

**HIBERNIA DEVELOPMENT PROJECT**

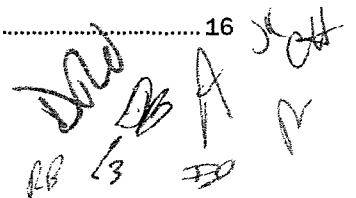
**EL1093/PL1005 ROYALTY AGREEMENT**

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**HIBERNIA DEVELOPMENT PROJECT  
EL1093/PL 1005 ROYALTY AGREEMENT**

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**HIBERNIA DEVELOPMENT PROJECT  
PL1005/EL1093 ROYALTY AGREEMENT**

**THIS AGREEMENT MADE** the 16<sup>th</sup> day of February, 2010,

**AMONG:**

**HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR** (referred to herein as the "Province")

- and -

**EXXONMOBIL CANADA LTD.**, a body corporate, incorporated pursuant to the laws of Canada, having its head office in the City of Calgary, in the Province of Alberta (referred to herein as "ExxonMobil")

- and -

**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 (referred to herein as "ExxonMobil Partnership")

-and-

**EXXONMOBIL CANADA HIBERNIA COMPANY LTD.**, a body corporate, incorporated pursuant to the laws of Canada, having its head office in the City of St. John's, in the Province of Newfoundland and Labrador (referred to herein as "ExxonMobil Hibernia")

- and -

**CHEVRON CANADA RESOURCES**, a partnership established under the laws of the Province of Alberta, having an office in the City of Calgary, in the Province of Alberta (referred to herein as "Chevron Partnership")

-and-

**CHEVRON CANADA LIMITED**, a body corporate, incorporated pursuant to the laws of Canada, having its head office in the City of Calgary, in the Province of Alberta (referred to herein as "Chevron")

- and -

**SUNCOR ENERGY INC.**, a body corporate, amalgamated pursuant to the laws of Canada, having its head office in the City of Calgary, in the Province of Alberta (referred to herein as "Suncor")

- and -

**PETRO-CANADA HIBERNIA PARTNERSHIP**, a partnership established under the laws of the Province of Alberta, having an office in the City of St. John's, in the Province of Newfoundland and Labrador (referred to herein as "Petro-Canada Partnership")

- and -

**MURPHY ATLANTIC OFFSHORE OIL COMPANY LTD.**, a body corporate incorporated pursuant to the laws of Canada, having an office in the City of Calgary, in the Province of Alberta (referred to herein as "Murphy Oil")

- and -

**CANADA HIBERNIA HOLDING CORPORATION**, a body corporate incorporated pursuant to the laws of the Canada, having an office in the City of Calgary, in the Province of Alberta (referred to herein as "CHHC")

- and -

**STATOIL 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 (referred to herein as "Statoil")

-and-

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**NALCOR ENERGY – OIL AND GAS INC.** a body corporate incorporated pursuant to the laws of the Province of Newfoundland and Labrador, having an office in the City of St. John’s, in the Province of Newfoundland and Labrador (referred to herein as “Nalcor Oil”)

(referred to herein collectively as the “Parties” and individually as a “Party”)

**WHEREAS:**

1. Section 33 of the Petroleum and Natural Gas Act authorizes the Province to make an agreement that is inconsistent with the Royalty Regulations.
2. The Parties hereto wish to set forth in this Agreement the rights and obligations agreed to as regards to the payment of royalties, interest and penalties with respect to Hibernia Crude–EL1093/PL1005.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** for and 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:

**PART I: PREAMBLE AND STRUCTURE**

**ARTICLE I: NATURE AND RELATIONSHIP OF AGREEMENT AND ROYALTY**

**1.1 Nature of Agreement**

This Agreement is a contract entered into for consideration among the Project Owners, the Licensees and the Province.

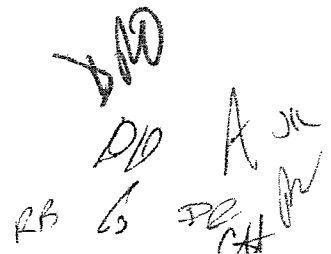
**1.2 Relationship to Legislation and Regulations**

- (a) The Province and the Project Owners agree that the calculation and payment methodology and the administration relating to royalties in respect of PL1001, PL1005 and EL1093 shall be consistent in similar circumstances.
- (b) The Province and the Project Owners acknowledge and agree that this Agreement comprehensively addresses the calculation, payment and administration relating to royalties in respect of PL1005 and EL1093.
- (c) This Agreement is made under subsection (1) of section 33 of the Petroleum and Natural Gas Act.
- (d) Subject to subclause 2.1(d) of the Allocation Agreement, this Agreement is inconsistent with the Royalty Regulations, 2003 made under Part II of the Petroleum and Natural Gas Act or any other regulation promulgated under Part II of the Act and this Agreement shall prevail within the meaning of subsection (2) of section 33 of the Act.

**ARTICLE II: DEFINITIONS**

**2.1 Definitions**

Subject to clause 2.2, the words and phrases used in this Agreement for which definitions are given in Schedule “A” shall have the meanings given thereto in Schedule “A”.


  
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**2.2 Definitions Within Articles**

Words and phrases defined within a particular Article or clause of this Agreement and stated to be defined only for the purposes of the Article or clause, as the case may be, shall have the meaning given thereto only within the Article or clause as stated and shall not have that meaning elsewhere in this Agreement.

**ARTICLE III: SCHEDULES**

**3.1 Schedule References**

References herein to a Schedule shall mean a reference to a Schedule to this Agreement. References in a Schedule to "the Agreement" shall mean a reference to this Agreement.

**3.2 Interpretation of Agreement and Schedules**

This Agreement and all of the Schedules to this Agreement constitute one and the entire agreement among the Parties hereto and, accordingly, this Agreement and all of the Schedules to this Agreement shall be interpreted and enforced as though the provisions of all of the Schedules to this Agreement were set forth in this Agreement prior to the execution page hereof and without giving paramountcy to the provisions of this Agreement or any of the Schedules to this Agreement over the provisions of the other.

**ARTICLE IV: INTERPRETATION**

**4.1 Divisions and Headings**

The division of this Agreement into Parts, Articles, clauses, subclauses and items 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.

**4.2 Part, Article, Clause, Subclause and Item References**

References herein to a Part, Article, clause, subclause or item shall mean a reference to a Part, Article, clause, subclause or item within the body of this Agreement. References herein to a subclause without identifying the clause containing the subclause referred to, shall mean a reference to such subclause within the clause in which the reference is made. References herein to an item without identifying the clause or subclause in which the item is contained shall mean a reference to the item in the same clause or subclause where the reference is made.

**4.3 Statutes, Regulations and Rules**

Any reference in this Agreement to all or any part of any statute, regulation or rule shall, unless otherwise expressly stated herein, be a reference to the statute, regulation or rule, or part thereof, as amended from time to time.

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## ARTICLE V: ACCOUNTING

### 5.1 Terms

All accounting terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with Canadian generally accepted accounting principles, except where inappropriate in the context in which such accounting term is used in this Agreement.

### 5.2 Accounts

All accounts maintained for the purposes of this Agreement by each of a Project Owner, a Resource Project Operator and the Unit Operator shall be maintained in accordance with the provisions of this Agreement and, to the extent not inconsistent therewith, with Canadian generally accepted accounting principles and guidelines and with good petroleum industry practices. The Joint Account-PL1005 shall be maintained by the PL1005 Project Owners in accordance with the provisions of the PL1005 JOA and, to the extent not inconsistent therewith, with Canadian generally accepted accounting principles and good petroleum industry practices. The Joint Account-EL1093 shall be maintained by the EL1093 Project Owners in accordance with the provisions of the EL1093 JOA and, to the extent not inconsistent therewith, with Canadian generally accepted accounting principles and good petroleum industry practices. The provisions of this Agreement, the provisions of the Joint Account-PL1005 and Joint Account-EL1093, Canadian generally accepted accounting principles and guidelines and good petroleum industry practices, to the extent that each is not inconsistent with the preceding, shall be adhered to in the determination and treatment of costs for the purposes of calculating Gross Transfer Revenue and Net Transfer Revenue.

### 5.3 Canadian Generally Accepted Accounting Principles and Guidelines

Where the handbook, as amended from time to time, published by the Canadian Institute of Chartered Accountants includes a relevant statement of a principle or guideline of accounting, such statement shall be the generally accepted accounting principle or guideline applicable at the time to the circumstances that it addresses, except where the principle or guideline is not consistent with the provisions of this Agreement or is not consistent with the provisions of the PL1005 JOA and the EL1093 JOA constituting the Joint Account-PL1005 and Joint Account-EL1093, respectively.

### 5.4 Consistent Application

The accounting terms, principles, guidelines and practices initially adopted by each of a Project Owner, a Resource Project Operator and the Unit Operator for the purposes of this Agreement shall, subject to the foregoing provisions of this Article, be applied by it on a consistent basis from Period to Period and shall not be changed for the purposes of this Agreement unless agreed to by the Province, such agreement not to be unreasonably withheld.

### 5.5 No Double Counting

- (a) A cost or revenue or part of a cost or revenue that has been claimed, deducted or included by a Project Owner in the calculation of Royalty Share cannot be claimed, deducted or included by another Project Owner in its calculation of Royalty Share under the Licences.
- (b) A cost or revenue or part of a cost or revenue that has been claimed, deducted or included by a Project Owner under this Agreement in the calculation of Royalty Share cannot be claimed, deducted or included by that Project Owner or an owner in another production licence(s) issued by the Board in the Offshore Area in the calculation of royalty share under such licence(s).

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- (c) A cost or revenue or part of a cost or revenue that has been claimed, deducted or included by an interest holder in the calculation of its royalty share in a production licence issued by the Board in the Offshore Area other than the Licences shall not be claimed, deducted or included by any Project Owner in a calculation of Royalty Share under PL1005 or EL1093, as applicable.
- (d) An Actual Cash Payment may constitute one, but not more than one, of (i) a Resource Project Eligible Cost, (ii) a Resource Project Eligible Marketing Cost, (iii) an Eligible Transportation Cost or (iv) a deduction in calculating Gross Transfer Revenue. A revenue item may constitute one, but not more than one, of a Resource Project Incidental Revenue or a Gross Sales Revenue.

**ARTICLE VI: ADMINISTRATION AND INDEPENDENCE OF AGREEMENT**

**6.1 Separate Treatment**

The Province shall deal separately with each Project Owner and Licensee in the administration of this Agreement. The actions taken or not taken, any waivers granted or any benefits or indulgences conferred by the Province with respect to any one Project Owner or Licensee shall not prejudice or limit the Province in its dealings with another Project Owner or Licensee with respect to any similar matter or any other matter whatsoever.

**6.2 Consistent Treatment**

Notwithstanding the provisions of clause 6.1, the Province shall, in similar circumstances, afford similar treatment to each Project Owner and Licensee to that afforded another Project Owner or Licensee, as the case may be. In the event that a Project Owner or Licensee disagrees with the Province's determination of similar circumstances or similar treatment, the Project Owner or Licensee, as the case may be, may submit the disagreement to arbitration by notice to the Province. Each of the Project Owners and Licensees agrees that, for the purposes of any such arbitration and notwithstanding clause 26.14, the Province may disclose to the arbitrators and to each Project Owner and Licensee who is a party to the arbitration any information received from any Project Owner or Licensee that is relevant to the Province's position with respect to the determination of similar circumstances or similar treatment pursuant to the arbitration.

Notwithstanding the foregoing or any other provision of this Agreement, the Province and Nalcor Oil may enter into an agreement in relation to Nalcor Oil's liability to make payments to the Province under this Agreement. If such an agreement is entered into, no other Project Owner or Licensee shall be liable to the Province for any portion of the Royalty Share which, absent such agreement, would have been payable by Nalcor Oil under this Agreement.

**6.3 Independent Interpretation**

It is the intention and agreement of all Parties hereto that, with the exception of references to the Allocation Agreement, this Agreement is to be interpreted and enforced without reference to the provisions of any other agreement or document with respect to a Resource Project made by, between or among any one or more of the Parties hereto, Canada and others except as otherwise expressly provided for or otherwise referenced herein.

**ARTICLE VII: EFFECTIVE TIME AND TERM**

**7.1 Effective Time**

This Agreement shall become effective upon completion of the closing provided for in the Document Escrow and Closing Agreement.

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## 7.2 Term

This Agreement shall remain in force in respect of a Project Owner until the first to occur of Project Termination in respect of that Project Owner, termination by the Province pursuant to the provisions of clause 25.8 in respect of that Project Owner or Project Withdrawal by that Project Owner and, in each case, thereafter until all accounts between that Project Owner and the Province with respect to this Agreement have been finally settled. The provision by the Province of notice of termination pursuant to clause 25.8 shall not in any manner preclude a Project Owner from disputing the validity of any such notice nor the affect of such notice with respect to ending the term of this Agreement.

## 7.3 Limitation of Project Withdrawal

Notwithstanding the provisions of clause 7.2, Project Withdrawal shall not terminate this Agreement if a Project Owner or Project Owners, Canada, another Person or any combination thereof has become the Successor to the Working Interest in a Resource Project of a Project Owner prior to termination of this Agreement by reason of Project Termination or pursuant to the provisions of clause 25.8.

## 7.4 Continuation of Agreement

In the event that this Agreement is terminated with respect to a Project Owner, this Agreement shall continue in effect with respect to all other Project Owners.

# PART II: PARTICIPANTS AND ARRANGEMENTS

## ARTICLE VIII: PARTNERSHIPS

### 8.1 Liability of Partners

Each of the general partners of a Party hereto which is a partnership shall be fully liable to the Province for all of the liabilities of the partnership to the Province under this Agreement.

### 8.2 Change in Partnerships

A change in the nature of the partnership or in the partners, partnership interests or the liability of any of the partners of Chevron Partnership, ExxonMobil Partnership or Petro-Canada Partnership shall not be effective so as to either release or diminish the liability at that time to the Province hereunder of that partnership or any Licensee unless the Province agrees thereto in writing.

### 8.3 Notice of Change of Partners

Contemporaneously with the execution of this Agreement each of ExxonMobil Partnership, Chevron Partnership and Petro-Canada Partnership have delivered to the Province notarially certified copies of all documents constituting its partnership and, within ninety (90) days of any amendment to or supplement of such partnership documents, the Project Owner affected thereby shall deliver to the Province a notarially certified copy of the agreement or document making the amendment or supplement.

### 8.4 Successor Partnerships

In the event that there is a change in the partners of, or any other change relative to, ExxonMobil Partnership, Chevron Partnership or Petro-Canada Partnership which would at law result in the termination or reconstitution of any such partnership, then:

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- (i) the successor partnership shall be bound by the provisions of this Agreement and shall have all of the rights and obligations under this Agreement of its predecessor partnership; and
- (ii) each of ExxonMobil, Chevron and Suncor agrees that it shall not be released from its liabilities and obligations under this Agreement with respect to the predecessor partnership and, further, agrees that it shall be as liable and have the same obligations under this Agreement with respect to its successor partnership as it has under this Agreement with respect to its predecessor partnership.

**ARTICLE IX: LICENSEES**

**9.1 ExxonMobil Liability for ExxonMobil Partnership**

ExxonMobil is a general partner in the ExxonMobil Partnership. Notwithstanding any other provision hereof or that ExxonMobil may cease to be a general partner in the ExxonMobil Partnership, ExxonMobil shall be fully and absolutely liable to the Province for all obligations of the ExxonMobil Partnership to the Province under this Agreement until the Province may agree otherwise.

**9.2 No Reduction of ExxonMobil Liability**

ExxonMobil and ExxonMobil Partnership hereby advise the Province, and the Province acknowledges advice from ExxonMobil and ExxonMobil Partnership, that ExxonMobil Partnership is the full legal, beneficial and, to the fullest extent possible, registered owner of each of (a) the Working Interest-PL1005 and (b) the Working Interest-EL1093 in the Resource Project attributed to it in clause 16.1 and all assets or interest in relation thereto and otherwise attributable to the interest of ExxonMobil in the Licences. ExxonMobil, ExxonMobil Partnership and the Province acknowledge that, as a result of the requirements of the Federal Accord Act, ExxonMobil must be the Person named in the PL1005 and in the future significant discovery licence or production licence issued in substitution for EL1093 but ExxonMobil holds all such interests for and on behalf of the ExxonMobil Partnership. The Province may grant time, renewals, extensions, indulgences, releases, discharges and otherwise deal with ExxonMobil Partnership without in any way limiting or lessening the liability of ExxonMobil under this Agreement except to the extent that it results in any reduction of the liability of ExxonMobil Partnership and, thus, ExxonMobil. The Province shall not be bound to exhaust its recourse against ExxonMobil Partnership before being entitled to payment hereunder from ExxonMobil. The obligations of ExxonMobil under this Agreement shall not be terminated, limited or lessened by the termination of the existence of ExxonMobil Partnership. ExxonMobil shall be bound by each account settled between ExxonMobil Partnership and the Province.

**9.3 Chevron Liability for Chevron Partnership**

Chevron is a general partner in the Chevron Partnership. Notwithstanding any other provision hereof or that Chevron may cease to be a general partner in the Chevron Partnership, Chevron shall be fully and absolutely liable to the Province for all obligations of the Chevron Partnership to the Province under this Agreement until the Province may agree otherwise.

**9.4 No Reduction of Chevron Liability**

Chevron and Chevron Partnership hereby advise the Province, and the Province acknowledges advice from Chevron and Chevron Partnership, that Chevron Partnership is the full legal, beneficial and, to the fullest extent possible, registered owner of each of (a) the Working Interest-PL1005 and (b) the Working Interest-EL1093 in the Resource Project attributed to it in clause 16.1 and all assets or interest in relation thereto and otherwise attributable to the interest of Chevron in the Licences. Chevron, Chevron Partnership and the Province acknowledge that, as a result of the requirements of the Federal Accord Act, Chevron must be the

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Person named in the Licences but Chevron holds all such interests for and on behalf of the Chevron Partnership. The Province may grant time, renewals, extensions, indulgences, releases, discharges and otherwise deal with Chevron Partnership without in any way limiting or lessening the liability of Chevron under this Agreement except to the extent that it results in any reduction of the liability of Chevron Partnership and, thus, Chevron. The Province shall not be bound to exhaust its recourse against Chevron Partnership before being entitled to payment hereunder from Chevron. The obligations of Chevron under this Agreement shall not be terminated, limited or lessened by the termination of the existence of Chevron Partnership. Chevron shall be bound by each account settled between Chevron Partnership and the Province.

#### 9.5 Suncor Liability for Petro-Canada Partnership

Suncor is a general partner in the Petro-Canada Partnership. Notwithstanding any other provision hereof or that Suncor may cease to be a general partner in the Petro-Canada Partnership, Suncor shall be fully and absolutely liable to the Province for all obligations of the Petro-Canada Partnership to the Province under this Agreement until the Province may agree otherwise.

#### 9.6 No Reduction of Suncor Liability

Suncor and Petro-Canada Partnership hereby advise the Province, and the Province acknowledges advice from Suncor and Petro-Canada Partnership, that Petro-Canada Partnership is the full legal, beneficial and, to the fullest extent possible, registered owner of each of (a) the Working Interest-PL1005 and (b) the Working Interest-EL1093 in the Resource Project attributed to it in clause 16.1 and all assets or interest in relation thereto and otherwise attributable to the interest of Suncor in the Licences. Suncor, Petro-Canada Partnership and the Province acknowledge that, as a result of the requirements of the Federal Accord Act, Suncor must be the Person named in the Licences but Suncor holds all such interests for and on behalf of the Petro-Canada Partnership. The Province may grant time, renewals, extensions, indulgences, releases, discharges and otherwise deal with Petro-Canada Partnership without in any way limiting or lessening the liability of Suncor under this Agreement except to the extent that it results in any reduction of the liability of Petro-Canada Partnership and, thus, Suncor. The Province shall not be bound to exhaust its recourse against Petro-Canada Partnership before being entitled to payment hereunder from Suncor. The obligations of Suncor under this Agreement shall not be terminated, limited or lessened by the termination of the existence of Petro-Canada Partnership. Suncor shall be bound by each account settled between Petro-Canada Partnership and the Province.

### ARTICLE X: OPERATORS

#### 10.1 Activities of Operators

##### (i) EL1093

The EL1093 Project Owners shall cause the Resource Project Operator-EL1093 to have and maintain an office in Newfoundland and Labrador, which office shall have appropriate levels of staffing and decision making.

##### (ii) PL1005

The PL1005 Project Owners shall cause the Resource Project Operator-PL1005 to have and maintain an office in Newfoundland and Labrador, which office shall have appropriate levels of staffing and decision making.

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**10.3 Change of Operators**

**(i) EL1093**

The EL1093 Project Owners shall give the Province thirty (30) days advance notice of the effective date of the resignation or replacement of the Resource Project Operator-EL1093 and such information relative to the new Resource Project Operator-EL1093 as the EL1093 Project Owners consider the Province should require and such other information with respect to the resignation or replacement as the Province may reasonably request.

**(ii) PL1005**

The PL1005 Project Owners shall give the Province thirty (30) days advance notice of the effective date of the resignation or replacement of the Resource Project Operator-PL1005 and such information relative to the new Resource Project Operator-PL1005 as the PL1005 Project Owners consider the Province should require and such other information with respect to the resignation or replacement as the Province may reasonably request.

**10.4 Compliance with Agreement by Resource Project Operators**

Upon a Person being appointed a Resource Project Operator, the applicable Project Owners shall cause such Person to execute and deliver to the Province: (a) an Operator's Agreement, in the event that such Person has been granted a Security Interest in the Production Licence or the Charged Premises of a Project Owner; or (b) an Operator's Acknowledgement Agreement, in the event such Person has not been granted such a Security Interest, and the Province shall execute and deliver to the other parties thereto such agreement. The applicable Project Owners shall cause each Person being a Resource Project Operator to comply with the provisions of the Operator's Agreement or Operator's Acknowledgement Agreement to which the Resource Project Operator is a party.

**ARTICLE XI: RIGHTS AND OBLIGATIONS OF PROJECT OWNERS AND LICENSEES**

**11.1 Project Owners**

To the extent that this Agreement imposes a separate liability upon a Project Owner to perform a duty or obligation, or creates a separate right, under or pursuant to this Agreement, then only that Project Owner, and no other Project Owner, shall be liable for the performance of such duty or obligation, or entitled to such right. To the extent that this Agreement imposes a collective liability upon more than one Project Owner to perform a duty or obligation under or pursuant to this Agreement, then each Project Owner upon whom such duty or obligation is imposed shall be liable for the performance of such duty or obligation but no Project Owner shall be liable for the non-performance by any other Project Owner of such collective obligation. Subject to the foregoing, nothing in this Agreement or, to the extent variable by agreement, any applicable laws shall create, or be construed as creating, any joint, joint and several or collective rights or obligations on the part of the Project Owners.

**11.2 Licensees**

To the extent that this Agreement imposes a separate liability upon a Licensee to perform a duty or obligation, or creates a separate right, under or pursuant to this Agreement, then only that Licensee, and no other Licensee, shall be liable for the performance of such duty or obligation, or entitled to such right. Subject to the foregoing, nothing in this Agreement or, to the extent variable by agreement, any applicable laws shall create, or be construed as creating, any joint, joint and several or collective rights or obligations on the part of a Licensee except in respect of the Project Owner of which the Licensee is a partner and any successor partnership as provided for in clause 8.4.

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**ARTICLE XII: REPRESENTATIONS****12.1 Partnerships**

Each of ExxonMobil Partnership, Chevron Partnership and Petro-Canada Partnership hereby severally covenants, represents and warrants with and to the Province as to itself only, and each of ExxonMobil, Chevron and Suncor hereby severally covenants, represents and warrants with and to the Province with respect to only the Project Owner of which it is a partner, that:

- (i) It is a general partnership constituted and existing under the laws of the Province of Alberta and it is qualified to carry on business in Newfoundland and Labrador and the Offshore Area;
- (ii) Each of its partners has the requisite power, authority and qualification to be a partner in the partnership; and
- (iii) It, and each of its partners, have all requisite power and authority to enter into this Agreement and to perform its obligations under this Agreement and it has duly executed and delivered this Agreement.

**12.2 Corporations**

Each of ExxonMobil, ExxonMobil Hibernia, Chevron, Suncor, Murphy Oil, CHHC, Statoil and Nalcor Oil hereby severally covenants, represents and warrants with and to the Province as to itself only that:

- (i) It is a corporation in good standing under the laws of its jurisdiction of incorporation and is qualified to carry on business in Newfoundland and Labrador and the Offshore Area; and
- (ii) It has all requisite power and authority to enter into this Agreement and to perform its obligations under this Agreement and has duly executed and delivered this Agreement.

**12.3 Province**

The Province hereby covenants, represents and warrants with and to each of the other Parties hereto that:

- (i) it has all requisite power and authority to enter into this Agreement and, subject to the general requirement to obtain appropriations, to perform its obligations in accordance with the terms of this Agreement and it has duly executed and delivered this Agreement.

**ARTICLE XIII: SECURITY****13.1 Security**

As security for the due payment of the Royalty Share payable by a Project Owner to the Province at the times and in the manner specified in this Agreement, such Project Owner does hereby grant, convey, assign, mortgage, charge, pledge and hypothecate to and in favour of the Province, as and by way of a first, fixed and specific mortgage, charge, pledge, hypothec and security interest, such Project Owner's entire right, title, estate and interest, whether now owned or hereafter acquired by it in any manner, in, to, under, or in respect of, and all benefit and advantage accruing to such Project Owner from:

- (i) such Project Owner's share (undivided and divided) of all Hibernia Crude EL1093/PL1005; and
- (ii) all monies and proceeds which may at any time and from time to time be due, owing or payable to such Project Owner after the date of this Agreement from or in respect of (a) such Project Owner's share (undivided and divided) of all Hibernia Crude EL1093/PL1005 and of any agreements now in effect or hereafter entered into by such Project Owner relating to the sale, use or other disposition of such Project Owner's share (undivided and divided) of all Hibernia Crude EL1093/PL1005, and (b) the

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sale, assignment (other than by way of security only), transfer or other disposition, in whole or in part, of the Working Interest of such Project Owner in the Licences, or either of them.

The first, fixed and specific mortgage, charge, pledge, hypothec and security interest created or intended to be created herein by the Grantors (as defined in clause 13.4) to and in favour of the Province is herein referred to as the "Security". The property, assets, rights and things which are or are intended to be subject to the Security are herein referred to as the "Charged Premises".

In connection with the Security created by each Project Owner, the Licensee which is a partner of each such Project Owner hereby represents and warrants to the Province that:

- (a) it is a general partner of such Project Owner;
- (b) it has no beneficial interest in any of the Charged Premises, except to the extent that it may have such a beneficial interest in its capacity as a general partner of such Project Owner; and
- (c) all interest of the Licensee in a Licence which is held by it in its capacity as a holder of a Licence is held for and on behalf of such Project Owner.

The Licensee hereby acknowledges that the Province is relying on the foregoing representation and warranty. The Licensee hereby further acknowledges the Security created by the Project Owner and agrees to execute, on behalf of the Project Owner such instruments in registrable form as may be necessary to assure to the Province a valid first and specific charge on the Charged Premises.

Notwithstanding anything contained in this Article, the Province acknowledges and agrees that the Security shall include, in respect of the Licences, only the proceeds of disposition of all or a part of the Working Interest therein but shall not include any charge upon or interest in the Licences themselves nor any of the rights created therein. In addition the Security shall not include any interest in any proceeds resulting from a grant of a Security Interest for the purpose of securing any indebtedness or liability of a Project Owner or Licensee.

### 13.2 Security Valid Upon Execution

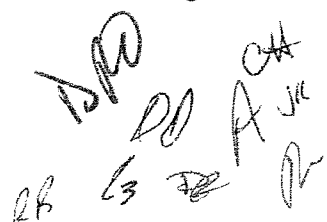
Without in any way limiting the provisions of clause 13.1, the Security shall become effective as at the time of execution and delivery of this Agreement and shall constitute a continuing Security until released and discharged by written instrument executed by the Province, for the due payment of the Royalty Share from time to time payable under this Agreement, notwithstanding that an amount may not be owing at the time of such execution and delivery or from time to time thereafter.

### 13.3 Enforcement

In the event that a Project Owner makes default in the payment, when due, of any Royalty Share payable by such Project Owner to the Province under this Agreement, and such default is not cured within 5 days of notice thereof by the Province to such Project Owner, the Security created in this Article by such Project Owner and the Licensee, if any, which is a partner of such Project Owner shall immediately become enforceable.

### 13.4 Remedies on Default

Whenever the Security created in this Article by a Project Owner or Licensee, if any, which is a partner of such Project Owner (collectively the "Grantors" and individually a "Grantor") on any of the Charged Premises shall become enforceable, the Province may realize upon any of such Charged Premises and enforce its rights by:

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- (a) taking possession of all or any part of such Charged Premises and collecting and getting in any monies and proceeds therefrom or in respect thereof;
- (b) sale of such Grantor's share of Hibernia Crude EL1093/PL1005 (undivided and divided) in accordance with clause 13.5
- (c) proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Article includes a receiver and manager) of any or all of such Charged Premises;
- (d) proceedings in any court of competent jurisdiction for the sale of any or all of such Grantor's share (undivided and divided) of Hibernia Crude EL1093/PL1005;
- (e) filing of proofs of claim and other documents to establish its claims in any proceeding relative to such Grantor; and
- (f) any other remedy or proceeding authorized or permitted hereby or by law or in equity.

The foregoing remedies may be exercised from time to time separately or in any combination and are in addition to and not in substitution for any other rights of the Province howsoever created; provided, however, the Province shall not be entitled to remove or take possession pursuant to the Security of any Hibernia Crude EL1093/PL1005 prior to the Transfer Point nor shall it, pursuant to the Security, dispose of any such rights to any third party except subject to the same restriction.

### 13.5 Sale by the Province

If the Security created by a Grantor on any of the Charged Premises shall become enforceable, the Province may, either before or after any entry, sell and dispose of such Grantor's share of all Hibernia Crude EL1093/PL1005, either as a whole or in separate parts, at public auction or by tender or by private sale at such time or times as the Province may determine, and may make any such sale, either for cash or credit or part cash and part credit, and with or without advertisement, and with or without a reserve bid as the Province may see fit. The Province may, with the consent of the parties to any such contract of sale, rescind or vary any such contract of sale that may have been entered into by the Province and resell with or under any of the powers conferred hereunder and adjourn any such sale from time to time and may execute and deliver to the purchaser or purchasers of such Grantor's share of Hibernia Crude EL1093/PL1005 or any part thereof a good and sufficient deed or deeds for the same. Notwithstanding the foregoing, the Province shall not be entitled to sell or dispose of any of the Grantor's share of Hibernia Crude EL1093/PL1005 under the provisions of any sales agreement entered into by such Grantor relating thereto but this restriction shall not prohibit the Province from selling any of such Grantor's share of Hibernia Crude EL1093/PL1005 to the purchaser under such sales agreement by separate agreement.

### 13.6 Powers of the Receiver

Whenever the Security created by a Grantor on any of the Charged Premises shall become enforceable, the Province may apply to a court of competent jurisdiction for the appointment of a receiver of any of the Charged Premises with power to:

- (i) take possession of, collect and get in any or all of such Charged Premises and, for that purpose, to take proceedings in the name of the Grantor which created the Security on such Charged Premises or otherwise; and
- (ii) sell or concur in selling any or all parts of such Grantor's share (undivided and divided) of Hibernia Crude EL1093/PL1005 without notice and in such manner as may seem advisable to the receiver, and to effect such sale by conveying in the name and on behalf of such Grantor or otherwise, provided, however, that such sale may not be made under the provisions of any sale agreement entered into by the Grantor relating thereto;

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and with such other discretions, rights and powers as the court making such appointment shall confer provided, however, the Province shall not be entitled to remove or take possession pursuant to the Security of any Hibernia Crude EL1093/PL1005 prior to the Transfer Point nor shall it, pursuant to the Security, dispose of any such rights to any third party except subject to the same restriction. All money from time to time received by the receiver from or in respect of any of such Charged Premises may be applied as follows: first, in discharge of all operating expenses affecting such Charged Premises; second, in keeping in good standing any Security Interests on such Charged Premises having priority over the Security created by such Grantor; third, in payment of the reasonable remuneration and disbursements of the receiver; fourth, in payment to the Province of the monies payable hereunder; and the balance, if any, shall be paid to the Grantor which created the Security on such Charged Premises.

### 13.7 Expenses

Each Project Owner agrees, without prejudice to its right at any time to contest or dispute the reasonableness of same, to pay to the Province forthwith on demand all reasonable costs, charges and expenses, including all reasonable legal fees (on a solicitor and his own client basis), incurred by the Province in connection with the recovery or enforcement of payment of any amount payable by such Project Owner hereunder in respect of the Royalty Share, whether by realization or otherwise. All such sums shall be secured by the Security created by such Project Owner and the Licensee, if any, which is a partner of such Project Owner, shall be added to the money secured thereby and shall bear interest at the rate provided for in clause 25.1.

### 13.8 Representation of Grantors

Each of the Grantors severally represents and warrants, as to itself only, that it has not in any manner created, or agreed to create, any Security Interest in, upon or with respect to its Working Interest in the Licences or its interest in the Charged Premises, except as:

- (i) provided for, or contemplated to be created
  - (A) herein, or
  - (B) in the Operating Agreements, or
- (ii) not restricted herein,

and that such Working Interest and Charged Premises are free and clear of all other encumbrances created by, through or under it.

### 13.9 Reporting and Notices

Upon default by a Project Owner in the due payment of any Royalty Share payable by it, such Project Owner shall forthwith and thereafter for so long as such default is continuing provide to the Province particulars of all agreements entered into by such Project Owner for the sale of Hibernia Crude EL1093/PL1005. The Province covenants and agrees with each Project Owner that it will not give notice requiring a payor of any monies under an agreement entered into by such Project Owner for the sale, use or other disposition of Hibernia Crude EL1093/PL1005 to pay such monies to the Province unless and until a default has occurred in the due payment of any Royalty Share payable by such Project Owner.

### 13.10 Further Assurances

Each Grantor, as to itself only, severally covenants that it shall forthwith, and from time to time, execute or cause to be executed all deeds and documents and do or cause to be done all things which are

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necessary to grant to the Province (so far as may be required under the local laws of the places where the Charged Premises are, from time to time, situated) a valid and continuing first, fixed and specific mortgage, pledge, charge and hypothec of the nature herein specified upon the property, assets, rights and things, whether now owned or hereafter acquired, intended to be included within the Charged Premises, to secure payment of the monies intended to be secured by this Agreement, and for conferring upon the Province the power of sale and other powers over the Charged Premises as are hereby expressed to be conferred, including, without limitation, delivering to the Province from time to time at its request specific assignments of the monies and proceeds which may at any time be due or owing to such Grantor from or in respect of the sales agreements for Hibernia Crude EL1093/PL1005 then in effect in such form as the Province may reasonably request.

Notwithstanding the foregoing, the Project Owners shall not be obliged to execute any powers of attorney pursuant to the foregoing. The Province covenants and agrees with each Grantor that it will not give notice of such specific assignments or the Security Interest created thereby to the payor of any monies under any agreement made subject thereto and entered into by such Grantor unless and until a default has occurred in the due payment of any Royalty Share payable by it or by the Project Owner of which it is a partner, as the case may be.

#### 13.11 Power of Attorney

Each Grantor creating Security on any of the Charged Premises hereby irrevocably appoints the Province as its attorney with power of substitution from time to time for and in the name of such Grantor, after the Province has become entitled to exercise the remedies referred to in clause 13.4, to complete, sign and seal all documents and transfers necessary in order to complete the transfer of any and all of such Charged Premises to the Province. The power of attorney herein granted shall not be revoked by the dissolution, liquidation or other termination of the existence of such Grantor or for any other reason.

#### 13.12 Trust Provision

If a Grantor shall have failed to pay when due its Royalty Share, then and for so long as such default is continuing all monies and proceeds collected or received by a Grantor in respect of the sale, assignment, transfer or other disposition, in whole or in part, of the Working Interest of such Grantor in the Licences or either of them shall, to the extent of the amount of any Royalty Share owing to the Province by such Grantor or the Project Owner of which the Grantor is a partner at such time, be received as trustee for the Province and, to the extent of any amount reasonably required to be allocated to the Licences pursuant to clause 16.5, shall be forthwith paid over to the Province. The foregoing trust obligations shall extend only to Royalty Share due and payable and estimated by the Province to be payable by such Grantor to the Province based upon filings required prior to such date and specifically shall include any Royalty Share which may thereafter be determined to have been due at such date based upon any redetermination, recalculation, annual reconciliation or arbitration hereunder.

#### 13.13 Acknowledgement of Termination of Security

Notwithstanding anything to the contrary herein, the Security herein created in respect of any Hibernia Crude EL1093/PL1005 shall (provided the Project Owner creating the Security is not in default in the payment of any Royalty Share due and payable to the Province and the Province is enforcing its security with respect to such Hibernia Crude EL1093/PL1005) cease to apply to such Hibernia Crude EL1093/PL1005 once such Hibernia Crude EL1093/PL1005 reaches the later of (i) the Sale Point; and (ii) the Transfer Point.

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**13.14 Use by Province of Shuttle Tankers and Temporary Replacement Tankers to Effect Security**

In the event that the Province is enforcing its Security as provided for in this Article 13 with respect to a Project Owner in default in payment of its Royalty Share, the Province may give notice in writing to the Project Owners that it wishes to be advised as to the next lifting scheduled for that defaulting Project Owner pursuant to the Project Owners' Lifting Agreement. The Project Owners will advise the Province of the date the next lifting is scheduled in respect of that Project Owner and shall make available to the Province as soon as is reasonably possible the use of a Shuttle Tanker or a Temporary Replacement Tanker provided such defaulting Project Owner had arranged the use of such tanker for such lifting. If there is not then available and the defaulting Project Owner had not arranged or was not entitled to the use of such tanker, then the Province shall arrange its own transportation or, if the Province so requests, the remaining Project Owners will cooperate and coordinate with the Province the use of such tanker for the subsequently scheduled lifting of the defaulting Project Owner. In the event that the Project Owners are required to provide the use of a Shuttle Tanker or a Temporary Replacement Tanker, they shall utilize their capacity to tranship such Crude Oil through the Whiffen Head Transshipment Terminal. The use of such tanker and the Whiffen Head Transshipment Terminal by the Province in these circumstances will be in accordance with the terms of ARTICLE XXII of this Agreement. In addition, the Province acknowledges and agrees that in the event the other Project Owners assist and cooperate with the Province in the use of such tanker and the Whiffen Head Transshipment Terminal as a result of any such request by the Province, the Province will indemnify and save such Project Owners harmless of and from any reasonable liabilities, costs or expenses resulting from the use by the Province of such tanker and the Whiffen Head Transshipment Terminal incurred by them in doing so, provided, however, the costs for use of such tanker and the Whiffen Head Transshipment Terminal shall be in accordance with ARTICLE XXII.

**ARTICLE XIV: PROJECT OWNERS' AGREEMENTS**

**14.1 Operating Agreements**

Contemporaneously with the execution of this Agreement by the Province, the Project Owners have delivered to the Province originally executed copies or notarially certified copies of the entire Operating Agreements to which they are parties on the date hereof. The Project Owners shall deliver to the Province originally executed copies or notarially certified copies of all agreements and other documents which amend, replace or alter howsoever the provisions of such Operating Agreements or the rights or obligations under such agreements of the Persons bound or affected thereby. This clause shall not require the Project Owners to deliver to the Province any agreements or documents which are contemplated by, which implement, which give effect to or which allow for or reflect the occurrence or performance of matters provided for in such Operating Agreements and which do not amend, replace or alter the provisions of such Operating Agreements.

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**14.2 Project Owners' Lifting Agreement**

Prior to the date of this Agreement, the Project Owners shall deliver to the Province originally executed copies or notarially certified copies of the Project Owners' Lifting Agreement, and thereafter all agreements and other documents which amend, replace or alter howsoever the provisions of the Project Owners' Lifting Agreement or the rights or obligations under such agreement of the Persons bound or affected thereby. This clause shall not require the Project Owners to deliver to the Province any agreements or documents which are contemplated by, which implement, which give effect to or which allow for or reflect the occurrence or performance of matters provided for in the Project Owners' Lifting Agreement, and which do not amend, replace or alter the provisions of the Project Owners' Lifting Agreement. Subject to clause 14.3, no amendment, replacement or other alteration whatsoever of the provisions of the Project Owners' Lifting Agreement or the rights or obligations under such agreement of the Persons bound or affected by the Project Owners' Lifting Agreement shall be effective for the purposes of this Agreement to the extent only that the same would adversely affect any calculation to be made pursuant to this Agreement until the Province consents thereto in writing.

**14.3 Provincial Approval**

In the event that, upon receipt by the Province of an originally executed or notarially certified copy of an amendment, replacement or other alteration of the provisions of the Project Owners' Lifting Agreement or the rights or obligations under such agreement of the Persons bound or affected thereby, the Province disagrees with the provisions thereof which would adversely affect any calculation to be made pursuant to this Agreement, then the Province shall give the Project Owners notice of those provisions with which the Province disagrees. If, after discussions between the Project Owners and the Province, the Project Owners and the Province cannot resolve any such disagreement as aforesaid, either the Project Owners or the Province may submit such disagreement to arbitration to determine, initially, whether the provisions of the Project Owner's Lifting Agreement would adversely affect any calculation to be made pursuant to this Agreement and, if it is determined that there is such an adverse effect, then to determine with respect to the provisions in dispute what the Project Owners' Lifting Agreement should provide for the purposes only of this Agreement.

**ARTICLE XV: JOINT ACCOUNT**

**15.1 Joint Account**

No amendment, replacement or other alteration whatsoever of the provisions of the EL1093 JOA or the PL1005 JOA as set out in Schedule H of this Agreement which relate to the Joint Account shall be effective for the purposes of this Agreement until the Province consents thereto in writing, such consent not to be unreasonably withheld.

**15.2 Replacement of Joint Account**

The Project Owners acknowledge that the existence of the Joint Accounts and the standards, procedures, rules and review provided for with respect thereto provide safeguards essential to the Province for administration of the royalties to be paid to the Province pursuant to this Agreement. Further, the Project Owners acknowledge that were all of the Working Interests in a Licence to be held by one Project Owner or one other Person only (for purposes of this clause a "Single Owner Licence"), that the safeguards provided to the Province by the Joint Account applicable to such Licence would be eliminated. In the event that all Working Interests in a Licence are transferred or otherwise conveyed howsoever to one Project Owner or one Person, then, until the Province and the Project Owner or Person who owns all of the Working Interests in such Licence have agreed, either by discussion or by arbitration, to provisions to replace such Joint Account, this Agreement shall be amended by substituting for the words contained in clauses 29.1(i)(c) and 29.1(ii)(c) the words: "it is the lesser of the actual cost or fair market value; and". Either the Province or the Project Owner or Person who

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owns all of the Working Interests in a Single Owner Licence may by notice to the other initiate discussions relative to provisions to replace the Joint Account applicable thereto and, in the event that such discussions are unsuccessful, either the Province or such Project Owner or Person may submit to arbitration the determination of the provisions which will replace items (i)(c) and (ii)(c) of clause 29.1 and the definition of Joint Account and other provisions of this Agreement affected thereby and this Agreement shall be amended as decided by such arbitration or as otherwise agreed by the Province and such Project Owner or Person. For the purposes of this clause a Project Owner and all Affiliates of the Project Owner shall be regarded as one Project Owner and a Person and all Affiliates of that Person shall be regarded as one Person.

### 15.3 Compliance by Operators

(i) **EL1093**

The EL1093 Project Owners shall, and shall cause the Resource Project Operator-EL1093 to, abide by and fully perform the provisions of the EL1093 JOA relative to the Joint Account-EL1093.

(ii) **PL1005**

The PL1005 Project Owners shall, and shall cause the Resource Project Operator- PL1005 to, abide by and fully perform the provisions of the PL1005 JOA relative to the Joint Account- PL1005.

## ARTICLE XVI: PRESENT INTERESTS AND SUCCESSORS

### 16.1 Working Interests in the Resource Projects

The Working Interests in the Resource Projects on the date of this Agreement are:

(A) **EL1093:**

ExxonMobil Partnership	25.3125%
Chevron Partnership	24.1875%
Petro-Canada Partnership	18%
Nalcor Oil	10%
CHHC	7.65%
Murphy Oil	5.85%
ExxonMobil Hibernia	4.5%
Statoil	4.5%

(B) **PL1005**

ExxonMobil Partnership	22.5%
Chevron Partnership	22.5%
Petro-Canada Partnership	22.5%
Statoil	22.5%
Nalcor Oil	10%

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## 16.2 Consistent Working Interests

### (i) EL1093

An EL1093 Project Owner shall not have a Working Interest in EL1093 which is different from the Working Interest of such Project Owner in the Resource Project-EL1093.

### (ii) PL1005

A PL1005 Project Owner shall not have a Working Interest in PL1005 which is different from the Working Interest of that such Project Owner in the Resource Project-PL1005.

## 16.3 Restrictions on Dispositions and Novations

- (a) Each Project Owner, as to itself only, severally covenants with the Province that if and for so long as any portion of the Royalty Share then due and payable by such Project Owner to the Province pursuant to this Agreement remains unpaid, it shall not sell, assign, transfer or otherwise dispose of, in whole or in part, its interest in the Licences.
- (b) Each Licensee, as to itself only, severally covenants with the Province that if and for so long as any portion of the Royalty Share then due and payable by the Project Owner of which it is a partner remains unpaid, such Licensee shall not sell, assign, transfer or otherwise dispose of, in whole or in part, its interest in the Licences.
- (c) Each Project Owner, as to itself only, severally covenants with the Province that if and for so long as any portion of the Royalty Share then due and payable by any Project Owner to the Province pursuant to this Agreement remains unpaid, it shall not permit any Person to become a party to the Operating Agreements as a Successor to all or any part of the Working Interest of such Project Owner.

## 16.4 Notice of Dispositions

If and for so long as any portion of the Royalty Share then due and payable by a Project Owner remains unpaid, such Project Owner and the Licensee which is a partner of such Project Owner shall, with respect to any proposed sale, assignment, transfer or other disposition of any of its interest in the Licences, give to the Province written notice of:

- (i) the nature and size of the interest being disposed of;
- (ii) the effective date of such disposition;
- (iii) the allocation of the purchase consideration agreed upon between such Project Owner and the Person acquiring such interest with respect to the Licences or the Hibernia Crude EL1093/PL1005 yet to be produced;
- (iv) the amount of monies or nature of the proceeds to be received for such interest; and
- (v) the name and address of the Person acquiring such interest.

The information contained in any such notice of disposition shall be confidential information for the purposes of clause 26.14 and may only be disclosed for the purposes of items (a) or (f) thereof or for the purposes of enforcing any Security Interest granted to the Province pursuant to this Agreement.

## 16.5 Licence Allocation

If and for so long as any portion of the Royalty Share then due and payable by a Project Owner remains unpaid, such Project Owner, as to itself only, severally covenants with the Province that, with respect to any sale, assignment, transfer or other disposition of any of its interest in the Licences which also includes a

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disposition of other assets of the Resource Projects, it shall allocate from the actual price paid for all such assets a reasonable amount to the interest of such Project Owner in the Licences or the Hibernia Crude EL1093/PL1005 yet to be produced but which in no event shall be required to exceed the Royalty Share then due and payable. The Province may at any time submit any disagreement that the Province has with any such allocation to arbitration and any amount determined by the arbitrators to be the reasonable allocation shall be the allocation for all purposes of this Agreement. For the purposes of any such arbitration, the allocation shall be made on the basis of that proportion of such sale consideration for all such assets which is in the same proportion as the estimated value, at that time, of the interest of the Project Owner in Hibernia Crude EL1093/PL1005 yet to be produced is to the value of all assets of the Resource Projects included within the disposition. Notwithstanding the foregoing, the Province shall have no right to claim from the purchaser an amount greater than the purchase consideration actually allocated in the purchase agreement to the Licences or Hibernia Crude EL1093/PL1005 yet to be produced, or to enjoin, delay or otherwise interfere in any manner with any sale, assignment, transfer or other disposition by a Project Owner or Licensee of its interest in the Licences and whether or not in combination with any other assets of the Resource Projects, on the basis of this clause 16.5.

#### 16.6 Further Restriction on Dispositions

Each Project Owner and each Licensee, in each case as to itself only, severally covenants with the Province that it shall not (except pursuant to the grant of Security Interests, as contemplated under, and in accordance with, the provisions of clause 16.8) sell or assign in whole or in part, any monies or proceeds which may at any time be due or owing to it from or in respect of (a) its share, if any, of Hibernia Crude EL1093/PL1005 or any agreements relating to the sale, use or other disposition thereof or (b) the sale, assignment, transfer or other disposition, in whole or in part, of its interest in the Licences or either of them.

#### 16.7 Notice of Disposition and Novation

Forthwith upon a Project Owner or the Licensee which is a partner of such Project Owner no longer being entitled, beneficially or of record, and whether by sale, assignment, transfer or other disposition (except by virtue of realization by a holder of a Security Interest), to any Working Interest in the Resource Projects or the Licences to which such Project Owner or Licensee was previously entitled, such Project Owner or Licensee, as the case may be, shall give to the Province written notice of the nature and size of the Working Interest in the Resource Projects or the Licences to which it is no longer entitled, the effective date of the transfer of such interest and the name and address of the transferee. Until such transferee delivers to the Province a Novation Agreement with respect to such Working Interest to which such Project Owner or Licensee is no longer entitled executed by such transferee as the defined Assignee thereunder and all other Parties thereto except the Province and the Royalty Share then due and payable by such Project Owner or Licensee has been paid, such Project Owner or Licensee, as the case may be, shall continue to be bound by this Agreement and shall be liable to the Province hereunder for all purposes with respect to the Working Interest in the Resource Projects or the Licences to which such Project Owner or Licensee is no longer entitled. If the Project Owner or Licensee is no longer entitled to any or all of the Working Interest in the Resource Projects or the Licences as a result of an involuntary disposition, and the Project Owner or Licensee has, in accordance with clause 16.12, obtained a Royalty Statement and has paid any Royalty Share shown therein to be due and payable as at the date that it was no longer so entitled, the Project Owner or Licensee shall have no further liability to the Province for the payment of any Royalty Share payable in respect of such Working Interest for the period after such date. Upon receipt by the Province of a Novation Agreement with respect to such Working Interest to which such Project Owner or Licensee is no longer entitled executed by such transferee as the defined Assignee thereunder and all other Parties thereto except the Province and provided the Royalty Share then due and payable by such Project Owner or Licensee has been paid, the Province shall execute the Novation Agreement with effect from the date of such Novation Agreement.

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Notwithstanding anything in the foregoing to the contrary, nothing herein shall lessen or diminish the liability of the Licensee, which is a partner of a Project Owner, to the Province for the obligations of such Project Owner pursuant to ARTICLE IX until the Province otherwise agrees.

#### 16.8 Restrictions on Security Interests

- (a) Each (i) Project Owner and each Licensee, as to itself only, severally covenants and agrees with the Province that it shall not, by agreement with any Person, create any Security Interest constituting a fixed charge, a specific assignment or a floating charge in, upon or with respect to any portion of its Working Interest in the Licences or with respect to any portion of its interest in the Charged Premises or any other Security Interest whatsoever which pursuant to the powers contained within the terms of such other Security Interest permits the holder of such Security Interest to take possession of or acquire title to, seize or sell, any of such Working Interest or interests unless the Project Owner or Licensee granting such Security Interest and the Person to whom such Security Interest has been granted shall, prior thereto, have executed a Security Holder Agreement; and (ii) Project Owner and each Licensee, as to itself only, severally covenants and agrees with the Province that it shall not permit the holder of such Security Interest or any third party acquiring at the direction of such holder to become a party to the EL1093 JOA or the PL1005 JOA, whichever shall apply, unless a Novation Agreement shall have been executed, in respect of the Working Interest acquired by such Person, by such Person and the other Persons then Party to this Agreement (except the Grantor of such Security Interest) contemporaneously with execution of any agreement by which any such Person becomes a party to the EL1093 JOA or the PL1005 JOA, whichever shall apply.
- (b) The restrictions contained in clause 16.8(a) above shall not apply with respect to a floating charge created by a Project Owner or Licensee which applies to the assets, properties and undertaking of such Project Owner or Licensee generally or is not restricted in its application, or which does not only have application to the Resource Projects, or any Resource Project Assets included therein provided the Project Owner and Licensee shall not restructure or rearrange their affairs for the purpose of falling within the exception herein. The restriction contained in clause 16.8(a) above shall also not apply with respect to any Security Interest granted by any Project Owner or Licensee to, provided such Security Interest has been subordinated to any Security Interest granted herein to the Province, any other Project Owner or Licensee or Person holding such Security Interest for the benefit of such other Project Owner or Licensee or any of such other Project Owners or Licensees.
- (c) The Province shall execute any Security Holder Agreement prepared in accordance with the provisions of this clause 16.8.
- (d) Each Project Owner and each Licensee, as to itself only, severally covenants and agrees with the Province that upon:
- (i) realization on any Security Interest which results in an assignment or transfer of, or vesting of title to, all or any part of the Working Interest in the Resource Projects or the Licences to which a Project Owner or Licensee was entitled;
  - (ii) payment of the Royalty Share then due and payable as required by this Agreement; and
  - (iii) such holder of the Security Interest, or a third party acquiring at the direction of such holder (and which has been approved by the Project Owners as required by the EL1093 JOA or the PL1005 JOA, whichever shall apply) becoming a party to the EL1093 JOA or the PL1005 JOA, whichever shall apply, as the assignee with respect to such Working Interest in the Resource Project or interest in the Licences transferred, contemporaneously with execution of a Novation Agreement;

it shall execute such Novation Agreement.

Handwritten initials and signatures: RB, JH, A, JK, AR, CAH.

**16.9 Postponement of Certain Other Liens**

- (a) Each Project Owner and each Licensee covenants and agrees with the Province that:
- (i) it shall not create or suffer to exist any operator's lien, as defined in the Federal Accord Act, or any other Security Interest in favour of any Person acting in the capacity of a Resource Project Operator, on or with respect to its Working Interest in EL1093 or PL1005, whichever shall apply, or its interest, if any, on any of the Charged Premises unless it, together with the Person to whom such operator's lien has been granted or in whose favour such operator's lien or other Security Interest exists, as the case may be, shall, prior thereto, have executed an Operator's Agreement;
  - (ii) it shall not permit the Person to whom such operator's lien has been granted or in whose favour such operator's lien or other Security Interest exists to become a party to the EL1093 JOA or the PL1005 JOA, whichever shall apply, unless such Project Owner or Licensee granting such Security Interest shall have executed such Operator's Agreement.
  - (iii) The Province shall execute any Operator's Agreement prepared in accordance with the provisions of this clause 16.9.
  - (iv) Each Project Owner and each Licensee, as to itself only, severally covenants and agrees with the Province that upon:
    - (A) realization on any Security Interest which results in an assignment or transfer of, or vesting of title to, all or any part of a Working Interest in the Resource Projects or the Licences to which a Project Owner or Licensee was entitled;
    - (B) payment of the Royalty Share then due and payable as required by this Agreement; and
    - (C) such holder of the Security Interest, or a third party acquiring at the direction of such holder (and which has been approved by the Project Owners as required by the EL1093 JOA or the PL1005 JOA, whichever shall apply) becoming a party to the EL1093 JOA or the PL1005 JOA, whichever shall apply, as the assignee with respect to such Working Interest in the Resource Projects or the Licences transferred, contemporaneously with execution of a Novation Agreement,
 it shall execute such Novation Agreement.
- (b) Each Project Owner and each Licensee covenants and agrees with the Province that:
- (i) it shall not create or suffer to exist any lien, charge or any other Security Interest (in this clause a "Lien") in favour of a Tariff Administrator, Unit Operator, Service Provider or any Person acting in a similar capacity under the Tariff Agreement, the Unit Operating Agreement or the FOSA on or with respect to its Working Interest in EL1093 or PL1005, whichever shall apply, or its interest, if any, on any of the Charged Premises unless it, together with the Person to whom such Lien has been granted or in whose favour such Lien exists, as the case may be, shall, prior thereto, have executed a Security Holder Agreement;
  - (ii) Each Project Owner and each Licensee, as to itself only, severally covenants and agrees with the Province that upon:
    - (A) realization on any Lien which results in an assignment or transfer of, or vesting of title to, all or any part of a Working Interest in the Resource Projects or the Licences to which a Project Owner or Licensee was entitled;
    - (B) payment of the Royalty Share then due and payable as required by this Agreement; and

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- (C) such holder of the Lien, or a third party acquiring at the direction of such holder (and which has been approved by the Project Owners as required by the EL1093 JOA or the PL1005 JOA, whichever shall apply) becoming a party to the EL1093 JOA or the PL1005 JOA, whichever shall apply, as the assignee with respect to such Working Interest in the Resource Projects or interest in the Licences transferred, contemporaneously with execution of a Novation Agreement,
- it shall execute such Novation Agreement.
- (c) Each Project Owner and each Licensee covenants and agrees with the Province that:
- (i) (A) its claim for payment by any other Project Owner or any other Licensee out of any of the Charged Premises or proceeds therefrom or thereof; and
  - (B) any Security Interest granted to it by any other Project Owner or other Licensee on any of the Charged Premises and its rights thereunder;
- are hereby expressly subordinated and postponed to the Security Interest granted to the Province hereunder, the Province's entitlement to payment by such other Project Owner or Licensee of the Royalty Share out of any of the Charged Premises or any proceeds thereof or therefrom and the Province's rights under ARTICLE XIII and ARTICLE XXII;
- (ii) if it shall receive any payment in respect of such Security Interest before the Province receives payment of the Royalty Share as aforesaid, such payment shall be received and held in trust by such Project Owner or Licensee, as the case may be, and shall be forthwith paid over to the Province to the extent necessary to pay such Royalty Share; and
  - (iii) it hereby postpones all rights of subrogation which it may acquire in respect of any Security Interest granted to the Province herein or the provisions of ARTICLE XIII or ARTICLE XXII as a result of payments received by the Province from or instead of the security holder on account of the provisions herein, to payment of such Royalty Share.
- (d) The Province acknowledges that to the extent a Project Owner or Licensee makes any payment to the Province of any Royalty Share payable by any other Project Owner or Licensee, such Project Owner or Licensee making the payment shall be subrogated to the Security Interest granted to the Province by such other Project Owner or Licensee; provided however, such subrogated rights shall at all times be postponed as provided in clause 16.9(c)(iii).

#### 16.9A Novation of Allocation Agreement

Any Novation Agreement pursuant to this ARTICLE XVI shall not be of any force or effect unless and until such Novation Agreement includes an assignment and novation of that Project Owner's or Licensee's obligations pursuant to the Allocation Agreement in respect of the interest conveyed pursuant to such Novation Agreement.

#### 16.10 Successors

Upon a Successor becoming bound by this Agreement and the Allocation Agreement with respect to a Sold Interest, the Successor shall be entitled to all of the benefits and be subject to all of the burdens of this Agreement and the Allocation Agreement and shall be deemed for all purposes of this Agreement to have incurred a portion of:

- (i) Pre-Development Costs; and

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 JRO, DD, AJK, RB, GS, PW



(ii) Resource Project Eligible Costs;

and to have received a portion of:

(iii) cumulative Gross Transfer Revenue; and

(iv) cumulative Resource Project Incidental Revenue;

and to have paid a portion of:

(v) cumulative Gross Royalty paid by the Project Owner excepting thereout any amount on account of Gross Royalty paid in kind;

(vi) cumulative Net Royalty paid by the Project Owner excepting thereout any amount on account of Net Royalty paid in kind; and

(vii) cumulative Additional Royalty paid by the Project Owner excepting thereout any amount on account of Additional Royalty paid in kind

incurred, received or paid, as the case may be, by the Predecessor prior to the effective time of the transfer of the Sold Interest by the Predecessor to the Successor equivalent to the portion of the Working Interest in a Resource Project and a Licence or Licences, of the Predecessor that the Successor acquired from the Predecessor. The Successor's position with respect to Net Royalty Payout and Supplementary Royalty Payout shall be calculated on the basis of the costs and revenues which this clause deems the Successor to have incurred and received in accordance with this Agreement including, without restricting the generality of the foregoing, uplifts pursuant to clauses 30.6, 30.7 and Schedule E of the Allocation Agreement, Net Royalty Return Allowance and Supplementary Royalty Return Allowance. For the purposes of calculations made pursuant to this clause, the Successor shall be entitled to the same benefits and obligations pursuant to clause 30.3 as was the Predecessor. The Successor shall be in the same position with respect to an Eligible Transportation Costs Deduction-EL1093/PL1005, and the components thereof, and the portion of the interest in a Resource Project and the Licence or Licences acquired by the Successor from the Predecessor as the Predecessor would have been had the Successor not acquired such interest from the Predecessor.

**16.11 Division of Liability Between Predecessor and Successor**

Subject to clause 16.12 a Successor shall not by virtue of becoming bound by this Agreement become liable, and a Predecessor shall not by virtue of having been replaced by the Successor as a Party to this Agreement be released from liability, to the Province to pay any of the Royalty Share payable and to perform any other obligations provided herein to be performed with respect to the Sold Interest relative to the time prior to the effective time, as agreed between the Successor and the Predecessor, of the transfer of the Sold Interest from the Predecessor to the Successor. The Province acknowledges that the Predecessor shall be released from any liability to the Province for any obligation under this Agreement relative to the time after the effective time of the transfer of the Sold Interest, as agreed between the Successor and the Predecessor, provided such effective time is not a date during which any Royalty Share due and payable by such Predecessor remains unpaid.

**16.12 Successor's Liability**

(a) The Province may at any time after any Royalty Share due and payable by a Project Owner (for purposes of this clause 16.12 a "Defaulting Owner") has not been paid and while such default is continuing, give notice of such default to the other Project Owners. A Project Owner may at any time with respect to itself and any Project Owner may at any time with respect to a Defaulting Owner while the default is continuing, request from the Province a statement (the "Royalty Statement") as to the amount of the Royalty Share then due and payable by it or the Defaulting Owner pursuant to this Agreement with respect to any part of its or the Defaulting Owner's Working Interest (the "Applicable

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P.W.

Interest"). The Project Owner may request the Royalty Statement as at a particular date (the "Statement Date") to be indicated in such request provided such date is not more than 20 days after the date of receipt by the Province of the request for same. The Province shall provide the Royalty Statement not more than 15 days after the date of receipt of the request for same, provided, however, that if the Project Owner indicates in the request that the Royalty Statement is to be used in connection with a sale by such Project Owner of the Applicable Interest in a Resource Project or a Licence or Licences, the Province shall not be required to deliver the Royalty Statement to the Project Owner more than 5 days prior to the date specified in such notice as the closing date of such sale. A Project Owner shall not make an unreasonable number of requests for a Royalty Statement. The Royalty Statement shall be provided by the Province without any conditions or qualifications contained therein.

- (b) The Royalty Statement shall set out the amount of the Royalty Share due and payable (or, if the request is made by or in respect of a Defaulting Owner, due and payable and estimated will be payable) as at the date of delivery of such statement (the "Delivery Date"), or where requested, as at the Statement Date. The Royalty Statement shall also set forth the additional filings, if any, that will be due on account of the Royalty Share prior to the earlier of the Statement Date and the Delivery Date.
- (c) If a Royalty Statement was obtained by a Project Owner or a Defaulting Owner, as the case may be, in respect of an Applicable Interest which indicated that a Royalty Share amount was due and payable (or, in respect of a Defaulting Owner, due and payable and estimated will be payable) as at the Statement Date or the Delivery Date, as the case may be, in respect of such Applicable Interest and that all filings on account of such Royalty Share amount which were due had been made, then, if such Royalty Share due and payable (or due and payable and estimated will be payable, as the case may be), is paid by the Predecessor, the Successor or, in the case of a Defaulting Owner, the other Project Owners, to the Province, the Successor will not be liable to pay to the Province any Royalty Share payable by the Predecessor to the Province in respect of such Applicable Interest as at the Statement Date or the Delivery Date, as the case may be.
- (d) If a Royalty Statement was obtained by a Project Owner or a Defaulting Owner, as the case may be, in respect of an Applicable Interest which indicated that a Royalty Share was due and payable (or due and payable and estimated will be payable, as the case may be), as at the Statement Date or the Delivery Date, as the case may be, in respect of such Applicable Interest, then, if such Royalty Share amount is not paid to the Province, the Successor will be liable to pay to the Province such Royalty Share amount and, upon payment by the Successor or any other Person of such Royalty Share amount, the Successor will have no further liability to the Province for the payment of any Royalty Share due and payable or estimated will be payable by the Predecessor to the Province in respect of such Applicable Interest as at the Statement Date or the Delivery Date, as the case may be.
- (e) If a Royalty Statement was obtained by a Project Owner or a Defaulting Owner, as the case may be, in respect of an Applicable Interest which indicated that additional filings on account of the Royalty Share were then due and such additional filings were not made, then the Successor will be liable to the Province for the Royalty Share, if any, payable by the Predecessor to the Province in respect of such Applicable Interest as at the Statement Date or the Delivery Date, as the case may be, as a consequence of such filings.
- (f) If a Royalty Statement was not obtained by a Project Owner in respect of an Applicable Interest, then the Successor will be liable to pay to the Province any Royalty Share then due and payable (or due and payable and estimated will be payable, as the case may be), by the Predecessor to the Province in respect of such Applicable Interest.
- (g) If a Royalty Statement was requested by a Project Owner or a Defaulting Owner, as the case may be, in respect of an Applicable Interest as at a particular Statement Date in accordance with the provisions of this clause 16.12 and is not delivered by the Province to such Project Owner or a Defaulting Owner, as the case may be, in accordance herewith, then the Successor will not be liable to pay to the Province any Royalty Share due and payable as would be payable by the Predecessor to the Province as at such

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Statement Date, or the date of deemed delivery by the Province hereunder, if no Statement Date was requested.

- (h) A Project Owner proposing to sell all or any part of its Working Interest in a Licence or Licences (a "Seller") hereby authorizes the Province to deliver to the Person proposing to purchase such Working Interest (a "Purchaser") a copy of any Royalty Statement delivered to the Seller in connection with such sale, provided that the Purchaser (if the Seller is not a Defaulting Owner) provides to the Province a copy of a signed authorization from the Seller or a signed sale agreement between the Seller and the Purchaser with respect to such Working Interest and, if a Royalty Statement has not been requested by the Seller in connection with such sale, to provide to the Purchaser, at its request if the Seller is a Defaulting Owner, and in accordance with the terms hereof, a Royalty Statement with respect to such Working Interest which shall be treated as a Royalty Statement for the purposes of this clause 16.12.
- (i) If by reason of the Seller's failure to make the filings required of it hereunder prior to the Delivery Date, the Province does not have the necessary information to prepare a Royalty Statement which is requested by a Purchaser with respect to such Working Interest pursuant to paragraph (h) above and the Seller will not or cannot provide such information, then the Project Owners (other than the Seller) shall, at the request of the Province, advise the Province of the amount of Hibernia Crude EL1093/PL1005 delivered to or to the account of, the Seller for the Months, necessary in order to enable the Province to prepare the Royalty Statement. In addition, and if requested by the Province, such other Project Owners shall also advise, as to any liftings scheduled for such Defaulting Project Owner prior to the Statement Date. The Province shall:
- (i) estimate the Royalty Share due and payable by the Seller in respect of such Working Interest as at the Statement Date or the Delivery Date, as the case may be, using the weighted average Transfer Prices of the Project Owners (other than the Seller) during the applicable Months, and
  - (ii) estimate any Royalty Share not included in (i) above that would be payable for the period prior to the Statement Date or the Delivery Date, as the case may be, calculated on the amount of Hibernia Crude EL1093/PL1005 delivered to or to the account of (or projected by the Province to have been or will be delivered to or to the account of) the Seller and using the weighted average of such Transfer Prices for the Month most recently reported by the Project Owners (other than the Seller), and
- the amount of the Royalty Share due and payable (or due and payable and estimated will be payable, as the case may be), by the Seller in respect of such Working Interest for the purposes of the Royalty Statement as at the Statement Date shall for the purposes of this clause 16.12 equal such estimate.
- (j) If any Person who has acquired or is acquiring its interest from a Defaulting Owner (whether or not pursuant to a Security Interest, sale or other disposition of a Working Interest) becomes a party to the EL1093 JOA or the PL1005 JOA, whichever shall be applicable to the Sold Interest, prior to the Royalty Share then due and payable (and estimated to be payable by the Province in accordance with the foregoing provisions) having been paid, then in addition to the other rights and remedies of the Province hereunder, the Project Owners shall jointly and severally be liable to the Province for payment of and shall forthwith pay to the Province on demand by it such Royalty Share then due and payable and then estimated will be payable in accordance with the foregoing provisions.

### 16.13 Treatment of Sale Consideration

The consideration paid by a Successor for the Sold Interest shall not be a Resource Project Eligible Cost or an Eligible Transportation Cost and shall not form part of Gross Transfer Revenue, Resource Project Incidental Revenue or otherwise enter into any calculation made pursuant to this Agreement.

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#### 16.14 Limitation on Marketing Costs

In the event, and upon, a Person other than a Party to this Agreement becoming entitled to a Working Interest in a Resource Project or a Licence or Licences, then each cost of that Person which would otherwise be a Resource Project Eligible Marketing Cost shall not qualify as a Resource Project Eligible Marketing Cost, a Resource Project Eligible Cost or an Eligible Transportation Cost unless the Province agrees thereto.

#### 16.15 Interpretation

For the purposes of this ARTICLE XVI:

- (a) "Royalty Share then due and payable", "Royalty Share was due and payable", "Royalty Share due and payable" or any such similar phrase shall mean as at any specified date the amount of Royalty Share which is actually due and payable on that date based upon all filings of the Project Owner required prior to that date. Such amount shall specifically not include any amounts on account of Royalty Share which may be subsequently determined to be due and payable as a result of any redetermination or recalculation, any annual reconciliation pursuant to clause 24.7 or pursuant to any audit or arbitration carried out hereunder;
- (b) "sell, assign, transfer or otherwise dispose", "sale, assignment, transfer or other disposition" or any such similar phrase includes only dispositions which result in the Person disposing no longer being entitled to a beneficial interest or bare legal interest or an interest of record with respect to the Working Interest disposed of and specifically such phrase shall not include any such act effected for the purposes of providing a Security Interest.

### PART III: ROYALTY PROVISIONS

#### ARTICLE XVII: SCOPE OF PROJECT FOR ROYALTY PURPOSES

##### 17.1 Hibernia Crude EL1093/PL1005

This Agreement sets forth the agreement among the Parties hereto with respect to the royalties, interest and penalties payable with respect to Hibernia Crude EL1093/PL1005 only.

##### 17.2 Natural Gas Consumed

Any Natural Gas produced pursuant to PL1001, PL1005 or EL1093 that is reinjected, consumed, flared or lost within the Resource Project (as such term is defined in the PL1001 Hibernia Royalty Agreement), the Resource Project-PL1005, or the Resource Project-EL1093, shall be exempt from royalties under this Agreement.

##### 17.3 Natural Gas Royalty

The Project Owners, or any of them, shall not sell or use for any purpose (other than as contemplated in clause 17.2) outside a Resource Project any Petroleum produced pursuant to the respective Licence other than Hibernia Crude EL1093/PL1005 until a royalty relative thereto has been provided for under the Petroleum and Natural Gas Act. Any cost incurred by the Project Owners, or any of them, relative to the construction, purchase, leasing or other acquisition or operation by such Resource Project of any facilities primarily for the exploration for or production, preparation for transport, storage, loading, off-loading, environmental protection or studies in relation thereto of Petroleum other than Hibernia Crude EL1093/PL1005 or Solution Gas shall not be a Resource Project Eligible Cost-EL1093 or a Resource Project Eligible Cost-PL1005, as the case may be, an Eligible Transportation Cost or a deduction in the calculation of Gross Transfer Revenue or Sale Price unless the

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Province agrees thereto in writing. For greater certainty, this provision shall also apply to any gas from PL1001 that has been reinjected or otherwise stored on the lands that are the subject of PL1005 or EL1093.

#### 17.4 Processing and Storage

##### (i) EL1093

Prior to any Resource Project Assets-EL1093 being used to process or store petroleum which is not produced pursuant to EL1093, the EL1093 Project Owners shall give the Province reasonable written notice and full particulars of their intentions in this regard and thereafter the EL1093 Project Owners shall not use any Resource Project Assets-EL1093 to process or store petroleum which is not produced pursuant to EL1093 unless the EL1093 Project Owners and the Province agree as to the manner in which the revenues from such processing or storage are to be taken into account for the purposes of this Agreement. A cost incurred by the EL1093 Project Owners, or any of them, relative to the construction, purchase, leasing or other acquisition or operation by the Resource Project-EL1093 of any facilities relative to the processing or storage of petroleum which is not produced pursuant to EL1093 shall not be a Resource Project Eligible Cost-EL1093, an Eligible Transportation Cost or a deduction in the calculation of Gross Transfer Revenue or Sale Price unless the Province agrees thereto in writing.

##### (ii) PL1005

Prior to any Resource Project Assets-PL1005 being used to process or store petroleum which is not produced pursuant to PL1005, the PL1005 Project Owners shall give the Province reasonable written notice and full particulars of their intentions in this regard and thereafter the PL1005 Project Owners shall not use any Resource Project Assets-PL1005 to process or store petroleum which is not produced pursuant to PL1005 unless the PL1005 Project Owners and the Province agree as to the manner in which the revenues from such processing or storage are to be taken into account for the purposes of this Agreement. A cost incurred by the PL1005 Project Owners, or any of them, relative to the construction, purchase, leasing or other acquisition or operation by the Resource Project-PL1005 of any facilities relative to the processing or storage of petroleum which is not produced pursuant to PL1005 shall not be a Resource Project Eligible Cost-PL1005, an Eligible Transportation Cost or a deduction in the calculation of Gross Transfer Revenue or Sale Price unless the Province agrees thereto in writing.

### ARTICLE XVIII: ROYALTY STRUCTURE

#### 18.1 Grant of Royalties

For and in consideration of the valuable consideration expressed for this Agreement generally, each Project Owner and, where the Project Owner is a partnership, the Licensee (to the extent of the Licensee's interest, if any, in a Licence) which is an Affiliate of that Project Owner, hereby conveys, grants, reserves, bargains, sells, assigns, transfers and sets over unto the Province, and the successors and assigns of the Province, all of the right, title, estate, interest, benefit, property, claim and demand of the Project Owner and, if any, such Licensee, whatsoever, both at law and in equity, of, in and to the Gross Royalty, the Net Royalty, the Supplementary Royalty and the Additional Royalty provided for, and as set forth, in this Agreement, the Gross Royalty, Net Royalty, Supplementary Royalty and the Additional Royalty being free and clear of all encumbrances whatsoever (except any as may be in favour of Canada) created by, through or under such Project Owner and, where the Project Owner is a partnership, the partners of such Project Owner and the Licensee which is an Affiliate of such Project Owner.

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**18.2 Generally**

The royalty structure for Hibernia Crude EL1093/PL1005 is comprised of a Gross Royalty, a Net Royalty, a Supplementary Royalty and an Additional Royalty.

**18.3 Separate Liability for Royalty**

Each Project Owner is separately responsible and liable for the calculation and payment to the Province of all Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable to the Province by that Project Owner pursuant to this Agreement.

**18.4 Separate Determinations by Project Owners**

Each Project Owner shall separately determine its Gross Transfer Revenue, Resource Project Eligible Marketing Costs, Net Royalty Payout and Supplementary Royalty Payout.

**18.5 Risk in Transport**

The amount of the Royalty Share payable by a Project Owner shall not be reduced on account of any Hibernia Crude EL1093/PL1005 owned by the Project Owner which is lost in transit of Hibernia Blend. Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable with respect to any Hibernia Crude EL1093/PL1005 transferred by or to the account of a Project Owner into marine tankers at the Loading Point shall not be diminished or affected in the event that all or any part of such Hibernia Crude EL1093/PL1005 is lost or damaged prior to reaching the Sale Point. In the event that part, but not all, of the Hibernia Crude EL1093/PL1005 transferred by or to the account of a Project Owner into a marine tanker at the Loading Point is lost prior to reaching the Sale Point, the Sale Price for the lost Hibernia Crude EL1093/PL1005 shall be the same as for the Hibernia Crude EL1093/PL1005 which does reach the Sale Point in an undamaged state. In the event that all of the Hibernia Crude EL1093/PL1005 transferred by or to the account of a Project Owner into a marine tanker at the Loading Point does not reach the Sale Point, the Gross Transfer Revenue for such Hibernia Crude EL1093/PL1005 shall be the Project Owner's most recent Transfer Price multiplied by the volume of Hibernia Crude EL1093/PL1005 transferred by or to the account of that Project Owner at the Loading Point and which was subsequently lost. Notwithstanding any of the provisions of this clause, the Project Owners shall not be required to assume the risk of, and royalty hereunder shall not be payable on, any Hibernia Crude EL1093/PL1005 lost due to shrinkage in transit.

**ARTICLE XIX: GROSS ROYALTY**

**19.1 Gross Royalty Term**

Gross Royalty is payable pursuant to this Agreement from the commencement of production of Hibernia Crude EL1093/PL1005 and terminates upon the earlier of production of Hibernia Crude EL1093/PL1005 ceasing or this Agreement being terminated pursuant to the provisions of this Agreement.

**19.2 Gross Royalty Payable**

The Gross Royalty payable by a Project Owner with respect to any Month is a share of the Hibernia Crude EL1093/PL1005 transferred by or to the account of the Project Owner into marine tankers at the Loading Point during the Month (which includes any Hibernia Crude EL1093/PL1005 taken in kind by the Province in respect of that Project Owner during that Month) having a value equal to the product obtained by multiplying:

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- (i) the sum of the Gross Transfer Revenue of the Project Owner for the Month plus the In-Kind Value for the Project Owner for the Month;
- by
- (ii) the Gross Royalty Rate in effect for the Month.

**19.3 Gross Royalty Rates**

The Gross Royalty Rate shall be 5%.

**ARTICLE XX: NET ROYALTY**

**20.1 Net Royalty Term**

Net Royalty commences to be payable by a Project Owner pursuant to this Agreement at the beginning of the Month in which Net Royalty Payout occurs for the Project Owner. No Net Royalty is payable in respect of any Month prior to the Month in which Net Royalty Payout occurs.

**20.2 Annual Net Royalty Amount**

The Net Royalty payable by a Project Owner with respect to a Period is a share of the Hibernia Crude EL1093/PL1005 transferred by or to the account of the Project Owner into marine tankers at the Loading Point (which includes any Hibernia Crude EL1093/PL1005 taken in kind by the Province in respect of that Project Owner during that Period), with a value equal to thirty per cent (30%) of the Net Transfer Revenue of the Project Owner for the Period.

**20.3 Monthly Calculation**

For the purposes of calculating the amount of Net Royalty payable by a Project Owner pursuant to clause 20.2 in respect of any Month of a Period, the Net Royalty payable by a Project Owner shall be calculated with respect to each Month using cumulative Net Transfer Revenue from the start of the Period to the end of that particular Month of the Period. The Net Royalty payable by a Project Owner at the end of a particular Month of a Period shall be thirty per cent (30%) of the Net Transfer Revenue of the Project Owner for the Period to the end of that Month less the sum of the Net Royalty paid by the Project Owner with respect to the prior Months of that Period.

**20.4 Credit of Gross Royalty**

The amount of Gross Royalty paid by a Project Owner with respect to a Period or with respect to a portion of a Period from the start of the Period to the end of any Month of the Period shall be a credit against the amount of Net Royalty payable by the Project Owner with respect to that Period or that portion of that Period. The amount of Gross Royalty paid by a Project Owner with respect to a Period shall serve to reduce the amount of Net Royalty payable by the Project Owner with respect to the Period to an amount not less than zero and shall not result in any negative amount of Net Royalty payable with respect to the Period to be carried forward for application in the following Period.

**20.5 Net Royalty Surplus**

If, at the end of any Month during a Period, cumulative Net Royalty paid for the Period by a Project Owner exceeds cumulative Net Royalty payable for the Period by the Project Owner, then the amount of such excess shall be applied by the Project Owner as a credit against cumulative Gross Royalty, Supplementary

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Royalty and Additional Royalty then payable by the Project Owner or thereafter payable by the Project Owner to the end of the Period. Any such excess existing at the end of the Period shall be paid in cash by the Province to the Project Owner in accordance with clause 24.7.

#### 20.6 For Greater Certainty

For greater certainty, with respect to any Period after Net Royalty Payout, cumulative Gross Royalty plus cumulative Net Royalty paid by a Project Owner with respect to that Period shall not exceed the greater of:

- (i) five per cent (5%) of the sum of Gross Transfer Revenue of the Project Owner and the In-Kind Value for the Project Owner with respect to that Period; or
- (ii) thirty per cent (30%) of the Net Transfer Revenue of the Project Owner with respect to that Period.

#### 20.7 Excess Eligible Costs

If, in any Period after Net Royalty Payout, the sum of:

- (i) the Gross Transfer Revenue of a Project Owner received during the Period; plus
- (ii) the Project Owner's Working Interest share of Resource Project Incidental Revenue received during the Period; plus
- (iii) the In-Kind Value for the Project Owner for the Period,

is exceeded by:

- (iv) the Project Owner's Working Interest share of Resource Project Eligible Costs paid during the Period, other than Tariffs;
- (v) the Project Owner's share of Resource Project Eligible Costs paid during the Period for Tariffs as determined pursuant to Article 22 of the Allocation Agreement; plus
- (vi) the Resource Project Eligible Marketing Costs paid by the Project Owner during the Period,

the amount of the excess shall be carried forward as a Resource Project Eligible Cost to the following Period, without increase pursuant to any of clauses 30.6 or 30.7 and without increase for uplifts pursuant to Schedule E of the Allocation Agreement but shall not be carried back to any preceding Period.

### ARTICLE XXI: SUPPLEMENTARY ROYALTY

#### 21.1 Supplementary Royalty Term

Supplementary Royalty commences to be payable by a Project Owner pursuant to this Agreement at the beginning of the Month in which Supplementary Royalty Payout occurs for the Project Owner. No Supplementary Royalty is payable in respect of any Month prior to the Month in which Supplementary Royalty Payout occurs.

#### 21.2 Annual Supplementary Royalty Amount

The Supplementary Royalty payable by a Project Owner with respect to a Period is a share of the Hibernia Crude EL1093/PL1005 transferred by or to the account of the Project Owner into marine tankers at the Loading Point (which includes any Hibernia Crude EL1093/PL1005 taken in kind by the Province in respect of that Project Owner during that Period), with a value equal to twelve and one-half per cent (12.5%) of the Net Transfer Revenue of the Project Owner for the Period.

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**21.3 Monthly Calculation**

For the purposes of calculating the amount of Supplementary Royalty payable by a Project Owner pursuant to clause 21.2 in respect of any Month of a Period, the Supplementary Royalty payable by a Project Owner shall be calculated with respect to each Month using cumulative Net Transfer Revenue from the start of the Period to the end of that particular Month of that Period. The Supplementary Royalty payable by a Project Owner at the end of a particular Month of a Period shall be twelve and one-half per cent (12.5%) of the Net Transfer Revenue of the Project Owner for the Period to the end of that Month less the sum of the Supplementary Royalty paid by the Project Owner with respect to prior Months of that Period.

**21.4 Deduction of Gross Royalty**

If, after Supplementary Royalty Payout, with respect to any Period or with respect to a portion of a Period from the start of that Period to the end of any Month of that Period, no Net Royalty is payable, then the Gross Royalty paid by a Project Owner with respect to that Period shall be deducted from the Net Transfer Revenue of the Project Owner for that Period for purposes of calculating the Supplementary Royalty payable by the Project Owner with respect to that Period.

**21.5 Supplementary Royalty Surplus**

If, at the end of any calendar month during a Period, cumulative Supplementary Royalty paid for the Period by a Project Owner exceeds cumulative Supplementary Royalty payable for the Period by the Project Owner, then the amount of such excess shall be applied by the Project Owner as a credit against cumulative Gross Royalty, Net Royalty and Additional Royalty then payable by the Project Owner or thereafter payable by the Project Owner to the end of the Period. Any such excess existing at the end of the Period shall be paid in cash by the Province to the Project Owner in accordance with clause 24.7.

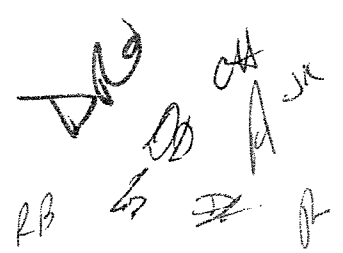
**21.6 Supplementary Royalty Index**

In the event that the index constituting, from time to time, the Supplementary Royalty Index becomes obsolete, no longer available or no longer appropriate for the purposes of this Agreement, then the Parties hereto shall select a new index to be the Supplementary Royalty Index and, if required, shall make such transitional arrangements relative to the new index as are reasonable. In the event that the Parties hereto disagree as to whether an index then constituting the Supplementary Royalty Index is obsolete, no longer available or no longer appropriate for the purposes of this Agreement or disagree as to the selection of a new index, then either the Project Owners or the Province may submit the disagreement to arbitration and the arbitrators, if required, may determine an appropriate replacement index.

**ARTICLE XXIVA: ADDITIONAL ROYALTY**

**21A.1 Additional Royalty Term**

Additional Royalty commences to be payable by a Project Owner pursuant to this Agreement at the beginning of the Month in which Net Royalty Payout occurs for the Project Owner. No Additional Royalty is payable in respect of any Month prior to the Month in which Net Royalty Payout occurs.

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### 21A.2 Annual Additional Royalty Amount

The Additional Royalty payable by a Project Owner with respect to a Period is a share of the Hibernia Crude EL1093/PL1005 transferred by or to the account of the Project Owner into marine tankers at the Loading Point (which includes any Hibernia Crude EL1093/PL1005 taken in kind by the Province in respect of that Project Owner during that Period) which was subject to Additional Royalty, with a value equal to the sum of the Additional Royalty payable for each Month of that Period. Additional Royalty payable for each Month of that Period is calculated as follows:

- (i) two and one half per cent (2.5%) of the Net Transfer Revenue of the Project Owner for that Month if the arithmetic average of the WTI Price for the month is greater than or equal to US \$50 (not adjusted for inflation) but less than US \$70 (not adjusted for inflation); or
- (ii) seven and one half per cent (7.5%) of the Net Transfer Revenue of the Project Owner for that Month if the arithmetic average of the WTI Price for the month is greater than or equal to US \$70 (not adjusted for inflation).

### 21A.3 Monthly Calculation

For the purposes of calculating the amount of Additional Royalty payable by a Project Owner pursuant to clause 21A.2 in respect of any Month of a Period, the Additional Royalty payable by a Project Owner shall be calculated with respect to each Month using the Net Transfer Revenue from the beginning of that particular Month to the end of that particular Month of the Period. The Additional Royalty payable by a Project Owner at the end of a particular Month of a Period shall be:

- (i) two and one half per cent (2.5%) of the Net Transfer Revenue of the Project Owner for that Month if the arithmetic average of the WTI Price for that Month is greater than or equal to US \$50 (not adjusted for inflation) but less than US \$70 (not adjusted for inflation); or
- (ii) seven and one half per cent (7.5%) of the Net Transfer Revenue of the Project Owner for that Month if the arithmetic average of the WTI Price for that Month is greater than or equal to US \$70 (not adjusted for inflation).

### 21A.4 Deduction of Gross Royalty

If, after Supplementary Royalty Payout, with respect to any Period or with respect to a portion of a Period from the start of that Period to the end of any Month of that Period, no Net Royalty is payable, then the Gross Royalty paid by a Project Owner with respect to that Period shall be deducted from the Net Transfer Revenue of the Project Owner for that Period for purposes of calculating the Additional Royalty payable by the Project Owner with respect to that Period.

### 21A.5 Additional Royalty Surplus

If, at the end of any calendar month during a Period, cumulative Additional Royalty paid for the Period by a Project Owner exceeds cumulative Additional Royalty payable for the Period by the Project Owner, then the amount of such excess shall be applied by the Project Owner as a credit against cumulative Gross Royalty, Net Royalty and Supplementary Royalty then payable by the Project Owner or thereafter payable by the Project Owner to the end of the Period. Any such excess existing at the end of the Period shall be paid in cash by the Province to the Project Owner in accordance with clause 24.7.

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**ARTICLE XXII: TAKING IN KIND****22.1 Provincial Right**

The Province may, subject to the other provisions of this Article, take in kind and separately dispose of the Royalty Share of a Project Owner of Hibernia Blend. During the time that the Province is entitled to take the Royalty Share in kind, the Project Owner from whom the Province is taking the Royalty Share in kind shall, while the Royalty Share is accumulating for the time required to allow the taking of the Royalty Share in kind and thereafter until actually taken by the Province, be relieved of all obligations to pay the Royalty Share in money in respect of any Hibernia Blend transferred at the Loading Point by or to the account of the Project Owner during such time but the Project Owner shall not be relieved of its obligation to deliver the Royalty Share in kind.

**22.2 Notice by Province**

Written notice to take or stop taking in kind the Royalty Share must be given by the Province to a Project Owner not less than six (6) Months in advance of the effective date set forth in such notice upon which the Province will commence or discontinue taking in kind. Notwithstanding the foregoing, in the event that the Province decides to take the Royalty Share from a Project Owner in kind because the Project Owner is in default of payment to the Province of any of the Royalty Share payable by the Project Owner pursuant to this Agreement, then the Province need only give the Project Owner thirty (30) days prior written notice of the effective date upon which the Province will commence to take the Royalty Share from the Project Owner in kind. The Province may amend information provided in a notice under this clause 22.2 without affecting the time period required under such notice. In the event that any contract entered into by a Project Owner for the sale of its share of Hibernia Blend does not allow for the Province to take the Royalty Share from a Project Owner in the manner and circumstances provided for in this clause, then the Project Owner shall nonetheless cause to be delivered to the Province the Hibernia Blend to be delivered in kind to the Province. Notwithstanding the other provisions of this clause, a notice given by the Province to take the Royalty Share in kind may only be effective on the first day of a Month and a notice given by the Province to stop taking the Royalty Share in kind may only be effective on the last day of a Month.

**22.3 Adjustment at End of Take in Kind Period**

If, at the effective date of a notice from the Province to discontinue taking the Royalty Share in kind from a Project Owner, the Province has taken in kind more or less than the Royalty Share to which the Province was entitled to such effective date, then the Province, in the event that it has taken in kind on account of the Royalty Share more than it was entitled, or the Project Owner, in the event that the Province had taken in kind on account of the Royalty Share less than it was entitled, shall pay to the other an amount which is the product of the number of Barrels of Hibernia Blend taken in excess or not taken, respectively, by the Province, as the case may be, multiplied by the most recent Transfer Price for the Project Owner.

**22.4 Provincial Costs**

When taking the Royalty Share in kind from a Project Owner, the Province shall be responsible and pay for the full cost, on a commercial basis, of handling, storing (except storage prior to the delivery of Hibernia Blend to the Province), transporting and marketing beyond the Loading Point the Hibernia Blend taken by the Province in kind. Notwithstanding the foregoing, the charge for such services shall not exceed the terms that are customary for that Project Owner for such services.

**22.5 Royalty Lifting Agreement**

(a) Any Project Owner or the Province may provide notice to the other Parties that the Province or such

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Project Owner desires to commence negotiations with respect to a lifting agreement for Royalty Share taken in kind under this Agreement (the "Royalty Lifting Agreement"). If the Province delivers a notice pursuant to clause 22.2 to take Royalty Share in kind then the Province shall deliver at the same time a notice of its desire to commence negotiations with respect to a Royalty Lifting Agreement.

- (b) Within thirty (30) days of the date of receipt of a request under subsection (a), the Province and the Project Owners shall commence negotiations with respect to the Royalty Lifting Agreement.
- (c) A Royalty Lifting Agreement entered into as a result of a request under this clause shall include the terms and conditions of the delivery to the Province of Hibernia Blend, including:
- (i) the calculation of the volume of Hibernia Blend to be taken in kind at any one time;
  - (ii) the delivery options of the Province;
  - (iii) the scheduling methodology to ensure that the Province has a frequency of delivery that is commensurate with the volume of Hibernia Blend that the Province is taking in kind from all Project Owners;
  - (iv) details respecting the satisfaction of the obligations under this Article of:
    1. the Project Owner from whom the Province is taking in kind to lift, transport, store and deliver Hibernia Blend taken in kind by the Province,
    2. the provision by other Project Owners of access to lift, transport, store and deliver Hibernia Blend taken in kind to locations required by the Province, and
    3. the provision by other Project Owners of access to and capacity to store and transship Hibernia Blend taken in kind by the Province at the Whiffen Head Transshipment Terminal.

The Province and the Project Owners acknowledge that it is desirable for the Royalty Lifting Agreement to make provisions compatible, and for the form and provisions to be as similar as reasonable, with the Project Owners' Lifting Agreement.

- (d) Where a Royalty Lifting Agreement cannot be concluded within four (4) months after a request under subclause (a), the Province or a Project Owner who is a party to the negotiations in respect of the Royalty Lifting Agreement may refer the matter to arbitration and a decision of an arbitrator on the agreement is final and binding.
- (e) Where a matter has been referred to arbitration under subsection (d), the arbitrator is limited to a determination that is the specific offer of settlement by either the:
- (i) Province before the matter was referred to arbitration; or
  - (ii) Project Owners before the matter was referred to arbitration.
- (f) If the Project Owners and the Province enter into a Royalty Lifting Agreement pursuant to this clause 22.5 or a determination is made by an arbitrator pursuant to subclause 22.5(e), then such Royalty Lifting Agreement shall be deemed to also be the Royalty Lifting Agreement for the purposes of the PL1001 Hibernia Royalty Agreement.

#### 22.5A Obligations of Project Owners

Where a notice has been given to a defaulting Project Owner under clause 22.2 the Province may give notice to the other Project Owners requiring the other Project Owners:

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- (a) to store on behalf of and make available to the Province, Hibernia Blend stored by the Project Owners on behalf of the defaulting Project Owner;
- (b) when storage space is available and the Province is not otherwise in a position to take delivery of Hibernia Blend scheduled to be delivered to the defaulting Project Owner, to store that Hibernia Blend on behalf of the Province;
- (c) not to allow the delivery of Hibernia Blend to the defaulting Project Owner or another Person claiming through that defaulting Project Owner;
- (d) not to interfere with scheduled rights of the defaulting Project Owner to take delivery of Hibernia Blend where the Province requires those rights in order to take in kind, notwithstanding that these rights may have been directly or indirectly affected by the default of the defaulting Project Owner; and
- (e) to generally co-operate in the provision of lifting scheduling, transportation scheduling and delivery plans of the defaulting Project Owner.

#### 22.6 Transportation and Storage for the Province

- (a) After the notice period required under clause 22.2 has expired, the Province may require delivery of Hibernia Blend at the Loading Point with respect to Royalty Share taken in kind.
- (b) Delivery of Hibernia Blend to the Province shall be considered to be completed where that Hibernia Blend is delivered to a marine tanker at the Loading Point as directed by the Province or, where a Royalty Lifting Agreement exists, pursuant to that agreement.
- (c) The Royalty Lifting Agreement shall provide for the delivery of Hibernia Blend with respect to Royalty Share taken in kind in order to facilitate an orderly transfer of that Hibernia Blend to the Province without significant disruption to the activities of the Project Owners. In the absence of a Royalty Lifting Agreement, the Province shall consult with all Project Owners with respect to the delivery of Hibernia Blend with respect to Royalty Share taken in kind in order to facilitate an orderly transfer of the Hibernia Blend without significant disruption to the activities of the Project Owners.
- (d) A Project Owner must deliver Royalty Share in kind when given notice to do so under this Article notwithstanding another obligation that that Project Owner may have under a contract with respect to the Hibernia Blend taken in kind.
- (e) All Project Owners must facilitate and assist the Province in taking in kind, including, but not limited to, lifting, transporting, storing, transshipment and delivery.
- (f) Hibernia Blend remains at the risk of the Project Owners from whom that Hibernia Blend is being taken in kind until that Hibernia Blend that is being taken in kind is delivered to the Province at the Loading Point as directed by the Province or, where a Royalty Lifting Agreement exists, pursuant to that agreement.
- (g) Where the Province requires access to the Whiffen Head Transshipment Terminal or a marine tanker for the storage, transshipment or transport of Hibernia Blend taken in kind with respect to Royalty Share, that access shall be supplied to the Province on the terms that are customary for access by the Project Owner from whom Royalty Share is being taken in kind.

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## 22.7 Royalty Entitlement Prior to Payout

Prior to Net Royalty Payout, the volume of Hibernia Blend to be taken in kind by the Province in respect of Gross Royalty payable to the Province by a Project Owner for a Month shall be the product obtained when the Gross Royalty Rate in effect for the Month, as provided in clause 19.3, is multiplied by the total volume of Hibernia Blend transferred during the Month by or to the account of the Project Owner into marine tankers at the Loading Point (which shall include any Hibernia Blend taken in kind by the Province in respect of that Project Owner during that Month). Notwithstanding the foregoing, in the event that payment relative to the sale of Hibernia Blend is received by a Project Owner prior to the delivery of the Hibernia Blend by the Project Owner, the amount of such payment shall be divided by that Project Owner's Transfer Price for the Month in which such payment is received and the resultant volume of Hibernia Blend shall, for the purposes of calculations pursuant to the first sentence of this clause, be added to the total volume of Hibernia Blend transferred during the Month by or to the account of the Project Owner into marine tankers at the Loading Point. Any volume of Hibernia Blend which is transferred by or to the account of a Project Owner into marine tankers at the Loading Point in a Month and which corresponds to a volume of Hibernia Blend for which the Project Owner received payment in a previous Month and which payment was taken into account for calculation of the Royalty Share of the Project Owner for a previous Month, shall not be included in the volume of Hibernia Blend delivered to or to the account of that Project Owner for that Month for the purposes of calculations pursuant to this clause.

## 22.8 Royalty Entitlement After Payout

After Net Royalty Payout, the volume of Hibernia Blend to be taken in kind by the Province in respect of Gross Royalty, Net Royalty, Supplementary Royalty, and Additional Royalty payable to the Province by a Project Owner for a Month shall be the quotient obtained by dividing the Dollar amount of the sum of the Gross Royalty, Net Royalty, Supplementary Royalty, and Additional Royalty which would have been payable in cash by the Project Owner with respect to the Month if the Province was not taking the Royalty Share in kind by the Transfer Price for the Project Owner for the Month.

### 22.8A Shrinkage

Where the Province takes in kind, all calculations made under this Article shall be made as if there has been no shrinkage in transit incurred by the Project Owner whose Royalty Share is being taken in kind and the Project Owners shall not be required to assume the risk of, and royalty hereunder shall not be payable on, any Hibernia Blend lost due to shrinkage in transit.

## 22.9 Volume on Account of Recalculations, Interest and Arbitrations

The volume of Hibernia Blend to be taken in kind by the Province in respect of any amount payable by a Project Owner to the Province on account of:

- (a) a recalculation of or redetermination made by the Province with respect to the Royalty Share payable by the Project Owner to the Province for a Month; or
- (b) interest and Penalties payable by the Project Owner with respect to a Month; or
- (c) an arbitration pursuant to this Agreement,

shall be the quotient obtained by dividing the Dollar amount payable by the Project Owner on such account by the Transfer Price for the Project Owner for the Month to which the amount relates.

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The volume of Hibernia Blend which would otherwise be taken in kind by the Province on account of the Royalty Share payable by a Project Owner shall be reduced by a volume which is the quotient obtained by dividing the Dollar amount payable by the Province on account of:

- (a) a recalculation of or redetermination made by the Province with respect to the Royalty Share payable by the Project Owner to the Province for a Month; or
- (b) interest payable by the Province with respect to a Month; or
- (c) an arbitration pursuant to this Agreement,

by the Transfer Price for the Project Owner for the Month to which the amount relates.

#### 22.10 Volume on Account of Annual Reconciliation

When the Province is taking the Royalty Share in kind and there is an amount due to the Province from a Project Owner pursuant to an Annual Reconciliation, the volume of Hibernia Blend to be taken in kind by the Province on such account shall be the quotient obtained by dividing the Dollar amount payable by the Project Owner to the Province on account of the Annual Reconciliation by the volume weighted average Transfer Price of the Project Owner for the Period to which the Annual Reconciliation relates. When the Province is taking the Royalty Share in kind and there is an amount due to a Project Owner from the Province on account of an Annual Reconciliation, then the volume of Hibernia Blend which would otherwise be taken in kind by the Province from the Project Owner on account of the Royalty Share payable by the Project Owner shall be reduced by a volume which is the quotient obtained by dividing the Dollar amount payable by the Province to the Project Owner on account of the Annual Reconciliation by the volume weighted average Transfer Price of the Project Owner for the Period to which the Annual Reconciliation relates.

#### 22.11 Estimates

Each Project Owner from whom the Province is taking in kind the Royalty Share shall ten (10) Business Days prior to each Month provide to the Province a written estimate (referred in this Article as the "Estimate") of the total volume of Hibernia Blend which the Province will be entitled to take in kind on account of the Royalty Share for such Month. In the event that a Project Owner does not deliver to the Province an Estimate prior to the beginning of a Month, the Project Owner shall be deemed to have submitted to the Province an Estimate for the Month which is the same as the Estimate submitted by the Project Owner with respect to the immediately preceding Month. In the event that the Province does not agree with any Estimate received or deemed to have been received from a Project Owner, the Province may revise the Estimate on a good faith basis and notify the Project Owner of the revised Estimate within five (5) Business Days of the receipt of the Estimate by the Province, and the Estimate shall be revised in accordance with the revised Estimate of the Province.

#### 22.12 Adjustment of Estimates

The Estimate for a Month shall take into account any discrepancies between Estimates for previous Months and actual production, prices and costs.

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### 22.13 Accumulation of Royalty Taken In Kind

The amount of Hibernia Blend to be taken in kind by the Province on account of the Royalty Share payable by a Project Owner to the Province for a Month shall accumulate until actually delivered to the Province pursuant to this Agreement or the Royalty Lifting Agreement, where such Royalty Lifting Agreement exists.

### 22.14 Deemed Payment for Certain Calculations

The volume of Hibernia Blend entitled to be taken in kind by the Province, as determined by this Article, shall be deemed, for the purposes only of the calculation of the amount of the Royalty Share payable by a Project Owner to the Province, to have been taken in kind by the Province as the entitlement of the Province thereto arises under this Agreement. Where a Royalty Lifting Agreement exists, the Province acknowledges that operation of that agreement may delay the actual delivery of the Hibernia Blend to the Province. The volume of Hibernia Blend to be taken in kind by the Province on account of the Royalty Share as determined for each Month shall be accumulated and actually delivered to the Province in accordance with this Agreement or, where there is a Royalty Lifting Agreement, in accordance with that agreement. The inclusion in any calculations of the Royalty Share of Hibernia Blend taken in kind by the Province which has not been actually delivered to the Province does not mean for any purposes of this Agreement that delivery of that amount of Hibernia Blend has been made to or foregone by the Province or that payment (by delivery of Hibernia Blend) of the Royalty Share to which such Hibernia Blend relates has been made to or foregone by the Province.

### 22.15 Unpaid Royalty Share

Each Project Owner acknowledges to and agrees with the Province that the Royalty Share which may be taken in kind by the Province includes any amount which is due in money and unpaid by a Project Owner to the Province at any time that the Province starts taking the Royalty Share in kind pursuant to this Article.

### 22.16 Supplementary Interest Provisions

For the purposes of clauses 25.3, 25.4 and 25.5, and further to the provisions of clause 24.6, when the Province is taking the Royalty Share in kind in respect of a Project Owner, the Royalty Share and any amount representing the value thereof shall not be regarded as due to the Province by the Project Owner until the Province is entitled pursuant to this Agreement, or where a Royalty Lifting Agreement exists, pursuant to that agreement, to receive the Royalty Share in kind. For the purposes of calculating the amount due to the Province on account of interest and Penalties payable to the Province as a consequence of the Royalty Share not being delivered to the Province in kind when the Province was entitled to the delivery thereof pursuant to this Agreement, and, where a Royalty Lifting Agreement exists, pursuant to that agreement, the amount due to the Province in respect of which interest and Penalties shall be calculated shall be the product obtained by multiplying the volume of Hibernia Blend that the Province was entitled to, but did not, receive in kind pursuant to this Agreement and, where a Royalty Lifting Agreement exists, pursuant to that agreement, by the corresponding Transfer Price for the Project Owner for the Month in which delivery in kind to the Province should have been made as aforesaid; provided, however, that interest and Penalties shall not be payable to the Province by a Project Owner where the Royalty Share payable by the Project Owner in kind to the Province was not delivered in kind to the Province through no fault of the Project Owners or the Resource Project Operator.

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### 22.17 Cessation of Production

In the event that production of Hibernia Blend by the Project ceases by virtue of Project Suspension or Project Termination at a time when the Province is taking the Royalty Share in kind from a Project Owner and an amount deliverable to the Province in kind by the Project Owner on account of the Royalty Share has accumulated but not been delivered to the Province, then the Project Owner shall pay to the Province the value of the accumulated but undelivered Royalty Share within thirty (30) days of the receipt from the Province of notice that such payment is required from the Project Owner. For the purposes of this clause, the amount payable by a Project Owner on account of the value of the accumulated but undelivered Royalty Share shall be the product obtained by multiplying the volume of Hibernia Blend which the Province is entitled to receive, but has not received, in kind by the corresponding Transfer Price for the Project Owner for the last Month for which the Project Owner had a Transfer Price.

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### ARTICLE XXIIIA: INITIAL CALCULATION RULES

#### 23.1A Initial Balances

At the date hereof, the following terms shall be calculated for purposes of this Agreement as having an initial and a cumulative balance of \$0.00:

- (i) Gross Transfer Revenue;
- (ii) Resource Project Incidental Revenue-EL1093;
- (iii) Resource Project Incidental Revenue-PL1005;
- (iv) Resource Project Eligible Costs-EL1093;
- (v) Resource Project Eligible Costs-PL1005;
- (vi) Net Royalty Return Allowance;
- (vii) Supplementary Royalty Return Allowance;
- (viii) Resource Project Eligible Marketing Costs- EL1093;
- (ix) Resource Project Eligible Marketing Costs- PL1005;
- (x) Gross Royalty paid;
- (xi) Net Royalty paid; and
- (xii) Additional Royalty paid.

### ARTICLE XXIV: CALCULATION AND PAYMENT

#### 24.1 Initial Determination and Calculation by the Project Owner

Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable by a Project Owner to the Province shall initially be calculated by the Project Owner making such determinations and allocations in accordance with the provisions of this Agreement and the Allocation Agreement.

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#### 24.1A Production Allocation to Royalty Area

Hibernia Blend determined, pursuant to Article 17 of the Allocation Agreement, for each Project Owner for each Month of a Period to be production from the EL1093/PL1005 Royalty Area shall be that Project Owner's production of Hibernia Crude EL1093/PL1005 for such Month for purposes of this Agreement.

#### 24.1B EL1093/PL1005 Royalty Area Sales Volume

Hibernia Blend determined, pursuant to Article 21 of the Allocation Agreement, for each Project Owner for each Month of a Period to be the sales volume from the EL1093/PL1005 Royalty Area shall be that Project Owner's sales volume of Hibernia Crude EL1093/PL1005 for such Month for purposes of this Agreement.

#### 24.2 Remittance

Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable by a Project Owner shall be remitted by the Project Owner on the basis of the initial calculation made by the Project Owner pursuant to clause 24.1.

#### 24.3 Redetermination and Recalculation by Province

The Province shall have the right to redetermine any determination or allocation made by or on behalf of a Project Owner pursuant to this Agreement for the purposes of any calculations pursuant to this Agreement and the right to redetermine any determination or allocation made by or on behalf of a Project Owner pursuant to the Allocation Agreement for the purposes of any calculation pursuant to this Agreement and to recalculate any amount and any calculation or component of any calculation made by or on behalf of a Project Owner or the Project Owners in respect of Pre-Development Costs, Resource Project Eligible Costs, Eligible Transportation Costs, Resource Project Eligible Marketing Costs, Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty. Any such redetermination or recalculation by the Province pursuant to this Agreement shall be in accordance with the provisions of this Agreement and the Allocation Agreement and shall be made and notice thereof given to each Project Owner affected thereby before, and not after, the end of the Period following the Period in which the Audit Period ends with respect to the relevant determination, allocation or calculation.

Where the Province redetermines or recalculates an allocation made by or on behalf of a Project Owner or the Project Owners in respect of a production volume, sales volume, cost or revenue pursuant to the Allocation Agreement, the Province agrees to use such redetermined or recalculated allocation for the purposes of (i) any recalculation of any amount and any calculation or component of any calculation made by or on behalf of a Project Owner or the Project Owners in respect of Pre-Development Costs, Resource Project Eligible Costs, Eligible Transportation Costs, Resource Project Eligible Marketing Costs, Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty pursuant to this Agreement, and (ii) any recalculation of any amount and any calculation or component of any calculation made by or on behalf of a Project Owner or the Project Owners in respect of Resource Project Eligible Costs, Eligible Transportation Costs, Resource Project Eligible Marketing Costs, Gross Royalty, Net Royalty, Supplementary Royalty, AA Blocks Additional Royalty or Southern Additional Royalty (as all such terms are defined in the PL1001 Hibernia Royalty Agreement) pursuant to the PL1001 Hibernia Royalty Agreement.

Any determination, allocation or calculation made by or on behalf of a Project Owner pursuant to this Agreement or the Allocation Agreement in respect of Eligible Transportation Costs which is not in accordance with the provisions of this Agreement or the Allocation Agreement may be disallowed by the Province without any requirement on the Province to provide an alternate determination, allocation or calculation.

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#### 24.4 Payment Upon Redetermination or Recalculation

Any amount payable by a Project Owner or the Province as a result of a recalculation or redetermination by the Province in respect of the amount of Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty payable pursuant to this Agreement shall be paid, in money, by whichever of the Project Owner or the Province is obliged to make the payment, before the end of the Month following the Month in which the recalculation or redetermination is made and written notice thereof is given by the Province to the Project Owner. In the event that any amount payable pursuant to this clause is payable at a time when the Province is taking the Royalty Share from a Project Owner in kind, then the amount which the Province would otherwise be entitled to take in kind pursuant to the other provisions of this Agreement shall be adjusted pursuant to clause 22.9.

#### 24.5 Arbitration

After payment by a Project Owner of the amount, if any, payable by the Project Owner as a result of a recalculation or redetermination made by the Province in respect of Pre-Development Costs, Resource Project Eligible Costs, Eligible Transportation Costs, Resource Project Eligible Marketing Costs, Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty, plus interest and Penalties, if any, payable on such amount in accordance with the provisions of this Agreement, the Project Owner may submit any disagreement that the Project Owner has with any recalculation or redetermination made by the Province to arbitration, at any time before, but not after, the end of the second Period following the Period in which the Project Owner received notice from the Province of the recalculation or redetermination with which the Project Owner disagrees. An amount of Pre-Development Costs, Resource Project Eligible Costs, Eligible Transportation Costs, Resource Project Eligible Marketing Costs, Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty as the case may be, determined by arbitrators shall be the amount thereof for all purposes of this Agreement. In the event that any amount payable pursuant to this clause is payable at a time when the Province is taking the Royalty Share from a Project Owner in kind, then the amount which the Province would otherwise be entitled to take in kind pursuant to the other provisions of this Agreement shall be adjusted pursuant to clause 22.9.

#### 24.6 Time and Manner of Payment

Except as otherwise expressly provided for herein, the Royalty Share payable by each Project Owner to the Province shall be paid in money or in kind, at the option of the Province, as provided for in this Agreement. If payable in money, payment shall be made in Dollars and, unless express provision otherwise is made herein, is due on the last day of the Month following the Month to which the payment relates. If payable in kind, delivery shall be made in accordance with Article XXII. Absent consent in writing from the Province, all amounts payable to the Province in money pursuant to this Agreement shall either be paid by cheque payable at par and drawn on an account at a branch within Canada of a Canadian chartered bank or shall be effected by a cash transfer at par from a Canadian chartered bank.

#### 24.7 Annual Reconciliation and Adjustment

Within one hundred and twenty (120) days of the end of each Period, each Project Owner shall prepare and deliver to the Province a reconciliation of the Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable by the Project Owner with respect to the preceding Period. Such reconciliation shall be accompanied by a certificate of the Project Owner signed on its behalf by an Officer of the Project Owner certifying that calculations by the Project Owner are accurate and comply with the requirements of this Agreement. Subject to the other provisions of this Article, within thirty (30) days of the receipt by the Province of such reconciliation, the adjustment provided for in the reconciliation shall be made in money. In the event that any amount payable pursuant to this clause is payable at a time when the Province is taking the Royalty

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Share from a Project Owner in kind, then the amount which the Province would otherwise be entitled to take in kind pursuant to the other provisions of this Agreement shall be adjusted pursuant to clause 22.10.

#### 24.8 Inventory

In the event that the share of a Project Owner of Hibernia Crude EL1093/PL1005 and transferred by or to the account of the Project Owner at the Loading Point into marine tankers does not reach the Sale Point within sixty (60) days of the end of the Month in which such transfer was made (in this clause referred to as the "Inventory Volume") then, for the purposes of determining the amount of the Royalty Share payable with respect to the Hibernia Crude EL1093/PL1005 so transferred, the Gross Transfer Revenue for such Hibernia Crude EL1093/PL1005 shall initially be the product obtained by multiplying that Project Owner's most recent Transfer Price by the Inventory Volume. Upon any Hibernia Crude EL1093/PL1005 for which Gross Transfer Revenue is determined by operation of this clause reaching the Sale Point, then the Royalty Share relative to such Hibernia Crude EL1093/PL1005 shall be recalculated using the Sale Price for the Hibernia Crude EL1093/PL1005 as otherwise provided for in this Agreement and accounts between the Project Owner and the Province shall be adjusted by credit to whoever is entitled thereto. For the purposes of this Agreement, Hibernia Crude EL1093/PL1005 transferred at the Loading Point by or to the account of a Project Owner shall be deemed to be sold by the Project Owner on a "first in, first out" basis.

#### 24.9 No Set-Offs

Gross Royalty, Net Royalty, Supplementary Royalty, Additional Royalty, interest and Penalties payable to the Province pursuant to this Agreement shall not be subject to set-off of any kind other than adjustments provided for in this Agreement.

#### 24.10 Non-Arm's Length Allowance

Notwithstanding any other provision of this Agreement, the Province may by written notice to a Project Owner accept as being at Arm's Length any transaction or amount which would not so qualify because it was otherwise not at Arm's Length.

#### 24.11 Non-Arm's Length Notice

Whenever a Project Owner makes a determination that a transaction or circumstance which, in either case, involves a cost to the Project Owner is not at Arm's Length pursuant to the provisions of this Agreement, the Project Owner having made the determination shall provide to the Province with its next Monthly Summary a description of why the transaction or circumstance is not at Arm's Length. Thereafter the Project Owner shall provide to the Province such information as the Province may reasonably request with respect to the transaction or circumstance.

#### 24.12 Arm's Length Threshold

Transactions resulting in Pre-Development Costs, Resource Project Eligible Costs or Resource Project Eligible Marketing Costs which otherwise would not be at Arm's Length shall be deemed to be at Arm's Length where:

- (i) the cost in a single transaction does not exceed One Hundred Thousand Dollars (\$100,000.00) and the cumulative costs in all transactions with the same Person or Affiliates of that Person during the Period do not exceed Two Million Dollars (\$2,000,000.00); or

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- (ii) the lowest bid in a *bona fide* competitive bid situation is accepted where there are one or more *bona fide* bids by Persons who are at Arm's Length with all Project Owners and Affiliates of the Project Owners.

Each amount set forth in item (i) of this clause shall increase or decrease on the first day of each calendar year since September 1, 1990, by an amount proportionate to the amount of the increase or decrease, respectively, in the Supplementary Royalty Index for the Month of July of the second preceding calendar year to the Month of July of the immediately preceding calendar year.

#### 24.13 Application of Receipts

Payments received by the Province for the account of a Project Owner in respect of its Royalty Share shall be applied by the Province:

- (i) first, to pay any Penalties payable by the Project Owner pursuant to this Agreement;
- (ii) second, to pay any interest payable by the Project Owner pursuant to this Agreement; and
- (iii) third, to pay any Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty payable by the Project Owner pursuant to this Agreement.

#### 24.14 Advice Re: Events

The Project Owners shall give, or shall cause to be given, to the Province notice of Production Start-Up, Force Majeure, Project Suspension and Project Termination and of the end of a period of Force Majeure or of Project Suspension. A Project Owner shall give notice to the Province of Project Withdrawal by the Project Owner. The notice given to the Province pursuant to this clause with respect to the occurrence of Force Majeure or of Project Suspension shall include a good faith estimate of the length of time that the period of Force Majeure or of Project Suspension is expected to last. The provision of any such estimate to the Province pursuant to this clause shall:

- (i) be for informational purposes of the Province only;
- (ii) not require or obligate the Project Owner to incur any expenses to effect same; and
- (iii) be treated as confidential information of the Project Owner,

and the Project Owners shall not in any manner be liable or responsible for the accuracy of the estimate or any other information contained therein.

### ARTICLE XXV: INTEREST AND PENALTIES

#### 25.1 Interest Payable by Province: Generally

Interest at a per annum rate equal to the Prime Rate, compounded and paid Monthly, shall be paid by the Province in respect of all amounts payable by the Province pursuant to this Agreement from the date payment by the Province of the amount was due until the date of receipt by the Project Owner of the Actual Cash Payment.

#### 25.2 Interest Payable by Province: Arbitration Awards

Notwithstanding the provisions of clause 25.1, in the event that an arbitration pursuant to this Agreement determines that, as a result of a recalculation or redetermination by the Province, a Project Owner has overpaid royalty to the Province pursuant to this Agreement, then interest at a per annum rate equal to the Prime Rate, compounded and paid Monthly, shall be paid by the Province in respect to the amount of royalty

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determined by the arbitration to have been overpaid by the Project Owner to the Province from the date of the overpayment until the date of receipt by the Project Owner of the Actual Cash Payment.

### 25.3 Interest Payable to Province: Generally

Interest at a per annum rate equal to the sum of the Prime Rate plus six per cent (6%), compounded and paid Monthly, shall be paid to the Province in respect of all amounts due to the Province pursuant to this Agreement from the date payment of the amount was due until receipt by the Province.

### 25.4 Interest Payable: Annual Adjustments

Notwithstanding the provisions of clause 25.3, in the event that it is determined on the basis of a reconciliation pursuant to clause 24.7 that a Project Owner has underpaid by less than ten per cent (10%) the Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable to the Province in respect of a Month, then interest on the amount underpaid shall be paid to the Province by the Project Owner at a per annum rate equal to the Prime Rate, compounded and paid Monthly, from the end of the Month following the Month to which the underpayment relates to the date that payment thereof is due in accordance with clause 24.7. Thereafter until payment, interest on the amount underpaid shall be paid to the Province by the Project Owner at the rate and compounded and paid as provided for in clause 25.3. In the event that the underpayment aforesaid is ten per cent (10%) or greater, interest on the amount underpaid shall be paid to the Province by the Project Owner as provided in clause 25.3. Interest shall be payable by the Province at a per annum rate equal to the Prime Rate, compounded and paid Monthly on any amounts payable to a Project Owner as a result of an annual reconciliation pursuant to clause 24.7 from the end of the Month following the Month to which the overpayment relates to the date that the overpayment is received by the Project Owner from the Province.

### 25.5 Penalty on Nonpayments

Notwithstanding the provisions of clause 25.3, in the event that a Project Owner either does not pay, or underpays when due, the amount payable to the Province as indicated by a Monthly Summary or Annual Reconciliation, then the amount not paid or underpaid shall, upon notice by the Province to the Project Owner and commencing on the fifteenth (15th) day following receipt by the Project Owner of such notice, bear interest, in lieu of interest as provided in clause 25.3, at a per annum rate equal to twice the rate set forth in clause 25.3 to a maximum of twenty-four per cent (24%) per annum, compounded and paid Monthly, until paid.

### 25.6 Audit Upon Nonfiling

In the event that a Project Owner does not file with the Province a Monthly Summary or an Annual Reconciliation within the time provided therefor herein, then the Province may give the Project Owner notice of such failure to file. In the event that a Project Owner does not within fifteen (15) days of the receipt of such notice file the Monthly Summary or Annual Reconciliation to which the notice relates, then the Province may conduct such audit of the records of the applicable Project Owner and Resource Project Operator as is necessary to prepare the Monthly Summary or Annual Reconciliation to which the notice related and the cost of the audit shall be added to the amount, if any, determined by the Province to be owing by the Project Owner to the Province. Upon completion of an audit by the Province and notification of the Project Owner of the amount payable by the Project Owner to the Province, the Project Owner shall forthwith pay to the Province any amount so determined by the Province to be payable by the Project Owner to the Province under this Agreement. Any amount determined by the Province to be payable by a Project Owner to the Province pursuant to the operation of this clause shall bear interest and shall be liable to Penalty as provided for in this Article.

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### 25.7 Occurrence of Material Default

A "Material Default" by a Project Owner shall have occurred upon:

- (i) non-payment by the Project Owner of Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty within one hundred and eighty (180) days after written notice to each of the Project Owners and each of the Project Lenders of the Project Owner of the unpaid Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty;
- (ii) failure of the Project Owner to deliver the Royalty Share to the Province in kind in accordance with the provisions of ARTICLE XXII within ninety (90) days after written notice by the Province to each of the Project Owners, and to each of the Project Lenders of the Project Owner, that the Royalty Share was not delivered to the Province; provided that in the original instance and in any subsequent instances the Province was ready, willing and able to take in kind at the Loading Point and the Province was in compliance with those provisions of this Agreement and ARTICLE XXII;
- (iii) failure of the Project Owner to deliver to the Province material information necessary for the calculation of royalties, as specified in this Agreement or the Allocation Agreement, within one hundred and eighty (180) days after written notice to each of the Project Owners, and each of the Project Lenders of the Project Owner, of the original failure to deliver such material information; or
- (iv) failure of the Project Owner to comply with the provisions of either clauses 16.8(a)(ii) or 16.9(a)(ii) or if the Project Owner shall have novated a "Person" referred to in clause 3(b) of Schedule D into the EL1093 JOA or the PL1005 JOA, as the case may be, without such Person having contemporaneously entered into the agreement referred to in clause 3(b) of Schedule D.

The ninety (90) day period referred to in item (i) of this clause shall be extended by a period equal to:

- (1) any period of Force Majeure which commences within the ninety (90) day period; and
- (2) a reasonable period to allow the Province to arrange for marine tankers to accept delivery of the Royalty Share in kind.

In the event of the occurrence of any of the events described in items (i), (ii)(i) and (iii) it is agreed that any such event may be remedied by any Person in full satisfaction of the obligation to which the event relates.

### 25.8 Termination of Agreement

The Province may terminate this Agreement with respect to a Project Owner upon the occurrence of either the following events and only upon the occurrence of either of the following events:

- (i) Material Default by the Project Owner; or
- (ii) the circumstances provided for in clause 7.2,

by written notice to all Project Owners and all Project Lenders of the Project Owner.

### 25.9 Notice to Project Lenders

The Province shall have satisfied the requirements of giving a Project Lender notice pursuant to clauses 25.7 and 25.8 if notice is sent by prepaid registered mail to the last address for that Project Lender notified to the Province by the Project Lender in accordance with the provisions of Schedule "D".

### 25.10 Reimbursement of Certain Costs

A Project Owner failing to deliver the Royalty Share to the Province in kind shall pay to the Province the amount of all direct costs incurred by the Province as a result of such failure.

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### 25.11 Artificial Transactions

If the result of one or more acts, agreements, arrangements, transactions or operations is to artificially reduce the Royalty Share or the value thereof to the Province, then the Royalty Share or value thereof shall be calculated as if the act, agreement, arrangement, transaction or operation had not taken place. If a Project Owner disagrees with a calculation and the disagreement is not resolved by discussions with the Province, the calculation may be submitted to arbitration in order to determine the extent, if any, by which the Royalty Share or value thereof has been artificially reduced by the act, arrangement, transaction or operation and the Royalty Share or value thereof will be adjusted accordingly. This clause shall apply only in determining the qualification of a cost as a Resource Project Eligible Cost and the extent to which a cost so qualifies.

### 25.12 No Interest or Penalties While Royalty Share To Be Taken In Kind Accumulates

Notwithstanding the other provisions of this Article, no interest or Penalties shall be payable by a Project Owner in respect of a Royalty Share to be taken in kind by the Province while the amount of Hibernia Blend to be taken in kind on account of that Royalty Share is accumulating until the Hibernia Blend to be taken in kind by the Province on account of that Royalty Share is deliverable to the Province pursuant to ARTICLE XXII.

### 25.13 Nominal Rate Method of Interest Calculation

For all purposes relating to the calculation and payment of interest pursuant to this Agreement, the nominal rate method of interest calculation shall apply.

## ARTICLE XXVI: RECORDS AND AUDIT

### 26.1 Accounts of the Resource Project Operators

#### (i) EL1093

The EL1093 Project Owners shall cause the Resource Project Operator-EL1093 to maintain in Newfoundland and Labrador the Joint Account-EL1093. The EL1093 Project Owners shall cause the Resource Project Operator-EL1093, on behalf of the EL1093 Project Owners, to determine and maintain in Newfoundland and Labrador separate accounts recording all Pre-Development Costs, Resource Project Eligible Costs-EL1093 and Resource Project Incidental Revenue-EL1093.

#### (ii) PL1005

The PL1005 Project Owners shall cause the Resource Project Operator-PL1005 to maintain in Newfoundland and Labrador the Joint Account-PL1005. The PL1005 Project Owners shall cause the Resource Project Operator-PL1005, on behalf of the PL1005 Project Owners, to determine and maintain in Newfoundland and Labrador separate accounts recording all Pre-Development Costs, Resource Project Eligible Costs-PL1005 and Resource Project Incidental Revenue-PL1005.

### 26.2 Project Owner's Accounts

Each Project Owner shall separately maintain in Canada all accounts necessary to determine the occurrence of Net Royalty Payout and Supplementary Royalty Payout for the Project Owner except those accounts to be maintained by the applicable Resource Project Operator pursuant to clause 26.1. Each Project Owner shall separately maintain in Canada accounts regarding all Resource Project Eligible Marketing Costs incurred by the Project Owner. Each Project Owner shall maintain in Canada such accounting, financial and any other reporting systems as are necessary for the purposes of this Agreement. In the event that the auditors of

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the Province are denied initial access by a Project Owner to the accounts maintained in Canada outside of Newfoundland and Labrador pursuant to this Agreement, then the Project Owner agrees that if, after notice in writing by the Province to the Project Owner of such denial of initial access, the Project Owner thereafter denies access to the auditors of the Province, such accounts shall upon notice from the Province be maintained in Newfoundland and Labrador.

### 26.3 Annual Information

Each Project Owner shall provide or cause the Resource Project Operator-EL1093 or the Resource Project Operator-PL1005, as the case may be, to provide to the Province in the form prescribed by the Province after consultation with the EL1093 Project Owners or the PL1005 Project Owners, as the case may be, not later than one hundred and twenty (120) days after the end of each Period, the following information:

- (i) Costs that have been included in (a) Pre-Development Costs, (b) Resource Project Eligible Costs-EL1093 or Resource Project Eligible Costs-PL1005, as the case may be, (c) Eligible Transportation Costs Deduction-EL1093/PL1005 and (d) Resource Project Eligible Marketing Costs-EL1093 or Resource Project Eligible Marketing Costs-PL1005, as the case may be;
- (ii) Volumes, prices, allocations and revenues used in determination of (a) Gross Transfer Revenue, (b) Net Transfer Revenue, (c) Resource Project Incidental Revenue-EL1093 or Resource Project Incidental Revenue-PL1005, as the case may be, and (d) Eligible Transportation Costs;
- (iii) Volume of Hibernia Crude EL1093/PL1005 transferred at the Loading Point by the Project Owner;
- (iv) The calculation of the Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable pursuant hereto;
- (v) Information necessary to determine the Supplementary Royalty Return Allowance Factor;
- (vi) A certificate or certificates of the applicable Resource Project Operator signed by an Officer of the applicable Resource Project Operator certifying that the information supplied by each is accurate, and that all calculations comply with the provisions of this Agreement;
- (vii) A certificate of the Project Owner signed by an Officer of the Project Owner certifying that the information supplied by it is accurate and that all calculations comply with the provisions of this Agreement;
- (viii) The financial statements and audit letter of the applicable Resource Project Operator with respect to the fiscal year ended in the Period; and
- (ix) Such other information as the Province may reasonably request for purposes of this Agreement.

The information provided pursuant to this clause at the end of the first Period following the date of this Agreement shall include the information required by this clause with respect to each Period, or part thereof, from the date of this Agreement to the end of the first Period following the date of this Agreement.

### 26.4 Monthly Summary

Prior to, and until, the commencement of production of Hibernia Crude EL1093/PL1005, each Project Owner shall submit, or cause to be submitted, to the Province before the end of each Month a summary statement, in the form prescribed by the Province after consultation with the Project Owners, of all (a) Pre-Development Costs, (b) Resource Project Eligible Costs-EL1093 or Resource Project Eligible Costs-PL1005, as the case may be and (c) Resource Project Eligible Marketing Costs-EL1093 or Resource Project Eligible Marketing Costs-PL1005, as the case may be, paid during the preceding Month. Upon commencement of production of Hibernia Crude EL1093/PL1005, the remittance of Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable each Month by a Project Owner shall be accompanied by a summary

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statement, in the form prescribed by the Province after consultation with the Project Owners, of the information reasonably required by the Province upon which the Gross Royalty, Net Royalty, Supplementary Royalty and Additional Royalty payable was based and calculated. In any event, a Project Owner shall not be required to provide any detailed pricing related information other than the estimated landed price at the Sale Point of two widely-traded reference Crude Oils, quality adjusted for Hibernia Crude EL1093/PL1005.

#### 26.5 Translation of Currency

Any amounts received or paid by a Resource Project Operator or a Project Owner relating to the Resource Projects in other than Canadian Dollars shall be converted into Canadian Dollars when received or paid, as the case may be, in accordance with Canadian generally accepted accounting principles or in accordance with any agreement amongst the Project Owners and the Province that may be made in that regard.

#### 26.6 Audits and Inspections

The Province shall have the right from time to time to inspect or audit all books, records and accounts and any document, as well as the right to inspect inventories and assets of any Project Owner and any Resource Project Operator as may be necessary or required to verify the production, delivery, disposition, sale prices and terms of sale of Hibernia Crude EL1093/PL1005 and costs and revenues of the Resource Project, and Resource Project Eligible Marketing Costs. The Province shall, upon reasonable notice and for the aforementioned purposes, have the right to enter, during normal business hours, upon any premises or place where the business of the Resource Projects, the Resource Project Operators or a Project Owner is carried on or where any such records, books, documents, inventories or assets are maintained, except that the Province may conduct cash and inventory audits of any Resource Project Operator without notice. A Project Owner shall be allowed a reasonable period of time to produce documents requested by the Province in the course of an audit. Requests for documents on behalf of the Province shall be in sufficient detail for the Project Owner to identify the documents requested. The Project Owners shall cooperate and cause the applicable Resource Project Operator to cooperate in any audits and inspections permitted by this Agreement. Audits undertaken by the Province shall be conducted within the Audit Period. Subject to clause 25.6, the cost of audits performed by the Province or its authorized agent shall be at the sole cost of the Province.

#### 26.7 This Clause Intentionally Left Blank

#### 26.8 Preservation of Records

Each Project Owner shall, and shall cause each applicable Resource Project Operator to, maintain and preserve each document necessary for the purposes of this Agreement until the end of the Audit Period applicable to such document.

#### 26.9 Access and Seizure

Where the Province has reasonable grounds for believing that a Project Owner is not providing or is not causing to be provided information or access in accordance with the requirements of this Agreement, the Project Owners agree that the Province may upon an order of the Trial Division of the Supreme Court of Newfoundland and Labrador or a Justice thereof granted upon ex parte application by the Province:

- (a) enter at all reasonable times into any place where there is conducted the business of the applicable Resource Project Operator or a Project Owner required to keep records under this Agreement;

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- (b) examine or seize and take away any record of the applicable Resource Project Operator or a Project Owner required to be kept under this Agreement;
- (c) examine or seize and take away any record which will assist in determining the accuracy of the calculations to be made pursuant to and the records that are required to be kept under this Agreement; and
- (d) require the applicable Resource Project Operator or a Project Owner to give the Province or person authorized by the Province all reasonable assistance in carrying out the functions under this clause.

The Province shall forthwith provide a detailed list of all documents seized by the Province to the Person from whom the documents were seized. The Province shall allow access to all and any documents seized by the Province to the representatives of the Project Owner with respect to whom the documents were seized. Any reproduction of seized documents shall be at the expense of whomsoever does the reproduction. The Province shall return all original documents to the Person from whom the documents were seized as soon as copies have been made and certified and no later than thirty (30) days from the date of seizure.

#### 26.10 Certified Copies

The Parties hereto agree that, notwithstanding any rule of law or evidence to the contrary, any such rule being hereby waived to the fullest extent that it may effectively be done, by all Parties hereto, a photocopy or other copy of a document seized by the Province from a Resource Project Operator or a Project Owner and purporting to be certified by the person authorized by the Province to be responsible for the seized documents as a copy of the document seized shall be admissible in evidence in any arbitration, administrative or judicial proceeding and shall be, in the absence of evidence to the contrary, proof of the contents of the document without proof of the certifying person's signature or appointment or of his responsibility for custody of the document.

#### 26.11 Legislative and Regulatory Action

The Province may take such legislative and regulatory action as the Province considers appropriate to implement the provisions of clauses 26.9 and 26.10 and to allow the provisions of clauses 26.9 and 26.10 to be enforced by the Supreme Court of Newfoundland and Labrador upon ex parte application by the Province.

#### 26.12 Rights in Other Jurisdictions

The Province shall have the same rights with respect to records, access to premises, examination and seizure in jurisdictions other than the Province as it has under clause 26.9. Each Project Owner hereby waives all notice to it and its counsel of and consents to any application being made ex parte by the Province in the courts of any jurisdiction to enforce in such jurisdiction the rights that it would have were proceedings taken with respect to the Province under clause 26.9.

#### 26.13 Non-Availability of Records

In the event that documents which the Project Owner or a Resource Project Operator are required to make available to the Province cannot be made available to the Province because the documents have been validly seized by another Person, the failure to make such documents available to the Province shall not constitute a breach of or default under this Agreement by the Project Owner or a breach of or default under the undertakings given by the applicable Resource Project Operator, pursuant to clause 10.4. Each Project Owner shall, and shall cause the applicable Resource Project Operator to, use all reasonable efforts to assist the Province in gaining access to any document seized by another Person while in the possession of the other Person.

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#### 26.14 Confidentiality

Subject to the requirements of the Access to Information and Protection of Privacy Act, the Province shall at all times keep confidential all information obtained from a Resource Project Operator, any Project Owner or any Licensee. These confidentiality requirements shall not apply to any information provided pursuant to this Agreement which:

- (a) is required to be produced in court or pursuant to an arbitration hereunder to enforce the provisions of this Agreement;
- (b) is in the public domain at the time it is obtained by the Province through no wrongful act of the Province;
- (c) becomes in the public domain after it has been obtained through no fault of the Province;
- (d) is otherwise in the possession of the Province prior to the time it is obtained from the Project Owner, Licensee or Resource Project Operator through no wrongful act of the Province and is not then held in confidence;
- (e) relates to a Resource Project and is obtained by the Province from any Person not known to the Province to be obligated to keep the information obtained by the Province confidential;
- (f) the Province is required to disclose by law, by any court having jurisdiction or by any body constituted by law which has been authorized by law to require such disclosure, but in each case only to the extent so requested and required; or
- (g) is disclosed to Canada.

Notwithstanding the foregoing, the Province may disclose, upon the same conditions as are applicable to the Province under this clause, any information obtained from a Resource Project Operator, any Project Owner or any Licensee to any servant of and advisor to the Province for the purposes only of this Agreement provided that, with respect to any information relating to the pricing of Crude Oil or relating to contracts for the sale of Hibernia Crude EL1093/PL1005 of a Project Owner, such information and contracts may only be disclosed for the purposes of items (a) or (f) or for the purposes of administering this Agreement. The Province shall keep confidential pursuant to the provisions of this clause all information received from Canada relative to the Resource Project that Canada advises the Province it received from a Project Owner, a Licensee or a Resource Project Operator to the same extent as if the Province had received that information from such Project Owner, Licensee or Resource Project Operator. The Province shall use all reasonable efforts to claim that Canada keep confidential on the terms provided for in this clause, but subject to the freedom of information laws applicable to Canada, all information which the Province is obligated to keep confidential by the provisions of this clause, excepting item (g) of this clause, and which the Province disclosed to Canada pursuant to item (g) of this clause.

#### 26.15 Environmental Insurance Policies

Each Project Owner shall provide, or cause to be provided, to the Province, for information purposes only, a copy, certified by the policy issuer, of each policy of insurance with respect to a Resource Project which benefits the Project Owner or the applicable Resource Project Operator with respect to damage caused as a result of oil-spills, blow-outs or other similar events and a copy, certified by the policy issuer, of each change, amendment, renewal and cancellation of each such policy.

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**ARTICLE XXVII: ARBITRATION**

**27.1 Submission to Arbitration**

The provisions of Schedule G to the Allocation Agreement shall apply to any disagreement among the Parties hereto as regards any matter expressly allowed in this Agreement to be submitted to arbitration.

**PART IV: COSTS**

**ARTICLE XXVIII: PRE-DEVELOPMENT COSTS**

**28.1 Amount**

For purposes of calculation of Pre-Development Costs, the following costs shall be included in such calculation:

- (i) for costs incurred prior to July 1, 2009, the amount so allocated to PL1005 and EL1093 pursuant to clause 18.8(a) of the Allocation Agreement; and
- (ii) for costs incurred after July 1, 2009 and prior to Sanction, such costs:
  - (a) as are allocated to PL1005 and EL1093 pursuant to clause 18.8(c) of the Allocation Agreement; and
  - (b) which meet the eligibility rules set out in clause 29.1(i)(a), (b) and (c) or 29.1(ii)(a), (b) and (c) and are not disqualified pursuant to clause 29.3 under this Agreement.

Pre-Development Costs calculated pursuant to clause 28.1 shall not be eligible for uplifts under this Agreement.

**ARTICLE XXIX: RESOURCE PROJECT ELIGIBLE COSTS**

**29.1 Qualification of Resource Project Eligible Costs**

**(i) EL1093**

A cost qualifies as a Resource Project Eligible Cost-EL1093 to the extent that it is an Actual Cash Payment and satisfies each of the following requirements:

- (a) it is directly attributable to the Resource Project-EL1093 (which Resource Project-EL1093 includes that portion of the Unit Project attributed to EL1093 pursuant to the Allocation Agreement);
- (b) it is reasonable in relation to the circumstances under which it is incurred;
- (c) it: (i) is charged to the Joint Account-EL1093 or to the provisions which replace the Joint Account-EL1093 pursuant to clause 15.2; or (ii) is charged to the Unit Account and allocated to EL1093 pursuant to the Allocation Agreement;
- (d) it is incurred after the date of this Agreement; and
- (e) it has not been claimed as a Pre-Development Cost.

**(ii) PL1005**

A cost qualifies as a Resource Project Eligible Cost-PL1005 to the extent that it is an Actual Cash Payment and satisfies each of the following requirements:

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- (a) it is directly attributable to the Resource Project-PL1005 (which Resource Project-PL1005 includes that portion of the Unit Project attributed to PL1005 pursuant to the Allocation Agreement);
- (b) it is reasonable in relation to the circumstances under which it is incurred;
- (c) it: (i) is charged to the Joint Account- PL1005 or to the provisions which replace the Joint Account-PL1005 pursuant to clause 15.2; or (ii) is charged to the Unit Account and allocated to PL1005 pursuant to the Allocation Agreement;
- (d) it is incurred after the date of this Agreement; and
- (e) it has not been claimed as a Pre-Development Cost.

### 29.2 Qualification of Resource Project Eligible Marketing Costs

The Province acknowledges the possibility that each Project Owner may need to establish and staff an office within the Province to market the Project Owner's share of Hibernia Crude EL1093/PL1005 and, further, the Province acknowledges that the Project Owner may incur costs on account thereof. A cost qualifies as a Resource Project Eligible Marketing Cost of a Project Owner to the extent that it is an Actual Cash Payment and satisfies each of the following requirements:

- (a) it is directly attributable to the personnel of the Project Owner which the Project Owner will locate within the Province for the purpose of marketing that Project Owner's share of Hibernia Crude EL1093/PL1005;
- (b) it is reasonable in relation to the circumstances under which it is incurred; and
- (c) it is incurred after the date of this Agreement.

Whenever an asset of a Project Owner, the cost of which when acquired was claimed as a Resource Project Eligible Marketing Cost, is disposed of or is used for purposes not directly related to marketing the Project Owner's share of Hibernia Crude EL1093/PL1005, the greater of the price or the fair market value of such asset or use shall reduce the Resource Project Eligible Marketing Costs of the Project Owner in the Period of such sale or use and any negative amount of Resource Project Eligible Marketing Costs thus created shall be carried forward to the following Period and reduce Resource Project Eligible Marketing Costs in the following Period.

### 29.3 Disqualification

Notwithstanding clauses 29.1 and 29.2 and subject to clause 29.5, a cost will not qualify as a Resource Project Eligible Cost or a Resource Project Eligible Marketing Cost if it is one of the following:

- (a) respecting EL1093, overhead of the EL1093 Project Owner or of anyone not dealing at Arm's Length with the EL1093 Project Owner or the Resource Project Operator-EL1093, except for:
  - (1) overhead of the Resource Project Operator-EL1093 incurred in respect of its office located in the Province or a person working in the Province; and
  - (2) overhead included in the charges to the Joint Account-EL1093 of Affiliates of an EL1093 Project Owner and which charges have been approved in writing by the Province;
- (b) respecting PL1005, overhead of the PL1005 Project Owner or of anyone not dealing at Arm's Length with the PL1005 Project Owner or the Resource Project Operator-PL1005, except for:
  - (1) overhead of the Resource Project Operator-PL1005 incurred in respect of its office located in the Province or a person working in the Province; and

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- (2) overhead included in the charges to the Joint Account-PL1005 of Affiliates of a PL1005 Project Owner and which charges have been approved in writing by the Province;
- (c) overhead of the Tanker Administrators, the Tanker Cost Aggregator, the Transshipment Operator or of anyone not dealing at Arm's Length with any of the foregoing;
- (d) overhead of the Unit Operator, the GBS Operator in its capacity as Service Provider to the Unit, the Tariff Administrator, or of anyone not dealing at Arm's Length with any of the foregoing, unless such overhead is incurred in respect of an office located in the Province or a person working in the Province;
- (e) interest and other penalties, borrowing costs or financing costs, including, without restricting the generality of the foregoing, penalties related thereto, underwriters commissions, investment banking fees, redemption premiums and other similar costs;
- (f) Gross Royalty, Net Royalty, Supplementary Royalty or Additional Royalty or Penalties or interest relating thereto;
- (g) any payment which is measured or calculated with reference to the production of Crude Oil or with reference to the income, revenue or profits from the sale of Crude Oil or the costs of production of Crude Oil (excepting such costs themselves), which payments include, without restricting the generality of the foregoing, overriding royalties, net profits interests, net revenue interests, net income interests, carried interests and production payments, but excepting from this item (g) payments of the foregoing nature which are made in relation to the acquisition of a good or service;
- (h) marketing costs, excepting those allowed by clause 29.2;
- (i) taxes based on revenue, income or profits;
- (j) any mark-up by a Project Owner of the charges of a third party;
- (k) any mark-up of charges of a Tariff Administrator;
- (l) charges for Petroleum produced pursuant to a Licence and consumed by a Resource Project;
- (m) any cost incurred or damages paid as a result of Wilful and Deliberate Misconduct or Gross Negligence on the part of management or supervisory personnel of:
- (1) the Project Owners;
  - (2) a Resource Project Operator;
  - (3) the Unit Operator;
  - (4) the GBS Operator;
  - (5) the Tariff Administrator;
  - (6) a Tanker Administrator;
  - (7) the Tanker Cost Aggregator;
  - (8) the Transshipment Operator; or
  - (9) any third party contractor to any of the foregoing,
- or any of them;
- (n) fines paid as a result of any act or omission which is a breach of any laws, rules, regulations, permits, licences, orders or other directives of a government, government department or agency, the Board or any court;
- (o) costs incurred in respect of damage to the environment, including costs of environmental clean-up, resulting from the construction, maintenance or operation of a Resource Project and which costs in

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respect of any event or occurrence are in excess of the limits of the insurance policies maintained in respect of a Resource Project;

- (p) depletion, depreciation or any similar or notional allowance;
- (q) on account of any funded or non-funded reserve except any reserve allowed by ARTICLE XXXVI;
- (r) direct costs of purchasing, leasing or renting any land or building not located within Newfoundland and Labrador or the Offshore Area except where such costs are directly related to Resource Project Capital Activities;
- (s) an amount deducted in determining Gross Transfer Revenue or Resource Project Incidental Revenue;
- (t) any fees paid to or costs associated with consultants or advisors to the Project Owners and Licensees, or any of Project Owners and Licensees, relative to the negotiation, preparation and execution of:
  - (1) this Agreement, the Allocation Agreement or any of them; and
  - (2) the agreements referred to as the Closing Documents in the Document Escrow and Closing Agreement, or any of them.
- (u) costs paid with proceeds of insurance or with reserves allowed by ARTICLE XXXVI where the insurance premiums or the contributions to the reserve, as the case may be, were a Resource Project Eligible Cost, a Resource Project Eligible Marketing Cost or an Eligible Transportation Cost;
- (v) premiums for insurance which provide coverage for risks the costs of which would not be a Resource Project Eligible Cost or a Resource Project Eligible Marketing Cost, except premiums paid for insurance providing coverage against risks relative to matters described in items (m) or (o) provided, further, that with respect to insurance relating to item (o) such insurance provides coverage which may be reasonably considered to be in excess of the coverage which would be available through a reserve permitted pursuant to clause 36.1(b);
- (w) costs that arise from a contractual dispute between the Project Owners or the Project Owners;
- (x) costs of the Expansion Expert process, the Data Base Expert process and the Expert determination process, as such processes are described in the Unit Agreement, including all fees, disbursements and administrative costs; or
- (y) an amount on account of, in lieu of or in satisfaction of or in substitution for any of the foregoing.

#### 29.4 Allocation of Costs

Subject to the provisions of the Allocation Agreement, where a cost is not entirely allocable to a Resource Project, only the amount of such cost which is reasonably allocable to such Resource Project shall be, subject to satisfying the requirements of this Agreement, a Pre-Development Cost, a Resource Project Eligible Cost or a Resource Project Eligible Marketing Cost, as the case may be.

#### 29.5 Allocation Among Project Owners

##### (i) EL1093

Each Resource Project Eligible Cost-EL1093 shall be allocated among and shared by the Project Owners-EL1093 according to the Working Interests of the Project Owners-EL1093 in the Resource Project-EL1093 at the time the particular Resource Project Eligible Cost-EL1093 was incurred.

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(ii) **PL1005**

Each Resource Project Eligible Cost-PL1005 shall be allocated among and shared by the Project Owners-PL1005 according to the Working Interests of the Project Owners- PL1005 in the Resource Project-PL1005 at the time the particular Resource Project Eligible Cost-PL1005 was incurred.

**29.6 This Clause Intentionally Left Blank****29.7 Insurance Premiums**

Notwithstanding the provisions of clauses 29.1(i)(c) and 29.1(ii)(c) and subject to the other provisions of this Agreement, premiums for insurance required to be carried by a Project Owner by section 23.2 of the EL1093 JOA or the PL1005 JOA, as applicable, shall be a Resource Project Eligible Cost.

**29.8 Tariffs**

Tariff costs shall be determined pursuant to Article 22 of the Allocation Agreement.

**ARTICLE XXX: APPLICATION RULES FOR RESOURCE PROJECT COSTS**

The application of Article XXIX shall be subject to the following rules as applicable:

**30.1 Capital and Operating Costs Determination**

The relationship of a Resource Project Eligible Cost to Resource Project Capital Activities and, accordingly, the characterization of a Resource Project Eligible Cost as either a Resource Project Eligible Capital Cost or a Resource Project Eligible Operating Cost, shall, unless otherwise provided for in this Agreement or the Allocation Agreement, be initially determined by a Resource Project Operator or the Unit Operator, as applicable, having regard to the meaning of Resource Project Capital Activities and, where necessary, to the general practices of ExxonMobil in applying Canadian generally accepted accounting principles.

**30.2 Pre Production Start-Up**

Notwithstanding the provisions of clause 30.1, all Resource Project Eligible Costs incurred subsequent to Sanction and prior to Production Start-up shall be Resource Project Eligible Capital Costs.

**30.3 Discounts**

A Resource Project Eligible Cost shall be reduced by discounts, contributions, refunds (including, without restricting the generality of the foregoing, refunds of a tax which was a Resource Project Eligible Cost or a Resource Project Eligible Marketing Cost), government economic assistance (including, without restricting the generality of the foregoing, grants, subsidies and credits given by any government which relate to the costs involved and excluding any benefit received by a Project Owner as a result of the Income Tax Act (Canada) and any provincial income tax act) and amounts on account of, in lieu of, in satisfaction of or in substitution for any of the foregoing. The amounts by which Resource Project Eligible costs are reduced pursuant to this clause shall not at any time receive uplifts pursuant to clauses 30.6 or 30.7 or at any time be included in the calculation of Net Royalty Return Allowance or Supplementary Royalty Return Allowance. Economic assistance between a Project Owner and its Affiliates shall not reduce Resource Project Eligible Costs or Resource Project Eligible Marketing Costs pursuant to this clause.

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**30.4 Tax Credits**

A Resource Project Eligible Cost shall not be reduced by investment tax credits under the Income Tax Act (Canada).

**30.5 Disposals Within A Year of Acquisition**

Unless a Resource Project Asset disposed of has served its useful life or purpose within a Resource Project at the time of disposition, the cost of the Resource Project Asset which is disposed of within one year of its acquisition shall not be a Resource Project Eligible Cost and the proceeds of disposition shall not form part of Resource Project Incidental Revenues or reduce Resource Project Eligible Costs.

**30.6 Resource Project Capital Costs Uplift**

Subject to clause 30.8, the amount of each Resource Project Eligible Capital Cost shall be one hundred and one per cent (101%) of the Actual Cash Payment.

**30.7 Resource Project Operating Costs Uplift**

Subject to clause 30.8, the amount of each Resource Project Eligible Operating Cost shall be one hundred and ten per cent (110%) of the Actual Cash Payment.

**30.8 Certain Resource Project Costs Not Uplifted**

All Resource Project Eligible Costs as are normally considered to be overhead costs shall not receive uplift pursuant to clause 30.6 or clause 30.7 including, without restricting the generality of the foregoing, those related to the functions of finance, administration, employee relations, information systems, legal services, government relations, public affairs and planning. All Resource Project Eligible Costs pursuant to clause 29.8 shall not receive uplift pursuant to clause 30.6 or clause 30.7.

**30.9 Affiliates**

Charges to the Joint Account by a Project Owner or an Affiliate of a Project Owner, other than such charges as may be approved in writing by the Province, shall be the lesser of fair market value or the actual charge.

**30.10 Capital Leases Etc.**

Costs in relation to an asset acquired by a Resource Project pursuant to a Capital Lease or an instalment or similar purchase shall, subject to satisfying the requirements of this Agreement, be a Resource Project Eligible Capital Cost only up to an amount equal to the fair market value of the asset at the time of acquisition by such Resource Project. Capital Lease and instalment or similar purchase payments in excess of the fair market value of the asset at the time of acquisition by such Resource Project shall not be a Resource Project Eligible Cost. All lease, charter and rental payments pursuant to instruments which are not Capital Leases and which are not related to Resource Project Capital Activities shall, subject to satisfying the requirements of this Agreement, be a Resource Project Eligible Operating Cost. All lease, charter and rental payments pursuant to instruments which are not Capital Leases and which relate to Resource Project Capital Activities shall, subject to satisfying the requirements of this Agreement, be a Resource Project Eligible Capital Cost.

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### 30.11 Repair and Maintenance

A repair and maintenance cost of an asset of a Resource Project shall, subject to satisfying the requirements of this Agreement, be a Resource Project Eligible Capital Cost if such cost in a Period exceeds fifty per cent (50%) of the installed cost of an equivalent new asset or results in a material increase in the original productive capacity, efficiency or life of the asset. All other repair and maintenance costs shall, subject to satisfying the requirements of this Agreement, be Resource Project Eligible Operating Costs. For the purposes only of this clause, an "asset" is a unit of plant or equipment that performs a complete operating function.

### 30.12 Independent Operations

An independent operation, excluding activities described in clause 29.2, is an operation relative to a Resource Project which is conducted on behalf of less than all of the Project Owners of such Resource Project. A cost directly attributable to an independent operation shall not be a Pre-Development Cost or a Resource Project Eligible Cost unless approved in writing in advance by the Province. Any approval by the Province of an independent operation shall include the manner, if any, in which the costs and revenues of the independent operation will be recognized for the purposes of this Agreement.

### 30.13 Not Available For Use

A Resource Project Asset shall be deemed to have been disposed of at fair market value when the Resource Project Asset is no longer available for use by the Resource Project for which it is being used. Notwithstanding the foregoing, a Resource Project Asset shall not be deemed to be disposed of where that Resource Project Asset is temporarily unavailable due to its employment for activities permitted by clause 10.1. The fair market value of a Resource Project Asset of a Resource Project deemed to have been disposed of pursuant to this clause shall be Resource Project Incidental Revenue.

Notwithstanding the above, use of a Resource Project Asset for Unit Production only shall not be deemed to be a disposition for the purposes of this clause 30.13.

### 30.14 Sale of Working Interest

The proceeds from a sale of a Working Interest in a Resource Project shall not be included in any calculations made pursuant to this Agreement.

### 30.15 Non-Arm's Length Transactions

Where an asset or service is acquired by a Resource Project pursuant to a transaction, or a series of transactions any one of which is, not at Arm's Length, then the amount included in Pre-Development Costs or Resource Project Eligible Costs on account of such acquisition shall, subject to satisfying the requirements of this Agreement, be the lesser of the cost thereof or the fair market value thereof. Where a Resource Project Asset is disposed of or is used for purposes not directly related to the Resource Project for which it is used pursuant to a transaction, or a series of transactions any one of which is, not at Arm's Length, the amount included in Resource Project Incidental Revenue on account of such disposition or use shall, subject to satisfying the requirements of this Agreement, be the greater of the payment received or the fair market value of such Resource Project Asset or use thereof.

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RB 13 GH A JC RD

### 30.16 Dispositions

The Project Owners shall dispose of each Resource Project Asset at not less than the fair market value thereof upon there no longer being a use, as reasonably determined by the applicable Project Owners or applicable Resource Project Operator, for the Resource Project Asset by a Resource Project, and the fair market value of each Resource Project Asset disposed of shall be Resource Project Incidental Revenue. The obligation of the Project Owners under this clause to dispose of any Resource Project Asset is conditional upon there being a market for such Resource Project Asset for use for the purposes for which the Resource Project Asset was obtained by the applicable Resource Project.

### 30.17 Payments in Advance

All payments to a Project Owner relative to the sale of Hibernia Crude EL1093/PL1005 which are received prior to delivery of the Hibernia Crude EL1093/PL1005 shall be included in the Gross Sales Revenue of the Project Owner at the time of receipt and the amount of such receipts shall not be included in Gross Sales Revenue at the time of delivery, if any, of the Hibernia Crude EL1093/PL1005 to which such payments relate. Cash refunds of such receipts shall reduce Gross Sales Revenue upon payment. All payments received by a Project Owner in advance of the use or intended use of Resource Project Assets which, if the payment had been received at the time of such use or intended use would have been Resource Project Incidental Revenue, shall, in fact, be included in Resource Project Incidental Revenue at the time of receipt and the amount of such receipts shall not be so included at the time of use, if any, of the Resource Project Assets to which such payments relate. Refunds of such receipts shall reduce Resource Project Incidental Revenue upon receipt of payment of the refund.

### 30.18 Common Costs

If a cost can be considered to be both a Resource Project Eligible Cost and an Eligible Transportation Cost, such cost shall be only a Resource Project Eligible Cost and not an Eligible Transportation Cost.

### 30.19 Environmental Insurance Deductibles

Notwithstanding the provisions of item (o) of clause 29.3 and subject to the provisions of item (m) of clause 29.3, costs incurred which represent payment of deductibles pursuant to insurance in respect of damage to the environment, including environmental clean-up, or amounts paid in respect of any event or occurrence which are within the deductible limits of any such insurance, shall, subject to satisfying the other requirements of this Agreement, be Resource Project Eligible Costs.

### 30.20 Certain Expressly Allowed Expenses

For greater certainty the following are cited as examples of situations where costs incurred would, subject to satisfying the requirements of Articles XXIX (other than as set out below) and XXX of this Agreement, be Resource Project Eligible Costs:

- (a) "Ex gratia" Payments -
  - (i) notwithstanding items (g) and (o) of clause 29.3, payments made voluntarily and prior to, or in anticipation of, a damaging or potentially damaging act by the Project Owners or a Person for whose actions the Project Owners have any responsibility; or
  - (ii) notwithstanding item (i)(a) and (ii)(a) of clause 29.1, payments made on account of costs or damages which are not necessarily attributable to any act or default by the Project Owners, the Licensees, a Resource Project Operator, or any of them;

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- (b) Drilling and Re-Drilling Expenses - during normal operations problems may be encountered and a well may be lost and may have to be re-drilled;
- (c) Blowout and Re-capture Expenses;
- (d) Equipment Damage and Repair Costs - equipment of all descriptions may suffer damage during the course of construction, installation or operations and need repairs or replacement; and
- (e) Third party damages.

**30.21 Exclusion of Amounts Remitted**

Any amounts collected by the Project Owners on behalf of a government and remitted to that government shall not be included in any revenues for the purposes of this Agreement.

**ARTICLE XXXI: This Article Intentionally Left Blank**

**ARTICLE XXXII: This Article Intentionally Left Blank**

**ARTICLE XXXIII: This Article Intentionally Left Blank**

**ARTICLE XXXIIIA: ELIGIBLE TRANSPORTATION COSTS DEDUCTION-EL1093/PL1005**

**33.1A This Clause Intentionally Left Blank**

**33.2A Eligible Transportation Costs Deduction**

The Eligible Transportation Costs Deduction-EL1093/PL1005 for each Project Owner for each Month is the portion of Eligible Transportation Costs allocated to EL1093/PL1005 pursuant to Schedule E of the Allocation Agreement.

**33.3A Excess Eligible Transportation Costs**

In a Month in which Eligible Transportation Costs Deduction-EL1093/PL1005 exceeds Gross Sales Revenue, Gross Transfer Revenue shall be reduced to zero (\$0) and the remaining difference between Eligible Transportation Costs Deduction-EL1093/PL1005 and Gross Sales Revenue shall be carried forward and added to Eligible Transportation Costs Deduction-EL1093/PL1005 in the following Month.

**ARTICLE XXXIV: ABANDONMENT AND DECOMMISSIONING**

**34.1 Agreed Principles**

The Province recognizes that all or a portion of certain agreed out-of-pocket costs which may be incurred in respect of abandonment or decommissioning of a Resource Project should be accorded recognition in the context of the Net Royalty, the Supplementary Royalty and the Additional Royalty provided for in this Agreement, acknowledging that there should be, ultimately, a sharing of these costs on an agreed basis.

The Province is prepared to enter into good faith discussions with the Project Owners at some future date if the requirements for decommissioning or abandonment of a Resource Project become more clearly

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defined, with the objective of these discussions being to establish a satisfactory method of recognizing all or a portion of such out-of-pocket costs on an agreed basis.

These discussions will be initiated and will proceed at the request of any Party to this Agreement during or after the development of any applicable legislation or regulations.

**34.2 Understandings Re Reserves**

Item (q) in clause 29.3 shall not be construed as any agreement by the Province that there should be a reserve for the purposes of clause 34.1. Similarly, item (q) in clause 29.3 does not preclude an agreement by the Province and the Project Owners that there will be a reserve for the purposes of clause 34.1.

**ARTICLE XXXV: RETURN ALLOWANCES**

**35.1A Commencement of Return Allowance Accumulation**

Net Royalty Return Allowance and Supplementary Royalty Return Allowance shall begin to accumulate for purposes of this Agreement at the time of Sanction and not prior thereto.

**35.1 Before Production Start-Up**

In the event that, prior to Production Start-Up, Force Majeure, Return Allowance Suspension or Project Termination occurs then Net Royalty Return Allowance and Supplementary Royalty Return Allowance shall not be calculated or accrue to the benefit of the Project Owners for the length of time of the occurrence of Force Majeure or Return Allowance Suspension or after Project Termination.

**35.2 After Production Start-Up**

In the event that, after Production Start-Up, there is no production of Hibernia Crude EL1093/PL1005 as a result of Force Majeure, Return Allowance Suspension or Project Termination, then Net Royalty Return Allowance and Supplementary Royalty Return Allowance shall not be calculated or accrue to the benefit of the Project Owners for the length of time that there is no production of Hibernia Crude EL1093/PL1005 as a result of Force Majeure or Return Allowance Suspension or after Project Termination.

**35.3 Project Withdrawal**

In the event of Project Withdrawal by a Project Owner, Net Royalty Return Allowance and Supplementary Royalty Return Allowance shall not be calculated or accrue to the benefit of such Project Owner after the time of Project Withdrawal. The provisions of this clause shall not in any manner restrict or limit the benefits provided to a Successor pursuant to clause 16.5.

**35.4 De Minimus Non Curat Lex**

The calculation and accrual of Net Royalty Return Allowance and Supplementary Royalty Return Allowance shall stop pursuant to this Article only if the period:

- (i) of the occurrence of Force Majeure or Return Allowance Suspension prior to Production Start-Up, or
- (ii) the period after Production Start-Up in which there is no production of Hibernia Crude EL1093/PL1005 as a result of Force Majeure or Return Allowance Suspension,

exceeds two (2) days with respect to any one event or exceeds ten (10) days for a Period.

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**ARTICLE XXXVI: RESERVES****36.1 Certain Allowed Reserves**

Notwithstanding the provisions of item (q) of clause 29.3, an Actual Cash Payment on account of a reserve may be a Resource Project Eligible Cost if:

- (i) it satisfies the requirements of clauses 29.1, is not disqualified by any of the provisions, excepting items (g) or (q), of clauses 29.3 and satisfies the other requirements of this Agreement, provided that, where a reserve allowed by the other items of this clause 36.1 is imposed upon a Project Owner, Licensee or Resource Project Operator, and is an amount allocable pursuant to item (iii) hereof, then the Parties acknowledge that such amounts may be billed to the applicable Joint Account for the purposes of clause 29.1(i)(c) and 29.1(ii)(c);
- (ii) the reserve is required as a result of any law, rule, regulation, permit, licence, order or other directive of the Province or Canada, any department or agency thereof, or the Board;
- (iii) the obligation for the reserve is imposed either upon a Licensee or a Project Owner with respect to its interest in a Resource Project or Licence or upon a Resource Project Operator as operator of the applicable Resource Project, provided that if the reserve obligation includes the interests of a Project Owner or Licensee other than with respect to a Resource Project or the applicable Licence, then the allocation provisions of clauses 29.4 shall be applicable thereto;
- (iv) the reserve is a funded reserve and access to the fund is not controlled by the Project Owner, Licensee or Resource Project Operator, as the case may be; and
- (v) the funds in the reserve may not be withdrawn by the Project Owner, Licensee or Resource Project Operator from the reserve except as allowed by the applicable provisions imposing the reserve or upon termination of the Resource Project.

Notwithstanding the other provisions of this clause, there shall not be any reserve on account of:

- (a) abandonment or decommissioning unless a reserve on such account is agreed to by the Province with the Project Owners pursuant to clause 34.1; or
- (b) costs incurred in respect of matters contemplated by clauses 29.3(o). Notwithstanding the foregoing, a payment into a reserve, such reserve being in the nature of insurance as contemplated by clause 29.3(v) exclusive of the final proviso to same, in respect of risks relative to matters described in clause 29.3(o) shall, subject to the other requirements of this Agreement, be a Resource Project Eligible Cost. For the purposes of this provision a reserve may be considered to be in the nature of insurance as contemplated by clause 29.3(v) in respect of risks relative to matters described in clause 29.3(o) if it potentially provides for payment for the purposes for which the reserve was established in excess of the contribution of that Project Owner plus interest which could reasonably be attributed thereto.

**36.2 Provisions Re Allowed Reserves**

In respect of any reserve allowed by clause 36.1:

- (i) The Actual Cash Payments made on account of the reserve shall not receive uplifts pursuant to clauses 30.6 or 30.7 but shall be taken into account in calculating Net Royalty Return Allowance or Supplementary Royalty Return Allowance;
- (ii) If payments made out of the reserve to a Project Owner, Licensee or Resource Project Operator are not applied by it for a purpose which the reserve is applicable to and relating to the Resource Project, such amounts shall be Resource Project Incidental Revenue; and

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- (iii) All amounts returned, other than as provided for in item (ii) above, to the Licensees, Project Owners or Resource Project Operators from a reserve shall be Resource Project Incidental Revenue.

**ARTICLE XXXVII: CRUDE OIL VALUATION**

**37.1 General**

It is agreed by all Parties to this Agreement that the Sale Price must reflect fair market value at the Sale Point taking into account factors which are relevant to the nature, time and context of such sale.

**37.2 Monthly Information**

Each Monthly Summary submitted by a Project Owner to the Province shall include for each Sale Price reported therein, the estimated landed price at the Sale Point of not less than two widely-traded reference Crude Oils, quality adjusted for Hibernia Crude EL1093/PL1005.

**37.3 Information Provided by Province**

In the event that the Province makes any redetermination or recalculation of, or in respect of, the Royalty Share based upon the Sale Price not reflecting fair market value as required by clause 37.1, then at the time of such redetermination or recalculation the Province shall provide the Project Owner with its explanation of the reasons for its redetermination or recalculation. Notwithstanding the foregoing, the provisions of this clause do not obligate the Province to disclose any confidential information received by the Province with respect to the pricing of any other Project Owner, until the time of an arbitration pursuant to clause 24.5.

**37.4 Review by Arbitrators**

Where the Province has made a redetermination or recalculation of, or in respect of, the Royalty Share based upon the Sale Price not reflecting fair market value as required by clause 37.1, and the Project Owner has chosen to submit the matter to arbitration pursuant to clause 24.5, the arbitrators in determining fair market value of the Sale Price at the Sale Point shall not be restricted as to the nature of the information or evidence which may be considered. The arbitrators, in assessing the information and evidence produced before them, shall be the sole determinators of the weight and relevance to be given to any particular factor. In particular, the Parties specifically acknowledge their agreement that nothing contained in this Article or elsewhere in this Agreement or the Allocation Agreement shall be taken to direct or suggest that such assessment of fair market value must be conducted at the time of delivery, loading, entry into the contract or any other specific time. Rather, it is the agreement of the Parties that the arbitrators in making such assessment shall be allowed to determine that time which, taking into account the factors generally set forth in clause 37.1 above, is appropriate for determination of fair market value for that sales arrangement.

**37.5 Sale Prices Not Uniform**

It is acknowledged that fair market value in respect of any particular sale by a Project Owner will be influenced by numerous factors and accordingly there may be a range of values within which fair market value may be determined at the Sale Point.

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**PART V: GENERAL**

**ARTICLE XXXVIII: GOVERNING LAW**

**38.1 Governing Law**

This Agreement shall be governed by, and construed in accordance with, the laws in force in Newfoundland and Labrador.

**38.2 Attornment**

Each Party hereto irrevocably submits to and accepts the exclusive jurisdiction of the courts of Newfoundland and Labrador and all courts of appeal therefrom as regards any legal proceedings relative to this Agreement which involve or may involve the Province and agrees that no legal proceedings regarding this Agreement which involve or may involve the Province shall be instituted in the courts of any other jurisdiction except to enforce a judgment or order issued in legal proceedings commenced in the courts of Newfoundland and Labrador except as otherwise specifically provided for herein. Each Party hereto irrevocably waives, to the fullest extent that it may effectively do so, the defence of an inconvenient forum to the maintenance of any legal proceedings relative to this Agreement. Each of the Parties hereto irrevocably agrees that a final judgement of the courts of Newfoundland and Labrador or any court of appeal therefrom and in respect of which all appeal periods have expired without appeal shall be conclusive and may be enforced in other jurisdictions by legal proceedings on the judgement or in any other manner provided by law.

**38.3 Address for Service of Legal Process**

Each Project Owner and each Licensee hereby appoints the Person whose name is set forth below to be its agent to receive on its behalf service of all and any papers which may be served in any legal proceedings relative to this Agreement which involve the Province:

Managing Partner  
c/o Stewart McKelvey  
Cabot Place  
100 New Gower Street  
P.O. Box 5038  
St. John's, Newfoundland and Labrador  
Canada  
A1C 5V3

Each Project Owner and each Licensee hereto shall at all times throughout the currency of this Agreement have an agent within Newfoundland and Labrador to receive service on its behalf as aforesaid. A Licensee or Project Owner may change its agent by written notice to the Province and the other Project Owners and Licensees. The provisions of this clause shall not restrict the ability of any Party to this Agreement to effect service in any other manner permitted by law. Each Project Owner and Licensee agrees that service upon its agent appointed in or pursuant to this clause made in the manner provided for in Article XXXIX is, and waives each and all objections which it may hereafter have that service made in the manner provided for in this clause is not, valid and effective service for the purposes of any legal proceedings relative to this Agreement which involve the Province.

**ARTICLE XXXIX: NOTICES**

**39.1 Form and Delivery**

Notices or other communications from one Party to another (hereinafter collectively referred to as "Notices") that are required or permitted under this Agreement shall be in writing and shall be delivered by

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RB  
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hand or by courier, sent by prepaid registered mail, or be transmitted by facsimile or other similar form of telecommunication, to the Party to whom it is to be given at the following addresses:

- (i) Her Majesty in Right of the Province of Newfoundland and Labrador  
P.O. Box 8700, Main Floor  
East Block, Confederation Building  
St. John's, NL A1B 4J6  
Attention: Minister of Natural Resources  
Facsimile: (709) 729-0059  
Telephone: (709) 729-2920
- (ii) ExxonMobil Canada Properties, ExxonMobil Canada Hibernia Company Ltd. or ExxonMobil Canada Ltd.  
Suite 1000, Cabot Place 100 New Gower Street  
St. John's, NL A1C 6K3  
Attention: President  
Facsimile: (709) 754-1043  
Telephone: (709) 778-7000
- (iii) Chevron Canada Resources or Chevron Canada Limited  
500 - 5 Avenue S.W.  
Calgary, Alberta T2P 0L7  
Attention: Vice President, Asset Development  
Facsimile: (403) 234-5979  
Telephone: (403) 234-5000
- (iv) Statoil Canada Ltd.  
Suite 600, Scotia Centre  
235 Water Street  
St. John's, NL A1C 1B6  
Attention: Vice President, Offshore Upstream  
Facsimile: (709) 726-9053  
Telephone: (709) 726-9091
- (v) Petro-Canada Hibernia Partnership or Suncor Energy Inc.  
Scotia Centre, 235 Water Street  
St. John's, NL A1C 1B6  
Attention: Vice President, East Coast  
Facsimile: (709) 724-2835  
Telephone: (709) 778-3500
- (vi) Canada Hibernia Holding Corporation  
1750 Sun Life Plaza, West Tower  
144 - 4th Avenue SW  
Calgary AB T2P 3N4  
Attention: Vice President and Chief Operating Officer  
Facsimile: (403) 269-7861  
Telephone: (403) 269-7858
- (vii) Murphy Atlantic Offshore Oil Company Ltd.  
1700, 555 4<sup>th</sup> Ave S.W.  
Calgary AB T2P 3E7  
Attention: Vice President Joint Ventures and Business Development  
Facsimile: (403) 294-8851  
Telephone: (403) 294-8000

*Handwritten initials and signatures:*  
 bld  
 AB 1/3  
 JC  
 ACH  
 Pw

- (viii) Nalcor Energy – Oil and Gas Inc.  
P.O. Box 12800  
St. John's, NL A1B 0C9  
Attention: Vice President  
Facsimile: (709) 737-1416  
Telephone: (709) 737-1440

**39.2 Deemed Delivery**

For the purposes of this Agreement, Notices given by one Party hereto to another shall:

- (a) where delivered by prepaid registered mail, be conclusively deemed to have been given on the fourth day (except Saturdays, Sundays, statutory holidays and days upon which postal service in Canada is interrupted) after the mailing thereof;
- (b) where delivered to the receiving Party by hand or by courier, be conclusively deemed to have been given at the time of delivery; and
- (c) where transmitted to the receiving Party by facsimile or other similar form of telecommunication, be conclusively deemed to have been given at 10:00 o'clock in the forenoon (local time of the recipient) on the next Business Day following the day on which it is transmitted.

**39.3 Change of Address**

A Party may give Notice of a change of address in the manner provided in clause 39.1, in which event Notices shall thereafter be given to that Party at such changed address.

**ARTICLE XL: MISCELLANEOUS**

**40.1 Prior Agreements**

This Agreement and the Schedules to this Agreement supersede all prior agreements, understandings or writings among the Parties, whether written or oral and whether legally enforceable or not, in connection with the Resource Projects.

**40.1A Stability**

The Province acknowledges that each of the Project Owners relies upon the good faith of the Province to maintain substantially the legislative and regulatory framework applicable to the Resource Projects as of the date of this Agreement, to the extent that doing so is in the public interest and, without limiting the generality of the foregoing, is consistent with governmental responsibilities, including responsibility for ensuring proper management of its resources, the protection and maintenance of public health and safety and the protection of the environment. Each of the Project Owners acknowledges that the Province relies upon the good faith of each of the Project Owners, respectively, to carry out its undertakings in this Agreement.

**40.2 Inurement**

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

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#### 40.3 Relationship of Parties

It is not the intention of the Parties hereto to create nor shall this Agreement create or be construed as creating any partnership or agency relationship among the Parties hereto, or any of them, so as to render the Parties hereto, or any of them, liable to the other Parties hereto, or any of them, for anything more than the performance of their respective obligations in accordance with the terms of this Agreement. Nothing in this Agreement gives any Party hereto the right to take any action, and no Party hereto shall purport pursuant or in relation to this Agreement to take any action, that is binding upon any other Party hereto without the prior written consent of that other Party hereto.

#### 40.4 Waiver in Writing

No waiver by a Party hereto of any provision, or the breach of any provision, of this Agreement shall be effective unless it is contained in a written instrument signed by authorized officers or representatives of the Party hereto. Such written waiver shall affect only the matter specifically identified in the instrument granting the waiver and shall not extend to any other matter, provision or breach.

#### 40.5 Delay Not Waiver

The failure of a Party hereto to give notice to any other Party hereto or to take any other steps in exercising any right, or in respect of the breach or non-fulfilment of any provision of this Agreement, shall not operate as a waiver of that right, breach or provision nor shall any single or partial exercise of any right preclude any other or future exercise of that right or the exercise of any other right, whether in law or in equity or otherwise.

#### 40.6 Acceptance of Payment Not Waiver

Acceptance of payment by a Party hereto after the breach or non-fulfilment of any provision of this Agreement by another Party shall not constitute a waiver of the provisions of this Agreement, other than any breach cured by such payment.

#### 40.7 Time of the Essence

Time shall be of the essence of this Agreement.

#### 40.8 Further Assurances

Each of the Parties hereto 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 to give effect to the provisions of this Agreement.

#### 40.9 No Additional Equity

Notwithstanding the Energy Plan, or any other policy, regulation, or legislation of the Province relating to energy resources, any beneficial or working interest participation in EL1093/PL1005 Royalty Area by the Province, its agent, or any provincially-controlled corporation shall be limited to the interest, if any, acquired by Nalcor Oil, its successors or permitted assigns in accordance with the Acquisition Agreement, unless such interest is acquired by way of an agreed acquisition between any of the Parties.

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**ARTICLE XLI: EXECUTION**

**41.1 Partnership Execution**

The partners of each of the Parties hereto that is a partnership have executed this Agreement only in their respective capacities as a partner in such partnership for the purposes of such partnership executing this Agreement and such partners have not executed this Agreement in the capacity of a Party to this Agreement.

**41.2 Counterpart Execution**

This Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

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JFD  
RB 1/3 → P  
A JK  
OH

IN WITNESS WHEREOF each of the Parties to this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

HER MAJESTY IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRDOR

Signature: [Handwritten Signature]

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

Title: Premier (Acting)

Signature: [Handwritten Signature]

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

Title: Minister of Natural Resources

NALCOR ENERGY-OIL AND GAS INC.

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

Name: E.J. Martin

Title: President and Chief Executive Officer

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

Name: James M. Keating

Title: Vice President

EXXONMOBIL CANADA PROPERTIES

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

Name: Glenn Scott

Title: President

EXXONMOBIL CANADA HIBERNIA COMPANY LTD.

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

Name: Glenn Scott

Title: President

EXXONMOBIL CANADA LTD.

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

Name: Glenn Scott

Title: President

CANADA HIBERNIA HOLDING CORPORATION

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

Name: Murray Todd

Title: President and Chief Executive Officer

CHEVRON CANADA RESOURCES, a partnership, by its Managing Partner, CHEVRON CANADA LIMITED

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

Name: S.T. Hutchison

Title: Vice President

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

Name: Jeff Wasko

Title: Vice President

CHEVRON CANADA LIMITED

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

Name: S.T. Hutchison

Title: Vice President

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

Name: Jeff Wasko

Title: Vice President

[Handwritten initials]  
JK  
A CH

IN WITNESS WHEREOF each of the Parties to this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

**HER MAJESTY IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRDOR**

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

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

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

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

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

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

**EXXONMOBIL CANADA PROPERTIES**

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

Name: Glenn Scott

Title: President

**EXXONMOBIL CANADA LTD.**

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

Name: Glenn Scott

Title: President

**CHEVRON CANADA RESOURCES, a partnership, by its Managing Partner, CHEVRON CANADA LIMITED**

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

Name: S.T. Hutchison

Title: Vice President

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

Name: Jeff Wasko

Title: Vice President

**NALCOR ENERGY-OIL AND GAS INC.**

Signature: 

Name: E.J. Martin

Title: President and Chief Executive Officer

Signature: 

Name: James M. Keating

Title: Vice President

**EXXONMOBIL CANADA HIBERNIA COMPANY LTD.**

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

Name: Glenn Scott

Title: President

**CANADA HIBERNIA HOLDING CORPORATION**

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

Name: Murray Todd

Title: President and Chief Executive Officer

**CHEVRON CANADA LIMITED**

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

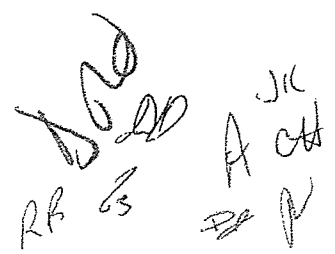
Name: S.T. Hutchison

Title: Vice President

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

Name: Jeff Wasko

Title: Vice President

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IN WITNESS WHEREOF each of the Parties to this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

HER MAJESTY IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRDOR

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

NALCOR ENERGY-OIL AND GAS INC.

Signature: \_\_\_\_\_  
Name: E.J. Martin  
Title: President and Chief Executive Officer  
Signature: \_\_\_\_\_  
Name: James M. Keating  
Title: Vice President

EXXONMOBIL CANADA PROPERTIES

Signature: [Signature]  
Name: Glenn Scott  
Title: President

EXXONMOBIL CANADA HIBERNIA COMPANY LTD.

Signature: [Signature]  
Name: Glenn Scott  
Title: President

EXXONMOBIL CANADA LTD.

Signature: [Signature]  
Name: Glenn Scott  
Title: President

CANADA HIBERNIA HOLDING CORPORATION

Signature: \_\_\_\_\_  
Name: Murray Todd  
Title: President and Chief Executive Officer

CHEVRON CANADA RESOURCES, a partnership, by its Managing Partner, CHEVRON CANADA LIMITED

Signature: \_\_\_\_\_  
Name: S.T. Hutchison  
Title: Vice President  
Signature: \_\_\_\_\_  
Name: Jeff Wasko  
Title: Vice President

CHEVRON CANADA LIMITED

Signature: \_\_\_\_\_  
Name: S.T. Hutchison  
Title: Vice President  
Signature: \_\_\_\_\_  
Name: Jeff Wasko  
Title: Vice President

*[Handwritten initials and signatures]*  
RF GS JK A CH



IN WITNESS WHEREOF each of the Parties to this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

**HER MAJESTY IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRDOR**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXXONMOBIL CANADA PROPERTIES**

Signature: \_\_\_\_\_  
Name: Glenn Scott  
Title: President

**EXXONMOBIL CANADA LTD.**

Signature: \_\_\_\_\_  
Name: Glenn Scott  
Title: President

**CHEVRON CANADA RESOURCES, a partnership, by its Managlng Partner, CHEVRON CANADA LIMITED**

Signature: \_\_\_\_\_  
Name: S.T. Hutchison  
Title: Vice President  
Signature: \_\_\_\_\_  
Name: Jeff Wasko  
Title: Vice President

**NALCOR ENERGY-OIL AND GAS INC.**

Signature: \_\_\_\_\_  
Name: E.J. Martin  
Title: President and Chief Executive Officer  
Signature: \_\_\_\_\_  
Name: James M. Keating  
Title: Vice President

**EXXONMOBIL CANADA HIBERNIA COMPANY LTD.**

Signature: \_\_\_\_\_  
Name: Glenn Scott  
Title: President

**CANADA HIBERNIA HOLDING CORPORATION**

Signature: [Handwritten Signature]  
Name: Murray Todd  
Title: President and Chief Executive Officer

**CHEVRON CANADA LIMITED**

Signature: \_\_\_\_\_  
Name: S.T. Hutchison  
Title: Vice President  
Signature: \_\_\_\_\_  
Name: Jeff Wasko  
Title: Vice President

*[Handwritten initials and signatures]*  
RF GS A JIC  
CDH

IN WITNESS WHEREOF each of the Parties to this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

HER MAJESTY IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRDOR

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

NALCOR ENERGY-OIL AND GAS INC.

Signature: \_\_\_\_\_  
Name: E.J. Martin  
Title: President and Chief Executive Officer  
Signature: \_\_\_\_\_  
Name: James M. Keating  
Title: Vice President

EXXONMOBIL CANADA PROPERTIES

Signature: \_\_\_\_\_  
Name: Glenn Scott  
Title: President

EXXONMOBIL CANADA HIBERNIA COMPANY LTD.

Signature: \_\_\_\_\_  
Name: Glenn Scott  
Title: President

EXXONMOBIL CANADA LTD.

Signature: \_\_\_\_\_  
Name: Glenn Scott  
Title: President

CANADA HIBERNIA HOLDING CORPORATION

Signature: \_\_\_\_\_  
Name: Murray Todd  
Title: President and Chief Executive Officer

CHEVRON CANADA RESOURCES, a partnership, by its Managing Partner, ~~CHEVRON CANADA LIMITED~~


Signature: [Signature]  
Name: S.T. Hutchison  
Title: Vice President  
Signature: [Signature]  
Name: Jeff Wasko  
Title: Vice President

CHEVRON CANADA LIMITED


Signature: [Signature]  
Name: S.T. Hutchison  
Title: Vice President  
Signature: [Signature]  
Name: Jeff Wasko  
Title: Vice President

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JJC  
RB  
GS  
A  
G  
P

**SUNCOR ENERGY INC.**

Signature:   
Name: Alan Brown  
Title: Authorized Signatory

**PETRO-CANADA HIBERNIA PARTNERSHIP, a partnership  
by its Managing Partner, SUNCOR ENERGY INC.**

Signature:   
Name: Alan Brown  
Title: Authorized Signatory

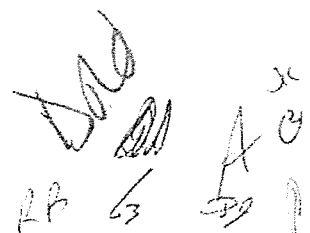
**STATOIL CANADA LTD.**

Signature: \_\_\_\_\_  
Name: Hege Rognø  
Title: Vice President, Offshore  
Upstream

**MURPHY ATLANTIC OFFSHORE OIL COMPANY LTD.**

Signature: \_\_\_\_\_  
Name: Cal C. Buchanan  
Title: Vice President

This is a counterpart execution page to the Hibernia Development Project PL1005-EL1093 Royalty Agreement dated the 16<sup>th</sup> day of February, 2010.

  
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**SUNCOR ENERGY INC.**

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

Name: Alan Brown

Title: Authorized Signatory

**PETRO-CANADA HIBERNIA PARTNERSHIP, a partnership  
by Its Managing Partner, SUNCOR ENERGY INC.**

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

Name: Alan Brown

Title: Authorized Signatory

**STATOIL CANADA LTD.**

Signature: Hege Rognø

Name: Hege Rognø

Title: Vice President, Offshore  
Upstream

**MURPHY ATLANTIC OFFSHORE OIL COMPANY LTD.**

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

Name: Cal C. Buchanan

Title: Vice President

This is a counterpart execution page to the Hibernia Development Project PL1005-EL1093 Royalty Agreement dated the 16<sup>th</sup> day of February, 2010.

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RB 63 → ↑  
AC  
x

**SUNCOR ENERGY INC.**

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

Name: Alan Brown

Title: Authorized Signatory

**STATOIL CANADA LTD.**

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

Name: Hege Rognø

Title: Vice President, Offshore  
Upstream

**PETRO-CANADA HIBERNIA PARTNERSHIP, a partnership  
by its Managing Partner, SUNCOR ENERGY INC.**

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

Name: Alan Brown

Title: Authorized Signatory

**MURPHY ATLANTIC OFFSHORE OIL COMPANY LTD.**

Signature: *Cal C. Buchanan*

Name: Cal C. Buchanan

Title: Vice President

This is a counterpart execution page to the Hibernia Development Project PL1005-EL1093 Royalty Agreement dated the 16<sup>th</sup> day of February, 2010.

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Top left: *DB*  
Bottom left: *RB*  
Middle left: *63*  
Top right: *xc*  
Middle right: *A*  
Bottom right: *CH*  
Far right: *SP*  
Bottom right: *P*

**SCHEDULE "A" TO THE AGREEMENT****DEFINITIONS APPLICABLE TO THE AGREEMENT**

**"Access to Information and Protection of Privacy Act"** means the *Access to Information and Protection of Privacy Act*, S.N.L. 2002, c. A-1.1, and includes the regulations made and, from time to time, in force under that Act.

**"Accord Act"** means those provisions only of the Federal Accord Act and the Provincial Accord Act that are identical.

**"Acquisition Agreement"** means the agreement entitled "Hibernia Southern Extension Acquisition Agreement" made among the Project Owners and Licensees dated February 16, 2010.

**"Actual Cash Payment"** means, in addition to payments in cash, payments by cheque, bank draft, bank transfer or other instruments transferring credits of money.

**"Additional Royalty"** means the royalty described in Article XXIA of the Agreement.

**"Affiliate"** means, with respect to a Person, any Person that controls it, that is controlled by it or that is under common control with it and:

- (a) if two Persons are Affiliates of a Person at the same time, they are Affiliates of each other;
- (b) for the purposes of this definition, "control" means control in fact, including the ability, directly or indirectly and whether or not exercised, to direct the management or policies of a Person, whether through the ownership of securities, by contract, trust or otherwise howsoever;
- (c) in relation to a corporation, includes all Subsidiaries of that corporation, each corporation of which it is a Subsidiary and all Subsidiaries of each corporation of which it is a Subsidiary;
- (d) each Person which is an Affiliate of that first Person by virtue of items (a), (b) or (c) of this definition is an Affiliate of each limited partnership of which the first Person or any Affiliate of the first Person is a general partner and of each partnership other than a limited partnership which the first Person and/or any Affiliate of the first Person controls by virtue of item (b) of this definition; and
- (e) a Person controlled by virtue of item (b) of this definition by two or more Project Owners is an Affiliate of each of those Project Owners. For the purposes of this item, "Project Owner" includes each Person which is an Affiliate of the Project Owner.

Notwithstanding the other provisions of this definition, a Project Owner or Licensee shall not be an Affiliate of any other Project Owner or Licensee only by virtue of that Project Owner or Licensee being an Affiliate of a Resource Project Operator, a Tanker Administrator, the Tanker Cost Aggregator, or a Transshipment Operator.

**"Agreement", "this Agreement" or "the Agreement"** means the agreement to which this Schedule is Schedule "A".

**"Allocation Agreement"** means the agreement entitled the Hibernia Development Project Allocation Agreement made among the Project Owners, the Licensees and the Province dated February 16, 2010.

**"Annual Reconciliation"** means the reconciliation referred to, and in the form and certified as provided for, in clause 24.7 of the Agreement.

**"Approved DPA"** means the first amendment to the Hibernia development plan approved pursuant to the Accord Acts after the date hereof.

**"Arm's Length"** shall have the meaning given by section 251 of the Income Tax Act (Canada) as of the date of this Agreement, as judicially interpreted, to "arm's length" provided, however, that in connection with a sale, or an acquisition of an asset other than Hibernia Crude EL1093/PL1005 or of a service, the following will not be at Arm's Length:

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- (i) a sale or acquisition involving a Project Owner or an Affiliate of a Project Owner and one or more of the Project Owners and any Affiliate of a Project Owner;
- (ii) where the consideration is payable otherwise than solely in cash;
- (iii) the contract price is not the sole consideration for the sale or transaction;
- (iv) the contract terms are materially affected by any commercial relationship (other than that created by the contract itself) among any of the parties thereto or anyone not otherwise at Arm's Length with such parties;
- (v) such other circumstances as the Province may reasonably declare, after discussion with the Project Owners, not to be at Arm's Length and any disagreement that a Project Owner may have with any such declaration by the Province which cannot be resolved by discussions with the Province may be submitted to arbitration by the Project Owner.

**"Audit Period"** means the six (6) calendar years following the calendar year in which royalties were payable pursuant to the Agreement or in which a Resource Project Eligible Cost, Resource Project Eligible Marketing Cost or an Eligible Transportation Cost was paid.

**"Barrel"** means 0.1589873 cubic metres, which shall for purposes of this Agreement be the equivalent of 42 U.S. gallons or 34.9722 Canadian gallons, when measured at a temperature of 60 degrees Fahrenheit.

**"Board"** means the Canada-Newfoundland and Labrador Offshore Petroleum Board established by the Accord Act.

**"Business Day"** means any day, other than a Saturday or a Sunday, on which the offices of the Department of Natural Resources of the Province, or any successor department of the Province, are open for business.

**"Canada"** means Her Majesty the Queen in right of Canada.

**"Capital Lease"** means a lease relative to assets which have a fair market value at the time the lease is entered into of more than one hundred thousand Dollars (\$100,000.00) and which would be classified as a capital lease under the Canadian Institute of Chartered Accountants' Handbook at the time the lease is entered into and includes any renewals or extensions of that lease. If the effect of an amendment to a lease which, prior to the amendment, was not a Capital Lease would be to make the lease a capital lease under the Canadian Institute of Chartered Accountants' Handbook at the time of the amendment to the lease is effective, then the lease shall be a Capital Lease from the time the amendment was effective. If the effect of an amendment to a lease which, prior to the amendment, was a Capital Lease would be to make the lease other than a capital lease under the Canadian Institute of Chartered Accountants' Handbook at the time of the amendment to the lease is effective, then the lease shall not be a Capital Lease from the time the amendment was effective. The one hundred thousand Dollar (\$100,000.00) amount set forth in this definition shall increase or decrease on the first day of each calendar year since September 1, 1990 by an amount proportionate to the amount of the increase or decrease, respectively, in the Supplementary Royalty Index for the Month of July of the second preceding calendar year to the Month of July of the immediately preceding calendar year.

**"Charged Premises"** shall have the meaning provided for in clause 13.1 of the Agreement.

**"Confidentiality Declaration"** means an indenture in the form of Schedule "E".

**"Crude Oil"** means hydrocarbons which at atmospheric pressure are in liquid form when loaded into marine tankers and include non-hydrocarbon contaminants.

**"Document Escrow and Closing Agreement"** means the agreement entitled Hibernia Southern Extension Document Escrow and Closing Agreement, made amongst the Parties, Hibernia Management and Development Company Ltd., Osler, Hoskin & Harcourt LLP and Stewart McKelvey and dated February 16, 2010.

**"Dollar" or "\$"** means a dollar of the lawful money of Canada.

*Handwritten initials and signatures:*  
 DW, RB, A, JIC, CH, P

**"EL1093"** means the Exploration Licence 1093 issued by the Board dated January 15, 2005, provided that upon the issuance of the first significant discovery licence or the first production licence or other similar right that is issued and that supersedes such exploration licence in relation to the geographic area that is currently the subject of EL1093, all references to EL1093 shall instead be read as referring to that successor significant discovery licence, production licence or other similar right.

**"EL1093 JOA"** means a joint operating agreement applicable to EL1093 other than the Unit.

**"EL1093 Licensees"** means, collectively ExxonMobil, ExxonMobil Hibernia, Chevron, Suncor, Murphy Oil, CHHC, Statoil and Nalcor Oil and any Successors which have become bound by this Agreement, and **"EL1093 Licensee"** means any one of the EL1093 Licensees.

**"EL1093 Project Owners"** means, collectively, ExxonMobil Partnership, Chevron Partnership, Petro-Canada Partnership, Murphy Oil, CHHC, ExxonMobil Hibernia, Statoil, and Nalcor Oil, and any Successors who have become bound by this Agreement and **"EL1093 Project Owner"** means any one of the EL1093 Project Owners.

**"EL1093/PL1005 Royalty Area"** means the geographic areas that are the subject of EL1093 and PL1005.

**"Eligible Tanker Costs"** shall have the meaning set out in the Allocation Agreement and an **"Eligible Tanker Cost"** shall mean any such cost.

**"Eligible Transportation Costs"** shall have the meaning set out in the Allocation Agreement and an **"Eligible Transportation Cost"** shall mean any such cost.

**"Eligible Transportation Costs Deduction-EL1093/PL1005"** shall have the meaning provided for in clause 33A.2 of the Agreement.

**"Energy Plan"** means the document entitled "Focusing Our Energy" released by the Province on September 11, 2007.

**"Estimate"** is defined in clause 22.11 of the Agreement for the purposes only of Article XXII.

**"FOSA"** means the agreement made amongst Hibernia Management and Development Corporation and the Project Owners entitled the "Facilities and Operating Services Agreement", effective July 15, 2009.

**"Federal Accord Act"** means the *Canada-Newfoundland Atlantic Accord Implementation Act*, S.C. 1987 c. 3, and includes the regulations made and, from time to time, in force under that Act.

**"Force Majeure"** means one or more of the following events:

- (i) acts of God and actions of natural elements;
- (ii) wars, revolutions, insurrections, riots and disturbances, blockades, and other unlawful acts against public order or authority;
- (iii) strikes, lockouts and labour disturbances;
- (iv) directions, orders, injunctions, legislation or regulations by governments, governmental authorities having or purporting to have jurisdiction and courts excepting directions, orders or injunctions of courts or governmental authorities as a result of the unlawful acts of a Project Owner, a Resource Project Operator, the Unit Operator, the GBS Operator, the Tariff Administrator, a Tanker Administrator, the Tanker Cost Aggregator, or a Transshipment Operator;
- (v) any other event of the nature of the foregoing which is not reasonably in control of the Party to the Agreement claiming Force Majeure,

provided, however, that lack of finances or change in economic circumstances shall not in any event be, of themselves, an event of Force Majeure and shall not extend an event of Force Majeure.

**"GBS"** means the Hibernia gravity base structure located on PL1001 and commissioned in 1997.

**"GBS Operator"** shall have the meaning set out in the Allocation Agreement.

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 RB, Dd, A, P, Jc, Gt



**“Gross Negligence”** means negligence which substantially exceeds ordinary negligence, which results in the incurrance of a cost, expense or liability and which constitutes such a marked, fundamental or excessive departure from good oilfield practice so as to amount to reckless indifference to, or reckless disregard of, the requirements of good oilfield practice and the probable consequences of such departure.

**“Gross Royalty”** means the royalty described in ARTICLE XIX of the Agreement.

**“Gross Royalty Rate”** means the percentage rate at which Gross Royalty is payable as prescribed in clause 19.3 of the Agreement.

**“Gross Sales Revenue”** means for a Project Owner, for any Month or Period, the portion of its Hibernia Blend Gross Sales Revenue allocated to EL1093 and PL1005 pursuant to clause 21.3 of the Allocation Agreement.

**“Gross Transfer Revenue”** means for a Project Owner, in respect of any Month or Period, the Gross Sales Revenue of the Project Owner during such Month or Period, as the case may be, reduced by the Eligible Transportation Costs Deduction-EL1093/PL1005 for the Project Owner during such Month or Period.

**“Hibernia Blend”** means Crude Oil processed through the GBS which is produced pursuant to PL1001, PL1005 or EL1093 and includes any blend of such Crude Oil processed through the GBS and produced from two or more of PL1001, PL1005 and EL1093.

**“Hibernia Blend Gross Sales Revenue”** shall have the meaning set out in the Allocation Agreement.

**“Hibernia Crude EL1093/PL1005”** means Crude Oil which is allocated to EL1093 or PL1005 in accordance with the Allocation Agreement.

**“In-Kind Value”** means, for any Month, the product obtained by multiplying the volume of Hibernia Crude EL1093/PL1005, as measured at the Loading Point, taken in kind by the Province on account of the Royalty Share of a Project Owner by the Project Owner's Transfer Price for the Month. The In-Kind Value for a Period shall be the sum of the In-Kind Values for each Month in that Period.

**“Inventory Volume”** is defined in clause 24.8 of the Agreement for the purposes only of that clause.

**“Joint Accounts”** means collectively Joint Account-EL1093 and Joint Account-PL1005, and **“Joint Account”** means either of them.

**“Joint Account-EL1093”** means the provisions of the EL1093 JOA which provide for, and the accounts which show, the charges paid and credits received as a result of operations conducted for the Resource Project-EL1093 and which are shared by the Project Owners in accordance with their Working Interests in Resource Project-EL1093 and the standards, procedures, rules and review provided for with respect thereto including, without restricting the generality of the foregoing, the provisions of the EL1093 JOA identified in clause 15.1 of the Agreement.

**“Joint Account-PL1005”** means the provisions of the PL1005 JOA which provide for, and the accounts which show, the charges paid and credits received as a result of operations conducted for the Resource Project-PL1005 and which are shared by the Project Owners in accordance with their Working Interests in Resource Project-PL1005 and the standards, procedures, rules and review provided for with respect thereto including, without restricting the generality of the foregoing, the provisions of the PL1005 JOA identified in clause 15.1 of the Agreement.

**“Licences”** means collectively PL1005 and EL1093, and **“Licence”** means either of the Licences.

**“Licensees”** means, collectively, the PL1005 Licensees and the EL1093 Licensees and **“Licensee”** means any one of the Licensees.

**“Loading Point”** means the final point of measurement on the GBS or facilities physically connected thereto for loading Hibernia Crude EL1093/PL1005 into marine tankers.

**“Material Default”** shall have the meaning provided for in clause 25.7 of the Agreement.

**“Month”** means a calendar month.

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**“Monthly Summary”** means the summary referred to, in the form and containing the information provided for, in clause 26.4 of the Agreement.

**“Natural Gas”** means hydrocarbons other than Crude Oil.

**“Net Royalty”** means the royalty described in ARTICLE XX of the Agreement.

**“Net Royalty Payout”** means, for a Project Owner, the first point in time when the sum of:

- (i) cumulative Gross Transfer Revenue of the Project Owner; plus
  - (ii) the Project Owner’s Working Interest share of cumulative Resource Project Incidental Revenue
- equals the sum of:
- (iii) the Project Owner’s Working Interest share of Pre-Development Costs;
  - (iv) the Project Owner’s Working Interest share of cumulative Resource Project Eligible Costs, other than Tariffs;
  - (v) the Project Owner’s share of cumulative Resource Project Eligible Costs for Tariffs as determined pursuant to Article 22 of the Allocation Agreement;
  - (vi) cumulative Gross Royalty paid by the Project Owner excepting thereout any amount on account of Gross Royalty paid in kind;
  - (vii) cumulative Net Royalty Return Allowance to which the Project Owner is entitled; plus
  - (viii) cumulative Resource Project Eligible Marketing Costs paid by the Project Owner.

**“Net Royalty Return Allowance”** means, for a Project Owner, for any Month, the product of the Net Royalty Return Allowance Factor and the amount, if any, by which the sum of:

- (i) the Project Owner’s Working Interest share of Pre-Development Costs;
- (ii) the Project Owner’s Working Interest share of cumulative Resource Project Eligible Costs, other than Tariffs;
- (iii) the Project Owner’s share of cumulative Resource Project Eligible Costs for Tariffs as determined pursuant to Article 22 of the Allocation Agreement;
- (iv) cumulative Gross Royalty paid by the Project Owner excepting thereout any amount on account of Gross Royalty paid in kind;
- (v) cumulative Net Royalty Return Allowance of the Project Owner to the end of the previous Month; plus
- (vi) cumulative Resource Project Eligible Marketing Costs paid by the Project Owner

exceeds the sum of:

- (vii) cumulative Gross Transfer Revenue of the Project Owner; plus
- (viii) the Project Owner’s Working Interest share of cumulative Resource Project Incidental Revenue.

**“Net Royalty Return Allowance Factor”** means 0.0117149.

**“Net Transfer Revenue”** means for a Project Owner during any Month or Period the amount, if any, by which the sum of:

- (i) the Gross Transfer Revenue of the Project Owner during the Month or Period; plus
- (ii) the Project Owner’s Working Interest share of Resource Project Incidental Revenue during the Month or Period; plus
- (iii) the In-Kind Value for the Project Owner for the Month or Period;

exceeds the sum of:

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- (i) the Project Owner's Working Interest share of Resource Project Eligible Costs during the Month or Period, other than Tariffs;
- (ii) the Project Owner's share of Resource Project Eligible Costs during the Month or Period for Tariffs as determined pursuant to Article 22 of the Allocation Agreement; plus
- (iii) the Resource Project Eligible Marketing Costs paid by the Project Owner during the Month or Period.

**"Newfoundland and Labrador"** means the Province of Newfoundland and Labrador.

**"Novation Agreement"** means an agreement in the form of Schedule "C".

**"Officer"** means the chief financial officer or such other employee of supervisory status at least one level above the level of the employee who prepared the information being certified or reconciled as may be acceptable to the Province.

**"Offshore Area"** means those submarine areas lying seaward of the low water mark of Newfoundland and Labrador and extending, at any location, as far as:

- (i) any line prescribed by regulations made under the Federal Accord Act,
- or
- (i) where no line is so prescribed at that location, the outer edge of the continental margin or a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater.

**"Operating Agreements"** means collectively the EL1093 JOA, the PL1005 JOA, and the Unit Operating Agreement.

**"Operator's Agreement"** means an agreement in the form of Schedule "F".

**"Operator's Acknowledgement Agreement"** means an agreement in the form of Schedule "G".

**"PL1001"** means that production licence dated March 21, 1990, numbered 1001 and issued by the Board to the licensees thereof, and includes all replacements thereof, substitutions therefor and amendments and successors thereto.

**"PL1001 Hibernia Royalty Agreement"** means the agreement dated September 1, 1990 and entitled the "Hibernia Development Project Royalty Agreement", as amended.

**"PL1005"** means that production licence dated January 14, 2003, numbered 1005 and issued by the Board.

**"PL1005 JOA"** means a joint operating agreement applicable to PL1005 other than the Unit.

**"PL1005 Licensees"** means, collectively ExxonMobil, Chevron, Suncor, Statoil and Nalcor Oil and any Successors which have become bound by this Agreement, and **"PL1005 Licensee"** means any one of the Licensees.

**"PL1005 Project Owners"** means, collectively, ExxonMobil Partnership, Chevron Partnership, Petro-Canada Partnership, Statoil and Nalcor Oil and **"PL1005 Project Owner"** means any one of the PL1005 Project Owners.

**"Penalty"** or **"Penalties"** means interest payable pursuant to clause 25.5 of the Agreement.

**"Period"** means a calendar year except:

- (i) for the purposes of calculating Net Royalty or Additional Royalty, with respect to the calendar year in which Net Royalty Payout occurs, the time from the beginning of the calendar year to and including the last day of the Month preceding the Month in which Net Royalty Payout occurs, and the time from and including the first day of the Month in which Net Royalty Payout occurs to the end of that calendar year, shall each be considered a separate Period; and

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 DPO  
 LB  
 RB  
 ACB  
 JC  
 2/11

- (ii) for the purposes of calculating Supplementary Royalty or Additional Royalty, with respect to the calendar year in which Supplementary Royalty Payout occurs, the time from the beginning of the calendar year to and including the last day of the Month preceding the Month in which Supplementary Royalty Payout occurs, and the time from and including the first day of the Month in which Supplementary Royalty Payout occurs to the end of that calendar year, shall each be considered a separate Period.

**“Person”** means a natural person, firm, trust, partnership, association, corporation, unincorporated organization, union, government or government agency.

**“Petroleum”** means Crude Oil and Natural Gas.

**“Petroleum and Natural Gas Act”** means the *Petroleum and Natural Gas Act*, R.S.N.L. 1990, c.P-10, and includes the regulations made and, from time to time, in force under that Act

**“Predecessor”** means a Project Owner from whom a Successor has acquired a Sold Interest.

**“Pre-Development Costs”** shall have the meaning set forth in clause 28.1 of this Agreement.

**“Prime Rate”** means the prime interest rate for Canadian dollar commercial loans as declared from time to time by the principal banker to the Province that is in effect on January 1st, April 1st, July 1st and October 1st of every calendar year, with the rates established on those dates remaining constant for a period of three months from the dates indicated.

**“Production Start-up”** means the day upon which cumulative production of Hibernia Crude EL1093/PL1005 that is transferred at the Loading Point exceeds three million Barrels.

**“Project Lenders”** means any Person holding a registered charge or Security Interest upon or in a Licence and in respect of whom a Project Owner has given written notice to the Province that notice is to be given pursuant to clauses 25.7, 25.8 and 25.9 of the Agreement.

**“Project Owners”** means, collectively, the PL1005 Project Owners and the EL1093 Project Owners and **“Project Owner”** means any one of the Project Owners.

**“Project Owners’ Lifting Agreement”** means the agreement providing for the timing and other conditions upon which the share of a Project Owner of the Hibernia Crude EL1093/PL1005 will be delivered to the Project Owner.

**“Project Suspension”** means the discontinuance for more than sixty (60) consecutive days of production of Hibernia Crude EL1093/PL1005 for a reason other than maintenance, technical difficulties, Force Majeure or Project Termination.

**“Project Termination”** means:

- (i) cancellation or expiry of the Licences; or
- (ii) a Project Withdrawal by all of the Project Owners in respect of both Resource Projects.

**“Project Withdrawal”** means a permanent and irrevocable decision, other than a decision for Project Termination, by a Project Owner that it will discontinue its obligations to the Resource Projects or either of them, which shall be a question of fact which may be submitted to arbitration pursuant to the Agreement if the Province and the Project Owner do not agree with respect thereto.

**“Province”** means Her Majesty in Right of the Province of Newfoundland and Labrador.

**“Provincial Accord Act”** means the *Canada-Newfoundland Atlantic Accord Implementation Newfoundland and Labrador Act*, R.S.N.L. 1990, c.C-2, and includes the regulations made and, from time to time, in force under that Act.

**“Resource Projects”** means collectively Resource Project-EL1093 and Resource Project-PL1005 and **“Resource Project”** means either of them.

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**“Resource Project-EL1093”** means that portion of the development project described in a development plan approved by the Board in connection with the development and production of Hibernia Crude EL1093/PL1005 and produced or deemed to be produced pursuant to EL1093, to the point, but not beyond, where such Hibernia Crude EL1093/PL1005 is first loaded into tankers and shall, in any event, include:

- (i) any activities which result in Resource Project Incidental Revenues; and
- (ii) any other activities permitted by the Agreement.

**“Resource Project-PL1005”** means that portion of the development project described in a development plan approved by the Board in connection with the development and production of Hibernia Crude EL1093/PL1005 and produced or deemed to be produced pursuant to PL1005 to the point, but not beyond, where such Hibernia Crude EL1093/PL1005 is first loaded into tankers and shall, in any event, include:

- (i) any activities which result in Resource Project Incidental Revenues; and
- (ii) any other activities permitted by the Agreement.

**“Resource Project Asset”** means an asset whose cost is included in the calculation of Resource Project Eligible Costs.

**“Resource Project Asset-EL1093”** means an asset whose cost is included in the calculation of Resource Project Eligible Costs-EL1093.

**“Resource Project Asset-PL1005”** means an asset whose cost is included in the calculation of Resource Project Eligible Costs-PL1005.

**“Resource Project Capital Activities”** means the conduct with respect to a Resource Project of any of:

- (a) purchasing, constructing, replacing, assembling, towing out, commissioning, installing, mating and seabed development of property, plant and equipment;
- (b) drilling, testing, evaluating, completing, recompleting in a different zone and equipping of production, injection, observation and disposal wells;
- (c) engineering and design;
- (d) research and development; and
- (e) repairs or maintenance the cost of which qualify as Resource Project Eligible Capital Costs pursuant to clause 30.11 of the Agreement.

**“Resource Project Eligible Capital Cost”** means a Resource Project Eligible Cost that relates to any Resource Project Capital Activities.

**“Resource Project Eligible Cost”** means a cost which satisfies the requirements of clause 29.1(i) or 29.1(ii) of the Agreement, which is not disqualified pursuant to clause 29.3 of the Agreement and which is claimed as a Resource Project Eligible Cost-EL1093 or Resource Project Eligible Cost-PL1005 by the EL1093 Project Owners or PL1005 Project Owners, as the case may be, in all cases subject to the application rules of ARTICLE XXX and the other provisions of the Agreement.

**“Resource Project Eligible Cost-EL1093”** means a cost which satisfies the requirements of clause 29.1(i) of the Agreement, which is not disqualified pursuant to clause 29.3 of the Agreement and which is claimed as a Resource Project Eligible Cost-EL1093 by the Project Owners, in all cases subject to the application rules of ARTICLE XXX and the other provisions of the Agreement.

**“Resource Project Eligible Cost-PL1005”** means a cost which satisfies the requirements of clause 29.1(ii) of the Agreement, which is not disqualified pursuant to clause 29.3 of the Agreement and which is claimed as a Resource Project Eligible Cost-PL1005 by the Project Owners, in all cases subject to the application rules of ARTICLE XXX and the other provisions of the Agreement.

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**“Resource Project Eligible Marketing Cost”** means collectively Resource Project Eligible Marketing Cost-EL1093 and Resource Project Eligible Marketing Cost-PL1005.

**“Resource Project Eligible Marketing Cost-EL1093”** means a cost which satisfies the requirements of clause 29.2 of the Agreement, which is not disqualified pursuant to clause 29.3(a) of the Agreement and which is claimed as a Resource Project Eligible Marketing Cost-EL1093 by a Project Owner, in all cases subject to the application rules of ARTICLE XXX and the other provisions of the Agreement.

**“Resource Project Eligible Marketing Cost-PL1005”** means a cost which satisfies the requirements of clause 29.2 of the Agreement, which is not disqualified pursuant to clause 29.3(b) of the Agreement and which is claimed as a Resource Project Eligible Marketing Cost-PL1005 by a Project Owner, in all cases subject to the application rules of ARTICLE XXX and the other provisions of the Agreement.

**“Resource Project Eligible Operating Cost”** means a Resource Project Eligible Cost that does not relate to any Resource Project Capital Activities.

**“Resource Project Incidental Revenue”** means collectively the Resource Project Incidental Revenue-EL1093 and Resource Project Incidental Revenue-PL1005.

**“Resource Project Incidental Revenue-EL1093”** means revenue received or deemed or declared, pursuant to the Agreement or the Allocation Agreement, received by the EL1093 Project Owners or the Resource Project Operator-EL1093 on behalf of the EL1093 Project Owners from the following;

- (a) sale or other disposal of Resource Project Assets-EL1093;
- (b) rental or lease or other use of Resource Project Assets-EL1093, except as may be otherwise agreed pursuant to clause 17.4(i) of the Agreement;
- (c) tariffs, fees or other charges paid to EL1093 Project Owners for use of the Resource Project Assets-1093;
- (d) proceeds received pursuant to insurance policies whose premiums were included as a Resource Project Eligible Cost-EL1093 or a Resource Project Eligible Marketing Cost-EL1093 and the proceeds were not used to pay for costs which are:
  - (i) except for the operation of item (u) of clause 29.3 of the Agreement, Resource Project Eligible Costs-EL1093 or Resource Project Eligible Marketing Costs-EL1093; or
  - (ii) relate to the risks for which such insurance policies provide coverage;
- (e) salvage and similar proceeds relative to the Resource Project Assets-EL1093 or assets of Persons other than the EL1093 Project Owners;
- (f) any amounts required to be included as Resource Project Incidental Revenue-EL1093 pursuant to clause 36.2 of the Agreement;
- (g) any allocation of Unit Incidental Revenue to EL1093 pursuant to Article 20 of the Allocation Agreement; and
- (h) such other revenue received on account of the Resource Project-EL1093 as the Province may reasonably declare, after discussion with the EL1093 Project Owners, to be Resource Project Incidental Revenue-EL1093.

**“Resource Project Incidental Revenue-PL1005”** means revenue received or deemed or declared, pursuant to the Agreement or the Allocation Agreement, received by the PL1005 Project Owners or the Resource Project Operator-PL1005 on behalf of the PL1005 Project Owners from the following;

- (a) sale or other disposal of Resource Project Assets-PL1005;
- (b) rental or lease or other use of Resource Project Assets-PL1005, except as may be otherwise agreed pursuant to clause 17.4(ii) of the Agreement;

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- (c) tariffs, fees or other charges paid to PL1005 Project Owners for use of the Resource Project Assets-1005;
- (d) proceeds received pursuant to insurance policies whose premiums were included as a Resource Project Eligible Cost-PL1005 or a Resource Project Eligible Marketing Cost-PL1005 and the proceeds were not used to pay for costs which are:
  - (i) except for the operation of item (u) of clause 29.3 of the Agreement, Resource Project Eligible Costs-PL1005 or Resource Project Eligible Marketing Costs-PL1005; or
  - (ii) relate to the risks for which such insurance policies provide coverage;
- (e) salvage and similar proceeds relative to the Resource Project Assets-PL1005 or assets of Persons other than the PL1005 Project Owners;
- (f) any amounts required to be included as Resource Project Incidental Revenue-PL1005 pursuant to clause 36.2 of the Agreement;
- (g) any allocation of Unit Incidental Revenue to PL1005 pursuant to Article 20 of the Allocation Agreement; and
- (h) such other revenue received on account of the Resource Project-PL1005 as the Province may reasonably declare, after discussion with the PL1005 Project Owners, to be Resource Project Incidental Revenue-PL1005.

**“Resource Project Operators”** means collectively the Resource Project Operator-EL1093 and the Resource Project Operator-PL1005, and **“Resource Project Operator”** means either of the Resource Project Operators.

**“Resource Project Operator-EL1093”** means any Person which has been designated by the EL1093 Project Owners to operate a Resource Project-EL1093 as agent on behalf of the EL1093 Project Owners.

**“Resource Project Operator-PL1005”** means any Person which has been designated by the PL1005 Project Owners to operate a Resource Project-PL1005 as agent on behalf of the PL1005 Project Owners.

**“Return Allowance Suspension”** means:

during the time prior to Production Start-up:

- (a) when the Project Owners advise the Province that they have instructed a Resource Project Operator or Unit Operator not to undertake any incremental commitments; or
  - (b) when design, construction or drilling work to the extent practical has been stopped;
- and

during the time after Production Start-up:

- (a) when the Project Owners advise the Province that they have instructed a Resource Project Operator or Unit Operator to cease production; or
- (b) when there has been no significant activity on the Resource Projects or no production from the Resource Projects for a period of 60 consecutive days.

**“Royalty Share”** means Gross Royalty, Net Royalty, Supplementary Royalty, Additional Royalty, interest, Penalties and other amounts payable to the Province pursuant to this Agreement and the Allocation Agreement.

**“Sale Point”** means:

- (a) the point at which title to Hibernia Crude EL1093/PL1005 of a Project Owner is passed to a Person who is not that Project Owner; or

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- (b) where title to Hibernia Crude EL1093/PL1005, prior to being refined or finally consumed, does not pass to a Person who is not that Project Owner, the point which is the entry valve into the refinery or consuming facility.

**“Sale Price”** means, with respect to each transfer at the Loading Point by a Project Owner of a Barrel of Hibernia Crude EL1093/PL1005, the actual sale price received therefor at the Sale Point subject to the Province’s right of redetermination or recalculation of the Sale Price in accordance with the provisions of the Agreement and subject to the Project Owner’s right to submit the Sale Price to be determined by arbitration in accordance with the provisions of the Agreement.

**“Sanction”** means the final approval of the Project Owners to fund the engineering, procurement and construction of the subsea template and associated subsea facilities to be installed in connection with the development of the Unit as described in the Approved DPA, in accordance with the terms of the Unit Operating Agreement.

**“Security”** shall have the meaning provided for in clause 13.1 of this Agreement.

**“Security Holder Agreement”** means an agreement in the form of Schedule “D”.

**“Security Interest”** means any assignment by way of security (including, without limitation, any assignment of the right to receive income), mortgage, charge, hypothec, pledge, lien, encumbrance, conditional sale or other retention of title, or security interest of any kind or nature whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, perfected or not, but does not include any right of set-off.

**“Service Provider”** means the Service Provider under the FOSA.

**“Shuttle Tanker”** shall have the meaning set out in the Allocation Agreement.

**“Sold Interest”** means any part of the Working Interest in a Resource Project or a Licence sold by a Project Owner.

**“Solution Gas”** means Natural Gas which is in solution with Hibernia Crude EL1093/PL1005 under reservoir conditions and which is produced in association with Hibernia Crude EL1093/PL1005.

**“Subsidiary”** of a corporation (the “parent”) means a corporation (the “subject corporation”):

- (a) that is controlled in fact by the parent or in respect of which the parent otherwise possesses the ability (whether or not exercised) to control or direct, directly or indirectly, its policies, business and affairs, including by election to its board of directors; or
- (b) in respect of which the parent, the parent and any other corporation each of which is a Subsidiary of the parent, or any other corporation, each of which is a Subsidiary of the parent, owns beneficially, directly or indirectly, at least fifty per cent (50%) of the voting securities of the subject corporation or such securities of the subject corporation as are sufficient to elect a majority of the board of directors of the subject corporation.

**“Successor”** means a Person who has acquired from a Project Owner any part of the Working Interest in a Resource Project or a Licence to which the Project Owner was entitled.

**“Supplementary Royalty”** means the royalty described in ARTICLE XXI of the Agreement.

**“Supplementary Royalty Index”** means the Consumer Price Index for Canada (All Items) published by Statistics Canada, which on the date of this Agreement is publication number 62-001-X.

**“Supplementary Royalty Payout”** means, for a Project Owner, the first point in time when the sum of:

- (i) cumulative Gross Transfer Revenue of the Project Owner; plus
- (ii) the Project Owner’s Working Interest share of cumulative Resource Project Incidental Revenue

equals the sum of:

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- (iii) the Project Owner's Working Interest share of Pre-Development Costs;
- (iv) the Project Owner's Working Interest share of cumulative Resource Project Eligible Costs, other than Tariffs;
- (v) the Project Owner's share of cumulative Resource Project Eligible Costs for Tariffs as determined pursuant to Article 22 of the Allocation Agreement;
- (vi) cumulative Gross Royalty paid by the Project Owner excepting thereout any amount on account of Gross Royalty paid in kind;
- (vii) cumulative Net Royalty paid by the Project Owner excepting thereout any amount on account of Net Royalty paid in kind;
- (viii) cumulative Supplementary Royalty Return Allowance to which the Project Owner is entitled;
- (ix) cumulative Resource Project Eligible Marketing Costs paid by the Project Owner; plus
- (x) cumulative Additional Royalty paid by the Project Owner, excepting thereout any amount on account of Additional Royalty paid in kind.

**"Supplementary Royalty Return Allowance"** means, for a Project Owner, for any Month, the product of the Supplementary Royalty Return Allowance Factor and the amount, if any, by which the sum of:

- (i) the Project Owner's Working Interest share of Pre-Development Costs;
- (ii) the Project Owner's Working Interest share of cumulative Resource Project Eligible Costs, other than Tariffs;
- (iii) the Project Owner's share of cumulative Resource Project Eligible Costs for Tariffs as determined pursuant to Article 22 of the Allocation Agreement;
- (iv) cumulative Gross Royalty paid by the Project Owner excepting thereout any amount on account of Gross Royalty paid in kind;
- (v) cumulative Net Royalty paid by the Project Owner excepting thereout any amount on account of Net Royalty paid in kind;
- (vi) cumulative Supplementary Royalty Return Allowance of the Project Owner to the end of the previous Month;
- (vii) cumulative Resource Project Eligible Marketing Costs paid by the Project Owner; plus
- (viii) cumulative Additional Royalty paid by the Project Owner, excepting thereout any amount on account of Additional Royalty paid in kind

exceeds the sum of:

- (ix) cumulative Gross Transfer Revenue of the Project Owner; plus
- (x) the Project Owner's Working Interest share of cumulative Resource Project Incidental Revenue.

**"Supplementary Royalty Return Allowance Factor"** means, for any Month, an amount which when added to 1.0 and raised to the power of 12 yields the sum of 1.18 plus the percentage increase or decrease, expressed as a decimal, in the Supplementary Royalty Index for the Month which is two (2) Months prior to the Month for which the calculations are being made from the Supplementary Royalty Index for the same Month in the preceding calendar year.

**"Tanker Administrator"** shall have the meaning set out in the Allocation Agreement.

**"Tanker Cost Aggregator"** shall have the meaning set out in the Allocation Agreement.

**"Tariff Administrator"** shall have the meaning set out in the Allocation Agreement.

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 R

**“Tariff Agreement”** means the agreement made amongst HMDC and the Project Owners entitled the “Tariff Agreement,” effective July 15, 2009.

**“Tariffs”** means any tariff, fee or other charge paid under the Tariff Agreement.

**“Temporary Replacement Tanker”** shall have the meaning set out in the Allocation Agreement.

**“Transfer Point”** means the point at which Crude Oil passes the flange where the pipeline or the delivery hose of the offshore loading system connects with the transportation vessel’s intake pipe.

**“Transfer Price”** means, in any Month, for a Project Owner, the quotient obtained by dividing the Project Owner’s Gross Transfer Revenue for the Month (notwithstanding the provisions of clause 30.17 of the Agreement, excluding any payments received by the Project Owner during the Month relative to the sale of Hibernia Blend which was not delivered during the Month or a previous Month and, further, excluding any refunds of any such payments) by the volume of Hibernia Blend transferred by or to the account of the Project Owner into marine tankers at the Loading Point (not including any volume of Hibernia Blend taken in kind by the Province in respect of that Project Owner and, further, not including any volume of Hibernia Blend for which the Project Owner received payment in a previous Month and which payment was taken into account for calculation of the Royalty Share of the Project Owner for a previous Month) and the revenue from which has been included in the calculation of Gross Transfer Revenue. In the event that there is no Transfer Price for a Project Owner for any Month then, for the purposes of the Agreement, the Transfer Price for the Project Owner for that Month shall be the Transfer Price for the most recent Month for which a Transfer Price for the Project Owner was established as a result of the sale of Hibernia Blend by the Project Owner.

**“Transshipment Operator”** shall have the meaning set out in the Allocation Agreement.

**“Unit”** shall have the meaning set out in the Allocation Agreement.

**“Unit Account”** means the account maintained by the Unit Operator in accordance with the provisions of the Allocation Agreement to record charges, expenditures, receipts and credits.

**“Unit Incidental Revenue”** shall have the meaning set out in the Allocation Agreement.

**“Unit Operating Agreement”** means the agreement made among the Project Owners entitled the “Unit Operating Agreement”, effective July 15, 2009.

**“Unit Operator”** shall have the meaning set out in the Allocation Agreement.

**“Unit Production”** shall have the meaning set out in the Allocation Agreement.

**“Unit Project”** means the development of the Unit as described in a development plan approved pursuant to the Accord Act.

**“United States Dollar”** or **“U.S.\$”** means a dollar of the lawful money of the United States of America.

**“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 Province, and upon notice to the Project Owners that replacement shall apply as if it was WTI under this provision.

**“Whiffen Head Transshipment Terminal”** has the meaning set forth in the Allocation Agreement.

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**“Wilful and Deliberate Misconduct”** means deliberate acts or deliberate omissions taken or not taken, as the case may be, by the personnel referred to in item (m) of clause 29.3, knowing and appreciating that such acts or omissions were not in accordance with good oilfield practice but were nevertheless deliberately engaged in or deliberately omitted, with disregard to the consequences of same. For greater certainty, if such personnel fail to obey or comply with any order, directive or other notification which:

- (i) is given by a government, government department or agency, the Board or any court, provided in all cases that it is authorized by law to make such order, directive or notification; and
- (ii) has been delivered in writing by a person legally empowered and authorized to do so,

then the failure to so obey or comply within a reasonable time thereafter shall constitute Wilful and Deliberate Misconduct; provided, however, that if any such order, direction or notification is made the subject of an appeal, stay or dispute in accordance with applicable law or an injunction, then the reasonable time allowed for compliance shall commence:

- (iii) in the case of an order, direction or notification confirmed in full upon conclusion of such appeal, stay, dispute or injunction, then to the extent confirmed, from the time of the original order, direction or notification; or
- (iv) in the case of an order, direction or notification varied upon such appeal, stay, dispute or injunction, then to the extent varied, from the time of the decision rendered upon conclusion thereof.

**“Working Interest-EL1093”** when used in relation to EL1093, the Resource Project-EL1093 or the Resource Project Assets-EL1093, means an undivided interest therein which entitles the Person beneficially entitled thereto to a share in the revenues howsoever derived therefrom and is chargeable with and that Person is obligated to pay or bear a corresponding portion of the costs of acquisition, operation and disposition thereof.

**“Working Interest-PL1005”** when used in relation to PL1005, the Resource Project-PL1005, or the Resource Project Assets-PL1005, means an undivided interest therein which entitles the Person beneficially entitled thereto to a share in the revenues howsoever derived therefrom and is chargeable with and that Person is obligated to pay or bear a corresponding portion of the costs of acquisition, operation and disposition thereof.

**“Working Interest”** when used in relation to a Licence, a Resource Project, or any Resource Project Assets, means an undivided interest therein which entitles the Person beneficially entitled thereto to a share in the revenues howsoever derived therefrom and is chargeable with and that Person is obligated to pay or bear a corresponding portion of the costs of acquisition, operation and disposition thereof.

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**SCHEDULE "B" TO THE AGREEMENT**

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**SCHEDULE "C" TO THE AGREEMENT**

**ASSIGNMENT AND NOVATION AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

**A M O N G:**

\_\_\_\_\_,  
a body corporate, having offices  
at the City of Calgary, in the  
Province of Alberta, Canada

(herein referred to as "Licensee")

- and -

\_\_\_\_\_,  
a general partnership formed and  
existing under the laws of the  
Province of Alberta and having offices in  
the City of Calgary, in the Province of  
Alberta, Canada

(herein referred to as "Partnership")

- and -

\_\_\_\_\_,  
a body corporate, having offices at  
the City of \_\_\_\_\_, in  
the \_\_\_\_\_ of \_\_\_\_\_,  
\_\_\_\_\_

(herein referred to as "Assignee")

- and -

The parties, other than the Assignor  
and Assignee, executing a counterpart  
of this Assignment and Novation  
Agreement

(herein collectively referred to as "Third Party")

**WHEREAS** "Licensee" and "Partnership" are herein referred to as "Assignor"; and

**WHEREAS** Assignor and Third Party are parties to a Royalty Agreement dated \_\_\_\_\_, 2010 and

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Allocation Agreement dated \_\_\_\_\_, 2010 relative to the royalty payable on crude oil produced pursuant to PL1005 and EL1093 issued by the Canada-Newfoundland and Labrador Offshore Petroleum Board (which agreements, as may have been amended, are herein referred to herein collectively as the "Royalty Agreement"); and

**WHEREAS** Assignor has assigned to Assignee all of the interest of Assignor in and under the Royalty Agreement (the interest in the Royalty Agreement assigned by Assignor to Assignee being herein referred to as the "Assigned Interest").

**NOW THEREFORE** in consideration of the premises hereto and the mutual covenants and agreements herein set forth, the parties hereto agree as follows:

**1. Definitions**

The words and phrases in this Assignment and Novation Agreement shall, unless otherwise defined herein, have the same meanings as such words and phrases have in the Royalty Agreement.

**2. Assignment by Assignor**

Assignor does hereby assign, set over, transfer and convey the Assigned Interest unto Assignee together with all benefit and advantage to be derived therefrom, to have and to hold the same unto Assignee absolutely.

**3. Acceptance by Assignee**

Assignee hereby accepts the assignment from Assignor set forth in Clause 2 hereof and covenants and agrees with the Assignor and Third Party that it shall at all times from and after the date hereof, be bound by, observe and perform all of the terms and provisions to be observed and performed by Assignor under the Royalty Agreement to the same extent as if Assignee had been a party thereto in the place and stead of Assignor.

**4. Consent and Agreement of Third Party**

Third Party does hereby:

- (i) consent to the assignment by Assignor to Assignee of the Assigned Interest;
- (ii) release and discharge Assignor of and from the observance and performance of the covenants, agreements and obligations on the part of the Assignor to be observed and performed under the Royalty Agreement in respect of the Assigned Interest from and after the date hereof provided, however, that nothing herein contained shall be construed as a release of the Assignor from any obligation or liability under the Royalty Agreement which accrued prior to the date hereof; and
- (iii) agree that from and after the date hereof Assignee shall, in accordance with the provisions of the Royalty Agreement, be entitled to hold and enforce all of the privileges, rights and benefits of Assignor under the Royalty Agreement in respect of the Assigned Interest to the same extent as though and to the intent and purpose that Assignee had been a party thereto in the place and stead of Assignor.

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5. Release

In consideration of the Province executing this Assignment and Novation Agreement, the Assignor does hereby release and absolutely discharge the Province of and from any and all claims, actions, suits, demands, losses, costs, damages and expenses, including, without limitation, legal expenses, of whatsoever nature or kind, which the Assignor now has or may hereafter have or incurs, directly or indirectly, by reason of, or in any way relating to the Province accepting and dealing, or agreeing to accept and deal, with Assignee as a party to the Royalty Agreement in respect of the Assigned Interest in the place and stead of Assignor.

6. Counterparts

This Assignment and Novation Agreement may be executed in as many counterparts as are necessary and, when a counterpart has been executed by each party hereto, all counterparts together shall constitute one agreement.

7. Address of Assignee

The address of Assignee for notices under the Royalty Agreement shall be the address set forth below, namely:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Agent for Service for Assignee

For the purposes of clause 37.3 of the Royalty Agreement the person whose name is set forth below to be the agent of Assignee to receive on its behalf service of all and any papers which may be served in any legal proceedings relative to the Royalty Agreement which involve the Province, namely:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, Newfoundland and Labrador  
Canada

9. Governing Law

This Assignment and Novation Agreement shall be governed by, and construed in accordance with, the laws in force in Newfoundland and Labrador.

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10. Inurement

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

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**IN WITNESS WHEREOF** each of the parties to this Agreement have caused this Assignment and Novation Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

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

Represented by:

\_\_\_\_\_  
(\* )

\_\_\_\_\_  
(\* )

**EXXONMOBIL CANADA LTD.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**EXXON MOBIL HIBERNIA HOLDING COMPANY LTD.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**CHEVRON CANADA LIMITED**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**SUNCOR ENERGY INC.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**MURPHY ATLANTIC OFFSHORE OIL COMPANY LTD.**

*JIC*  
*RB* *CH* *ALD*  
*63* *SC* *P*

Name and Title of officer signing to be inserted before execution

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**CANADA HIBERNIA HOLDING CORPORATION**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**STATOIL CANADA LTD.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**NALCOR ENERGY - OIL AND GAS INC.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**EXXONMOBIL CANADA PROPERTIES, by its  
Partners in their capacity as partners and not in  
any other capacity:**

**ExxonMobil Canada Ltd.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**ExxonMobil Canada Hibernia Company Ltd.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

Name and Title of officer  
signing to be inserted before  
execution

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RB, JIC, 13, etc.

**CHEVRON CANADA RESOURCES, by its Partners in their capacity as partners and not in any other capacity:**

**Chevron Canada Limited**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

**PETRO-CANADA HIBERNIA PARTNERSHIP, by its Partners in their capacity as partners and not in any other capacity:**

**Suncor Energy Inc.**

Per: \_\_\_\_\_  
(\* )

Per: \_\_\_\_\_  
(\* )

\*Name and title of officer signing to be inserted before execution

\*\*Name of Assignee to be inserted before execution

**Completion Instructions**

1. Where a party to the Royalty Agreement is a corporation and that corporation is not an Affiliate of a partnership that is also a party to the Royalty Agreement, then any Assignment and Novation Agreement prepared for such corporation as Assignor would:

- (i) refer to such corporation as "Assignor" and not as "Corporation";
- (ii) the party to the Assignment and Novation agreement referred to as "Partnership" would be deleted from page 1 of the Assignment and Novation Agreement; and
- (iii) the first recital would be deleted.

2. Where a Project Owner and its Affiliated Licensee sell part only of their interest in the Project, then the percentage of the Assignor's Working Interest being conveyed by the Assignor to the Assignee shall be substituted for the word "all" in the third recital of the Assignment and Novation Agreement.

Handwritten initials and signatures:

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**SCHEDULE "D" TO THE AGREEMENT**  
**SECURITY HOLDER AGREEMENT**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

**A M O N G:**

\_\_\_\_\_, a body corporate, having offices at the City of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_,  
\_\_\_\_\_

(herein referred to as the "Security Holder")

- and -

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

(herein referred to as the "Province")

- and -

The party or parties executing this Agreement  
as Grantor

(herein referred to as the "Grantor")

**WHEREAS** the Province and the Grantor (which term shall include the plural if more than one Person is the undersigned Grantor) are parties to a Royalty Agreement dated \_\_\_\_\_, 2010 relative to the royalties payable on crude oil produced pursuant to PL1005 and EL1093 issued by the Canada-Newfoundland and Labrador Offshore Petroleum Board (which agreement, as may have been amended, is herein referred to as the "Royalty Agreement"); and

**WHEREAS** Grantor has granted to and in favour of the Security Holder a Security Interest in any or all of the Grantor's Working Interest in the Licences or any or all of its interest in the Charged Premises or both (such Security Interest and the documents and instruments evidencing same being herein referred to as the "Security");

**NOW THEREFORE** in consideration of the premises, one dollar (\$1.00) and other good and valuable consideration (receipt whereof is hereby acknowledged) the parties hereby covenant and agree as follows:

**1. Definitions**

The words and phrases in this Agreement (including the recitals hereto) shall, unless otherwise defined herein, have the same meanings as such words and phrases have in the Royalty Agreement.

**2. Subordination**

(a) The Security Holder hereby agrees that:

- (i) its claim for payment by the Grantor out of any of the Charged Premises or any proceeds thereof or therefrom; and
- (ii) the Security and its rights thereunder;

are hereby expressly subordinated and postponed to the Security Interests granted by the

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Grantor to the Province under the Royalty Agreement, the Province's entitlement to payment out of any of the Charged Premises or any proceeds thereof or therefrom of the Royalty Share payable by such Grantor and the Province's rights under Articles XIII and XXII of the Royalty Agreement.

- (b) Upon realization by the Security Holder upon any or all of the Security which does not result in an assignment or transfer of, or vesting of title to, the Grantor's Working Interest in the Licences, and until such time as such assignment or transfer or vesting of title occurs, to the extent that the Security Holder receives any payment pursuant to such realization from any proceeds due or owing to the Grantor from or in respect of Grantor's share of Hibernia Crude EL1093/PL1005, the Province shall be entitled, both before and after the appointment of any receiver in respect of the Security, to receive payment of the Royalty Share payable by the Grantor from or in respect of such Hibernia Crude EL1093/PL1005 before the Security Holder is entitled to appropriate any such proceeds to its own account. For greater certainty the Royalty Share payable by the Grantor as aforesaid shall include any Royalty Share payable for any Hibernia Crude EL1093/PL1005, the proceeds of which have been received by the Security Holder after such date of enforcement, and which may be payable by the Grantor as a result of any redetermination, recalculation, audit, annual review and reconciliation or arbitration pursuant to the provisions of the Royalty Agreement. In addition the Security Holder acknowledges and recognizes the right of the Province, at any time, including during any period of realization by the Security Holder on any Security, to realize upon any Security Interest granted to the Province, to take in kind and dispose of the Royalty Share payable in respect of the Grantor's share of Hibernia Crude EL1093/PL1005 pursuant to the provisions of the Royalty Agreement and to otherwise deal with such Security Interest and the Grantor (including the granting of waivers, extensions and compromises) as the Province sees fit, all without notice or account to the Security Holder and without prejudice to its rights and benefits hereunder.
- (c) If the Security Holder shall receive any amount in respect of the Security before the Province receives payment of the Royalty Share as aforesaid, such amount, to the extent necessary to pay such Royalty Share, shall be held in trust by the Security Holder and, after deducting its reasonable costs of collection, shall be forthwith paid over to the Province. The foregoing trust obligation of the Security Holder shall only be with respect to proceeds received by a Security Holder after such date of enforcement.
- (d) The Security Holder hereby postpones all rights of subrogation which it may acquire in respect of this Agreement or the provisions of Articles XIII or XXII of the Royalty Agreement as a result of payments received by the Province from or instead of the Security Holder on account of the provisions of this Agreement to payment in full of the Royalty Share payable by the Grantor to the Province.
- (e) The Province acknowledges that, to the extent the Security Holder makes any payment to the Province of any Royalty Share payable by the Grantor, the Security Holder shall be subrogated to the Security Interest granted to the Province by the Grantor; provided however, such subrogated rights shall at all times be postponed as provided in clause 2(d) hereof.
- (f) The Security Holder will, as soon as is reasonably practicable, give written notice to the Province of any proposed assignment or transfer of any of the Grantor's Working Interest in the Licences as a result of any realization of any Security.

### **3. Application of Royalty Agreement**

- (a) Upon realization by the Security Holder on any Security which results in an assignment or transfer of, or vesting of title to, all or any of the Grantor's Working Interest in the Licences to the Security Holder, the Security Holder

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- (i) will not register such assignment or transfer under the Federal Accord Act until the Province has received payment of all amounts for which the Security Holder is liable pursuant to the provisions of clause 3(a)(ii) below;
  - (ii) will be liable to the Province for the payment of that proportion of the Royalty Share payable by the Grantor to the Province relative to the period prior to such assignment or transfer in the same manner and to the same extent as would a Successor to such Grantor pursuant to the provisions of clause 16.12 of the Royalty Agreement if such Grantor were a Predecessor and such Working Interest to be assigned or transferred were a Sold Interest. For the purposes of determining the extent of such liability, the proportion of the Royalty Share payable shall be the same proportion as the Working Interest to be assigned or transferred is of the total Working Interest of the Grantor, and the Security Holder shall be entitled to request a Royalty Statement from the Province and the provisions of clause 16.12 shall apply mutatis mutandis; and
  - (iii) will, without further act or formality, at all times from and after the date thereof, with respect to the proportion of the Working Interest acquired by it, be entitled to enjoy all benefit and advantage to be derived from, and be bound by, observe and perform all of the terms and provisions to be observed and performed by the Grantor under, the Royalty Agreement (including, without limitation, the provisions of Article XIII and clause 13.8 thereof) to the same extent as if the Security Holder had been a party thereto in the place and stead of the Grantor. The Security Holder shall execute or cause to be executed all deeds and documents and shall do or cause to be done all things necessary for confirming the Security Interests granted to the Province under Article XIII of the Royalty Agreement.
- (b) Upon realization by the Security Holder upon any Security which results in an assignment or transfer of, or vesting of title to, the Grantor's Working Interest in the Licences to a Person other than the Security Holder, the Security Holder will, prior to or contemporaneously with such Assignment, transfer or vesting, cause such Person to execute and deliver to the Province an agreement pursuant to which such Person shall covenant and agree that it:
  - (i) will not register such assignment or transfer under the Federal Accord Act until the Province has received payment of all amounts for which such Person would be liable pursuant to the provisions of clause 4(a)(ii) below:
  - (ii) will be liable to the Province for the payment of that proportion of the Royalty Share payable by the Grantor to the Province relative to the period prior to such assignment or transfer in the same manner and to the same extent as would a Successor to such Grantor pursuant to the provisions of clause 16.12 of the Royalty Agreement if such Grantor were a Predecessor and such Working Interest to be assigned or transferred were a Sold Interest. For the purposes of determining the extent of such liability, the proportion of the Royalty Share payable shall be the same proportion as the Working Interest to be assigned or transferred is of the total Working Interest of the Grantor, and such Person shall be entitled to request a Royalty Statement from the Province and the provisions of clause 16.12 shall apply mutatis mutandis; and
  - (iii) will, without further act or formality, at all times from and after the date thereof with respect to the proportion of the Working Interest acquired by it, be entitled to enjoy all benefit and advantage to be derived from, and be bound by, observe and perform all of the terms and provisions to be observed and performed by the Grantor under, the Royalty Agreement (including, without limitation, the provisions of Article XIII and clause 13.8 thereof) to the same extent as if such Person had been a party thereto in the place and stead of the Grantor and further, that it shall execute or cause to be executed all deeds and documents and shall do or cause to be done all things

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necessary for confirming the Security granted to the Province under Article XIII of the Royalty Agreement.

Upon delivery of such agreement executed by such Person, the Province agrees to execute such agreement.

**4. Substitution for Grantor**

- (a) Upon realization by the Security Holder upon any of the Security which results in an assignment or transfer of, or vesting of title to, all or any part of the Grantor's Working Interest in the Licences, the Grantor hereby agrees:
  - (i) to the substitution and replacement of Grantor by the Security Holder as a party to the Royalty Agreement with respect to all or such part of Grantor's Working Interest in the Licences in the circumstances set forth in clause 3(a) above, and
  - (ii) to the substitution and replacement of Grantor by any other Person as a party to the Royalty Agreement with respect to all or such part of Grantor's Working Interest in the Licences in the circumstances set forth in clause 3(b) above.

**5. Assignment of Security**

The Security Holder will not assign or transfer the Security, or any party thereof, to any Person unless such Person shall have first assumed the obligations of the Security Holder hereunder and agreed to be bound by the provisions hereof.

**6. Counterparts**

This Agreement may be executed in one or more counterparts, all of which when executed shall constitute one and the same agreement.

**7. Address of Security Holder**

The address of the Security Holder for notices under the Royalty Agreement shall be the address set forth below, namely:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. Agent for Service for Security Holder**

For the purpose of clause 38.3 of the Royalty Agreement the person whose name is set forth below is to be the agent of the Security Holder to receive on its behalf service of all and any papers which may be served in any legal proceedings relative to the Royalty Agreement which involve the Province, namely:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_, Newfoundland and Labrador  
Canada

9. **Governing Law**

This Agreement shall be governed by, and construed in accordance with, the laws in force in Newfoundland and Labrador.

10. **Inurement**

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

11. **Further Assurances**

The Security Holder shall, at its expense, make, execute and deliver or cause to be made, executed and delivered all such documents and instruments and do or cause to be done all such things as the Province may at any time and from time to time reasonably require for the purposes of giving effect to this Agreement including, without limitation, executing postponements of the Security Holder's rights.

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IN WITNESS WHEREOF each of the parties to this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

**Grantor:**

\*\*\* \_\_\_\_\_

Per: \_\_\_\_\_

(\*\* )

Per: \_\_\_\_\_

(\*\* )

**Security Holder:**

\* \_\_\_\_\_

Per: \_\_\_\_\_

(\*\* )

Per: \_\_\_\_\_

(\*\* )

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

**Represented by:**

\_\_\_\_\_  
(\* )

\_\_\_\_\_  
(\* )

(Instructions on the following page)

*Handwritten initials:*  
RB, DAD, JA, A, CH, R

- \* Name of Security Holder to be inserted before execution
- \*\* Name and title of officer signing to be inserted before execution
- \*\*\* Name of Grantor to be inserted before execution

**Completion Instructions**

1. Where the Grantor is both the Project Owner and the Licensee which is an Affiliate of that Project Owner, then the reference on the first page to the party of the third part which defines Grantor should be a reference to both the Project Owner and Licensee.
2. Where the Grantor has granted to the Security Holder a Security Interest on only part of the Charged Premises, then the reference in the second recital to "the Charged Premises" should be changed to a reference to the specific properties, assets, rights and things on which such Security Interest was granted.
3. Where the Grantor has not granted to the Security Holder a Security Interest on any of its Working Interest in the Licences, then the reference in the second recital to "on all of its Working Interest in the Licences and" should be deleted and where the Grantor has not granted to the Security Holder a Security Interest on any of its interest in the Charged Premises, then the reference in the second recital to "and on all of its interest in the Charged Premises" should be deleted.

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**SCHEDULE "E" TO THE AGREEMENT**

**CONFIDENTIALITY DECLARATION**

**THIS INDENTURE** dated this \_\_\_\_\_ day of \_\_\_\_\_.

**IN FAVOUR OF:**

\_\_\_\_\_,  
a body corporate, having offices  
at the City of \_\_\_\_\_, in the  
\_\_\_\_\_ of \_\_\_\_\_.

(herein referred to as "Project Owner")

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

(herein referred to as "the Province")

**WHEREAS** the Province, the Project Owner and others are parties to a Royalty Agreement dated \_\_\_\_\_, 2010 relative to the royalty payable on crude oil produced pursuant to PL1005 and EL1093 issued by the Canada–Newfoundland and Labrador Offshore Petroleum Board (which agreement, as may have been amended, is herein referred to as the "Royalty Agreement"); and

**WHEREAS** the undersigned is an arbitrator for the purposes of the Royalty Agreement; and

**WHEREAS** the Royalty Agreement provides that, prior to the provision to an arbitrator of any information for the purposes of an arbitration, the arbitrator shall address, execute and deliver to each party to the arbitration a Confidentiality Declaration in the form hereof.

**NOW THEREFORE**, in consideration of the appointment of the undersigned as an arbitrator under the Royalty Agreement and of the fees to be received by the undersigned for acting as an arbitrator under the Royalty Agreement, the undersigned does hereby covenant and agree with the Project Owner and the Province that the undersigned shall at all times keep confidential all information received from the Project Owner and the Province in the course of the arbitration except for information which:

- (i) is required to be produced in court;
- (ii) is in the public domain at the time it is obtained by the undersigned through no wrongful act of the undersigned;
- (iii) becomes in the public domain after it has been obtained by the undersigned through no fault of the undersigned;
- (iv) is otherwise in the possession of the undersigned prior to the time it is obtained in the course of the arbitration through no wrongful act of the undersigned and is not then held in confidence by the undersigned;
- (v) is obtained by the undersigned from anyone not known to the undersigned to be obligated to keep the information obtained by the undersigned confidential; or

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- JC
- RB
- LS
- AD
- A
- CH
- PR

- (vi) the undersigned is required to disclose by law, by any court having jurisdiction or by any body constituted by law which has been authorized by law to require such disclosure, but in each case only to the extent so requested and required.

Delivered this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_  
Witness to the signature  
of \_\_\_\_\_

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**SCHEDULE "F" TO THE AGREEMENT**

**OPERATOR'S AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**AMONG:**

\_\_\_\_\_, a body corporate, having offices at the City of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_,

(hereinafter referred to as the "Operator")

**OF THE FIRST PART**

-and-

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

(herein referred to as the "Province")

**OF THE SECOND PART**

-and-

The parties executing this Agreement as Grantors

**OF THE THIRD PART**

(herein referred to as the "Grantors")

**WHEREAS** the Province and the Grantors are parties to a Royalty Agreement dated \_\_\_\_\_, 2010 relative to the royalty payable on crude oil produced pursuant to PL1005 and EL1093, each issued by the Canada-Newfoundland and Labrador Offshore Petroleum Board (which agreement, as may have been amended, is herein referred to as the "Royalty Agreement"); and

**WHEREAS** each of the Grantors has granted to and in favour of the Operator a Security Interest in any or all of its Working Interest in \_\_\_\_\_ (for purposes of this agreement, the "Licence") or any or all of its interest in the Charged Premises or both (such Security Interest and the documents and instruments evidencing same being herein referred to as the "Security");

**NOW THEREFORE** in consideration of the premises, one dollar (\$1.00) and other good and valuable consideration (receipt whereof is hereby acknowledged) the parties hereby covenant and agree as follows:

**1. Definitions**

The words and phrases in this Agreement (including the recitals hereto) shall, unless otherwise defined herein, have the same meanings as such words and phrases have in the Royalty Agreement.

**2. Subordination**

a. The Operator hereby agrees that:

- (i) its claim for payment by a Grantor out of any of the Charged Premises or any proceeds thereof or therefrom; and
- (ii) the Security granted by such Grantor and the rights thereunder;

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are hereby expressly subordinated and postponed to the Security Interests granted by such Grantor to the Province under the Royalty Agreement, the Province's entitlement to payment out of any of the Charged Premises or any proceeds thereof or therefrom of the Royalty Share payable by such Grantor and the Province's rights under Articles XIII and XXII of the Royalty Agreement.

- b. Upon realization by the Operator upon any or all of the Security granted by a Grantor which does not result in an assignment or transfer of, or vesting of title to, the Working Interest of such Grantor in the Licence, and until such time as such assignment or transfer or vesting of title occurs, to the extent that the Operator receives any payment pursuant to such realization from any proceeds due or owing to such Grantor from or in respect of its share of Hibernia Crude EL1093/PL1005, the Province shall be entitled, both before and after the appointment of any receiver in respect of the Security, to receive payment of the Royalty Share payable by such Grantor from or in respect of such Hibernia Crude EL1093/PL1005 before the Operator is entitled to appropriate any such proceeds to its own account. For greater certainty the Royalty Share payable by such Grantor as aforesaid shall include any Royalty Share payable by such Grantor for any Hibernia Crude EL1093/PL1005, the proceeds of which have been received by the Operator after such date of enforcement, and which may be payable by such Grantor as a result of any redetermination, recalculation, audit, annual review and reconciliation or arbitration pursuant to the provisions of the Royalty Agreement. In addition the Operator acknowledges and recognizes the right of the Province, at any time, including during any period of realization by the Operator on any Security granted by such Grantor, to realize upon any Security Interest granted by such Grantor to the Province, to take in kind and dispose of the Royalty Share payable in respect of such Grantor's share of Hibernia Crude EL1093/PL1005 pursuant to the provisions of the Royalty Agreement and to otherwise deal with such Security Interest and such Grantor (including the granting of waivers, extension and compromises) as the Province sees fit, all without notice or account to the Operator and without prejudice to its rights and benefits hereunder.
- c. If the Operator shall receive any amount in respect of the Security granted by a Grantor before the Province receives payment of the Royalty Share payable by such Grantor as aforesaid, such amount, to the extent necessary to pay such Royalty Share, shall be held in trust by the Operator and, after deducting its reasonable costs of collection, shall be forthwith paid over the Province. The foregoing trust obligation of the Operator shall only be with respect to proceeds received by the Operator after such date of enforcement.
- d. The Operator hereby postpones all rights of subrogation which it may acquire in respect of this Agreement or the provisions of Article XIII or XXII of the Royalty Agreement as a result of payments received by the Province from or instead of the Operator on account of the provisions of this Agreement to payment in full of the Royalty Share payable by such Grantor to the Province.
- e. The Province acknowledges that, to the extent the Operator makes any payment to the Province of any Royalty Share payable by a Grantor, the Operator shall be subrogated to the Security Interest granted to the Province by such Grantor, provided, however, such subrogated rights shall at all times be postponed as provided in clause 2(d) hereof.
- f. The Operator will, as soon as is reasonably practicable, give written notice to the Province of any proposed assignment or transfer of any of the Working Interest of a Grantor in the Licence as a result of any realization of any Security granted by such Grantor.

### 3. Application of Royalty Agreement

- a. Upon realization by the Operator on any Security granted by a Grantor which results in an assignment or transfer of, or vesting of title to, all or any of the Working Interest of such Grantor in the Licence to the Operator, the Operator:

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 OR

- (i) will not register such assignment or transfer under the Federal Accord Act until the Province has received payment of all amounts for which the Operator is liable pursuant to the provisions of clause 3(a)(ii) below;
  - (ii) will be liable to the Province for the payment of that proportion of the Royalty Share payable by such Grantor to the Province relative to the period prior to such assignment or transfer in the same manner and to the same extent as would a Successor to such Grantor pursuant to the provisions of clause 16.12 of the Royalty Agreement if such Grantor were a Predecessor and such Working Interest to be assigned or transferred were a Sold Interest. For the purposes of determining the extent of such liability, the proportion of the Royalty Share payable shall be the same proportion as the Working Interest to be assigned or transferred is of the total Working Interest of such Grantor, and the Operator shall be entitled to request a Royalty Statement from the Province and the provisions of clause 16.12 shall apply mutatis mutandis; and
  - (iii) will, without further act or formality, at all times from and after the date thereof, with respect to the proportion of the Working Interest acquired by it, be entitled to enjoy all benefit and advantage to be derived from, and be bound by, observe and perform all of the terms and provisions to be observed and performed by such Grantor under, the Royalty Agreement (including, without limitation, the provisions of Article XIII and clause 13.8 thereof) to the same extent as if the Operator had been a party thereto in the place and stead of such Grantor. The Operator shall execute or cause to be executed all deeds and documents and shall do or cause to be done all things necessary for confirming the Security Interests granted to the Province by such Grantor under Article XIII of the Royalty Agreement.
- b. Upon realization by the Operator upon any Security granted by a Grantor which results in an assignment or transfer of, or vesting of title to, the Working Interest of such Grantor in the Licence to a Person other than the Operator, the Operator will, prior to or contemporaneously with such assignment, transfer or vesting, cause such Person to execute and deliver to the Province an agreement which incorporates mutatis mutandis clauses 6 through 11 hereof and pursuant to which such Person shall covenant and agree that it:
- (i) will not register such assignment or transfer under the Federal Accord Act until the Province has received payment of all amounts for which such Person would be liable pursuant to the provisions of clause 4(a)(ii) below;
  - (ii) will be liable to the Province for the payment of that proportion of the Royalty Share payable by such Grantor to the Province relative to the period prior to such assignment or transfer in the same manner and to the same extent as would a Successor to such Grantor pursuant to the provisions of clause 16.12 of the Royalty Agreement if such Grantor were a Predecessor and such Working Interest to be assigned or transferred were a Sold Interest. For the purposes of determining the extent of such liability, the proportion of the Royalty Share payable shall be the same proportion as the Working Interest to be assigned or transferred is of the total Working Interest of such Grantor, and such Person shall be entitled to request a Royalty Statement from the Province and the provisions of clause 16.12 shall apply mutatis mutandis; and
  - (iii) will, without further act or formality, at all times from and after the date thereof with respect to the proportion of the Working Interest acquired by it, be entitled to enjoy all benefits and advantage to be derived from, and be bound by, observe and perform all of the terms and provisions to be observed and performed by such Grantor under, the Royalty Agreement (including, without limitation, the provisions of Article XIII and clause 13.8 thereof) to the same extent as if such Person had been a party thereto in the place and stead of such Grantor and further, that it shall execute or cause to be executed all deeds

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and documents and shall do or cause to be done all things necessary for confirming the Security granted to the Province by such Grantor under Article XIII of the Royalty Agreement.

Upon delivery of such agreement executed by such Person, the Province agrees to execute such agreement.

**4. Substitution for Grantor**

- a. Upon realization by the Operator upon any of the Security granted by a Grantor which results in an assignment or transfer of, or vesting of title to, all or any part of the Working Interest of such Grantor in the Licence, such Grantor hereby agrees:
  - (i) to its substitution and replacement by the Operator as a party to the Royalty Agreement with respect to all or such part of its Working Interest in the Licence in the circumstances set forth in clause 3(a) above, and
  - (ii) to its substitution and replacement by any other Person as a party to the Royalty Agreement with respect to all or such part of its Working Interest in the Licence in the circumstances set forth in clause 3(b) above.

**5. Assignment of Security**

The Operator will not assign or transfer the Security granted by a Grantor, or any part thereof, to any Person unless such Person shall have first assumed the obligations of the Operator hereunder and agreed to be bound by the provisions hereof.

**6. Compliance with Royalty Agreement**

Operator covenants and agrees with the Province and Grantors, and each of them, that it shall:

- (i) comply with each and every provision of the Royalty Agreement which the Royalty Agreement requires the Grantors, or any of them, to cause the Operator to comply with; and
- (ii) perform or refrain from performing each and every matter which the Royalty Agreement requires the Grantors, or any of them, to cause the Operator to perform or refrain from performing, as the case may be.

**7. Counterparts**

This Agreement may be executed in one or more counterparts, all of which when executed shall constitute one and the same agreement.

**8. Address of Operator**

The address of the Operator for notices under the Royalty Agreement shall be the address set forth below; namely:

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**9. Agent for Service for Operator**

For the purposes of clause 38.3 of the Royalty Agreement in the Person whose name is set forth below is to be the agent of the Operator to receive on its behalf service of all and any papers which may be served in any

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legal proceedings relative to the Royalty Agreement which involve the Province, namely:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10. Governing Law**

This Agreement shall be governed by, and construed in accordance with, the laws in force in Newfoundland and Labrador.

**11. Inurement**

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

**12. Further Assurances**

The Operator shall, at its expense, make, execute and deliver or cause to be made, executed and delivered all such documents and instruments and do or cause to be done all such things as the Province may at any time and from time to time reasonably require for the purposes of giving effect to this Agreement including, without limitation, executing postponements of its rights.

**IN WITNESS WHEREOF** each of the parties of this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

**Grantors:**

\*\*\* \_\_\_\_\_

\*\*\* \_\_\_\_\_

Per: \_\_\_\_\_  
(\*\* )

Per: \_\_\_\_\_  
(\*\* )

Per: \_\_\_\_\_  
(\*\* )

Per: \_\_\_\_\_  
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Per: \_\_\_\_\_  
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Per: \_\_\_\_\_  
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Per: \_\_\_\_\_  
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Per: \_\_\_\_\_  
(\*\* )

**Operator**

\*\*\* \_\_\_\_\_

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

Per: \_\_\_\_\_

Represented by:

\_\_\_\_\_

*Handwritten signatures and initials:*  
RB, G3, A, OH, JIC, PR

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\*\*

- Name of Operator to be inserted before execution
- Name and title of officer signing to be inserted before execution
- Name of Grantor to be inserted before execution

Completion Instructions

1. Where a Grantor is both the Project Owner and Licensee which is an Affiliate of that Project Owner, then the reference on the first page to the party of the third part which defines Grantors should be a reference to both the Project Owner and Licensee.
2. Where a Grantor has granted to the Operator a Security Interest on only part of the Charged Premises, then the reference in the second recital to "the Charged Premises" should be changed to a reference to the specific properties, assets, rights and things on which such Security Interest was granted.
3. Where a Grantor has not granted to the Operator a Security Interest on any of its Working Interest in a Licence, then the reference in the second recital to "on all of its Working Interest in the Production Licence and" should be deleted and where a Grantor has not granted to the Operator a Security Interest on any of its interest in the Charged Premises, then the reference in the second recital to "and on all of its interest in the Charged Premises" should be deleted.

Handwritten initials and signatures: RB, G, A, JIC, and other illegible marks.

**SCHEDULE "G" TO THE AGREEMENT**

**OPERATOR'S ACKNOWLEDGEMENT AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_.

**AMONG:**

\_\_\_\_\_, a body corporate, having offices at the City of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, (hereinafter referred to as the "Operator")

**OF THE FIRST PART**

-and-

**HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR**  
(herein referred to as the "Province")

**OF THE SECOND PART**

**WHEREAS** the Province, the Project Owners and the Licensees are parties to a Royalty Agreement dated \_\_\_\_\_, 2010 relative to the royalty payable on crude oil produced pursuant to PL1005 and EL1093 issued by the Canada-Newfoundland and Labrador Offshore Petroleum Board (which agreement, as may have been amended, is herein referred to as the "Royalty Agreement"); and

**WHEREAS** the Operator is the agent of the Project Owners and will be conducting operations in respect of certain or all of the Licences and has agreed to comply with the provisions of the Royalty Agreement;

**NOW THEREFORE** in consideration of the premises, one dollar (\$1.00) and other good and valuable consideration (receipt whereof is hereby acknowledged) the parties hereby covenant and agree as follows:

**1. Definitions**

The words and phrases in this Agreement (including the recitals hereto) shall, unless otherwise defined herein, have the same meanings as such words and phrases have in the Royalty Agreement.

**2. No Security**

The Operator, in its own right, on its own behalf or for its own benefit, has no Security Interest in the Charged Premises.

**3. Compliance with Royalty Agreement**

Operator covenants and agrees with the Province that it shall:

- (i) comply with each and every provision of the Royalty Agreement which the Royalty Agreement requires the Project Owners, or any of them, to cause the Operator, to comply with; and
- (ii) perform or refrain from performing each and every matter which the Royalty Agreement requires the Project Owners, or any of them, to cause the Operator, to perform or refrain from performing, as the case may be.

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**4. Counterparts**

This Agreement may be executed in one or more counterparts, all of which when executed shall constitute one and the same agreement.

**5. Address of Operator**

The address of the Operator for notices under the Royalty Agreement shall be the address set forth below; namely:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**6. Agent for Service for Operator**

For the purposes of clause 38.3 of the Royalty Agreement the Person whose name is set forth below is to be the agent of the Operator to receive on its behalf service of all and any papers which may be served in any legal proceedings relative to the Royalty Agreement which involve the Province, namely:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**7. Governing Law**

This Agreement shall be governed by, and construed in accordance with the laws in force in Newfoundland and Labrador.

**8. Inurement**

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

**9. Further Assurances**

The Operator shall, at its expense, make, execute and deliver or cause to be made, executed and delivered all such documents and instruments and do or cause to be done all such things as the Province may at any time and from time to time reasonably require for the purposes of giving effect to this Agreement including, without limitation, executing postponements of its rights.

**IN WITNESS WHEREOF** each of the parties of this Agreement have caused this Agreement to be executed by their officers or representatives duly authorized in that behalf on the date first above written.

\*\*\* \_\_\_\_\_

Per: \_\_\_\_\_  
(\*\* )

Per: \_\_\_\_\_  
(\*\* )

*Handwritten initials:*  
DRO  
JK  
RB  
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**HER MAJESTY IN RIGHT OF  
NEWFOUNDLAND AND LABRADOR**

Represented by:

\_\_\_\_\_  
(\*\* )

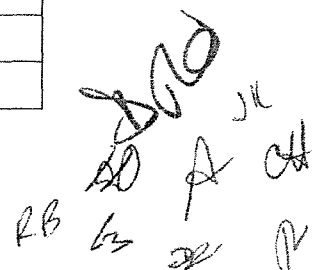
\_\_\_\_\_  
(\*\* )

- Name of Operator to be inserted before execution
- Name and title of officer signing to be inserted before execution

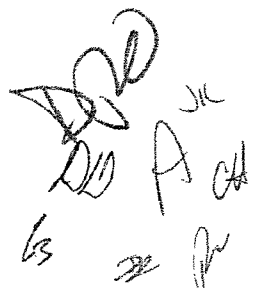
*[Handwritten initials and signatures]*  
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**SCHEDULE "H" TO THE AGREEMENT****LOCKED PROVISIONS TO JOA PL 1005 AND EL 1093**

<b>Definitions</b>	<b>Locked Provisions: JOA PL1005</b>
1.1(6)	Accounting Procedure
1.1(10)	Agreement
1.1(17)	Authority for Expenditure or AFE
1.1(20)	Board
1.1(22)	Budget
1.1(24)	Capital Costs
1.1(50)	Development Plan
1.1(51)	Development Project
1.1(62)	Effective Date
1.1(80)	Gas
1.1(90)	Joint Account
1.1(91)	Joint Lands
1.1(92)	Joint Project
1.1(93)	Joint Property
1.1(96)	Licence
1.1(98)	Management Committee
1.1(103)	Month
1.1(115)	Oil
1.1(116)	Operating Costs
1.1(117)	Operation
1.1(124)	Owner's Security
1.1(133)	Person
1.1(134)	Petroleum Substances
1.1(142)	Project AFE
1.1(145)	Project Agreements
1.1(146)	Project Assets
1.1(147)	Project Data
1.1(148)	Project Facilities
1.1(149)	Project Licence
1.1(156)	Receipt Point


  
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<b>Definitions</b>	<b>Locked Provisions: JOA PL1005</b>
1.1(163)	Royalty Default
1.1(168)	Security Package
1.1(198)	Trustee
1.1(214)	Working Interest
1.1(215)	Year
<b>Clauses</b>	
1.4(J)	Agreements
Article 3	Scope of Agreement
6.3	Ownership
7.1(A)	Representatives
7.3	Authority to Vote
7.14	Vote of Management Committee Binding
9.1(A)(1)	Conduct of Operations: Control and Management of Operations
9.1(A)(5)	Conduct of Operations: Covenants of Operator
9.2(A)	Compliance by Operator
9.3(A)(3)	Obligations for Operations: Authorization for Expenditures
9.3(A)(12)	Obligations for Operations: Access to Operations
9.3(A)(15)	Obligations for Operations: Payment for Operations
9.5	Records
9.6(A)	General Reporting
21.1	Joint Account Expenditures
21.2(B)	Authorities for Expenditure and Changes in Scope
21.2(B)(1)	Authorities for Expenditure and Changes in Scope: Authorizations for Expenditures
21.2(C)	Overexpenditures
21.6	Audit Rights
22.13	Application of Recovered Amounts
22.19	Royalty Default
23.2	Insurance
Schedule C	Accounting Procedure
Schedule C, 1.1(R)	Project Support Facilities
Schedule C, 1.2	Joint Account Statements
Schedule C, 1.2(B)	Expenditures

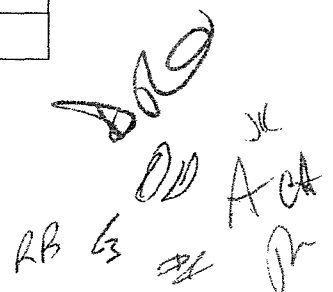

  
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<b>Definitions</b>	<b>Locked Provisions: JOA EL 1093</b>
1.1(6)	Accounting Procedure
1.1(10)	Agreement
1.1(17)	Authority for Expenditure of AFE
1.1(20)	Board
1.1(22)	Budget
1.1(24)	Capital Costs
1.1(51)	Development Plan
1.1(52)	Development Project
1.1(63)	Effective Date
1.1(70)	Exploration Licence
1.1(82)	Gas
1.1(92)	Joint Account
1.1(93)	Joint Lands
1.1(94)	Joint Project
1.1(95)	Joint Property
1.1(98)	Licence
1.1(100)	Management Committee
1.1(105)	Month
1.1(117)	Oil
1.1(118)	Operating Costs
1.1(119)	Operation
1.1(126)	Owner's Security
1.1(135)	Person
1.1(136)	Petroleum Substances
1.1(144)	Project AFE
1.1(147)	Project Agreements
1.1(148)	Project Assets
1.1(149)	Project Data
1.1(150)	Project Facilities
1.1(151)	Project Licence
1.1(158)	Receipt Point
1.1(165)	Royalty Default
1.1(170)	Security Package

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<b>Definitions</b>	<b>Locked Provisions: JOA EL 1093</b>
1.1(200)	Trustee
1.1(216)	Working Interest
1.1(217)	Year
<b>Clauses</b>	
1.4(J)	Agreements
Article 3	Scope of Agreement
6.3	Ownership
7.1(A)	Representatives
7.3	Authority to Vote
7.14	Vote of Management Committee Binding
9.1(A)(1)	Conduct of Operations: Control and Management of Operations
9.1(A)(5)	Conduct of Operations: Covenants of Operator
9.2(A)	Compliance by Operator
9.3(A)(3)	Obligations for Operations: Authorization for Expenditures
9.3(A)(12)	Obligations for Operations: Access to Operations
9.3(A)(15)	Obligations for Operations: Payment for Operations
9.5	Records
9.6(A)	General Reporting
21.1	Joint Account Expenditures
21.2(B)	Authorities for Expenditure and Changes in Scope
21.2(B)(1)	Authorities for Expenditure and Changes in Scope: Authorizations for Expenditures
21.2(C)	Overexpenditures
21.6	Audit Rights
22.13	Application of Recovered Amounts
22.19	Royalty Default
23.2	Insurance
Schedule C	Accounting Procedure
Schedule C, 1.1(R)	Project Support Facilities
Schedule C, 1.2	Joint Account Statements
Schedule C, 1.2(B)	Expenditures


  
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PARTY	INITIALS
HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR	CH
EXXONMOBIL CANADA PROPERTIES EXXONMOBIL CANADA LTD. EXXONMOBIL CANADA HIBERNIA COMPANY LTD.	SPO RH
PETRO-CANADA HIBERNIA PARTNERSHIP SUNCOR ENERGY INC.	G
CHEVRON CANADA RESOURCES CHEVRON CANADA LIMITED	RB
CANADA HIBERNIA HOLDING CORPORATION	A
MURPHY ATLANTIC OFFSHORE OIL COMPANY LTD.	DD
STATOIL CANADA LTD.	D
NALCOR ENERGY – OIL AND GAS INC.	JK

The person initialling is indicating that they have participated in, reviewed and will recommend approval of the document

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