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Memorandum of Understanding

Between:

Canada-Newfoundland and Labrador Offshore Petroleum Board

&

Fisheries and Oceans Canada

Herein described collectively as the Parties

1.0 PREAMBLE

WHEREAS, the Canada-Newfoundland and Labrador Offshore Petroleum Board (the Board) has responsibility for administering the provisions of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* (the *Accord Acts*); and,

WHEREAS, Fisheries and Oceans Canada (DFO) has statutory responsibilities in the Canada-Newfoundland and Labrador Offshore Area pursuant to the *Fisheries Act*, *Oceans Act*, *Species at Risk Act*, and the *Impact Assessment Act*; and,

WHEREAS, the Parties intend to cooperate on the efficient and effective review, and where deemed appropriate, approval and follow-up monitoring of offshore petroleum exploration and development projects, so as to promote economic development balanced by marine environmental protection and conservation; and,

WHEREAS, the Parties intend to identify priorities, opportunities and/or approaches that may strengthen regulatory processes for offshore petroleum-related activities, including continued advancement of policy, regulatory standards, industry best practice, and science and technology; and,

WHEREAS, the Parties intend to collaborate on the development and implementation of integrated management plans for marine and coastal waters, including associated actions pertaining to the management of Canada's commercial, recreational and Indigenous fishery resources, and aquatic species at risk listed on Schedule 1 of the *Species at Risk Act* and their critical habitat, marine environmental quality and the identification and management of Marine Protected Areas; and,

WHEREAS, subject to legislative and regulatory requirements, relevant proprietary rights and confidentiality obligations owed to any third parties, the Parties intend to promote information

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sharing, dissemination, and knowledge transfer, between themselves, and where permissible, with industry, academia, other organizations, and the public at large.

THEREFORE, the Parties agree to the following Memorandum of Understanding (MOU):

2.0 DEFINITIONS

For the purposes of this MOU, the following definitions apply.

- 2.1 “Environmental Management” is the act, manner or practice of managing, handling, supervision or control relating to, or being concerned with, the ecological impact of altering the environment.
- 2.2 “Offshore Area” has the same meaning as in Section 2 of the *Accord Acts*.
- 2.3 “Parties” means the Canada-Newfoundland and Labrador Offshore Petroleum Board (the Board) and Fisheries and Oceans Canada (DFO).
- 2.4 “SARA” means the *Species at Risk Act, S.C., 2002, c. 29*.

3.0 PURPOSE & SCOPE

- 3.1 This MOU pertains to the Board and DFO. The MOU does not apply to DFO's special operating agency the Canadian Coast Guard. The MOU is entered into pursuant to Section 46 of the *Accord Acts*, and Section 33 (1) (b) of the *Oceans Act*.
- 3.2 The Board is the lead organization responsible for the regulation and management of petroleum-related activities in the Canada-Newfoundland and Labrador Offshore Area (the Offshore Area). The role of the Board is to facilitate the exploration for and development of the hydrocarbon resources in the Offshore Area in a manner that conforms to the statutory provisions for worker safety, environmental protection and safety, effective management of land tenure, maximum hydrocarbon recovery and value, and Canada-Newfoundland and Labrador benefits. While the legislation does not prioritize these mandates, worker safety and environmental protection will be paramount in all Board decisions.
- 3.3 DFO is the lead federal agency responsible for supporting and promoting economically-prosperous maritime sectors and fisheries, sustainable aquatic ecosystems and safe and secure waters. Pursuant to the *Oceans Act*, DFO advances the integrated management

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and planning of marine activities in the offshore, including the development and implementation of Marine Protected Areas.

Pursuant to the *Fisheries Act*, DFO is responsible for the sustainability and ongoing productivity of commercial, recreational and Indigenous fisheries.

Pursuant to *SARA*, DFO has the authority to protect and facilitate recovery of aquatic species at risk listed on Schedule 1 of the Act including the identification and protection of their critical habitat.

- 3.4 It is not intended, nor will it be interpreted, that this MOU create a requirement for additional financial or human resources from either Party. Also, it is not intended, nor will it be interpreted, that this MOU creates, imposes, or implies any statutory or legal duties, rights, obligations, liabilities, claims, or actions on or against the Parties. It is further not intended, nor will it be interpreted, that this MOU gives to the Parties any power or authority that they do not otherwise hold nor does it relieve, exclude, or prohibit the Parties from performing any duties that they are responsible for under the applicable statutory authority by which they operate. For greater certainty, this MOU is not legally binding.
- 3.5 The MOU supports and promotes the effective coordination and planning of activities of mutual interest of the Board and DFO with respect to each organization's regulatory oversight in the Offshore Area. The MOU aims to ensure effective environmental review of projects; facilitate and promote sound management of activities related to the exploration and development of offshore petroleum resources; provide for the sustainability and ongoing productivity of commercial, recreational and Indigenous fisheries; promote the recovery and protection of aquatic species at risk listed on Schedule 1 of *SARA* and their critical habitat; and support the general well-being of the marine ecosystem and its biodiversity.

4.0 OBJECTIVES

The MOU provides a mechanism for the Board and DFO to work cooperatively towards objectives of mutual interest including, but not limited to:

- 4.1 Efficient and effective use of available resources to address marine environmental protection and conservation.
- 4.2 Identification of priorities, opportunities and/or approaches that may strengthen regulatory processes for offshore petroleum-related activities, including continued

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advancement of policy, regulatory standards, industry best practice and science and technology.

- 4.3 Subject to legislative and regulatory requirements, relevant proprietary rights and confidentiality obligations owed to any third parties, the Parties intend to promote information sharing, dissemination, and knowledge transfer, between themselves, and where permissible, with industry, academia, other organizations, and the public at large.

5.0 PRINCIPLES OF COOPERATION

The principles of cooperation guiding the Board and DFO under the MOU include:

- 5.1 **Sustainable Development:** sustainable development is economic development of resources that meets the needs of the present generation, but does not compromise the ability of future generations to meet their own resource needs (Brundtland — Our Common Future, 1987). Implicit in sustainable development is a recognition that social, economic and environmental factors are connected and must be considered collectively in decision making.
- 5.2 **Ecosystem Approach:** the management of human activities, based on the best understanding of the ecological interactions and processes, so as to ensure that ecosystems structure and functions are sustained for the benefit of present and future generations.
- 5.3 **Integrated Approach:** an integrated approach to management is the coordinated management between ocean regulators, sectors, and stakeholders, of all human activities in a management area.
- 5.4 **Precautionary Approach:** a precautionary approach to management errs on the side of caution. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
- 5.5 **Adaptive Management:** an adaptive approach to management recognizes that the landscape of management is continually changing, from new persons, new information and evolving ecosystems and that management practices must accommodate and respond to such changes.

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5.6 Promoting Economic Prosperity: resource development provides opportunity for economic diversity and prosperity, with informed and timely regulatory decision making processes supporting a predictable and transparent operating climate.

6.0 AREAS OF COOPERATION

6.1 DFO will be the principal advisor to the Board on marine ecosystem conservation and protection, fisheries and fisheries protection pursuant to the *Fisheries Act*, aquatic species at risk listed on Schedule I of *SARA* and their critical habitat, Marine Protected Areas pursuant to the *Oceans Act* and other ocean related matters.

6.2 Subject to Section 119 of the *Accord Acts*, and to the *Privacy Act* and the *Access to Information Act*, the Board will exchange with DFO such information and advice concerning those aspects of offshore petroleum-related activities which pertain, but will not be limited to, integrated ocean management planning including oceanography, hydrography, fisheries, avoidance of serious harm to fish, marine protected areas pursuant to the *Oceans Act* and aquatic species at risk listed on Schedule 1 of *SARA* and their critical habitat pursuant to *SARA*.

The Board and DFO may cooperate on matters including but not limited to the following:

6.3 Review and assessment of environmental issues related to offshore petroleum-related activities and projects in accordance with applicable legislation, regulations, and policies.

6.4 Review and recommendation of regulations, guidelines, and environmental management best practices.

6.5 Development and implementation of integrated management plans for marine and coastal waters, including associated actions pertaining to the management of Canada's commercial, recreational, and Indigenous fisheries, aquatic species listed on Schedule 1 of *SARA* and their critical habitat, marine environmental quality and the identification and management of Marine Protected Areas.

6.6 Recommendation of science research priorities and advice regarding the development of science research study proposals and terms of reference under the Environmental Studies Research Fund, Program of Energy Research and Development and/or any other science research mechanism.

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- 6.7 Design and review of programs to monitor environmental effects of offshore petroleum-related activities on marine and coastal ecosystems, species and other ocean users, as well as the analysis, interpretation and scientific review of monitoring results.
- 6.8 Information sharing and dissemination, subject to legislative and regulatory requirements, relevant proprietary rights, and confidentiality obligations owed to any third party, including, but not limited to, marine ecosystems and species, marine resources, commercial, recreational, and Indigenous fisheries, aquatic species listed on Schedule 1 of SARA and their critical habitat, and Marine Protected Areas.
- 6.9 Information sharing and dissemination, subject to legislative and regulatory requirements, relevant proprietary rights, and confidentiality obligations owed to any third party, including, but not limited to, environmental effects monitoring programs related to subsurface petroleum resources and offshore petroleum exploration and development activities.
- 6.10 Information sharing and dissemination, subject to legislative and regulatory requirements, relevant proprietary rights, and confidentiality obligations owed to any third party, including, but not limited to, the planning and implementation of offshore petroleum-related activities with respect to environmental contingency planning and environmental response, with consideration of each organization's commitment to marine environmental emergencies and spills.

7.0 SCIENTIFIC INFORMATION AND RESEARCH

- 7.1 The Parties will seek to collaborate on matters concerning research relevant to the Offshore Area. Such collaboration will include, but will not be limited to, those matters listed in 7.2.
- 7.2 DFO will be one of the principal sources of information to the Board on both the marine environment and the effects of offshore petroleum-related activities on the marine and coastal environments. Information may be provided on marine ecosystems in relation to fish, fisheries, fish habitat, aquatic species at risk listed on Schedule 1 of SARA and their critical habitat, marine mammals, Marine Protected Areas pursuant to the *Oceans Act*, hydrography, physical, chemical and biological oceanography, environmental effects, mitigation and contingency planning.
- 7.3 DFO acquires, receives and archives oceanographic data, develops data describing the marine ocean climate in the Offshore Area and will, upon request, and subject to the

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federal *Privacy Act* and the federal *Access to Information Act*, provide such data to the Board.

- 7.4 Upon request, and subject to section 119 of the *Accord Acts*, and to the federal *Privacy Act* and the federal *Access to Information Act*, the Board will make available to DFO the biological, oceanographic, meteorological and ice data collected by offshore operators in the course of their activities as it becomes available to the Board.
- 7.5 When requesting information and/or data, the requesting signatory Party will advise on the preferred media and format to be used to provide requested information and/or data. Also, both Parties will ensure that the media and format used to share data and information are updated as required to ensure maximum utility and efficiency.
- 7.6 DFO, in establishing its research priorities, may consult with the Board and take into consideration, requirements arising from petroleum-related activities in the Offshore Area.

8.0 INDUSTRY ACTIVITIES

- 8.1 Subject to Section 119 of the *Accord Acts* and to the federal *Privacy Act* and the federal *Access to Information Act*, the Board will provide to DFO general information on offshore petroleum-related activities, including for example, information on issuance of exploration licenses, marine seismic surveys, drilling program authorizations, approvals to drill wells, contingency plans for marine emergencies, environmental studies, production and transportation operations and decommissioning or abandonment.
- 8.2 The Board will collaborate with DFO in developing and reviewing monitoring studies to assess the effects of offshore petroleum-related activities on fish, fish habitat, marine mammals and the marine and coastal environments.
- 8.3 If during the course of the Board or DFO planning or carrying out any surveillance activities in relation to petroleum-related activities in the Offshore Area it appears that the other Party should be involved, the Party conducting the surveillance will promptly notify the other so that arrangements may be made to share information and to proceed jointly where warranted.

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9.0 ENVIRONMENTAL MANAGEMENT

- 9.1 It is acknowledged that the Board and DFO both or separately have responsibilities in relation to the *Fisheries Act*, the *Oceans Act*, *SARA*, the *Impact Assessment Act* and the *Accord Acts*.
- 9.2 Where the Board has responsibilities related to Regional or Strategic Environmental Assessments or respecting to the implementation of Decision Statements issued pursuant to the *Impact Assessment Act*, DFO will support the Board on matters related to the *Fisheries Act*, *Oceans Act*, and *SARA*.
- 9.3 DFO will support the Board to ensure effective *Accord Act* environmental review of projects not designated under the *Impact Assessment Act*, pursuant to DFO's responsibilities under the *Fisheries Act*, *Oceans Act*, and *SARA*.
- 9.4 Where applicable to DFO's mandate, the Board will consult with DFO in the development of environmental standards, guidelines, and best practices to be applied to offshore petroleum-related activities, and DFO will assist the Board in their development.
- 9.5 Specifically in relation to "Condition 14 - Other effective area-based conservation measures" of the "Regulations Respecting Excluded Physical Activities (Newfoundland and Labrador Offshore Exploratory Wells)":
- i. DFO will, in a timely manner, advise on and review plans from proponents of exploratory drilling to avoid or mitigate effects in areas where there is an Other Effective Area-Based Conservation Measure(s) in place (OECM Plans),
 - ii. the Board will, before authorizing exploratory drilling activities in an area where there is an OECM(s) in place, obtain confirmation from DFO that the associated OECM Plan is satisfactory, and
 - iii. the Board will require the OECM Plan to be implemented as a condition of relevant Operations Authorizations it issues to operators.

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10.0 CONTINGENCY PLANNING

- 10.1 The Board recognizes the roles of DFO in contingency planning and will collaborate with DFO on matters pertaining thereto.
- 10.2 The Board will provide to DFO, on a priority basis, information on any pollution incident, threat of a pollution incident, or other incident affecting marine ecosystems in relation to fisheries, fish, fish habitat, Marine Protected Areas, aquatic species at risk listed on Schedule 1 of SARA and their critical habitat.
- 10.3 In the event of an environmental emergency, DFO will endeavour to provide such advice and services as may be requested by the Board.

11.0 LIABILITY AND COMPENSATION

DFO will provide the Board with information to assist in the development, implementation and effectiveness of the compensation regime contemplated under the *Accord Acts*.

12.0 PUBLIC REVIEW

The Board will notify DFO of any public review processes, or other environmental or project review processes to be undertaken by it, so that reasonable notice is given to permit DFO to prepare for the processes.

13.0 IMPLEMENTATION & GOVERNANCE

- 13.1 **Executive Committee:** The Executive Committee is the principal body responsible for advancing the objectives of the MOU. The Committee consists of the Chief Executive Officer of the Board, and the Regional Director-General of DFO Newfoundland and Labrador Region. The Executive Committee will oversee advancement of the MOU on behalf of both parties. The Executive Committee will appoint an Implementation Committee to implement the MOU. The Executive Committee will review and approve Implementation Committee Annual Activity Plans and Reports. The Executive Committee may meet as it deems necessary to discuss matters concerning the MOU, or the Annual Activity Plans and Reports.
- 13.2 **MOU Implementation Committee:** The Implementation Committee is the principal body responsible for implementation of the MOU and the production of Annual Activity Plans and Reports for submission to the Executive Committee. The

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Committee reports to the Executive Committee. It is to consist of senior management staff members from the Board and DFO and will meet as frequently as necessary, but not less frequently than once annually, to review matters arising from this MOU, discuss collaborative or joint initiatives undertaken accordingly, establish ad-hoc working groups as required and to ensure that the MOU is being effectively implemented. The Implementation Committee will seek to improve communications, areas of cooperation, and protocols where opportunities present themselves.

- 13.3 **Other Advisory Committees:** The Board may also be represented on DFO-led advisory committees for initiatives carried out pursuant, but not limited to, the *Oceans Act*, *Fisheries Act*, and *SARA*, for those activities that may be applicable to the Board's jurisdiction of authority in the Offshore Area.

14.0 TERMS & CONDITIONS

No items in the MOU shall be construed as the creation of any duties, granting of powers, requiring the allocation of resources, or preventing either Party from exercising their legislative mandate and regulatory authorities within their jurisdiction of authority in the Offshore Area. General terms and conditions of the MOU include, but are not limited to:

- 14.1 **Duration:** the MOU is intended to take effect on the date of the last signature by the Parties for a period of ten years, before which time it will be reviewed and may be renewed, upon agreement of both Parties, prior to its expiry.
- 14.2 **Termination:** the MOU may be terminated by either Party with minimum 30 days' written notice.
- 14.3 **Governance:** the MOU will be adjusted, as appropriate, if organizational changes to either entity occur.
- 14.4 **Amendment:** the MOU may be amended at any time, upon agreement in writing by both Parties.
- 14.5 **Entire Understandings:** this MOU replaces the July 31, 2014 MOU between the Parties and supersedes all previous discussions relating to the subject matter unless otherwise incorporated in this MOU.



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15.0 DESIGNATES

- 15.1 The following is the title of the Board Designate and contact information for the purposes of communication of information in relation to this MOU is:

Director of Environmental Affairs

Canada-Newfoundland and Labrador Offshore Petroleum Board
1st Floor, 140 Water Street
St. John's NL

Telephone: 709-778-4232

Email: eyoung@cnlopb.ca

- 15.2 The following is the title of the DFO Designate and contact information for the purposes of communication of information in relation to this MOU is:

Director of Fish and Fish Habitat Protection Program

Ecosystems Management, Department of Fisheries and Oceans
Box 5667, 80 East White Hills Road
St. John's, NL

Telephone: 709-749-0464

Email: Ann-margaret.white@dfo-mpo.gc.ca

- 15.3 A Party may change the designate or contact information of any designate by giving notice to the other Party in writing.

16.0 CONFLICT RESOLUTION

Issues that arise in relation to this MOU that cannot be resolved by the respective DFO Designate and the Board Designate will be referred to the Executive Committee for resolution.



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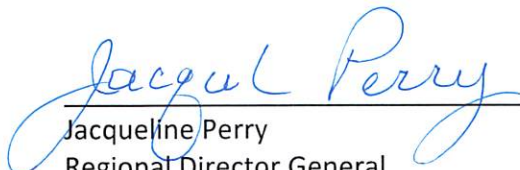
APPROVAL:

The underlying signatories represent approval of the MOU and a commitment of the respective organizations to fulfill the intent of the MOU:

Fisheries and Oceans Canada:

Signed on the 9 day of

July, 2020



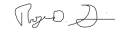
Jacqueline Perry
Regional Director General
Fisheries and Oceans Canada
Newfoundland and Labrador Region

**Canada-Newfoundland and Labrador Offshore
Petroleum Board:**

Signed on the 13th day of

July, 2020

DocuSigned by:



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Roger Grimes
Chair
Canada-Newfoundland and Labrador Offshore
Petroleum Board