

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF NEWFOUNDLAND AND LABRADOR REGARDING OFFSHORE WIND DEVELOPMENT

THIS MEMORANDUM OF UNDERSTANDING (the "MOU") is dated the 6th day of December, 2023(the "Effective Date").

BETWEEN: HIS MAJESTY THE KING IN RIGHT OF CANADA, as represented by the Minister of Energy and Natural Resources Canada ("Canada")

AND: HIS MAJESTY THE KING IN RIGHT OF NEWFOUNDLAND AND LABRADOR, as represented by the Minister of Industry, Energy and Technology, the Minister of Fisheries, Forestry and Agriculture and the Minister for Intergovernmental Affairs ("Newfoundland and Labrador")

REFERRED to collectively as the "Parties"

PREAMBLE

WHEREAS the Parties are currently engaged in efforts to expand the joint management regime under the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act and amendments thereto (collectively, the "Accord Acts") to include the regulation of Offshore Renewable Energy ("ORE");

AND WHEREAS the Parties recognize Newfoundland and Labrador as the principal beneficiary of renewable resources off its shores, as if these resources were located onshore, including that the province will design the revenue regime applicable to such resources and receive the revenues as if those resources were located onshore within the province;

AND WHEREAS the definition of the "offshore area" under the Accord Acts for petroleum resource management is those submarine areas lying seaward of the low water mark of the province of Newfoundland and Labrador ("the Province") and extending, at any location, as far as (i) any prescribed line, or (ii) where no line is prescribed at that location, the outer edge of the

continental margin or a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater;

AND WHEREAS the definition of the "offshore area" under the Accord Acts for petroleum resource management thus includes the areas of the inland bays of the Province extending seaward from the low water mark and allows for the joint regulation by the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) of petroleum resources that are within the Province;

AND WHEREAS Bill C-49 proposes that the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) be renamed as the Canada-Newfoundland and Labrador Offshore Energy Regulator (C-NLOER);

AND WHEREAS Bill C-49 also provides a definition of the "offshore area" for the purposes of ORE;

AND WHEREAS based on the definition of the "offshore area" for ORE in Bill C-49, it is in the interests of Canada, the Province and stakeholders in ORE projects to have certainty and consistency with respect to the laws that will apply to ORE projects;

AND WHEREAS subject to the terms and conditions of this MOU, the Parties have agreed that for ORE projects within the ORE Area as hereinafter defined, Land Tenure and Lifecycle Project Regulation as hereinafter defined and the Revenue Framework as hereinafter defined will be subject to the regulatory authority of the Province of Newfoundland and Labrador;

AND WHEREAS the Province is undertaking steps to regulate Land Tenure and Lifecycle Project Regulation and to design and implement a Revenue Framework in the ORE Area;

AND WHEREAS the Parties have agreed to ensure a fair and equitable approach to the "offshore area" under joint management and the ORE Area under Provincial regulatory authority respectively, consistent with maritime law and common law;

NOW THEREFORE, the Parties agree as follows:

1.0 Definitions

"Revenue Framework" means the design and collection of revenues, interests and penalties from renewable energy projects, as though they were onshore within the province;

"Land Tenure and Lifecycle Project Regulation" means the system and all administrative practices associated with calls for bids, and the system and all administrative practices associated with the issuance of submerged land licenses, land licenses, leases, grants or other instruments for ORE projects within the ORE Area, including the powers outlined in Bill C-49 to issue an authorization for ORE projects;

"ORE Area" means the area excluded from the application of the Accord Acts for ORE projects;

"ORE Area" consists of:

(i) the 16 bays noted below and which are labelled and identified in the green shaded areas in Attachment 1, the precise coordinates of which will be described and agreed upon by the Parties in accordance with Section 4.1, and that will not exceed the territorial baselines:

1. Bonavista Bay;
2. Pistolet Bay;
3. Bay of Islands;
4. Bonne Bay;
5. Hare Bay;
6. Ingornachoix Bay;
7. White Bay;
8. Notre Dame Bay;
9. Trinity Bay
10. Trepassey Bay;
11. St. Mary's Bay;
12. Placentia Bay;
13. Fortune Bay;
14. St. George's Bay;
15. Port au Port Bay; and
16. Conception Bay

(ii) and for any other bay where a geodetic closing line of 24 nautical miles or less may be drawn between points on the low water mark of the bay so that the area of the bay landward of

the closing line is greater than that of a semi-circle whose diameter is the closing line, and

For the purposes of this definition under (i) and (ii),

(a) "bay" includes harbour, port, cove, sound, channel, basin or other inlet,

(b) the closing line shall be drawn in such manner as to enclose a maximum area of the bay, and

(c) the area of the bay shall be calculated as including any islands or parts of islands lying landward of the closing line and as excluding any area above the low water mark along the coast of the bay.

"ORE Area" will be described and agreed upon by the Parties in accordance with Section 4.1.

2.0 Purpose

2.1 The purposes of this MOU are:

(a) to establish a process to determine the limits of the ORE Area;

(b) to confirm that subject to the terms and conditions of this MOU, Land Tenure and Lifecycle Project Regulation will not be subject to the authority of the Canada-Newfoundland and Labrador Offshore Energy Regulator and will be under the regulatory authority of the Province; and

(c) to confirm that within the ORE Area and subject to the terms and conditions of this MOU, the Province will design and implement the Revenue Framework and receive the revenues as if those resources were located onshore.

3.0 Authority

3.1 For ORE projects within the ORE Area, the following provisions shall apply:

(a) Land Tenure and Lifecycle Project Regulation will not be subject to the authority of the Canada-Newfoundland and Labrador Offshore Energy Regulator;

(b) Land Tenure and Lifecycle Regulation will be under the regulatory authority of the Province; and

(c) The design and implementation of the Revenue Framework will be under the regulatory authority of the Province, and the Province will receive the revenues as if those resources were located onshore.

4.0 Determination of the ORE Area

4.1 Attachment 1 has been included to illustrate the general intent of the Parties in respect of the determination of the ORE Area, with the green shaded areas being an approximate representation of the ORE Area. The specific coordinates and limits of the ORE Area depicted in this representation will be precisely described by professional surveyors appointed by the Parties and be described and implemented through regulations under the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, as amended by Bill C-49, and the mirror provincial legislation of said Act.

5.0 Other Laws and Regulations Not Affected by this MOU

5.1 All other federal and provincial legislation which is applicable to ORE projects within the ORE Area, will continue to apply.

6.0 General

6.1 This MOU shall be subject to the laws of the Province of Newfoundland and Labrador and the federal laws of Canada applicable therein.

6.2 This MOU will be effective as of the Effective Date. It will remain in force for the duration of all ORE projects within the ORE Area.

6.3 This MOU may be amended with the mutual written consent of the Parties. Any amendment becomes part of this MOU.

6.4 Any differences in the interpretation or application of this MOU will be addressed by good faith discussions between the Parties and will not be referred to any third party.

6.5 This MOU shall not be interpreted as providing a basis for any federal or provincial claim in respect of any interest or jurisdiction over the ORE Area.

ATTACHMENT 1

Illustration of Specified Bays Intended to be Excluded from the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* for Offshore Renewable Energy

