

# **HEBRON FISCAL AGREEMENT**

**BETWEEN**

**HER MAJESTY THE QUEEN IN RIGHT  
OF NEWFOUNDLAND AND LABRADOR**

**AND**

**CHEVRON CANADA LIMITED**

**AND**

**EXXONMOBIL CANADA PROPERTIES**

**AND**

**EXXONMOBIL CANADA LTD.**

**AND**

**STATOILHYDRO CANADA LTD.**

**AND**

**PETRO-CANADA**

**AND**

**OIL AND GAS CORPORATION  
OF NEWFOUNDLAND AND LABRADOR INC.**

**August ~~20~~<sup>21</sup>, 2008**

# HEBRON FISCAL AGREEMENT

## TABLE OF CONTENTS

<b><u>SECTION</u></b>	<b><u>PAGE</u></b>
<b>1. DEFINITIONS, INTERPRETATION AND EXHIBITS</b> .....	<b>2</b>
1.1 Definitions.....	2
1.2 Entire Agreement.....	5
1.3 Interpretation of Agreements, Exhibits and Royalty Regulations. ....	5
1.4 Divisions and Headings. ....	5
1.5 Section and Exhibit Reference.....	5
1.6 Number, Gender and Inclusion. ....	5
1.7 Independent Interpretation. ....	6
1.8 Relationship of Formal Agreements. ....	6
1.9 Currency References. ....	6
1.10 Incorporation of Exhibits. ....	6
<b>2. EFFECTIVE DATE AND TERM</b> .....	<b>6</b>
2.1 Effective Date. ....	6
2.2 Term. ....	7
2.3 Project Sanction Obligations.....	7
2.4 Time Limit for Development. ....	7
<b>3. REPRESENTATIONS, WARRANTIES AND COVENANTS</b> .....	<b>7</b>
3.1 Representations and Warranties of Chevron.....	7
3.2 Representations and Warranties of ExxonMobil and EMC.....	8
3.3 Representations and Warranties of Petro-Canada.....	8
3.4 Representations and Warranties of StatoilHydro.....	9
3.5 Representation and Warranties of OilCo. ....	10
3.6 Representations and Warranties of the Province. ....	10
3.7 Exclusion of Other Representations and Warranties. ....	10
<b>4. ROYALTY AGREEMENT</b> .....	<b>11</b>
4.1 Authority.....	11
4.2 Additional Lands North, Additional Lands West, Additional Lands South – A and Additional Lands South - B. ....	11
4.3 Production Licences and Interests. ....	12
4.4 Crystallization of Royalty Regulations.....	13
4.5 Amendments to the Royalty Regulations .....	13
4.6 Other Amendments. ....	14
4.7 Pre-Development Costs. ....	15
4.8 No Disallowance on Timing. ....	15
4.9 Eligible Transportation Costs. ....	15

4.10	Commencement Date.....	16
4.11	Benefits Agreement. ....	16
<b>5.</b>	<b>PROVINCIAL REVIEW, APPROVAL AND SUPPORT .....</b>	<b>17</b>
5.1	Support of Province. ....	17
<b>6.</b>	<b>ASSIGNMENT .....</b>	<b>17</b>
6.1	Assignment of Lands. ....	17
6.2	Continuing Liability.....	18
<b>7.</b>	<b>NOTICES.....</b>	<b>18</b>
7.1	Form and Delivery. ....	18
7.2	Delivery.....	19
7.3	Change of Address.....	19
<b>8.</b>	<b>SEPARATE RIGHTS AND OBLIGATIONS .....</b>	<b>20</b>
8.1	Proponents.....	20
8.2	Separate Treatment. ....	20
8.3	Consistent Treatment. ....	20
8.4	OilCo.....	20
8.5	US Tax. ....	21
<b>9.</b>	<b>LEGISLATIVE AND REGULATORY STABILITY .....</b>	<b>21</b>
9.1	Royalty.....	21
9.2	Interests in the Lands. ....	21
<b>10.</b>	<b>ARBITRATION .....</b>	<b>22</b>
10.1	Arbitration.....	22
10.2	Common Issues.....	22
<b>11.</b>	<b>MISCELLANEOUS .....</b>	<b>22</b>
11.1	Prior Agreements. ....	22
11.2	Courts and Governing Law.....	23
11.3	Amendment.....	23
11.4	Waiver.....	23
11.5	Severability. ....	23
11.6	Survival.....	23
11.7	Drafting .....	24
11.8	Further Assurances.....	24
11.9	No Third Party Benefits.....	24
11.10	Enurement. ....	24
11.11	Counterparts.....	24

EXHIBIT “A-1” DESCRIPTION OF LANDS - PRIMARY .....	27
EXHIBIT “A-2” DESCRIPTION OF ADDITIONAL LANDS SOUTH.....	28
EXHIBIT “A-3” DESCRIPTION OF ADDITIONAL LANDS NORTH .....	29
EXHIBIT “A-4” DESCRIPTION OF ADDITIONAL LANDS WEST.....	30
EXHIBIT “A-5” MAP OF LANDS, LANDS-SOUTH, LANDS-WEST, LANDS-NORTH .....	31
EXHIBIT “A-6” BOARD MAP OF HEBRON-BEN NEVIS NEVIS-WEST BEN NEVIS FIELDS ...	32
EXHIBIT “B” ASSIGNMENT AGREEMENT .....	33
EXHIBIT “C” PROVISIONS OF THE ROYALTY REGULATIONS WHICH ARE REVISED ARE REVISED FOR PURPOSES OF THIS AGREEMENT PURSUANT TO SECTION 4.1 .....	36
EXHIBIT “D” CATEGORIZATION OF ROYALTY REGULATIONS .....	48
EXHIBIT “E” HEBRON TRANSPORATION ROYALTY PRINCIPLES .....	50

## **HEBRON FISCAL AGREEMENT**

**THIS FISCAL AGREEMENT ("Agreement")** dated as of August 20<sup>th</sup>, 2008 is made by and between each of the following:

**HER MAJESTY THE QUEEN IN RIGHT OF NEWFOUNDLAND AND LABRADOR;**

**CHEVRON CANADA LIMITED**, a body corporate, existing under the laws of Canada, having its head office in the City of Calgary, in the Province of Alberta ("**Chevron**");

**EXXONMOBIL CANADA PROPERTIES**, a general partnership, formed and existing under the laws of the Province of Alberta, having its head office in the City of Calgary, in the Province of Alberta ("**ExxonMobil**");

**EXXONMOBIL CANADA LTD.**, a body corporate, incorporated under the laws of Canada, having its head office in the City of Calgary, in the Province of Alberta and a partner in ExxonMobil ("**EMC**");

**STATOILHYDRO CANADA LTD.**, a body corporate, amalgamated under the laws of Alberta, having its head office in the City of Calgary, in the Province of Alberta ("**StatoilHydro**");

**PETRO-CANADA**, a body corporate, incorporated under the laws of Canada, having its head office in the City of Calgary, in the Province of Alberta ("**Petro-Canada**"); and

**OIL AND GAS CORPORATION OF NEWFOUNDLAND AND LABRADOR INC.**, a body corporate, incorporated under the laws of the Province of Newfoundland and Labrador, having its head office in the City of St. John's, in the Province of Newfoundland and Labrador ("**OilCo**").

### **RECITALS**

- A. The Proponents are the beneficial owners of interests in the Lands - Primary and are or may become beneficial owners of interests in the Additional Lands South - A, the Additional Lands South - B, the Additional Lands North, and the Additional Lands West, as described herein.
- B. Section 33 of the Petroleum and Natural Gas Act authorizes the Province to make an agreement that is inconsistent with the Royalty Regulations.
- C. The Province and the Proponents wish to set forth in this Agreement their respective rights and obligations in respect of royalties, fiscal arrangements, and certain other matters.

In consideration of the mutual promises set out in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

## **1. DEFINITIONS, INTERPRETATION AND EXHIBITS**

### **1.1 Definitions.**

In this Agreement, unless expressly stated to the contrary or the context otherwise requires:

- (A) words and phrases used in this Agreement that are:
  - (1) defined in this Section 1 shall have the meanings given to them in this Section 1;
  - (2) not defined in this Section 1 but are defined in the Royalty Regulations;
    - (i) being used in interpreting the sections in the column identified as “Crystallized” in Exhibit “D”, or for the purpose of establishing the base used in determining increases or decreases in Section 4.5(B), shall have the meanings as set out in the Royalty Regulations as they existed on August 16, 2007 for the purpose of interpreting those sections; and
    - (ii) except as provided in (i), shall have the meanings as set out in the Royalty Regulations as modified by this Agreement.
- (B) “Accord Acts” means the Federal Accord Act and the Provincial Accord Act.
- (C) “Acquisition Agreement” means the agreement among the Proponents dated the Effective Date and titled “Hebron Acquisition Agreement”.
- (D) “Additional Lands North” means those portions of the Offshore Area described in Exhibit “A-3”.
- (E) “Additional Lands South - A” means that portion of the Offshore Area described under the heading Additional Lands South - A in Exhibit “A-2”.
- (F) “Additional Lands South - B” means that portion of the Offshore Area described under the heading Additional Lands South - B in Exhibit “A-2”.
- (G) “Additional Lands West” means that portion of the Offshore Area described in Exhibit “A-4”.
- (H) “Affiliate” shall have the same meaning as “affiliated persons” in Section 251.1 of the *Income Tax Act* (Canada), as amended from time to time.

- (I) “Agreement”, “this Agreement” or “the Agreement” means this agreement including all Exhibits.
- (J) “Assignment” means an assignment, transfer or other disposition (including a distribution in the course of a winding-up).
- (K) “Benefits Agreement” means the agreement between the Proponents and the Province dated the Effective Date and titled “Hebron Benefits Agreement”.
- (L) “Board” means the Canada-Newfoundland and Labrador Offshore Petroleum Board established pursuant to the Accord Acts.
- (M) “Business Day” means any day other than a Saturday, Sunday or a statutory holiday in Calgary, Alberta or St. John’s, Newfoundland and Labrador.
- (N) “Canada” means Her Majesty the Queen in Right of Canada or the geographical territory of Canada as the context may require.
- (O) “Claims” includes claims, demands, complaints, actions, suits, causes of action, assessments or reassessments, charges, judgments, debts and liabilities, whether contingent or otherwise.
- (P) “Development Plan” means the development plan for the Hebron Project submitted to and approved by the Board in accordance with the Accord Acts.
- (Q) “Development Project” means the: (i) exploration, development and production of oil resources from the Lands; (ii) ancillary thereto, the production of gas from the Lands for use solely for the purpose of production of oil from the Lands, not for commercial production and sale; and (iii) the ownership, construction, operation, maintenance, decommissioning and abandonment of all the assets in which the Proponents hold an undivided interest in relation to such activities.
- (R) “Effective Date” means the first date indicated on the first page of this Agreement.
- (S) “Federal Accord Act” means the *Canada-Newfoundland Atlantic Accord Implementation Act*, S.C. 1987, c.3, as amended from time to time, and includes the regulations made and, from time to time, in force under that Act.
- (T) “Formal Agreements” means this Agreement, the Acquisition Agreement and the Benefits Agreement, collectively.
- (U) “Hebron Project” means the initial Development Project using a GBS, which is a stand alone reinforced concrete gravity base substructure, the purpose of which is to support the topsides, resist environmental loads and store produced oil prior to shipping.
- (V) “Lands - Primary” means the lands described in Exhibit “A-1”.

- (W) “Lands” means collectively the Lands - Primary, as well as each of the Additional Lands South - A, the Additional Lands South - B, the Additional Lands North, and the Additional Lands West, which have satisfied the conditions making this Agreement applicable to those Lands under Sections 4.2.
- (X) “Minister” means the minister responsible to administer the Petroleum and Natural Gas Act and the Royalty Regulations.
- (Y) “Offshore Area” means the “offshore area” as defined under the Accord Acts.
- (Z) “Parties” means the parties to this Agreement and “Party” means any one of those parties.
- (AA) “Person” means a natural person, firm, trust, partnership, association, corporation, unincorporated organization, union, government or government agency.
- (BB) “Petroleum and Natural Gas Act” means the *Petroleum and Natural Gas Act* R.S.N.L. 1990, c.P-10 as amended from time to time and includes the regulations made and, from time to time, in force under that Act.
- (CC) “Pool 3 Development” means the Ben Nevis reservoir, more specifically identified as the stratigraphic interval occurring between 2377 to 2712 meter rotary table in the Mobil et al Ben Nevis I-45 well, contained within the Ben Nevis field as described on the map attached as Exhibit “A-6”, which is separated from the West Ben Nevis field by a bounding fault, as shown on that map.
- (DD) “Proponents” means, collectively, Chevron, ExxonMobil (including EMC in its capacity as a partner in ExxonMobil), StatoilHydro, Petro-Canada, and OilCo, and any successors to, or permitted assigns of, the undivided share in the Lands of any of those Persons, and “Proponent” means any one of those Proponents.
- (EE) “Province” means the Province of Newfoundland and Labrador, Her Majesty the Queen in Right of the Province of Newfoundland and Labrador, or the geographical territory of the Province of Newfoundland and Labrador, as the context may require.
- (FF) “Provincial Accord Act” means the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, R.S.N.L. 1990, c. C-2, as amended, and includes the regulations made and, from time to time, in force under that Act.
- (GG) “Royalty Regulations” means the *Royalty Regulations, 2003* promulgated by Newfoundland and Labrador under the Petroleum and Natural Gas Act, and includes any promulgated amendments, from time to time and any replacement regulations upon their repeal.



## **1.2 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and shall be interpreted and enforced without giving paramountcy to any part of this Agreement over any other part.

## **1.3 Interpretation of Agreements, Exhibits and Royalty Regulations.**

- (A) All references in the Royalty Regulations as modified by this Agreement to (i) “royalty share” or “royalties payable”, and (ii) rights and remedies applicable to “royalty share” or “royalties payable”, shall be interpreted as including the basic, incremental and additional royalties payable under the Royalty Regulations as modified by this Agreement.
- (B) All references in the Royalty Regulations as modified by this Agreement to the “regulations” shall be interpreted as referring to the Royalty Regulations as modified by this Agreement.
- (C) All references in the Royalty Regulations as modified by this Agreement to a lease shall mean a production licence pursuant to section 30(1)(c) of the Petroleum and Natural Gas Act.
- (D) All references in this Agreement to a Proponent shall mean, upon a production licence being issued in respect of any of the Lands, the Proponent in its capacity as an interest holder under the Royalty Regulations as modified by this Agreement. ExxonMobil and EMC (solely in its capacity as a partner in ExxonMobil), or an Affiliate thereof under Section 3.2(F), hold the same interest.
- (E) Where this Agreement refers to specific sections of the Royalty Regulations, such reference shall be interpreted to be a reference to such section in the Royalty Regulations as they existed on August 16, 2007 as modified by this Agreement.

## **1.4 Divisions and Headings.**

The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect or be considered in the construction or interpretation of this Agreement.

## **1.5 Section and Exhibit Reference.**

Unless the context otherwise requires, references to a Section, Subsection, or Exhibit shall be to this Agreement.

## **1.6 Number, Gender and Inclusion.**

Unless the context otherwise requires, in this Agreement:

- (A) words importing the singular shall include the plural and vice versa;

- (B) words importing a particular gender shall include all genders; and
- (C) references to "includes" or "including" shall mean "includes (or including) without limitation".

### **1.7 Independent Interpretation.**

Except, and only to the extent, expressly set forth in Sections 4.11, 6.1(C), 9.2, 10.2, and in the Definitions and Sections 4, 5, 6, 8 and 10 of Exhibit "E" of this Agreement, this Agreement shall be interpreted and enforced without reference to the provisions of any other agreement or document made by, between or among any one or more of the Parties, or any one or more of the Parties and other Persons. In particular, without limitation:

- (A) no remedy pursuant to the Benefits Agreement shall have any effect under this Agreement; and
- (B) no remedy under this Agreement shall be exercised in respect of any default or dispute under any other agreement including the Benefits Agreement;

except as expressly stated in Sections 4.11, 6.1(C) and 10.2.

### **1.8 Relationship of Formal Agreements.**

The Parties acknowledge the execution of all of the Formal Agreements at the same time and that this Agreement:

- (A) is a separate, independent document from the other Formal Agreements; and
- (B) except as expressly set forth in Sections 4.11, 6.1(C), 9.2 and 10.2 of this Agreement, shall not be affected by any other Formal Agreement.

### **1.9 Currency References.**

Unless specifically stated otherwise, all monetary amounts refer to the lawful currency of Canada.

### **1.10 Incorporation of Exhibits.**

Exhibits "A-1", "A-2", "A-3", "A-4", "A-5", "A-6", "B", "C", "D" and "E" are incorporated into and form part of this Agreement.

## **2. EFFECTIVE DATE AND TERM**

### **2.1 Effective Date.**

This Agreement shall become effective upon the Effective Date.

## **2.2 Term.**

Except as expressly otherwise provided herein, this Agreement shall remain in force until the date that all accounts between the Parties have been finally settled following the termination of any exploration, development and production of hydrocarbon resources from the Lands and completion of all final decommissioning, abandonment, reclamation and environmental remediation activities associated with the production of oil from the Lands, and thereafter shall continue in force with respect to all matters occurring prior to that date.

## **2.3 Project Sanction Obligations.**

The entering into of this Agreement does not obligate the Proponents to sanction or continue the Hebron Project or any other Development Project, which shall be in the sole discretion of the Proponents.

## **2.4 Time Limit for Development.**

If, at any time after the tenth anniversary of the Effective Date, the Proponents have not obtained approval from the Board of the Development Plan, absent agreement to the contrary the Province shall have the right to terminate this Agreement on thirty (30) days notice.

# **3. REPRESENTATIONS, WARRANTIES AND COVENANTS**

## **3.1 Representations and Warranties of Chevron.**

Chevron represents and warrants to the Province that, at the date hereof:

(A) Chevron:

- (1) is a corporation in good standing under the laws of its jurisdiction of incorporation and is qualified to carry on business in the Province and the Offshore Area; and
- (2) has the requisite authority, power and qualifications to enter into this Agreement;

(B) this Agreement has been duly executed and delivered by Chevron and this Agreement constitutes legal, valid and binding obligations of Chevron enforceable against it in accordance with its terms; and

(C) none of the execution, delivery or performance of this Agreement by Chevron does or, with the giving of notice or the lapse of time or both, will:

- (1) violate or conflict with any of the provisions of the constituting documents of Chevron; or

- (2) conflict with, result in a breach of, constitute a default under or accelerate or permit the acceleration of the performance required by any agreement to which Chevron is a party.

### **3.2 Representations and Warranties of ExxonMobil and EMC.**

ExxonMobil and EMC each represent and warrant to the Province that, at the date hereof:

- (A) ExxonMobil is a general partnership constituted and existing under the laws of the Province of Alberta and is qualified to carry on business in the Province and the Offshore Area and EMC is a corporation constituted and existing under the laws of Canada and is qualified to carry on business in the Province and the Offshore Area;
- (B) the partners constituting ExxonMobil are EMC and ExxonMobil Canada Resources Company;
- (C) each of the partners constituting ExxonMobil:
  - (1) has the requisite power, authority and qualification to be a partner in ExxonMobil; and
  - (2) is a corporation in good standing under the laws of its jurisdiction of incorporation and is qualified to carry on business in the Province and the Offshore Area;
- (D) this Agreement has been duly executed and delivered by ExxonMobil and EMC and this Agreement constitutes legal, valid and binding obligations of ExxonMobil and EMC enforceable against them in accordance with its terms;
- (E) none of the execution, delivery or performance of this Agreement by ExxonMobil or EMC does or, with the giving of notice or the lapse of time or both, will:
  - (1) violate or conflict with any of the constituting documents of ExxonMobil or EMC; or
  - (2) conflict with, result in a breach of, constitute a default under or accelerate or permit the acceleration of the performance required by any agreement to which ExxonMobil or EMC is a party; and
- (F) If the Accord Acts require that a production license be held by a corporation, any production licence or licenses relating to the Lands will be held by EMC or by another Affiliate corporation. If such interest is held by an Affiliate corporation, that Affiliate will be added as a party to this Agreement.

### **3.3 Representations and Warranties of Petro-Canada.**

Petro-Canada represents and warrants to the Province that, at the date hereof:

- (A) Petro-Canada:
  - (1) is a corporation in good standing under the laws of its jurisdiction of incorporation and is qualified to carry on business in the Province and the Offshore Area; and
  - (2) has the requisite power, authority and qualification to enter into this Agreement;
- (B) this Agreement has been duly executed and delivered by Petro-Canada and this Agreement constitutes legal, valid and binding obligations of Petro-Canada enforceable against it in accordance with its terms; and
- (C) none of the execution, delivery or performance of this Agreement by Petro-Canada does or, with the giving of notice or the lapse of time or both, will:
  - (1) violate or conflict with any of the provisions of the constituting documents of Petro-Canada; or
  - (2) conflict with, result in a breach of, constitute a default under or accelerate or permit the acceleration of the performance required by any agreement to which Petro-Canada is a party.

### **3.4 Representations and Warranties of StatoilHydro.**

StatoilHydro represents and warrants to the Province that, at the date hereof:

- (A) StatoilHydro:
  - (1) is a corporation in good standing under the laws of its jurisdiction of incorporation and is qualified to carry on business in the Province and the Offshore Area; and
  - (2) has the requisite power, authority and qualification to enter into this Agreement;
- (B) this Agreement has been duly executed and delivered by StatoilHydro and this Agreement constitutes legal, valid and binding obligations of StatoilHydro enforceable against it in accordance with its terms, and
- (C) none of the execution, delivery or performance of this Agreement by StatoilHydro does or, with the giving of notice or the lapse of time or both, will:
  - (1) violate or conflict with any of the provisions of the constituting documents of StatoilHydro; or

- (2) conflict with, result in a breach of, constitute a default under or accelerate or permit the acceleration of the performance required by any agreement to which StatoilHydro is a party.

### **3.5 Representation and Warranties of OilCo.**

OilCo represents and warrants to the Province that, at the date hereof:

- (A) OilCo:
  - (1) is a corporation in good standing under the laws of the Province and is qualified to carry on business in the Province and the Offshore Area; and
  - (2) has the requisite power, authority and qualification to enter into this Agreement;
- (B) this Agreement has been duly executed and delivered by OilCo and this Agreement constitutes legal, valid and binding obligations of OilCo enforceable against it in accordance with its terms; and
- (C) none of the execution, delivery or performance of this Agreement by OilCo does or, with the giving of notice or the lapse of time or both, will:
  - (1) violate or conflict with any of the provisions of the constituting documents of OilCo; or
  - (2) conflict with, result in a breach of, constitute a default under or accelerate or permit the acceleration of the performance required by any agreement to which OilCo is a party.

### **3.6 Representations and Warranties of the Province.**

The Province represents and warrants to each Proponent that:

- (A) it has all the requisite power and authority to enter into this Agreement;
- (B) it has duly executed and delivered this Agreement; and
- (C) it has all the requisite power and authority to perform its obligations in accordance with the terms of this Agreement.

### **3.7 Exclusion of Other Representations and Warranties.**

The representations and warranties of a Party expressly set forth in this Agreement are the sole representations and warranties of that Party in respect of the subject matter of this Agreement. All other representations and warranties, whether express or implied, statutory or otherwise, are, to the extent permitted by law, hereby expressly excluded.

## **4. ROYALTY AGREEMENT**

### **4.1 Authority.**

The Parties agree that this Agreement is an agreement within the meaning of section 33 of the Petroleum and Natural Gas Act. Royalties payable on oil produced from the Lands shall be determined pursuant to the application of the Royalty Regulations as modified pursuant to this Agreement, with:

- (A) the provisions set forth and described in Exhibit “C” being read as having been inserted as, or as replacing, provisions of the Royalty Regulations as specifically referenced therein; and
- (B) the application of any amendments to the Royalty Regulations subsequent to August 16, 2007 being applicable to the Proponents only if expressly permitted in accordance with this Agreement.

Where and to the extent a provision of this Agreement is inconsistent with a provision of the Royalty Regulations or any other regulation promulgated under Part II of the Petroleum and Natural Gas Act, the relevant provision of this Agreement shall prevail over such inconsistent provision of the Royalty Regulations or any other regulation promulgated under Part II of the Petroleum and Natural Gas Act, to and only to the extent necessary to give effect to the relevant provision of this Agreement.

### **4.2 Additional Lands North, Additional Lands West, Additional Lands South - A and Additional Lands South - B.**

The Province agrees that each of the Additional Lands North, the Additional Lands West, Additional Lands South - A and the Additional Lands South - B will become part of the Lands, upon satisfaction of the following conditions:

- (A) The Additional Lands North in the event that OilCo is or has been offered, pursuant to Section 8.12 of the Acquisition Agreement, 4.9% of the aggregated legal and beneficial interests of all interest holders in the Additional Lands North;
- (B) The Additional Lands West in the event that OilCo is or has been offered, pursuant to Section 8.13 of the Acquisition Agreement, 4.9% of the aggregated legal and beneficial interests of all interest holders in the Additional Lands West;
- (C) The Additional Lands South - A in the event that OilCo is or has been offered, pursuant to Section 8.10 of the Acquisition Agreement, 4.9% of the aggregated legal and beneficial interests of all interest holders in the Additional Lands South – A; and
- (D) The Additional Lands South - B in the event that OilCo is or has been offered, pursuant to Section 8.11 of the Acquisition Agreement, 4.9% of the aggregated legal and beneficial interests of all interest holders in the Additional Lands South – B

(the Additional Lands North, the Additional Lands West, the Additional Lands South - A and the Additional Lands South - B, the “**Additional Lands**”).

To the extent the conditions in Sections 4.2(A), (B), (C) or (D), as the case may be, require satisfaction of criteria under the Acquisition Agreement, the coordination of the satisfaction of such criteria with other interest holders on the Additional Lands shall be the responsibility of the Proponents. Where the conditions have been satisfied, and the Proponents, other than OilCo, notify the Minister that this has occurred, the terms of this Agreement shall apply pursuant to Sections 4.2(A), (B), (C) or (D), as the case may be, and the interest holders in such Additional Lands shall be made parties to this Agreement and be included in the definition of “Proponents” hereunder.

The Province agrees that if at any time terms substantially equivalent to the Royalty Regulations as modified by this Agreement are applicable to the oil produced by any interest holder (other than a Proponent) from any Additional Lands (other than in accordance with Section 4.2(A), (B), (C) or (D)), and the Proponents, other than OilCo, who own an interest in such Additional Lands offer to transfer 4.9% of those Proponents’ legal and beneficial interest in such Additional Lands to OilCo for no consideration, the terms of this Agreement shall apply, and royalties payable by those Proponents from such Additional Lands shall be determined pursuant to the Royalty Regulations as modified by this Agreement.

#### **4.3 Production Licences and Interests.**

- (A) Where more than one production licence is issued to the Proponents for the production of oil from the Lands, those production licences shall be treated collectively as one production licence for purposes of the calculation and payment of royalties on oil produced from the Lands pursuant to section 4(4) of the Royalty Regulations.
- (B) The Proponents will use all reasonable efforts to cause the proportionate interests held by each of the Proponents to be the same in all production licenses subject to this Agreement, unless otherwise agreed.
- (C) If the production licences subject to this Agreement are not held in accordance with Section 4.3(B), the Province and the Proponents acknowledge that this Agreement or the Royalty Regulations may be required to be amended to facilitate the administration of the collective treatment of the production licenses pursuant to Section 4.3(A). If amendments to the Royalty Regulations are required, such amendments will be applicable to oil produced from the Lands only to the extent necessary to facilitate the administration of such collective treatment and to align the administration for the collective treatment with the commercial agreements among the Proponents over such licenses.
- (D) Where a production licence is issued to the Proponents which includes any lands in the Offshore Area (including any of the Additional Lands South - A, the Additional Lands South - B, the Additional Lands North, and the Additional



Lands West which have not become Lands pursuant to Section 4.2) and the Lands, this Agreement shall only apply to that portion of the oil which originated from the Lands.

#### **4.4 Crystallization of Royalty Regulations.**

Royalty payable by the Proponents on oil produced from the Lands shall be determined pursuant to the Royalty Regulations, as modified by this Agreement.

To the extent a provision of the Royalty Regulations in place at any given time is the same as a provision which was in effect as of August 16, 2007, such provision of the Royalty Regulations shall apply to the calculation of royalties payable on oil produced from the Lands as a matter of law, except as modified by this Agreement.

To the extent a provision of the Royalty Regulations in place at any given time is not the same as a provision of, or is in addition to, the Royalty Regulations as they existed on August 16, 2007, as modified by this Agreement, such provision shall not apply to the calculation of royalty payable by the Proponents on oil produced from the Lands, except to the extent such provision is expressly permitted in accordance with Sections 4.3(C), 4.5(B), 4.6 or 4.9.

#### **4.5 Amendments to the Royalty Regulations.**

- (A) Amendments, modifications, variations or other changes, including the repeal and replacement thereof, of the provisions of the Royalty Regulations as they existed on August 16, 2007 and identified in the column labeled as “Crystallized” in Exhibit “D”, shall not apply to the Proponents in respect of royalties payable on oil produced from the Lands.
- (B) Nothing in the Agreement shall restrict the Province from making amendments, modifications, variations or other changes to the Royalty Regulations (including their repeal and replacement) that relate to a provision identified in the column labeled “Administrative” in Exhibit “D” (each such amendment, modification, variation, and change shall be referred to in this Section 4.5(B) as an “Amendment”), and such Amendments shall apply to the Royalty Regulations as modified by this Agreement unless the effect of a single Amendment, or the net effect of more than one Amendment introduced contemporaneously, can be demonstrated by the Proponents to result in:
  - (1) an actual increase, or an expected increase, of greater than \$10 million over the life of the Hebron Project and the Development Project for the Pool 3 Development in the:
    - (i) costs to the Proponents collectively of compliance with the Amendment; as well as
    - (ii) aggregate royalty share receivable by the Province from the Proponents in relation to the Hebron Project and the Development

Project for the Pool 3 Development solely as a result of the Amendment; or

- (2) a cumulative net actual increase, or a cumulative expected net increase, of greater than \$30 Million over the life of the Hebron Project and the Development Project for the Pool 3 Development in the:
  - (i) costs to the Proponents collectively of compliance with all Amendments; as well as
  - (ii) aggregate royalty share receivable by the Province from the Proponents in relation to the Hebron Project and the Development Project for the Pool 3 Development solely as a result of all Amendments.

The amount of costs included for the calculations in (1) and (2) above shall be net of any decrease in royalties payable as a result of such costs being eligible costs under the Royalty Regulations as modified by this Agreement.

The Proponents shall notify the Minister of any Amendment that they have determined to result in costs or royalties payable in excess of the limits provided in this Section 4.5(B). If the Minister does not agree with the Proponents' determination, the Proponents may refer the matter to arbitration in accordance with Section 10.

Where the Minister agrees with the Proponents' determination, or where there is an arbitration respecting (1) or (2) above and the Proponents are successful in such arbitration, such Amendment shall not apply, and the Proponents will be entitled to calculate their royalty obligations as if such Amendment had not been made. The application of all previous Amendments shall not be affected.

#### **4.6 Other Amendments.**

Nothing in this Agreement shall restrict the application to the Lands, to oil produced from the Lands, or to the Proponents in respect to their interest in the Lands of:

- (A) amendments to types and amounts of penalties under Section 71 of the Royalty Regulations. Such amendments shall not be subject to review or arbitration under the Royalty Regulations or hereunder, with the exception that the Proponents shall be entitled to arbitrate whether there has been a violation which gives rise to a penalty under Section 71; and
- (B) amendments to the Royalty Regulations which are made subsequent to the Minister, or if there is dispute, an arbitrator, having determined pursuant to section 37 of the Petroleum and Natural Gas Act that an action, agreement, arrangement, transaction or operation of a Proponent artificially or unduly reduced the amount of royalty share due to the Crown under this Agreement, where such amendments are reasonably necessary to prevent such activity in the future.

#### **4.7 Pre-Development Costs.**

For purposes of the calculation of eligible pre-development costs as determined pursuant to the subsection 64(3) of the Royalty Regulations as modified by this Agreement:

- (A) the amount certified by the Minister pursuant to subsection 64(2) of the Royalty Regulations as modified by this Agreement as certified pre-development costs is \$301,000,000.00, of which \$4,450,000.00 is overhead, for such costs incurred prior to and including December 31, 2007; and
- (B) for costs incurred after January 1, 2008, such costs as are incurred, which amount is subject to audit pursuant to the Royalty Regulations as modified by this Agreement.

#### **4.8 No Disallowance on Timing.**

It is agreed that a \$1,000,000.00 contribution by the Proponents to Memorial University of Newfoundland and Labrador and a \$1,000,000.00 travel fund established by the Proponents for contractors in relation to the Hebron Project shall not be disallowed as eligible expenses for royalty purposes merely because they occur before the commencement date as described in Section 4.10.

#### **4.9 Eligible Transportation Costs.**

For the purposes of transportation costs, it is agreed that:

- (A) The transportation principles applicable to this Agreement are set forth in Exhibit “E” (the “Principles”). For the purposes of this Agreement, Section 70 of the Royalty Regulations will have no application to oil produced from the Lands.
- (B) The Parties acknowledge that the Province intends to amend the Royalty Regulations to implement an eligible transportation cost system for oil produced from the Lands (the “Transportation Amendments”) and the Province agrees that any Transportation Amendments applicable to oil produced from the Lands will be consistent with the Principles.
- (C) Until Transportation Amendments applicable to oil produced from the Lands are promulgated, the eligibility of transportation costs for oil produced from the Lands will be determined in accordance with the Principles.
- (D) Once the Province promulgates Transportation Amendments applicable to oil produced from the Lands:
  - (1) Where such Transportation Amendments are consistent with the Principles, the Transportation Amendments shall apply, and the Principles will continue to apply with respect to the interpretation of the Transportation Amendments.

- (2) If the Proponents believe that any such Transportation Amendments are inconsistent with the Principles, then the Proponents will notify the Minister of the inconsistency between such Transportation Amendments and the Principles.
  - (i) If the Minister notifies the Proponents that the Minister agrees with the Proponents, such Transportation Amendments shall not apply and the eligible transportation costs related to the Lands will be determined in accordance with the Principles to the extent necessary to give effect to these Principles.
  - (ii) If the Minister fails to notify the Proponents of the Minister's agreement within 180 days after the notification described in (i) or the Minister notifies the Proponents that the Minister does not agree with the Proponents, the Proponents may refer the matter to arbitration in accordance with Section 10.1. Where any Transportation Amendments are found by a court or arbitrator to be inconsistent with the Principles, the Principles shall prevail over such inconsistent Transportation Amendments, to the extent necessary to give effect to these Principles.
- (E) Any disputes relating to these transportation Principles, the Transportation Amendments or any inconsistencies between them, shall be arbitrable in accordance with Section 10.

#### **4.10 Commencement Date.**

The commencement date as determined pursuant to section 14 of the Royalty Regulations as modified by this Agreement shall be the date on which the Proponents execute the project authorization for expenditure sanctioning the Hebron Project to proceed. The Proponents shall provide the Province with notice of such execution within ten (10) Business Days thereof.

#### **4.11 Benefits Agreement.**

- (A) Notwithstanding sections 10, 11 or 13 of the Royalty Regulations as modified by this Agreement, the Minister may suspend the calculation of basic royalty return allowance, Tier I and Tier II return allowance in accordance with Section 2(N) of Exhibit "F" of the Benefits Agreement. In such case, the suspension shall be applied as follows:
  - (1) the term of each such suspension shall be nine months;
  - (2) if there is more than one such suspension, the terms shall run consecutively; and
  - (3) the first suspension period shall commence with production start up.

- (B) Where an arbitration process results in a remedy being ordered against any Proponent individually, or all Proponents collectively pursuant to the Benefits Agreement, no costs associated with either the arbitration process resulting in such an order or the implementation or satisfaction of the remedy so ordered, including any remedy for substituted performance, shall be an eligible cost under the Royalty Regulations as modified by this Agreement.

## **5. PROVINCIAL REVIEW, APPROVAL AND SUPPORT**

### **5.1 Support of Province.**

The Province shall, on the request of the Proponents:

- (A) assist and support each of the Proponents in seeking modifications for federal fiscal enhancements to the extent that such enhancements do not, in the opinion of the Province, have a negative financial impact on the Province, or where such enhancements do have a negative financial impact, they have been offset to the satisfaction of the Province by the Proponents;
- (B) use all reasonable efforts to assist the Proponents in securing commitments from Canada and municipal governments in the Province regarding the legal and regulatory framework applicable to a Development Project; and
- (C) support the efforts of the Proponents in responding to any future legislative and regulatory changes that may be proposed by Canada or a municipal government in the Province that might adversely affect any Development Project, provided such action does not negatively impact the Province or require the Province to take any legislative or regulatory action respecting municipalities.

## **6. ASSIGNMENT**

### **6.1 Assignment of Lands.**

Where a Proponent makes an Assignment of all or part of its interest in the Lands, an Assignment by that Proponent of its rights and obligations under this Agreement relating to that assigned interest shall not be effective for the purposes of this Agreement unless:

- (A) such Assignment is made in conjunction with the Assignment by that Proponent of an equivalent proportion of its interest in the Lands;
- (B) prior to such Assignment becoming effective for the purposes of this Agreement, the Proponent and the intended assignee have executed and delivered to the Province an agreement in form and content substantially the same as the form of Assignment Agreement contained in Exhibit "B";
- (C) the Proponent contemporaneously assigns an equivalent proportion of its rights and obligations under the Formal Agreements to the assignee as part of such

transaction, in compliance with the terms contained therein; and

- (D) the Proponent has complied with the requirements of section 40 of the Royalty Regulations as modified by this Agreement with respect to the royalty share payable pursuant to the Royalty Regulations as modified by this Agreement.

## **6.2 Continuing Liability.**

An assigning Proponent who satisfies the requirements of Subsection 6.1:

- (A) shall be released and discharged from the observance and performance of (i) all terms and covenants of this Agreement, and (ii) all obligations and liabilities of this Agreement, which arise or occur on or after the effective date of such assignment with respect to the assigned rights, duties and obligations of the assignor under this Agreement; and
- (B) shall not be released or discharged from the observance and performance of all terms and covenants of this Agreement and any term, covenant, duty, obligation or liability which relates to the rights, duties and obligations of the assignor under this Agreement retained by the assigning Proponent.

## **7. NOTICES**

### **7.1 Form and Delivery.**

Notices that are required or permitted under this Agreement will be in writing and will be delivered by hand or by courier, to the Party to whom it is to be given at its address set forth below:

**the Province: Her Majesty the Queen in Right of the Province of  
Newfoundland and Labrador**

P. O. Box 8700, Main Floor  
East Block, Confederation Building  
St. John's, Newfoundland  
A1B 4J6

Attention: Deputy Minister of Natural Resources  
Fax: (709) 729-0059  
Telephone: (709) 729-2766

**Proponents: Chevron Canada Limited**

500 - 5 Avenue S.W.  
Calgary, Alberta  
T2P 0L7

Attention: General Manager, Asset Development  
Fax: (403) 234-5947  
Telephone: (403) 234-5000

**ExxonMobil Canada Properties and ExxonMobil Canada Ltd.**

Suite 1000,  
1701 Hollis Street  
Halifax, Nova Scotia  
B3J 3M8  
Attention: President  
Fax: (902) 490-8779  
Telephone: (902) 490-8910

**StatoilHydro Canada Ltd.**

2100, 635- 8<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
T2P 3M3  
Attention: Chief Financial Officer  
Fax : (403) 234-0103  
Telephone: (403) 234-0123

**Petro-Canada**

Scotia Centre, 235 Water Street  
St. John's, Newfoundland and Labrador  
A1C 1B6  
Attention: Vice President, East Coast  
Fax: (709) 724-2901  
Telephone: (709) 778-3500

**Oil and Gas Corporation of Newfoundland and Labrador Inc.**

500 Columbus Drive  
P.O. Box 12400  
St. John's, NL  
A1B 4K7  
Attention: General Counsel and Corporate Secretary  
Fax: (709) 737-1782  
Telephone: (709) 737-1239

**7.2 Delivery.**

For the purposes of this Agreement, notices given by one Party to any other Party will be considered to have been given at the time of delivery.

**7.3 Change of Address.**

A Party may give notice of a change of address in the manner provided in Section 7.1, in which event notices shall thereafter be given to that Party at such changed address.

## **8. SEPARATE RIGHTS AND OBLIGATIONS**

### **8.1 Proponents.**

The rights and obligations of each Proponent under this Agreement are separate to that Proponent with respect to its respective undivided interest in the Lands. To the extent that this Agreement imposes a separate liability upon a Proponent to perform a duty or obligation, or creates a separate right in favour of a Proponent, then only that Proponent, and no other Proponent, shall be liable for the performance of such duty or obligation, or entitled to such right. Nothing in this Agreement shall be construed as creating any joint, joint and several or collective rights or obligations on the part of the Proponents.

### **8.2 Separate Treatment.**

This Agreement is made between the Province and each of the Proponents separately with respect to its respective undivided interest in the Lands. In the administration of this Agreement the Province will deal separately with each Proponent. Any actions or omissions taken or not taken, any waivers granted or any benefits or indulgences conferred by:

- (A) the Province with respect to any Proponent shall not benefit another Proponent or prejudice or limit the Province in its dealings with any other Proponent; and
- (B) any Proponent with respect to the Province shall not benefit or prejudice or limit any other Proponent in its dealings with the Province;

with respect to that or any other matter under this Agreement.

### **8.3 Consistent Treatment.**

The Province shall, in similar circumstances, afford a similar interpretation and application of the terms of this Agreement to each Proponent to that afforded another Proponent. If a Proponent disagrees with the Province's determination of similar circumstances or similar treatment, the Proponent may submit the disagreement to arbitration under the Royalty Regulations, as modified by this Agreement, by notice to the Province. Each of the Proponents agrees that, for the purposes of any such arbitration, the Province may disclose to the arbitrators and to each Proponent who is a party to the arbitration any information received from any Proponent that is relevant to the Province's position with respect to the determination of similar circumstances or similar treatment pursuant to the arbitration.

### **8.4 OilCo.**

- (A) Sections 8.2 and 8.3 shall not apply to OilCo as long as OilCo is a Crown corporation of the Province.
- (B) The Parties acknowledge that the Province may:



- (1) make amendments to the Petroleum and Natural Gas Act;
- (2) make amendments to the Royalty Regulations; or
- (3) make an agreement pursuant to section 33 of Petroleum and Natural Gas Act;

to adjust, vary or suspend OilCo's liability for the payment of royalties on oil produced from the Lands.

- (C) The amendments or agreement in subparagraph B above shall apply to the royalties payable by OilCo on oil produced from the Lands, notwithstanding any other provision of this Agreement, to the extent such amendments or agreement does not affect the royalties payable by any of the other Proponents on oil produced from the Lands.

## **8.5 US Tax.**

Nothing in this Agreement shall constitute or create a partnership among the Proponents or the Proponents and the Province or between any of them. Except as expressly provided for in this Section, nothing in this Agreement shall constitute any Party as the agent of any other Party, nor shall any Party have, or represent that it has, the authority or power to act or to undertake or create any obligation or responsibility on behalf or in the name of any other Party. The Parties agree that if this Agreement or the relationship established hereby constitutes a partnership as defined in Section 761(a) of the United States Internal Revenue Code, they elect to be excluded from the application of any sections of Subchapter K. of such Code, and the Operator is authorized to execute and file any forms or other documentation as is required for such election.

## **9. LEGISLATIVE AND REGULATORY STABILITY**

### **9.1 Royalty.**

The Province hereby covenants that other than the royalty regime imposed by the Royalty Regulations as modified by this Agreement, (a) no other royalty shall be imposed on the Proponents in respect of oil produced from the Lands; and (b) no additional tax, levy, fee or charge shall be imposed by the Province solely on a Development Project or on the Proponents solely in relation to their interest in the Lands.

### **9.2 Interests in the Lands.**

Notwithstanding the Energy Plan, or any other policy, regulation or legislation of the Province relating to energy resources, any working interest participation by the Province, its agent, or any provincially controlled corporation, in the Lands shall be limited to the interest acquired by OilCo, its successors or permitted assigns, in accordance with the Acquisition Agreement and the agreements to which OilCo, its successors or permitted assigns, becomes a party pursuant to the Acquisition Agreement.

## **10. ARBITRATION**

### **10.1 Arbitration.**

Any disagreements, disputes, conflicts or controversies between the Parties respecting:

- (A) matters that may be arbitrated under the Royalty Regulations as modified by this Agreement; or
- (B) matters in this Agreement;

shall, unless the Parties otherwise agree, be arbitrated pursuant to the process set out in Part VI of the Royalty Regulations as modified by this Agreement, but no aspect of the following provisions of this Agreement shall be subject to arbitration:

- (1) Matters dealt with in Exhibit “C” that are not subject to arbitration under (A),
- (2) 2.4 - Time Limit for Development,
- (3) 3.6 - Representations and Warranties of the Province,
- (4) 4.7(A) - Pre-development Costs,
- (5) 8.4(A) and (B) - OilCo,
- (6) 9.1 - Royalty, and
- (7) 9.2 - Interests in the Lands.

### **10.2 Common Issues.**

Notwithstanding any other provision of this Agreement, if a dispute arises relating to return allowance under Exhibit “F” of the Benefits Agreement and such dispute includes any issue arising under or relating to Section 4.11 of this Agreement (or if disputes arise that involve any issues common to both the Benefits Agreement and this Agreement), there shall be one arbitration of those disputes pursuant to the Dispute Resolution Procedure of the Benefits Agreement, and all of the provisions of the Dispute Resolution Procedure of the Benefits Agreement shall apply to such arbitration.

## **11. MISCELLANEOUS**

### **11.1 Prior Agreements.**

This Agreement comprises the complete and exclusive agreement of the Parties regarding the subject matter of this Agreement and supersedes all oral and written communications, negotiations, representations or agreements in relation to that subject matter made or entered into before the Effective Date.

### **11.2 Courts and Governing Law.**

This Agreement shall be subject to and interpreted, construed and enforced in accordance with the laws in force in the Province of Newfoundland and Labrador. Each of the Parties hereby attorns to the exclusive jurisdiction of the courts of the Province of Newfoundland and Labrador, and all courts of appeal therefrom, for the resolution of any matters arising under this agreement over which the courts have jurisdiction.

### **11.3 Amendment.**

No amendment to this Agreement is effective unless made in writing and signed by authorized representatives of all Parties.

### **11.4 Waiver.**

No waiver by any Party of this Agreement's terms, provisions or conditions shall be effective unless specifically evidenced in writing and signed by or on behalf of the Party granting such waiver. A Party's failure to pursue remedies for breach of this Agreement or the granting of any time, extensions of time or other indulgences to another Party does not constitute a waiver by such Party of any breach of this Agreement or raise any defense against Claims against a Party for breach of this Agreement. The waiver or failure to require the performance of any covenant or obligation contained in this Agreement or to pursue rights or remedies for breach of this Agreement does not waive a later breach of that or any covenant or obligation.

### **11.5 Severability.**

Each provision of this Agreement is severable and if all or part of any provision is determined to be invalid, unenforceable or illegal under any existing or future laws of Canada or the Province by a court or arbitrator of competent jurisdiction or by operation of such laws:

- (A) such determination shall not impair the operation of or affect the validity and enforceability of the remaining provisions of the Agreement; and
- (B) the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

### **11.6 Survival.**

Despite the termination of this Agreement for any reason, all provisions in this Agreement containing releases, defence obligations and indemnities, and all provisions relating to confidentiality, and governing law, and all causes of action which arose prior to completion or termination, survive indefinitely or until by their respective terms, they are no longer operative or are otherwise limited by an applicable statute of limitations.

### **11.7 Drafting.**

Preparation of this Agreement has been a joint effort of the Parties and the resulting Agreement must not be construed more severely against one or more of the Parties than against any of the others.

### **11.8 Further Assurances.**

Each of the Parties shall at its own cost and expense, from time to time and without further consideration, execute or cause to be executed all documents which are necessary or desirable to give effect to the provisions of this Agreement.

### **11.9 No Third Party Benefits.**

This Agreement is solely for the benefit of the Proponents and the Province, and this Agreement does not, and shall not be deemed to, confer upon or give to any other Person any benefit, remedy, claim, liability, reimbursement, cause of action or other right in relation to any of the Parties, nor is it the intent of the Parties that third parties have any right to claim benefits from, or to compel performance by, any of the Parties under this Agreement.

### **11.10 Enurement.**

This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns as provided for herein.

### **11.11 Counterparts.**

This Agreement may be executed in counterparts and a set of counterparts executed by each of the Parties shall constitute a single document. A facsimile or other electronically reproduced counterpart signature page executed by a Party shall be sufficient evidence of execution for the purposes of this Section.

[The Remainder of this page has been intentionally left blank.]

The Parties have executed this Agreement as evidenced by the following signatures of authorized representatives of the Parties.

HER MAJESTY THE QUEEN IN OIL AND GAS CORPORATION OF  
RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR  
NEWFOUNDLAND AND LABRADOR INC.

Represented by:

Signature: 

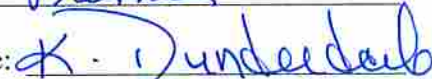
Signature: \_\_\_\_\_

Name: D.E. WILLIAMS

Name: \_\_\_\_\_

Title: Premier

Title: \_\_\_\_\_

Signature: 

Signature: \_\_\_\_\_

Name: K.M. Dunderdale

Name: \_\_\_\_\_

Title: Minister NR

Title: \_\_\_\_\_

EXXONMOBIL CANADA PROPERTIES

EXXONMOBIL CANADA LTD.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATOILHYDRO CANADA LTD.

PETRO-CANADA

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

*[Counterpart Execution Page to the Fiscal Agreement]*

The Parties have executed this Agreement as evidenced by the following signatures of authorized representatives of the Parties.

**HER MAJESTY THE QUEEN IN OIL AND GAS CORPORATION OF  
RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR  
NEWFOUNDLAND AND LABRADOR INC.**

Represented by:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: 

Name: E. J. Martin

Title: President & CEO

Signature: 

Name: Jim Keating

Title: Vice President

**EXXONMOBIL CANADA PROPERTIES EXXONMOBIL CANADA LTD.**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**STATOILHYDRO CANADA LTD.**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**PETRO-CANADA**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Counterpart Execution Page to the Fiscal Agreement]*

The Parties have executed this Agreement as evidenced by the following signatures of authorized representatives of the Parties.

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR** **OIL AND GAS CORPORATION OF NEWFOUNDLAND AND LABRADOR INC.**

Represented by:

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXXONMOBIL CANADA PROPERTIES**

**EXXONMOBIL CANADA LTD.**

Signature: 

Signature: 

Name: Glenn Scott

Name: Glenn Scott

Title: President

Title: President

**STATOILHYDRO CANADA LTD.**

**PETRO-CANADA**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

*[Counterpart Execution Page to the Fiscal Agreement]*



The Parties have executed this Agreement as evidenced by the following signatures of authorized representatives of the Parties.

**HER MAJESTY THE QUEEN IN OIL AND GAS CORPORATION OF  
RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR  
NEWFOUNDLAND AND LABRADOR INC.**

Represented by:

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXXONMOBIL CANADA PROPERTIES EXXONMOBIL CANADA LTD.**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**STATOILHYDRO CANADA LTD.**

**PETRO-CANADA**

Signature: \_\_\_\_\_

Signature: Alan R Brown

Name: \_\_\_\_\_

Name: A. R. BROWN

Title: \_\_\_\_\_

Title: VICE PRESIDENT EAST COAST



*[Counterpart Execution Page to the Fiscal Agreement]*



The Parties have executed this Agreement as evidenced by the following signatures of authorized representatives of the Parties.

**HER MAJESTY THE QUEEN IN OIL AND GAS CORPORATION OF  
RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR  
NEWFOUNDLAND AND LABRADOR INC.**

Represented by:

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXXONMOBIL CANADA PROPERTIES EXXONMOBIL CANADA LTD.**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

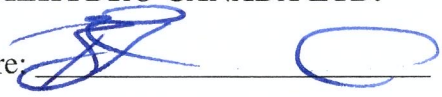
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**STATOILHYDRO CANADA LTD.**

**PETRO-CANADA**

Signature:  \_\_\_\_\_

Signature: \_\_\_\_\_

Name: R. Bruce Brummitt

Name: \_\_\_\_\_

Title: Sr. V.P., offshore Upstream

Title: \_\_\_\_\_

*[Counterpart Execution Page to the Fiscal Agreement]*

**CHEVRON CANADA LIMITED**

Signature: Mark A. Nelson

Name: Mark A. Nelson

Title: President

Signature: MH Decter

Name: Marcia H. Decter  
Vice-President & Secretary

Title: \_\_\_\_\_

*[Counterpart Execution Page to the Fiscal Agreement]*

## **EXHIBIT “A-1”**

### **TO THE HEBRON FISCAL AGREEMENT DESCRIPTION OF LANDS - PRIMARY**

#### **Land Description**

46° 40'N, 48° 30'W

SDL-1006

Sections: 2-5, 12-14, 21-24, 32-34

46° 40'N, 48° 15'W

SDL-1007

Sections: 72, 73, 82-84, 92-95

46° 40'N, 48° 15'W

SDL-1009

Sections: 24-25, 34-36, 44-47, 54-57, 65-67, 75-76

46° 40'N, 48° 15'W

SDL-1010

Sections: 33, 43, 53, 63-64, 74, 85-87, 96

All references herein are based upon the land registry system of the Board in effect as of the Effective Date.

## **EXHIBIT “A-2”**

### **TO THE HEBRON FISCAL AGREEMENT DESCRIPTION OF ADDITIONAL LANDS SOUTH**

#### **Additional Lands South – A Land Description**

46° 40'N, 48° 30'W

PL-1003

Section: 1

46° 40'N, 48° 15'W

PL-1004

Sections: 71, 81, 91

#### **Additional Lands South – B Land Description**

46° 40'N, 48° 30'W

SDL-1006

Section: 11

All references herein are based upon the land registry system of the Board in effect as of the Effective Date.

## **EXHIBIT “A-3”**

### **TO THE HEBRON FISCAL AGREEMENT DESCRIPTION OF ADDITIONAL LANDS NORTH**

#### **Land Description**

46° 40'N, 48° 15'W  
SDL-1042  
Sections: 77, 78, 88, 97, 98

46° 40'N, 48° 30'W  
SDL-1042  
Sections: 7, 8

All references herein are based upon the land registry system of the Board in effect as of the Effective Date.

## **EXHIBIT “A-4”**

### **TO THE HEBRON FISCAL AGREEMENT DESCRIPTION OF ADDITIONAL LANDS WEST**

#### **Land Description**

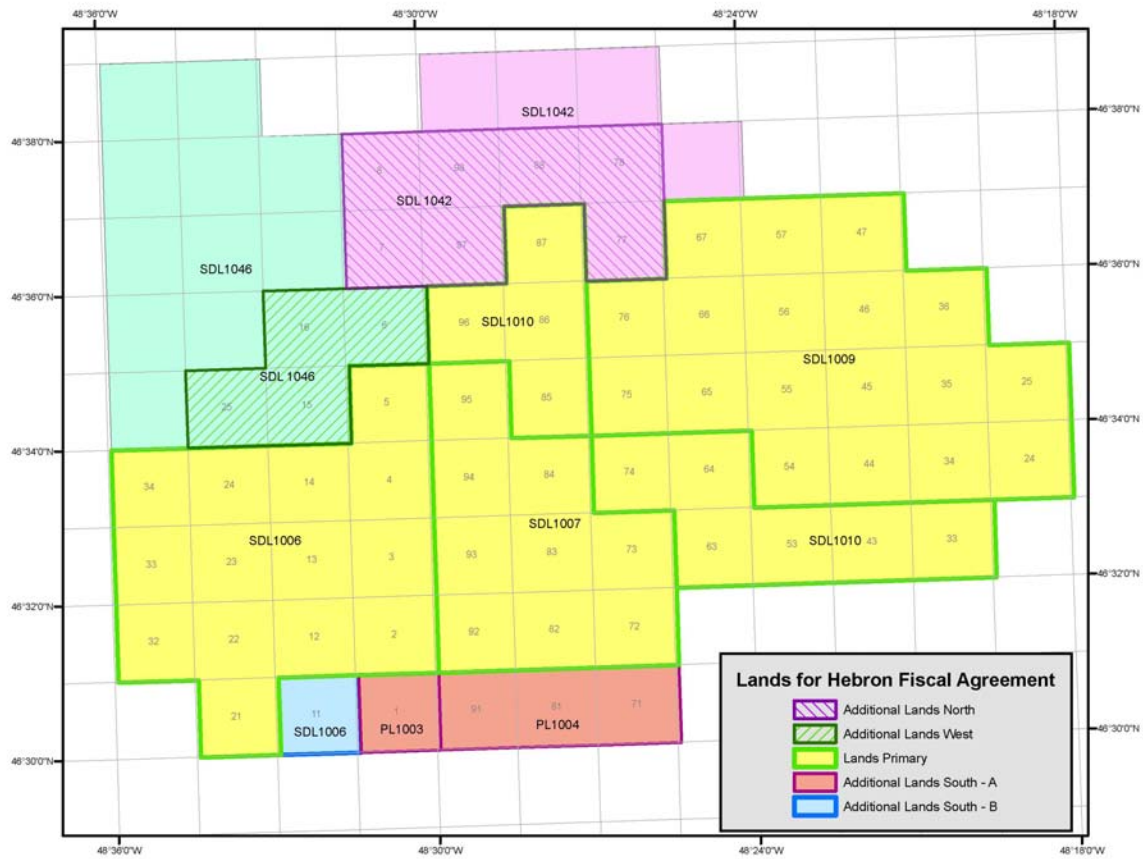
46° 40'N, 48° 30'W

SDL-1046, Sections 6, 15, 16, and 25

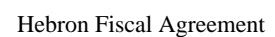
All references herein are based upon the land registry system of the Board in effect as of the Effective Date.

**EXHIBIT “A-5”  
TO THE HEBRON FISCAL AGREEMENT**

**MAP OF LANDS, LANDS-SOUTH, LANDS-WEST, LANDS-NORTH**



## BOARD MAP OF HEBRON-BEN NEVIS-WEST BEN NEVIS FIELDS





## **EXHIBIT “B”**

### **TO THE HEBRON FISCAL AGREEMENT ASSIGNMENT AGREEMENT**

**THIS AGREEMENT** made this                      day of                      , 200    ,

**AMONG:**

[ASSIGNOR]

-    and    -

[ASSIGNEE]

**WHEREAS** the Assignor is a party to the Fiscal Agreement;

**NOW THEREFORE** for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the premises and the covenants and agreements herein set forth, the parties agree as follows:

**1.     DEFINITIONS**

(A)    Unless the context otherwise requires, words and phrases in this Agreement:

- (1)    that are defined in the Fiscal Agreement shall have the meanings ascribed to them in the Fiscal Agreement; and
- (2)    that are not defined in the Fiscal Agreement shall have the following meanings ascribed to them:

(B)    “Agreement” means this agreement;

(C)    “Assigned Property” means either the legal or beneficial interest or both in all or a portion of an interest in the Lands which is owned by the Assignor immediately prior to the Effective Date, which the Assignor proposes to dispose of to the Assignee as and from the Effective Date and which is specified in Appendix “\_\_”;

(D)    “Assignee” means ;

(E)    “Assignor” means ;

(F)    “Effective Date” means the date of execution of this Agreement or such other date as the parties to this Agreement may agree; and

(G)    “Fiscal Agreement” means the agreement, dated the    day of    , 200\_\_, which is entitled “Hebron Fiscal Agreement” and is made between the Proponents and the Province, including any amendments thereto.

2. ASSIGNMENT BY ASSIGNOR

- (A) The Assignor hereby acknowledges that it has agreed to absolutely and unconditionally dispose of the Assigned Property to the Assignee as and from the Effective Date.
- (B) The Assignor does hereby assign, set over, transfer and convey unto the Assignee, as and from the Effective Date, all of the interest of the Assignor in and under the Fiscal Agreement, that relates to the Assigned Property, and all benefit and advantage derived or to be derived therefrom, to have and to hold the same unto the Assignee absolutely, subject to the performance and observance by the Assignee of the terms, conditions and obligations contained in the Fiscal Agreement, that relates to the Assigned Property.

3. ACCEPTANCE BY ASSIGNEE

- (A) The Assignee hereby acknowledges that it has absolutely and unconditionally agreed to acquire the Assigned Property from the Assignor as and from the Effective Date.
- (B) The Assignee hereby accepts the assignment set forth in Section 2(B) and covenants and agrees that it shall at all times from and after the Effective Date be bound by, observe and perform all the terms and provisions to be observed and performed by the Assignor under the Fiscal Agreement, that relate to the Assigned Property, to the same extent as if the Assignee had been a party thereto in the place and stead of the Assignor.

4. FURTHER ASSURANCES

The Assignor covenants and agrees with the Assignee that it shall and will, from time to time and at all times hereafter, at the request of the Assignee, execute such further assurances and do all such further acts as may be reasonably required for the purpose of vesting in the Assignee all of the interest of the Assignor in and under the Fiscal Agreement, that relates to the Assigned Property.

5. FURTHER ASSIGNMENT

Any further assignment of the Fiscal Agreement shall be made only in accordance with the provisions of section 6 of the Fiscal Agreement.

6. BENEFIT

This Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and assigns.

7. NOTICE

The address of Assignee for notices under the Fiscal Agreement shall be:

8. GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws in force in the Province of Newfoundland and Labrador and the reference to such laws shall

not, by the application of conflicts of laws rules, or otherwise, require the application of the laws in force in any jurisdiction other than the Province of Newfoundland and Labrador.

**IN WITNESS WHEREOF** the parties to this Agreement have executed it as of the date first above written.

[ASSIGNOR]

By: \_\_\_\_\_

Name:

Title:

[ASSIGNEE]

By:

\_\_\_\_\_

Name:

Title:

## **EXHIBIT “C”**

### **PROVISIONS OF THE ROYALTY REGULATIONS WHICH ARE REVISED FOR PURPOSES OF THIS AGREEMENT PURSUANT TO SECTION 4.1**

The following changes apply, as of the Effective Date, to the Royalty Regulations as they existed on August 16, 2007:

- (A) Subsection 3(1)(i) shall be read as having been deleted and replaced with the following:

““incremental royalty” means the royalty share required to be paid under sections 10 and 11, but shall not include the royalty share required to be paid pursuant to section 11.1;”

- (B) The following provision shall be read as having been inserted as a new subsection 3(3.1) of the Royalty Regulations immediately following subsection 3(3):

“(3.1) All currency conversions required from currencies other than Canadian currency to Canadian currency shall be converted at the noon rate (to the nearest 1/10000th of a dollar, using unbiased rounding) for the applicable currency conversion published daily by the Bank of Canada, and the conversions shall be conducted in accordance with GAAP or its successor.”

- (C) Subsection 4(2) shall be read as having been deleted and replaced with the following:

“4(2) The royalty portion of royalty share shall include, when required to be paid under these regulations, basic royalty, incremental royalty, and the additional royalty payable pursuant to section 11.1.”

- (D) The following provision shall be read as having replaced the opening lines of subsection 4(3), without affecting paragraphs (a) or (b):

“4(3) An interest holder shall assess royalty share, gross revenue, royalty costs, net revenue, simple payout, basic royalty payout, Tier I payout and Tier II payout for a lease separate from”

- (E) The following provision shall be read as having been inserted as a new subsection 4(8) of the Royalty Regulations immediately following subsection 4(7):

“4(8) Any hydrocarbons that are produced from a lease and are consumed at the platform, flared, reinjected or lost prior to the offloading at the loading point shall be exempt from royalties.”

- (F) Subsection 5(1) shall be read as having been deleted and replaced with the following:

“5.(1) Basic royalty, incremental royalty, and additional royalty payable pursuant to section 11.1 are due on the last day of the month following the month to which the royalty relates.”

(G) Subsection 5(2)(d) shall be read as having been deleted and replaced with the following:

“(d) fourth, on account of basic royalty, incremental royalty, and additional royalty payable pursuant to section 11.1 due to the Crown and not paid.”

(H) Section 6 “**Basic Royalty**” shall be read as having been deleted and replaced with the following:

“6(1) Basic royalty payable by an interest holder for a month with respect to a lease is the sum of:

(a) gross revenue of the interest holder under the lease for the month calculated in accordance with section 7; plus

(b) the value of oil taken in kind by the Crown from the interest holder for that month;

multiplied by the following basic royalty rate:

(i) before the month in which simple payout for the interest holder occurs, 1%;

(ii) commencing at the beginning of the month in which simple payout for the interest holder occurs and before the month in which basic royalty payout for the interest holder occurs, 5%; and

(iii) commencing at the beginning of the month in which basic royalty payout for the interest holder occurs and thereafter, 7.5%.

(2) Basic royalty payout under a lease for an interest holder occurs when, for the first time, the sum of the cumulative:

(a) gross revenue; and

(b) incidental revenue;

equals the sum of cumulative:

(c) eligible pre-development costs;

(d) eligible capital costs;

(e) eligible operating costs;

(f) basic royalty return allowance; and

(g) basic royalty paid, excluding basic royalty paid in kind.

- (3) Basic royalty return allowance for an interest holder for each month after the commencement date, until the month in which basic royalty payout occurs, shall be calculated as the product of the basic royalty return allowance factor multiplied by the amount by which the sum of an interest holder's cumulative:
- (a) eligible pre-development costs;
  - (b) eligible capital costs;
  - (c) eligible operating costs;
  - (d) basic royalty paid, excluding basic royalty paid in kind; and
  - (e) basic royalty return allowance to the end of the previous month;
- exceeds the sum of cumulative:
- (f) gross revenue; and
  - (g) incidental revenue.

- (4) In this section, the applicable basic royalty return allowance factor for a month is the amount determined by the following formula:

$$(1.05 + \text{LTBR})^{1/12} - 1$$

where LTBR is the long term government bond rate specified in decimal form.

- (5) In subsections (2) and (3), "cumulative" means the sum of all revenues, costs and basic royalty referred to in the applicable subsections (2) or (3) for the month for which basic royalty is being calculated and all prior months.
- (6) Section 90 does not apply to royalty payments or calculations pursuant to this section."
- (I) The "." at the end of subsection 10(2)(c) shall be read as having been changed to "; less", and the following shall be read as having been inserted as a new paragraph 10(2)(d) and subsection 10(2.1) of the Royalty Regulations immediately following paragraph 10(2)(c):
- "10(2)(d) the basic royalty payable by the interest holder under the lease for the month.
- "10(2.1) Notwithstanding 10(2), where the result of the calculations in 10(2) is less than zero, the Tier I royalty payable by an interest holder under a lease for a month shall be zero."
- (J) The following provision shall be read as having been inserted as a new paragraph 11(3)(i) of the Royalty Regulations immediately following paragraph 11(3)(h) (as if the "and" at the end of subsection 11(3)(g) is deleted and moved to the end of 11(3)(h)):

“additional royalty paid pursuant to section 11.1, excluding additional royalty paid pursuant to section 11.1 in kind.”

- (K) The following provision shall be read as having been inserted as a new paragraph 11(4)(e.1) of the Royalty Regulations immediately following paragraph 11(4)(e):

“additional royalty paid pursuant to section 11.1, excluding additional royalty paid pursuant to section 11.1 in kind; and”

- (L) The following provision shall be read as having been inserted as a new subsection 11(6) of the Royalty Regulations immediately after subsection 11(5):

“11(6) In subsections (3) and (4) “cumulative” means the sum of all revenues, costs, basic royalty, incremental royalty and additional royalty payable pursuant to section 11.1 referred to in the applicable subsection (3) or (4) for the current month and all prior months.”

- (M) The following provision shall be read as having been inserted as a new section 11.1 of the Royalty Regulations immediately following section 11 and entitled “**11.1 Additional Royalty**”:

- “11.1 (1) Following the month in which Tier I payout occurs for an interest holder in a lease, the interest holder shall calculate and pay an additional royalty to the Crown in every month in which the arithmetic average of the WTI Price for the month is greater than US \$50 (not adjusted for inflation).
- (2) The additional royalty payable by an interest holder under a lease for a month shall be the amount obtained when the interest holder’s net revenue under the lease for that month, determined in accordance with Section 12, is multiplied by 6.5%.
- (3) In this section, “WTI Price” means for any particular day, the average of the specified range of prices per barrel of West Texas Intermediate light sweet crude oil for the Prompt Delivery Month on that day, stated in United States dollars, published under the heading “Key Benchmarks” in the issue of Platt’s Crude Oil Marketwire that reports prices effective on that day for the prompt delivery month. Prompt Delivery Month is defined as the first month in which the delivery of the contracted WTI or equivalent crude volumes is required. If Platt’s Marketwire is no longer available, WTI Price shall mean the specified price per barrel of West Texas Intermediate light sweet crude oil as set forth in any successor or replacement publication that is widely used and generally accepted by the international petroleum industry. If there is no price for West Texas Intermediate light sweet crude oil available or there is no such publication, WTI Price shall mean the comparable quality light sweet crude oil selected as a reasonable replacement in terms of quality and market for WTI as selected by the minister, and upon notice to the Proponents that replacement shall apply as if it was WTI under this provision.

- (4) The royalty calculated and payable pursuant to this section 11.1 shall be in addition to any other royalty payable by an interest holder in a month.”
- (N) The following provision shall be read as having been inserted as a new section 11.2 of the Royalty Regulations immediately following section 11.1 and entitled “**11.2 Rounding**”:
- “11.2 All calculations of the basic royalty return allowance factor, the Tier I royalty return allowance factor and the Tier II royalty return allowance factor shall be calculated at a minimum to the nearest 1/10000th, using unbiased rounding.”
- (O) Subsection 12(2) shall be read as having been deleted and replaced with the following:
- “12(2) If, in a month after Tier I payout, the sum of the interest holder’s:
- (a) gross revenue;
  - (b) incidental revenue;
  - (c) with respect to a lease under Part XIV, value of oil taken in kind by the minister for the month, determined to be the volume of oil taken in kind multiplied by the price determined by the minister under subsection 7(9); and
  - (d) with respect to a lease under Part XIII, value of oil taken in kind by the minister for the month, determined to be the volume of oil taken in kind multiplied by the price determined under subsection 81(1) for the month the oil was taken in kind;
- is exceeded by the sum of the interest holder’s
- (e) eligible capital costs; and
  - (f) eligible operating costs,
- the amount of that excess shall be carried forward as a deduction against net revenue in the next month or subsequent months as necessary to offset this amount against future net revenue.”
- (P) The following provision shall be read as having replaced the opening lines of subsection 13(1) of the Royalty Regulations, without affecting paragraphs (a) to (c):
- “13(1) Notwithstanding sections 10 and 11, the minister may suspend the calculation of basic royalty return allowance under section 6, Tier I and Tier II return allowance:”



- (Q) Section 13(2) shall be read as having been deleted and replaced with the following:
- “13(2) The maximum period of time that the minister may suspend the calculation of basic, Tier I and Tier II return allowance under subsection (1) is the time during which an event has occurred and is continuing.”
- (R) Section 13(3) shall be read as having been deleted and replaced with the following:
- “13(3) If the return allowance is suspended for part of a month basic, Tier I and Tier II return allowance shall be calculated for the number of days or partial days in a month that production of oil took place.”
- (S) The following provision shall be read as having been inserted as a new section 17.1 of the Royalty Regulations immediately following section 17 and entitled **“17.1 Reporting Transactions Not At Arm’s Length”**:
- “17.1 An interest holder shall report to the minister in the required form in respect of:
- (a) each non-arm’s length transaction having a value in excess of \$200,000.00; and
  - (b) each non-arm’s length transaction with a person where the aggregate of non-arm’s length transactions with that person in a year has a value in excess of \$1,000,000.00.”
- (T) Section 23(3)(b) shall be read as having been deleted and replaced with the following:
- “(b) “B” means the applicable basic royalty rate in effect under section 6;”
- (U) Section 23(3)(d) shall be read as having been deleted and replaced with the following:
- “(d) “I” means the incremental royalty payable and the additional royalty payable pursuant to section 11.1 for the month;”
- (V) Section 35(2) shall be read as having been deleted and replaced with the following:
- “35(2) An assessment made under subsection (1) shall be delivered by the minister to the interest holder who submitted the annual reconciliation not more than sixty (60) days after receiving it and shall include an assessment of basic royalty, incremental royalty, additional royalty payable pursuant to section 11.1, gross revenue, net revenue, basic royalty payout, simple payout, Tier I payout, Tier II payout and cumulative production of that interest holder as well as interest or penalties payable with respect to each month of the period.”
- (W) Section 36(1)(b) shall be read as having been deleted and replaced with the following:
- “36(1)(b) an estimate of when basic royalty payout, simple payout, Tier I payout and Tier II payout is expected to occur.

(X) Section 39(2) shall be read as having been deleted and replaced with the following:

“39(2) An interest holder shall maintain in Canada records required to determine the calculation of basic royalty, incremental royalty, additional royalty payable pursuant to section 11.1, simple payout, basic royalty payout, Tier I payout and Tier II payout.”

(Y) Section 40(7) shall be read as having been deleted and replaced with the following:

“40(7) Where the minister gives a confirmation under subsection (3).”

(Z) Section 48(1) shall be read as having been deleted and replaced with the following:

(a) the “arbitration code” means the commercial arbitration code as set out in the *Commercial Arbitration Act* (Canada) except as varied under subsection (2); and

(b) “Institute” means the ADR Institute of Canada Inc, or if that Institute is not available, a similar body with similar standing as agreed to by the parties.

(AA) Section 48(3)(b) shall be read as having been deleted and replaced with the following:

“48(3)(b) a reference to a court, the federal court, a superior, county or district court or to a competent court of Canada in the arbitration code shall be considered to be a reference to the Supreme Court of Newfoundland and Labrador, Trial Division or, where applicable, any court of appeal therefrom.”

(BB) The following provision shall be read as having been inserted as a new paragraph 48(3)(b.1) of the Royalty Regulations:

“48(3)(b.1) notwithstanding (b), for the purposes of Articles 11(3)(a) and (b) of the arbitration code, a reference in the arbitration code to a court or other authority shall mean the Institute.”

(CC) Paragraph 48(3)(i) shall be read as if it were deleted and replaced with the following:

“(i) The 3 arbitrators under paragraph 48(3)(c) shall be appointed as follows:

(a) Each party shall appoint an arbitrator within sixty (60) days of the giving of a notice of arbitration.

(b) The appointed arbitrators shall in turn appoint a presiding arbitrator of the tribunal within sixty (60) days following the appointment of both appointed arbitrators.

(c) If a party refuses to appoint its appointed arbitrator within such sixty (60) day period, or if the appointed arbitrators do not appoint a presiding arbitrator within such sixty (60) day period, the Institute shall appoint an

independent arbitrator who shall be and remain completely independent and impartial and who shall provide a declaration to that effect to the parties contemporaneously with such appointment as the presiding arbitrator, or for any party, as applicable; and”

(DD) The following provision shall be read as having been inserted as a new paragraph 48(3)(j) of the Royalty Regulations:

“(j) All decisions and awards by the arbitrators shall be made by majority vote.”

(EE) The “and” at the end of subsection 49(m) shall be read as having been deleted and the “.” at the end of subsection 49(n) shall be read as having been changed to “;” and the following provisions shall apply as if they were inserted as subsections 49(o) and 49(p) of the Royalty Regulations:

“(o) a dispute with respect to whether measurement facilities and practices comply with the measurement standards established under section 18; and

(p) a dispute with respect to the reasonableness of the replacement for WTI selected by the minister under subsection 11.1(3).”

(FF) The following provisions shall be read as having been inserted as new subsections immediately following subsection 50(3) of the Royalty Regulations:

“(4) The party or parties submitting a matter to arbitration under section 49 and the minister shall agree in advance as to the arbitration rules and procedures for the arbitration, including the content of pleadings and the manner in which the arbitrators shall hear witnesses and arguments, review documents and otherwise conduct the arbitration procedures, and failing such agreement within twenty (20) days from the date of selection or appointment of the arbitrators, the arbitrators shall adopt for the arbitration rules and procedures established by the Institute that apply to national matters, amended to be in compliance with these regulations, and promptly commence and expeditiously conduct the arbitration proceedings.

(5) The arbitration award shall be given in writing, shall be binding on the parties, and shall deal with the question of costs of the arbitration and all other related matters.

(6) There shall be no appeal on the merits from any arbitration award. Arbitration conducted pursuant to this Part shall be the final and exclusive forum for the resolution of a dispute subject to arbitration, but nothing shall prevent a Party from applying to the court for resolution of matters that are subject to the jurisdiction of the courts under the Arbitration Act.

(7) Judgment upon an arbitration award may be entered in any court having jurisdiction, or, application may be made to such court for a judicial recognition of the arbitration award or an order of enforcement thereof, as the case may be.

- (8) An arbitration award shall not include any punitive or exemplary damages allowable by common law or statute.
  - (9) In no event shall the Arbitrator have the jurisdiction to amend or vary the terms of this Agreement or of the arbitration code.
  - (10) If the interest holders are successful in an arbitration pursuant to Section 4.5(B) of the Fiscal Agreement, the arbitrator may award as compensation the cost incurred by the interest holders in complying with the Amendment subject to arbitration net of any royalty effect of those costs as originally incurred.
- (GG) The following provision shall be read as having been inserted as subsection 58(3) of the Royalty Regulations immediately following subsection 58(2):
- “58(3) Subsection 58(1) shall not apply to a cost where:
- (a) that cost is incurred to purchase commercially justifiable inventory; and
  - (b) at the time the cost is incurred, it is justifiable solely on the basis of the business purpose of the arrangement for the provision of the goods or services, without regard to the impact on royalty share.”
- (HH) The following provision shall apply as if it was inserted as section 59(6) of the Royalty Regulations:

“59(6) Section 59 shall not apply to (i) transportation costs, nor to (ii) Old Leases or Adjacent Leases (as defined in Section 59.1) unless otherwise provided in Section 59.1.”

The following provision shall be read as having been inserted as a new section 59.1 of the Royalty Regulations following section **59** and entitled “**59.1 Cost Allocation Rules for Adjacent Leases**”:

- “59.1 Notwithstanding anything to the contrary in the regulations on cost allocation, including but not limited to subsection 69(4):
- (a) “Old Lease” means the Lands as described in the Fiscal Agreement.
  - (b) “Existing Infrastructure” means any development or infrastructure on the Old Lease which is capable of producing, offloading and / or storing oil.
  - (c) “Adjacent Lease” shall refer to a lease from which the interest holders desire to utilize the Existing Infrastructure of the Old Lease for the production, offloading, and/or storage of oil from such Adjacent Lease.
  - (d) Where the interest holders of the Old Lease and the Adjacent Lease are at arm’s length and they reach agreement pursuant to which the interest holders of the Old Lease agree to make their Existing Infrastructure available to the interest holders of the Adjacent Lease:
    - (i) all eligible capital and operating costs, incurred by the interest holders of

the Old Lease are eligible costs in the Old Lease; and

- (ii) all revenues or cost recovery charged by the interest holders of the Old Lease to the interest holders of the Adjacent Lease are incidental revenue in the Old Lease.
- (e) Where the interest holders of the Old Lease and the Adjacent Lease are not at arm's length and they reach agreement pursuant to which the interest holders of the Old Lease agree to make their Existing Infrastructure available to the interest holders of the Adjacent Lease, the minister will elect in her sole discretion, prior to first oil of the Adjacent Lease, to treat the costs and revenues for royalty purposes either:
  - (i) in the same manner as in (d) above upon collective request by the interest holders of the Old Lease and Adjacent Lease provided such treatment is satisfactory to the minister; or
  - (ii) if no request is received or if the minister decides not to approve a request as noted in (i), in accordance with the following provisions:
    - (A) eligible capital costs incurred by the interest holders of the Old Lease for new capital improvements required to the Existing Infrastructure to handle oil from the Adjacent Lease are allocated between the interest holders of the Old Lease and the interest holders of the Adjacent Lease in proportion to the reasonable estimated relative future benefit of the new capital improvement in relation to each lease;
    - (B) eligible operating costs incurred by the interest holders of the Old Lease are allocated between the interest holders of the Old Lease and the interest holders of the Adjacent Lease as provided in subsection 59(2); and
    - (C) a reasonable capital recovery fee for access to infrastructure that is negotiated between the parties based on accepted industry practice for open access to infrastructure.
  - (iii) The eligibility for royalty purposes of amounts actually charged by the interest holders in respect of the items described in (e)(ii)(A), (B) and (C) above, shall be subject to review and revision by the minister where the minister believes that the eligibility for royalty purposes of the amount charged will have the effect of artificially increasing or decreasing royalties otherwise payable by the interest holders of the Old Lease and the Adjacent Lease compared to what would have occurred if the transaction was at arm's length. In such a case, the minister may deem an alternate eligible amount for royalty calculation purposes, but the interest holders shall be entitled to dispute that deemed alternate eligible amount through arbitration.
  - (iv) Any application of this section shall not result under any circumstances in double counting of costs (or portions of costs) or revenues (or portions of revenues) for royalty purposes between the Adjacent Lease and the Old Lease.
  - (v) Eligible capital costs and eligible operating costs allocated as described in

(e)(ii)(A) or (B) above shall not generate incidental revenue. Capital recovery fees as described in (e)(ii)(C) above which are charged to an Adjacent Lease will be treated as incidental revenue in the Old Lease. Any other fees as may be permitted by the minister and which are charged to an Adjacent Lease will be treated as incidental revenue in the Old Lease.

- (f) Where the Province has promulgated regulations of general applicability for leases in the offshore area with respect to the allocation of cost and revenues between leases and adjacent leases, the Proponents collectively have the option to elect to use those rules for allocating costs and revenues between the Old Lease and Adjacent Lease. This election must be made prior to first oil of the “Adjacent Lease.”
- (g) The interest holders of the Old Lease or an Adjacent Lease who have commenced negotiations for the use of Existing Infrastructure may apply to the minister for an advance ruling pursuant to section 34 in respect of their proposed royalty treatment under subparagraphs 59.1(e)(i) or 59.1(e)(ii)(A),(B) and (C) at any time after detailed negotiations between the interest holders of the Old Lease and the Adjacent Lease have commenced (a “**Ruling Application**”), which application shall:
  - (i) provide details of the proposed new capital cost allocation method in accordance with this subsection;
  - (ii) provide details of the proposed operating cost allocation method in accordance with this subsection; and
  - (iii) provide details of the proposed amount to be charged by the interest holders of the Old Lease to the interest holders of the Adjacent Lease.

A Ruling Application containing sufficient information for the minister to assess such application, shall be reviewed by the minister upon receipt from the Proponents. The minister shall advise the Proponents within 30 days of receipt of a Ruling Application if the minister determines that the Ruling Application does not contain sufficient information to make an assessment thereof. Upon receipt of sufficient information the minister shall, notwithstanding subsection 34(2), provide a ruling respecting such application within 180 days.

- (h) For purposes of this subsection 59.1, the interest holders of the Old Lease and an Adjacent Lease shall be at “arm’s length” to each other where the interest holders of the Old Lease (or affiliates thereof) do not collectively hold a majority of the percentage interest in the Adjacent Lease.”
- (II) Section 64(4) shall be read as having been deleted and replaced with the following:
- “(4) Notwithstanding subsection (3), the consumer price index adjustment is limited to a maximum of the 5 years occurring immediately before the commencement date, and eligible predevelopment costs incurred more than 5 years before the commencement date shall be treated for the purposes of the consumer price index adjustment as if they were incurred exactly 5 years prior to the commencement date.”

(JJ) Section 68(1)(c) shall be read as having been deleted and replaced with the following:

“68(1)(c) basic royalty, incremental royalty, additional royalty payable pursuant to section 11.1, taxes based upon revenue, income or profit and payments made under Part IX of the Excise Tax Act (Canada);”

**EXHIBIT “D”**  
**CATEGORIZATION OF ROYALTY REGULATIONS**

<b>Regulation Section</b>	<b>Crystallized as of August 16, 2007</b>	<b>Administrative</b>
1. Short title		x
2. Application		x
3. Interpretation	Section 3 is subject to Section 1.1(A)(2) of the Fiscal Agreement.	Section 3 is subject to Section 1.1(A)(2) of the Fiscal Agreement.
4. Liability for royalty	x	
5. Payment of royalty		x
6. Basic Royalty	x	
7. Gross revenue	x	
8. Allowed shrinkage	x	
9. Simple payout	x	
10. Tier I incremental royalty	x	
11. Tier II incremental royalty	x	
12. Net revenue	x	
13. Return allowance suspension	x	
14. Commencement date	x	
15. Double counting		x
16. Arm’s length transactions and fair market value	x	
17. Transaction not at arm’s length	x	
18. Measurement standards		x
19. Commingling		x
20. Lien property		x
21. Taking in kind		x
22. Taking in kind for default in royalty share payment		x
23. Calculation of volume	x	
24. Adjustment to Volume	x	
25. Estimates		x
26. Oil that may be taken		x
27. Reporting and calculation of payment		x
28. Delivery		x
29. Obligations	x	
30. Lifting agreement	x	
31. Monthly report		x
32. Annual reconciliation		x
33. Operator reports		x
34. Advance rulings		x
35. Assessment and reassessment		x
36. Annual forecast		x
37. Non-filing		x
38. Notice		x
39. Location and retention of records		x
40. Successor requirements	x	
41. Audit and inspection		x
42. Search and seizure		x
43. Electronic records		x
44. Cost of audit		x
45. Audit period		x
46. Indemnity		x
47. Confidential information		x
48. Interpretation and application of	x	



<b>Regulation Section</b>	<b>Crystallized as of August 16, 2007</b>	<b>Administrative</b>
arbitration code		
49. Matters that may be arbitrated	x	
50. Reference to arbitration	x	
51. Sale price arbitration	x	
52. Confidentiality	x	
53. Definition		x
54. Decommissioning plan		x
55. Carry-back	x	
56. Amounts owing to interest holder		x
57. Subsequent costs	x	
58. Cost pre-payment	x	
59. Cost allocation	x	
60. Dispositions	x	
61. Reserves	x	
62. Interest	x	
63. General cost criteria	x	
64. Certificate of pre-development costs	x	
65. Eligible operating costs	x	
66. Eligible capital costs	x	
67. Decommissioning costs	x	
68. Disallowed costs	x	
69. Incidental revenue	x	
70. Transportation costs	Not applicable	
71. Penalty		Section 71 is subject to Section 4.6 of the Fiscal Agreement.
72. Application	x	
73 – 87. Terra Nova Specific Regulations	Not applicable	
88. Application	x	
89. Interpretation	x	
90. Basic royalty rates	Not applicable	
91. Incremental royalty rates	x	
92. Return allowance factor	x	

**EXHIBIT “E”  
TO THE HEBRON FISCAL AGREEMENT**

**Hebron Transportation Royalty Principles**

**Definitions**

In this Exhibit, the following terms have the following meanings. Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Fiscal Agreement:

- (a) “Allocation Agreement” means an agreement among the Proponents that deals with allocation of Eligible Tanker Costs and Incidental Transportation Revenue for royalty purposes, among the Proponents as contemplated under Section 4.
- (b) “Applicable Royalty Regulations” means the Royalty Regulations, as modified by the Fiscal Agreement.
- (c) “Capital Lease” means a Shuttle Tanker contract that is classified as a capital lease in accordance with section 5 hereof.
- (d) “Competitive Tender Process” means an open and competitive tender process that either:
  - (i) includes exclusively arm’s length bidders; or
  - (ii) where one or more bidders is non-arm’s length to the Proponents, includes bids from at least two (2) arm’s length third parties;and which results in the assessment and selection of bids on the basis of achieving best value as generally accepted in the industry including factors such as price, quality, service, safety, operational performance, total cost of ownership, and availability.
- (e) “Eligible Other Transportation Costs” means costs that:
  - i) are classified as operating costs under GAAP;
  - ii) are not included in the provisions for Eligible Tanker Costs or Eligible Transshipment Costs;
  - iii) meet cost eligibility provisions equivalent to those for resource project eligible costs contained in Sections 63(1)(a), (b), (c) and 68(1) of the Applicable Royalty Regulations; and
  - iv) shall include, but are not limited to: demurrage, port fees, tug and piloting fees and lightering costs in relation to transporting oil produced from the Lands.
- (f) “Eligible Tanker Costs” means the tanker costs calculated in accordance with Section 5 herein.
- (g) “Eligible Transshipment Costs” means the transshipment costs calculated in accordance with Section 6 herein.
- (h) “Eligible Transportation Costs” means the sum of Proponent’s share of the following (i) Eligible Tanker Costs, (ii) Eligible Transshipment Costs, and (iii) and Eligible Other Transportation Costs, less the Proponent’s share of Incidental Transportation Revenue.
- (i) “GAAP” means Canadian Generally Accepted Accounting Principles for Public

Accountable Entities (as defined under the CICA Handbook) or its successors.

- (j) “Hebron Tanker Day” means a day in which a tanker is In Use in relation to oil produced from the Lands.
- (k) “Incidental Transportation Revenue” means the revenues described in section 8.
- (l) “In Use” means a day in which a tanker is:
  - (i) in use in carrying oil; or
  - (ii) returning to the point of origin for the voyage in (i), or to an alternate location in the Offshore Area where the point of origin for the voyage in (i) was in or near the Jeanne D’Arc Basin (“NL Area”); butwhere a tanker that has delivered oil from the NL Area goes to an alternate location outside of the NL Area, the days for (ii) above will be an amount deemed to be an equivalent amount of time for a voyage returning to a location in the NL Area.
- (m) “New Tanker” means a new tanker that is less than 12 months old.
- (n) “Non-NL Tanker Day” means a day in which a tanker is In Use in relation to oil which is not produced in the Offshore Area.
- (o) “Offshore Area” has the meaning that is given to “offshore area” in the Accord Acts.
- (p) “Operating Lease” means a Shuttle Tanker contract that is classified as an operating lease in accordance with section 5 hereof.
- (q) “Other NL Tanker Day” means a day in which a tanker is In Use in relation to oil produced from another license in the Offshore Area that is outside of the Lands.
- (r) “Owned Tanker” means a tanker in which one or more of the Proponents has an ownership interest.
- (s) “Profitable Outcharter” means a Shuttle Tanker which is being used in substitution of a tanker in another lease, where (i) such Shuttle Tanker is not ordinarily used to transport oil from the other lease and (ii) the tanker ordinarily used for the other lease is out of service for repairs or maintenance or otherwise temporarily unavailable for use to transport oil, and is anticipated to return to use in the transportation of oil in that other lease within the following 12 months. A Shuttle Tanker used as a Profitable Outcharter in another lease for longer than 12 consecutive months shall thereafter not be considered a Profitable Outcharter.
- (t) “Second Leg Tanker” means a tanker which transports oil from the transshipment facility to the sales point.
- (u) “Shuttle Tanker” means a tanker that is normally used in the Offshore Area to transport oil produced from the Hebron production facilities to either a transshipment facility in the Province or directly to market.
- (v) “Tanker Administrator” means a Proponent, or third party, appointed by the Proponents as the tanker administrator for a Shuttle Tanker.
- (w) “Tanker Cost Aggregator” has the meaning ascribed to it in Section 4(c) herein.
- (x) “Temporary Replacement Tanker” means a tanker used to transport oil from the Hebron production facilities in substitution of a Shuttle Tanker ordinarily used to transport oil from the Hebron production facilities, where (i) such tanker is not ordinarily used to

transport oil from the Hebron production facilities and (ii) the Shuttle Tanker is out of service for repairs or maintenance or otherwise temporarily unavailable for use to transport oil, but is anticipated to be used in the transportation of oil from the Hebron production facilities within the following 12 months. A tanker used as a Temporary Replacement Tanker for longer than 12 consecutive months shall thereafter not be considered a Temporary Replacement Tanker, and the eligible cost thereafter shall be determined under the rules for Owned, Capital Lease or Operating Lease Shuttle Tankers, as applicable.

(y) “Total Used Tanker Days” means the sum of:

- (i) Hebron Tanker Days,
- (ii) Other NL Tanker Days, and
- (iii) Non-NL Tanker Days.

## 1. **General**

In interpreting any provision contained in this Exhibit:

- (a) Costs or Incidental Transportation Revenues anywhere in the Offshore Area (or parts of costs or Incidental Transportation Revenues anywhere in the Offshore Area) that have been claimed, deducted or included by an interest holder or the Province in the calculation of royalty share under a lease cannot be claimed, deducted or included by that interest holder, another interest holder, or the Province, as applicable, in a calculation of royalty share under that lease again or another lease.
- (b) Unless otherwise expressed, all accounting terms and practices shall have the meaning assigned to them that is in accordance with GAAP and good petroleum industry practices.
- (c) The following sections of the Applicable Royalty Regulations do not apply to these Principles: 15, 16(1), 59, 68(2), 68(3), and 69, except as specifically provided herein.
- (d) Except as expressly provided for herein, sections 68(1)(a), (e), and (s) of the Applicable Royalty Regulations will not operate to disqualify costs expressly permitted under these Principles.
- (e) Notwithstanding any other provision of these Principles, transportation costs will be only included up to the point of sale.
- (f) The point of sale herein will not include sales from a Proponent to one of its Affiliates at the offloading system of the Hebron production facilities. The Eligible Transportation Costs for the transportation of that oil by such Affiliate to the sales point will be governed by these Principles as if the Affiliate were a Proponent.
- (g) Costs allocated to use of a Shuttle Tanker for Non-NL Tanker Days, and revenues associated with such use, as well as a proportionate share of idle time, will not be Eligible Transportation Costs.
- (h) For the purposes of interpretation of these Principles references to Section 63(1)(b) shall be read as including costs directly attributable to transportation of oil from the Lands.
- (i) For greater clarity, the provisions of Section 60 of the Applicable Royalty Regulations shall not apply to the disposal of a Shuttle Tanker, but proceeds from the disposal of assets relating to any other cost claimed as an Eligible Transportation Cost shall be used to reduce those costs claimed for Royalty calculation purposes.

## 2. **Transportation Cost Carry Forward**

- (a) In a month in which Eligible Transportation Costs exceed gross sales revenue, gross revenue will be reduced to zero (\$0) and the remaining difference between Eligible Transportation Costs and gross sales revenue shall be carried forward and added to Eligible Transportation Costs in the following month.
- (b) Transportation costs incurred by the Proponents that are necessary for the future transportation of oil from the Lands prior to first production that are eligible costs in accordance with the provisions herein, may be carried forward in accordance with 2(a). Tanker costs incurred prior to production are limited to costs where the tanker is not In Use.

## 3. **Allocation of Shuttle Tanker Costs among Projects**

- (a) Allocation of the cost of a Shuttle Tanker to the Proponents collectively in relation to transportation of oil from the Lands on an annual basis will be based on the following formula:

$$(A / B) \times C$$

Where:

A = Hebron Tanker Days

B = Total Used Tanker Days

C = The annual Eligible Tanker Cost for that Shuttle Tanker

- (b) Costs associated with a Shuttle Tanker while it is out of service for repairs or maintenance shall be allocated in accordance with the above formula taking into account the usage of that Shuttle Tanker in the 12 months immediately preceding the start of the month in which that Shuttle Tanker went out of service. This proportionate allocation of costs shall continue until the earlier of that tanker returning to service or 12 months from the date that tanker went out of service. In a year in which a Shuttle Tanker is out of service, the “A” and “B” variables in the above formula shall not include the time period in which the Shuttle Tanker is out of service, during which the costs are allocated instead in accordance with this section (b).
- (c) Notwithstanding (b), there will be no allocation of costs associated with a Shuttle Tanker while it is out of service for repairs or maintenance where the primary purpose of those repairs or maintenance is the modification of the Shuttle Tanker for uses relating to Non-NL Tanker Days.

## 4. **Allocation of Tanker Costs and Revenues Among Proponents**

- (a) For Eligible Tanker Costs and Incidental Transportation Revenue the Proponents will agree to allocate costs and revenues allocated to oil produced from the Lands to each Proponent pursuant to an Allocation Agreement for royalty purposes. The Allocation Agreement:
  - (i) will be agreed prior to first oil;
  - (ii) will be provided to the Province prior to first oil;

- (iii) will include an allocation formula for costs which shall be reasonable and aligned with the Proponents' costs, tanker ownership, contract ownership, usage, and / or capacity in the asset; and
- (iv) will provide for an allocation formula in respect of Incidental Transportation Revenue which shall be reasonable and aligned with the Proponents' costs, tanker ownership, contract ownership, usage, and / or capacity in the asset, but does not have to be the same as the allocation formula in (iii) above.
- (b) Any subsequent changes to the Allocation Agreement will require the Province's consent before such changes will have effect for the purposes of allocation of Eligible Tanker Costs and Incidental Transportation Revenue under this Exhibit.
- (c) All Eligible Tanker Costs and Incidental Transportation Revenue allocated to the Proponents in accordance with this Exhibit, shall be provided by the Proponents or Tanker Administrator to and aggregated by a third party selected by the Proponents (the **"Tanker Cost Aggregator"**). These aggregated tanker costs and revenues will then be allocated among the Proponents in accordance with the Allocation Agreement. The Tanker Cost Aggregator shall provide to the Province, on a monthly and annual basis, a reconciliation as prescribed by the Minister of the aggregated Eligible Tanker Costs and Incidental Transportation Revenues reported to them by the Proponents and Tanker Administrators.

## 5. **Eligible Tanker Cost Calculations**

- (a) Tanker costs can be of five types:
  - (i) Owned Shuttle Tanker costs;
  - (ii) Capital Lease Shuttle Tanker costs;
  - (iii) Operating Lease Shuttle Tanker costs;
  - (iv) Second Leg Tanker costs; and
  - (v) Temporary Replacement Tanker costs.
- (b) A leased Shuttle Tanker will be classified, for the purpose of Eligible Transportation Costs, as either a Capital Lease Shuttle Tanker or Operating Lease Shuttle Tanker in accordance with GAAP. The Proponents will inform the Minister of their classification, and if the Minister does not agree with that classification, the Minister will determine the classification of such Shuttle Tanker. The Proponents may dispute the Minister's decision through the arbitration process defined in the Applicable Royalty Regulations.
- (c) The following Principles will apply to determine Eligible Tanker Costs for an Owned Shuttle Tanker:
  - (i) Eligible Tanker Costs will be the sum of Owned Tanker operating costs, Owned Tanker Capital Depreciation and Owned Tanker return on capital costs as set out below, calculated on an annual basis.
  - (ii) All operating and capital costs will be subject to qualification as eligible costs on rules equivalent to those in Sections 63(1)(a), (b) and (c) and 68(1) for resource project eligible costs under the Applicable Royalty Regulations.
  - (iii) Owned Tanker operating costs (including costs that are directly related to operating a tanker including but not limited to tanker fuel costs and tanker crew costs) will be

recognized as incurred subject to the provisions of section 16(1) of the Applicable Royalty Regulations, with an uplift of 10%.

(iv) Owned Tanker Capital Depreciation will be the annual depreciation amount for the capital costs of the tanker, during the life of the Owned Tanker, depreciated over the remaining useful life of the tanker, on a straight line basis, with “capital costs of the tanker” for such calculation being based on the following:

- (a) For New Tankers, the capital costs of the tanker shall be the costs of the tanker as constructed including the capital portion of any costs actually incurred by the Proponents in respect of a project team (meaning costs associated with a project team of employees and contractors that a Proponent tanker owner puts in place to oversee the construction of the tanker, including project management, technical expertise, and directly related support personnel), positioning, testing, and mobilizing the New Tanker to the Offshore Area and otherwise preparing the tanker for service, all such costs being subject to the provisions of section 16(1) of the Applicable Royalty Regulations plus an uplift of 1%;
- (b) For used tankers, subject to (d) below, the capital cost of the tanker will be the fair market value of the tanker, as determined by an independent appraiser with experience in valuation of marine tankers, satisfactory to the Province, acting reasonably, depreciated over the remaining useful life of the tanker plus an uplift of 1%;
- (c) The remaining useful life of a tanker will be determined by an independent appraiser;
- (d) New capital expenditures for new or used tankers will be added to the capital costs of the tanker subject to the provisions of section 16(1) of the Applicable Royalty Regulations, plus an uplift of 1% and the useful life adjusted, in accordance with GAAP;
- (e) If a tanker has previously been used in the Offshore Area, to the extent that the tanker’s capital cost has already been deducted against royalty in another lease in the Offshore Area, there will be no deduction of any capital costs already deducted in the royalty calculation for that other lease. The capital cost of the tanker applicable as per this section shall be the amount of the undepreciated capital costs (excluding any uplifts in the other royalty regime) of the previously used tanker in relation to royalty calculations under another lease plus an uplift of 1%. Notwithstanding the foregoing, if there is a deemed disposition under the royalty regime applicable to that other lease, the capital cost of the tanker will be the value of such deemed disposition if such value is taken into account in calculating incidental transportation revenue in the royalty regime applicable to that other lease plus an uplift of 1% (excluding any uplifts in the other royalty regime);
- (f) if a uniform transportation cost system is implemented for all leases in the Offshore Area, the Proponents will have the option of calculating capital costs for a tanker qualifying under 5(c)(iv)(e) above consistently with that uniform transportation cost system instead of under 5(c)(iv)(e) above; and

- (g) subsection 68(1)(m) of the Applicable Royalty Regulations shall not operate to disqualify costs calculated under this section 5(c)(iv).
  - (v) The Owned Tanker return on capital costs will be 8% on the undepreciated capital cost balance prior to uplift, at mid-year.
- (d) The following Principles will apply to determine Eligible Tanker Costs for a Capital Lease Shuttle Tanker:
  - (i) Eligible Tanker Costs will be the sum of Capital Lease Tanker Operating Costs, Capital Lease Tanker Capital Depreciation and a Capital Lease return on capital costs as set out below, calculated on an annual basis.
  - (ii) All operating and capital costs will be subject to qualification as eligible costs on rules equivalent to those in Sections 63(1)(a), (b) and (c) and 68(1) for resource project eligible costs under the Applicable Royalty Regulations.
  - (iii) Capital Lease Tanker Operating Costs (including costs that are directly related to operating a tanker including but not limited to tanker fuel costs and tanker crew costs) will be recognized as incurred subject to the provisions of section 16(1) of the Applicable Royalty Regulations, with an uplift of 10%.
  - (iv) Capital Lease Tanker Capital Depreciation will be the annual depreciation amount for the capital costs of the tanker depreciated over the remaining useful life of the tanker, on a straight line basis, with “capital costs of the tanker” for such calculation being based on the following:
    - (a) capital cost of the tanker shall be based on the fair market value of the tanker at the time of lease commencement, to be determined by an independent appraiser satisfactory to the Province, acting reasonably plus an uplift of 1%;
    - (b) new capital expenditures will be added, subject to the provisions of section 16(1) of the Applicable Royalty Regulations, to the capital costs of the tanker plus an uplift of 1%, and the useful life adjusted, in accordance with GAAP;
    - (c) the remaining useful life of the tanker will be determined by an independent appraiser; and
    - (d) subsection 68(1)(m) of the Applicable Royalty Regulations shall not operate to disqualify costs calculated under this section 5(d)(iv).
  - (v) The Capital Lease return on capital cost will be 8% on the undepreciated capital cost balance prior to uplift, at mid-year.
  - (vi) Within six months of the first use of the tanker to move oil produced from the Lands, the Minister may elect to treat the capital lease as an operating lease for the purposes of transportation cost eligibility. Such election shall apply for the life of the tanker unless otherwise agreed by the parties or if requested by one or more of the Proponents and approved by the Minister.
- (e) The following Principles will apply to determine Eligible Tanker Costs for an Operating Lease Shuttle Tanker:
  - (i) Where an Operating Lease results from a Competitive Tender Process, the eligible transportation cost for that tanker will be:
    - (1) the Operating Lease costs; and



- (2) tanker operating costs that are directly related to operating the tanker (including but not limited to tanker fuel costs and tanker crew costs);
- as incurred without uplifts, notwithstanding section 16 of the Applicable Royalty Regulations.
- (ii) Where an Operating Lease is entered into pursuant to a Competitive Tender Process and the successful bidder as a result of such a process is non-arm's length then the Eligible Tanker Costs will be as noted in (i) unless, upon review, the Minister determines that the contract was not a result of a Competitive Tender Process in which case (iii) shall apply.
  - (iii) Where an Operating Lease is entered into where the award of the contract was not pursuant to a Competitive Tender Process, the Eligible Tanker Costs will be determined in the same manner as if the lease were a Capital Lease unless the Minister permits deduction of the actual cost as incurred in accordance with (i).
  - (iv) The costs incurred by a Tanker Administrator directly related to administering an Operating Lease will be included in the tanker cost for an Operating Lease, subject to qualification as Eligible Tanker Costs on rules equivalent to those in sections 63(1)(a), (b) and (c) and 68(1) for resource project eligible costs under the Applicable Royalty Regulations.
  - (v) Subsection 68(1)(m) of the Applicable Royalty Regulations shall not operate to disqualify costs included as a component in the payment made under 5(e)(i)(1).
  - (f) Eligible Tanker Costs in respect of Second Leg Tankers or Temporary Replacement Tankers shall be:
    - (i) the actual cost incurred for arm's length Second Leg Tankers or arm's length Temporary Replacement Tankers; and
    - (ii) the lower of actual cost incurred or fair market value for non-arm's length Second Leg Tankers or non-arm's length Temporary Replacement tankers.

Tanker costs in respect of Second Leg Tankers and Temporary Replacement Tankers are not eligible for uplifts.

## 6. **Eligible Transshipment Cost Calculations**

The following Principles will apply to determine Eligible Transshipment Costs:

- (a) Only transshipment costs relating to the Whiffen Head Transshipment Terminal are eligible.
- (b) Eligible Transshipment Costs will be the actual amount paid to the Whiffen Head Transshipment Terminal by the Proponents in relation to transshipment costs for oil produced from the Lands, adjusted as follows:
  - (i) Proponents who are not legal or beneficial owners, and who do not have Affiliates which are legal or beneficial owners, of interests in that transshipment facility will have no adjustment; and
  - (ii) Proponents who are legal or beneficial owners, or who have Affiliates which are legal or beneficial owners, of interests in the transshipment facility ("Proponent Owners") will deduct from the amount paid an amount necessary to remove the portion of such amount paid that represents any profit or return to the Proponent Owners, in excess of

an annual rate of return of 6% on their collective contributed capital, as allocated in accordance with the Transshipment Allocation Agreement among the Proponent Owners. For the purpose of this section, contributed capital means the value of the share capital issued and outstanding, as reported on the audited annual financial statements of Newfoundland Transshipment Limited or its successors.

- (c) Subsection 68(1)(m) of the Applicable Royalty Regulations shall not operate to disqualify costs included as a component in the payment made under 6(b).
- (d) The arrangement for Transshipment Cost Eligibility is premised upon:
  - (i) the current generic transshipment terminal capacity reservation agreements, general terms and conditions of service, and shareholders agreements / arrangements methodology to determine customer costs. In the event of any amendment to these agreements:
    - (1) the Proponents shall notify the Province of the new contract arrangements; and
    - (2) regardless of any new contract arrangements, the Proponents shall only be permitted to deduct an amount that would be equivalent to the amount calculated if the current transshipment terminal capacity reservation agreements (acknowledging there may be changes in the nominated capacities), terms and conditions of service, and shareholders agreements / arrangements remained in place and Proponents were invoiced according to that agreement; and
  - (ii) the continuation of the basic business operations of the facility as being for the transshipment and storage of oil, which shall not include the transportation of oil.
- (e) Costs of the transshipment facility operator included in the amount charged to the Proponents shall be in compliance with the transshipment facility agreements and with GAAP, and with general reasonable business practices.
- (f) Transshipment costs are not eligible for uplifts.
- (g) The Proponents who are owners of interests in the transshipment facility will agree to allocate adjustments in (b)(ii) above pursuant to an agreement (“Transshipment Allocation Agreement”) for royalty purposes. The Transshipment Allocation Agreement:
  - (i) will be agreed prior to first oil;
  - (ii) will be provided to the Province prior to first oil;
  - (iii) will include an allocation formula which shall be reasonable and aligned with the Proponents’ costs, ownership, contract ownership, usage, and / or capacity in the asset.
- (h) Any subsequent changes to the Transshipment Allocation Agreement will require the Province’s consent before such changes will have effect for the purposes of allocation of Eligible Transshipment Costs under this Exhibit.
- (i) The Proponents who are owners of interests in the transshipment facility represent and warrant to the Province that the documents they have provided contain the transshipment facility’s current and complete terms and conditions of service and methodology used in determining the transshipment fees and rate of return, as contemplated in section 6. The Proponents acknowledge that the Province’s agreement to the Principles set out in this section 6 relating to the transshipment facility are made in reliance upon these documents and this representation.

7. **Eligible Other Transportation Costs**

Costs incurred in relation to the transportation of oil produced from the Lands may be deducted by a Proponent where and to the extent they qualify as Eligible Other Transportation Costs, subject to the following:

- (a) Eligible Other Transportation Costs are not eligible for uplifts; and
- (b) Eligible Other Transportation Costs shall be subject to the provisions of section 16(1) of the Applicable Royalty Regulations.

8. **Incidental Transportation Revenue**

- (a) Incidental Transportation Revenue is recognized only where:

- (i) a Shuttle Tanker is used as a Profitable Outcharter; and
  - (ii) the amount that is an eligible deduction as a royalty transportation cost under that other lease in the Offshore Area is greater than the amount that would have been an Eligible Transportation Cost for the use of that same Shuttle Tanker in that same time period by the Proponents in relation to transportation of oil produced from the Lands; and

the amount of “Incidental Transportation Revenue” (if any) is the difference in (ii).

- (b) Allocation of Incidental Transportation Revenue for a Shuttle Tanker to the Proponents on an annual basis will be based on the following formula:

$$(A / E) \times \text{ITR}$$

Where:

ITR = Incidental Transportation Revenue

A = Hebron Tanker Days

B = Total Used Tanker Days

E = B – Non-NL Tanker Days – days used as a Profitable Outcharter in another lease.

- (c) In a month in which Eligible Transportation Costs calculated for a Proponent are negative, Eligible Transportation Costs for that month shall be zero dollars (\$0) and the calculated amount which was less than zero dollars (\$0) shall be carried forward and applied against Eligible Transportation Costs in the following month.
    - (d) An amount paid or received by a Proponent to or from another Proponent in respect of a transportation asset that represents the settlement of accounts between or among the Proponents to adjust for the usage of the transportation asset for the transportation of oil produced from the Lands if, for each such amount paid by a Proponent, there is a contemporaneous and corresponding receipt of an equal amount by another Proponent shall not give rise to incidental transportation revenue.

9. **Insurance**

The Transportation Amendments will provide that where a Proponent has included insurance costs as Eligible Transportation Costs, and the Proponent has received the benefit of insurance proceeds, the Proponent shall recognize these proceeds as a credit

against Eligible Transportation Costs to the lesser amount of the actual benefit received or the costs claimed.

#### 10. **Audit Rights**

- (a) Proponents will identify a Proponent or a third party to be the Tanker Administrator for each tanker asset.
- (b) For greater clarity, in addition to audit rights set out in the Act and Applicable Royalty Regulations, the Proponents shall ensure their future contractual arrangements acknowledge and facilitate comprehensive audit rights for the Province solely for the purposes of the determination of transportation costs for the Proponents pursuant to these principles, including but not limited to comprehensive audit rights (including over the Competitive Tender Process for tanker procurement) as follows:
  - (i) For Owned Shuttle Tankers: Proponents and Tanker Administrators;
  - (ii) For Capital Lease Shuttle Tankers: Proponents and Tanker Administrators;
  - (iii) For transshipment costs: Proponents and the transshipment facility administrator or entity;
  - (iv) For Operating Lease Shuttle Tankers: Proponents and Tanker Administrators;
  - (v) For all Shuttle Tankers: the Tanker Cost Aggregator; and
  - (vi) For Temporary Replacement Tankers: Proponents and Tanker Administrator.
- (c) For any existing contractual arrangements as of the Effective Date, the Proponents shall make all reasonable efforts to ensure the Province is provided such audit rights from the other parties to those arrangements listed in (b)(i) to (vi) above as are enjoyed by the Proponents, as if the Province had originally been a party to the contractual arrangement. Where such contractual arrangements are subsequently amended or revised the Proponents will ensure that the Province receives the same comprehensive audit rights as for new agreements above.
- (d) Where such existing contractual arrangements cannot provide the Province audit rights in accordance with (b) and (c), the Proponents will endeavor to secure equivalent audit rights for a third party auditor selected by the Province and, failing that, will exercise their own audit rights to address the Province's concerns.

#### 11. **Reporting**

Proponents, Tanker Administrators, the Tanker Cost Aggregator and the transshipment facility administrator shall report transportation costs on a monthly and annual basis as prescribed by the Minister.

#### 12. **Dispute**

Where the Proponents and the Province have a dispute with respect to the interaction of the Applicable Royalty Regulations as amended and the Principles, such disputes may be referred to arbitration pursuant to this Agreement.

#### 13. **Remedies**

The Proponents acknowledge that claims for transportation or transshipment costs which are not in compliance with these Principles or the Transportation Amendments, as interpreted using

these Principles, will be disallowed by the Minister without any requirement on the Minister to provide alternate calculations of the Eligible Transportation Costs.

[This page intentionally left blank]