archaeological artifact or site, or any fossil or palaeontological site.
- 3) The permittee shall immediately contact the Department of Culture, Language, Elders and Youth (867) 934-2046 or (867) 975-5500 or 1 (866) 934-2035 should an archaeological site or specimen, or a palaeontological site or fossil be encountered or disturbed by any land use activity.
- 4) The permittee shall immediately cease any activity that disturbs an archaeological or palaeontological site encountered during the course of a land use operation, until permitted to proceed with the authorization of the Department of Culture, Language, Elders and Youth, Government of Nunavut.
- 5) The permittee shall follow the direction of the Department of Culture, Language, Elders and Youth and DIAND in restoring disturbed archaeological or palaeontological sites to an acceptable condition.
- 6) The permittee shall provide all information requested by the Department of Culture, Language, Elders and Youth concerning all archaeological sites or artifacts and all palaeontological sites and fossils encountered in the course of any land use activity.
- 7) The permittee shall make best efforts to ensure that all persons working under authority of the permit are aware of these conditions concerning archaeological sites and artifacts, and palaeontological sites and fossils.
- 8) The permittee shall avoid the known archaeological and/or palaeontological sites listed in Attachment 1.

9) The permittee shall have an archaeologist or palaeontologist perform the following functions, as required by the Department of Culture, Language, Elders and Youth:

- a. survey
- b. inventory and documentation of the archaeological or palaeontological resources of the land use area
- c. assessment of potential for damage to archaeological or palaeontological sites
- d. mitigation
- e. marking boundaries of archaeological or palaeontological sites
- f. site restoration

The Department of Culture, Language, Elders and Youth shall authorize by way of a Nunavut Archaeologist Permit or a Nunavut Palaeontologist Permit, all procedures subsumed under the above operations.