

EXCHANGE AGREEMENT

Dated _____ **20**

(1) []

(2) []

AGREEMENT

for the exchange of assets

in relation to

the [] Field

and

the [] Field

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THIS AGREEMENT is made this day of 20

BETWEEN:

- (1) [Party 1] incorporated in [] (Company Number []) and having its registered office at [] (the “[Party 1]”); and
- (2) [Party 2] incorporated in [] (Company Number []) and having its registered office at [] (the “[Party 2]”); and

WHEREAS:

- (A) [Party 1] is the owner of the [Party 1] Assets and [Party 2] is the owner of the [Party 2] Assets;
- (B) The Parties wish to exchange the [Party 1] Assets for the [Party 2] Assets for certain strategic reasons including:
 - (i) []and accordingly such aims shall only be achieved if all of the [Party 1] Assets are exchanged for all of the [Party 2] Assets and not otherwise; and
- (C) The Parties wish to set out herein the terms and conditions upon which the aforesaid exchange shall take place;.

NOW IT IS HEREBY AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following expressions shall, except where the context otherwise requires, have the following meanings:

“Accrual Basis of Accounting” means the basis of accounting under which costs and benefits are regarded as applicable to the period in which the liability to the cost is incurred or the right to the benefit arises regardless of when invoiced, paid or received;

“Adjustments” shall have the meaning given in Clause 3.2;

“Affiliate” means a company which is directly affiliated with another company or companies;

“Assignee” means [Party 1] in relation to the [Party 2] Assets and [Party 2] in relation to the [Party 1] Assets, all as detailed in Schedule 2;

“Assignor” means [Party 1] in relation to the [Party 1] Assets and [Party 2] in relation to the [Party 2] Assets, all as detailed in Schedule 2;

“Assignor Account” means the [Party 1] Account in relation to [Party 1] and the [Party 2] Account in relation to [Party 2];

“Assignor Assets” means all or a relevant part of the [Party 1] Assets where [Party 1] is the Assignor and/or all or a relevant part of the [Party 2] Assets where [Party 2] is the Assignor, all as detailed in Schedule 2 and as the context requires;

“Assignor Asset Documents” means the relevant [Party 1] Asset Documents listed in the relevant Paragraph of Schedule 2 where [Party 1] is the Assignor and the relevant [Party 2]

Asset Documents listed in the relevant Paragraph of Schedule 2 where [Party 2] is the Assignor;

“Assignor Consideration” means the [Party 1] Assets Consideration where [Party 1] is the Assignor and the [Party 2] Consideration where [Party 2] is the Assignor;

“Assignor Completion Documents” means assignment and novation agreements in respect of the Assignor Asset Documents signed by all parties thereto prior to Completion, which shall (to the extent appropriate) be executed as execution deeds in accordance with the Master Deed issued by Oil & Gas UK and dated 28 April 2003, together with any other documents the Assignor and Assignee (acting reasonably) agree are necessary to effect the assignment and transfer of the Assignor Asset to the Assignee and release the Assignor and its Affiliates from contractual liability to Relevant Third Parties and other third parties with respect to the Assignor Asset;

“Assignor Asset Data” means the relevant part of the [Party 1] Data where [Party 1] is the Assignor and the relevant part of the [Party 2] Data where [Party 2] is the Assignor;

“Assignor Data Room Documents” means [Party 1] Data Room Documents in relation to [Party 1] and the [Party 2] Data Room Documents in relation to [Party 2];

[“Assignor Decommissioning Agreement” means the [Party 1] Decommissioning Agreement in relation to [Party 1] and the [Party 2] Decommissioning Agreement in relation to [Party 2];]

“Assignor Disclosure Letter” means the [Party 1] Disclosure Letter where [Party 1] is the Assignor and the [Party 2] Disclosure Letter where [Party 2] is the Assignor;

“Assignor Licence” means the relevant [Party 1] Licence where [Party 1] is the Assignor and the relevant [Party 2] Licence where [Party 2] is the Assignor, all as detailed in Schedule 2;

“Assignor Operating Agreement” means the [Party 1] Operating Agreement where [Party 1] is the Assignor and the [Party 2] Operating Agreement where [Party 2] is the Assignor;

“Assignor Secretary of State Consents” means the approval of the Secretary of State to the transfer of the Assignor Asset to the Assignee contemplated by this Agreement and the Assignor Completion Documents, the consent of the Secretary of State to the assignment of the Licences and the agreement of the Secretary of State to the substitution of the Assignee for the Assignor as the operator under the Licence and as a designated owner in relation to the relevant fields under [the Petroleum Act 1987] [NOTE – CONFIRM THIS IS CURRENT ACT];

“Assets” means the [Party 1] Assets and the [Party 2] Assets;

“Block” means an offshore area located on the United Kingdom Continental Shelf (UKCS) forming part of a Licence and being separately designated and numbered as a block on the reference map showing all UKCS Licence Blocks deposited at the Department of Energy and Climate Control;

“Business Day” means a day, other than a Saturday or Sunday, on which banks are or, as the context may require, were generally open for normal business in London;

“Charging Party” has the meaning given in Clause 8.4.7;

“Completion” means the fulfilment by the Parties of their respective obligations pursuant to Clause 4.1;

“Completion Date” means the date occurring [three (3) Business Days] after satisfaction or waiver of the last of the Conditions Precedent (other than that contained in []) or such other date as shall be agreed by the Parties;

“Conditions Precedent” has the meaning given in Clause 2.2;

“Consideration” means the [Party 1] Consideration and/or the [Party 2] Consideration, as the context so requires;

“Decommissioning” means the abandoning (which shall be deemed to include any residual liability for making safe, maintaining, monitoring and insuring), decommissioning, dismantling, demolition, removal and/or disposal of the Assignor Asset or any part thereof including any operations carried out in connection with or in contemplation of the foregoing (including but not limited to planning, acquiring long-lead items and maintenance of the Assignor Asset following cessation of production but pending the commencement of decommissioning operations), together with any necessary site reinstatement (including the proper plugging, replugging and abandoning of all wells associated with the Assignor Asset, whether drilled or plugged before, on or after the Economic Date), all as may be required under:

- (a) any relevant legislation; and/or;
- (b) the relevant Assignor Licences; and/or
- (c) the relevant Assignor Operating Agreements; and/or
- (d) other agreements entered into by all the Licensees or by the Operator on behalf of all the relevant Licensees;

“Decommissioning Liabilities” means any costs, charges, expenses, liabilities and obligations incurred in abandoning and/or Decommissioning any Assignor Asset (including but not limited to wells and facilities) whether such loss, charges, expenses, liabilities and obligations are incurred pursuant to any statutory, common law or other obligation [and regardless of negligence on the part of the Assignor];

“Economic Date” means 00.01 hours on [];

“Environmental Liabilities” means all costs, charges, expenses, liabilities and obligations (other than Decommissioning Liabilities) incurred in respect of the Assignor Asset in relation to cleaning up, removing debris or any Assignor Asset from and for reinstating any are of land, foreshore or seabed, wherever situated, whether such costs, charges, expenses, liabilities and obligations and obligations are incurred pursuant to any statutory, common law or other obligation and regardless of negligence on the part of the Assignor;

“Interim Period” means the period from the Economic Date until the Completion Date;

“Licences” means the [Party 1] Licences and the [Party 2] Licences and the terms “Licence” shall be construed accordingly;

“Licensee” means a licensee under the relevant Licence and the term “Licensees” shall be construed accordingly;

“Oil and Gas UK” means The United Kingdom Offshore Oil and Gas Industry Association trading as “Oil and Gas UK”, formerly known as “UKOOA”;

“Operator” means the entity appointed as operator pursuant to the relevant Assignor Operating Agreement, the current Operator being identified in the relevant Part of Schedule 2;

“Party” means a party to this Agreement and “Parties” shall be construed accordingly;

“[Party 1]’s Account” means Account Number [] (Ref: []) Account Name: [] at [];

“[Party 1] Assets” means:

- (a) an undivided legal interest in the [Party 1] Licence;
- (b) [Party 1]’s [entire/ []%] undivided beneficial right, title and interest in and under the following:
 - (i) the [Party 1] Licence(s) to the extent relating to the [] Field;
 - (ii) the [Party 1] Operating Agreements (such right, title and interest as of the date hereof being [] percent ([]%);
 - (iii) the [Party 1] Asset Documents;
 - (iv) the [Party 1] Asset Property; and
 - (v) the [Party 1] Asset Data.

“[Party 1] Asset Documents” means those deeds, agreements, letters and other documents specified in Schedule 2 as they may have been assigned, amended or novated from time to time;

“[Party 1] Asset Property” means the Facilities as defined in the [Party 1] Operating Agreement;

“[Party 1] Assets Consideration” means the consideration payable by [Party 2] to [Party 1] for the [Party 1] Assets in accordance with Clause 3 hereof;

“[Party 1] Data” means all accounts, books and data received by and remaining in the possession of [Party 1] and its Affiliates relating to the [Party 1] Assets including, without prejudice to the generality of the foregoing, the Traded Data, contracts, correspondence, information, data and reports (including petroleum engineering, reservoir engineering, drilling, geological, geophysical and all other kinds of technical data and reports, samples and well-logs and analyses in whatever form the same are maintained);

“[Party 1] Data Room Documents” means the documents relating to the Party 1 Assets made available for [Party 2]’s inspection in the data room located at [Party 1]’s offices at [] from [] to [], together with such other documents as [Party 1] may have notified to the [Party 2] in writing prior to the date hereof and as specified in the [Party 1] Disclosure Letter and, in the event that Completion takes place, such other document as [Party 1] may have notified to [Party 2] in writing during the Interim Period, and where context so permits, any one or more of such documents, an inventory of which is contained in Part A of Schedule 3 to this Agreement;

“[Party 1] Decommissioning Agreement” means [] [];

“[Party 1] Disclosure Letter” means the disclosure letter from [Party 1] to [Party 2] in which disclosure is made against certain specific warranties dated of even date herewith and delivered to [Party 2] immediately prior to the signature of this Agreement;

“[Party 1] Licence” means each or any of the Licences of which details are set out in Paragraph (A), Part 1 of Schedule 2 to the extent that such Licences relate to the Blocks or part thereof identified in Part 1 of Schedule 2 [and “[Party 1] Licences” shall be construed accordingly;

“[Party 1] Operating Agreement” means the joint operating agreement and/or unit operating agreement currently in force in respect of operations pursuant to a Licence, as identified in the relevant part of Schedule 2;

“[Party 2]’s Account” means Account Number [] (Ref: []) Account Name: [] at [];

“[Party 2] Assets” means:

- (a) an undivided legal interest in the [Party 2] Licence; and
- (b) [Party 2]’s [entire/ []%] undivided beneficial right, title and interest in and under the following:
 - (i) the [Party 2] Licence(s) to the extent relating to the [] Field;
 - (ii) the [Party 2] Operating Agreements (such right, title and interest as of the date hereof being [] percent ([]%);
 - (iii) the [Party 2] Asset Documents;
 - (iv) the [Party 2] Asset Property; and
 - (v) the [Party 2] Asset Data;

“[Party 2] Assets Consideration” means the consideration payable by [Party 1] to [Party 2] for the [Party 2] Assets in accordance with Clause 3 hereof;

“[Party 2] Asset Documents” means those deeds, agreements, letters and other documents specified in Schedule 2 as they may have been assigned, amended or novated from time to time;

“[Party 2] Asset Property” means the Facilities, as defined in the [Party 2] Operating Agreement;

“[Party 2] Data” means all accounts, books and data received by and remaining in the possession of [Party 2] and its Affiliates relating to the [Party 2] Assets including, without prejudice to the generality of the foregoing, the Traded Data, contracts, correspondence, information, data and reports (including petroleum engineering, reservoir engineering, drilling, geological, geophysical and all other kinds of technical data and reports, samples and well-logs and analyses in whatever form the same are maintained;

“[Party 2] Data Room Documents” means the documents relating to the Party 2 Assets made available for [Party 1]’s inspection in the data room located at [Party 2]’s offices at [] from [] to [], together with such other documents as [Party 2] may have notified to the

[Party 1] in writing prior to the date hereof and as specified in the [Party 2] Disclosure Letter and, in the event that Completion takes place, such other document as [Party 2] may have notified to [Party 1] in writing during the Interim Period, and where context so admits, any one or more of such documents, an inventory of which is contained in Part B of Schedule 3 to this Agreement;

“[Party 2] Decommissioning Agreement” means [];]

“[Party 2] Disclosure Letter” means the disclosure letter from [Party 2] to [Party 1] in which disclosure is made against certain specific warranties dated of even date herewith and delivered to [Party 1] immediately prior to the signature of this Agreement;

“[Party 2] Licence” means each or any of the Licences of which details are set out in Paragraph (A), Part 2 of Schedule 2 to the extent that such Licences relate to the Blocks or part thereof identified in Part 2 of Schedule 2 [and “[Party 2] Licences” shall be construed accordingly;

“[Party 2] Operating Agreement” means the joint operating agreement and/or unit operating agreement currently in force in respect of operations pursuant to a Licence, as identified in the relevant part of Schedule 2;

“Petroleum” shall have the meaning given in the Licenses;

“Post-Economic Date Benefits” means all benefits, credits and other value attributable to the Assignor Asset to the extent applicable on an Accrual Basis of Accounting to the period after the Economic Date;

“Pre-Economic Date Benefits” means all benefits, credits and other value attributable to the Assignor Asset to the extent applicable on an Accrual Basis of Accounting to the period prior to the Economic Date;

“Pre-Economic Date Costs” means all costs, charges, expenses, liabilities and obligations in respect of the Assignor Asset to the extent applicable on an Accrual Basis of Accounting to the period prior to the Economic Date;

“Post Economic Date Costs” means all costs, charges, expenses, liabilities and obligations in respect of the Assignor Asset to the extent applicable on an Accrual Basis of Accounting to the period after the Economic Date;

“PRT” means Petroleum Revenue Tax as charged under the Oil Taxation Act 1975;

“Reference Interest Rate” means [];

“Relevant Third Party” means a party (other than the Assignor) to any or all of the Assignor Asset Documents and “Relevant Third Parties” shall be construed accordingly;

“Revenue” has the meaning given in Clause 8.1;

“Secretary of State” means the Secretary of State for Energy and Climate Change of the United Kingdom or any other person for the time being responsible for carrying out the functions at present carried out by him in relation to the Assignor Asset;

“Traded Data” means, with respect to the relevant Block forming part of the Assignor Asset, data which relates to an area outside such Block and which has been acquired by trade, purchaser or otherwise by and on behalf of the Assignor (either alone or in

conjunction with other parties) as a Licensee of the Assignor Licences, from a third party or parties where such data cannot be provided to the Assignee because such transfer is prohibited by the agreement under which they were acquired; “Value” shall have the meaning given in Clause 3.3;

“VAT” means Value Added Tax charged under the Value Added Tax Act 1994;

“Voting Matter” shall have the meaning given in Clause 9.2.3;

“Warranties” means the representations and warranties given under Clause 6; and

“Warranty Claim” means any claim by the Assignee in relation to any breach by the Assignor of the Warranties.

- 1.2 All references to Clauses, recitals and Schedules are, unless otherwise expressly stated, references to clauses of and recitals and schedules to this Agreement.
- 1.3 The headings in this Agreement are inserted for convenience only and shall be ignored in constructing the Agreement
- 1.4 Save in respect of the foregoing definitions of “Affiliates,” any reference to any statute or statutory instrument in this Agreement shall be a reference to the same as amended, supplemented or re-enacted from time to time.
- 1.5 Unless the context otherwise requires, reference to the singular shall include the plural and vice versa, reference to any gender shall include all genders, and references to persons shall include natural persons, bodies corporate, unincorporated associations and partnerships.

2. TRANSFER OF ASSETS

2.1

2.1.1 Subject as herein provided and in consideration of and subject to the transfer referred to Clause 2.1.2, [Party 1] as legal and beneficial owner hereby agrees to transfer the [Party 1] Assets free from all liens, charges, mortgages, pledges, encumbrances or security interests whatsoever relating thereto [(other than as described in the [Party 1] Disclosure Letter)] to [Party 2] for the [Party 1] Assets Consideration and [Party 2] agrees to accept the [Party 1] Assets all as at Completion; and

2.1.2 Subject as herein provided and in consideration of and subject to the transfer referred to Clause 2.1.1, [Party 2] as legal and beneficial owner hereby agrees to transfer the [Party 2] Assets free from all liens, charges, mortgages, pledges, encumbrances or security interests whatsoever relating thereto [(other than as described in the [Party 2] Disclosure Letter)] to [Party 1] for the [Party 2] Assets Consideration and [Party 1] agrees to accept the [Party 2] Assets all as at Completion.

2.2 The obligations of the Parties under Clause 2.1 are conditional on the satisfaction of the following conditions (the “Conditions Precedent”):

[2.2.1 receipt by the Assignor of a waiver in writing by the Relevant Third Parties of their pre-emption rights pursuant to the relevant provisions the [relevant] Assignor Operating Agreement or satisfaction of such provisions without any Relevant

Third Party attempting to acquire the Assignor Asset in accordance with such provisions;]

[2.2.2 confirmation from all Relevant Third Parties to the [relevant] Assignor Operating Agreement that;

(a) they are satisfied with the form of letter of credit to be forwarded to the Assignee under Clause [] hereof; and

(b) that the Relevant Third Parties to the [relevant] Assignor Operating Agreement shall release the Assignor from the security provided by the Assignor pursuant to the Assignor Decommissioning Agreement;]

[2.2.3 the Assignor having confirmed in writing to the best of its knowledge and belief there has not occurred prior to the Completion Date any substantial loss of or physical damage to the Assignor Asset which would materially and adversely affect the value of the Assignor Asset]; [or see 4.1. and 4.5]

2.2.4 the Assignor Secretary of State Consents having been duly obtained by the Assignor; and

2.2.5 the due execution by the signatory parties (other than the Parties) of the Assignor Completion Documents and the receipt by the Parties from the other parties to Assignor Completion Documents of all requisite consents and approvals to the transactions contemplated by this Agreement.

2.3 The Parties shall use all reasonable endeavours to ensure that the Conditions Precedent are satisfied as soon as reasonably practicable.

2.4 If any of the Conditions Precedent have not been satisfied or waived on or before [] this Agreement shall terminate and cease to have any effect and no Party shall have any liability to another under this Agreement except in respect of Clause 13 and any breach of the terms hereof committed before such date.

2.5 Neither [Party 1] nor [Party 2] shall be obliged to complete the transfer of the Assets unless the transfer of all the Assets (without exception) is completed simultaneously.

3. CONSIDERATION

3.1

3.1.1 In consideration of the transfer of the [Party 1] Asset by [Party 1] to [Party 2], [Party 2] shall transfer the [Party 2] Assets together with such sum as shall be payable in accordance with the provisions of Clause 7 of this Agreement to be apportioned as follows:-

(a) to plant, machinery, industry buildings and other fixed assets included in the Assignor Asset, the sum of []; and

(b) to the remainder of the [Party 1] Assets:-

(i) the sum of []; and

(ii) [such sum as shall be payable in accordance with the provisions of Clause 7 of this Agreement;]

or to be apportioned on such other basis as the Parties may agree.]

- 3.2 The Parties agree that monetary amounts shall be payable under this Agreement in accordance with the provisions of Clause 7 of the Agreement (the “Adjustments”). The Consideration shall be deemed for all purposes hereunder to be adjusted by the Adjustments which shall be deemed to be increases and decreases, as the case may be, to the Consideration and references in this Agreement to the Consideration shall be construed accordingly.

4. COMPLETION

- 4.1 Subject to the satisfaction or waiver of the Conditions Precedent [and Clause 4.3], completion of the exchange of the Assets shall take place on the Completion Date at the Completion Value when the following shall take place in the following order:-

4.1.1 the Assignor shall:-

- (a) deliver to the Assignee copies of the Assignor Secretary of State Consents;
- (b) deliver to the Assignee the Assignor Completion Documents duly executed by all of the parties thereto other than the Secretary of State and the Assignee;
- (c) deliver to the Assignee a copy, certified as a true copy (in accordance with section 3 of the Power of Attorney Act 1971) of the Power of Attorney authorising the execution of the Assignor Completion Documents on behalf of the Assignor; and
- (d) deliver written confirmation that the Conditions Precedent referred to at Clause 2.2.4 has been fulfilled.

4.1.2 the Assignee shall:-

- (a) pay to the Assignor the Assignor Consideration together [with interest accrued pursuant to Clause 3.2] by means of a direct transfer in cleared readily available funds to the Assignor’s Account no later than close of business London time, on the Completion Date;
- (b) execute all the Assignor Completion Documents to which it is to be party and deliver copies thereof, certified as true copies, to the Assignor;
- (c) deliver to the Assignor a copy, certified as a true copy (in accordance with section 3 of the Power of Attorney Act 1971) of the Power of Attorney authorising the execution of the Assignor Completion Documents on behalf of the Assignee; and
- (d) [deliver to the Operator a letter of credit in the form and amount agreed by the Operator to the Assignee’s liability pursuant to the Assignor Decommissioning Agreement].

- 4.2 Each of the Parties shall, and shall procure that its respective Affiliates shall, execute such other documents and do all such other acts and things as may reasonably be required in order to effect the disposal of the Assignor Asset to the Assignee and otherwise carry out the true intent of this Agreement.

- 4.3 The Assignor shall deliver to the Assignee the Assignor Asset Data, the Assignor Asset Documents, the Assignor Data Room Documents and such other documents relevant to the Assignor Asset as the Assignee may reasonably request as soon as practicable following the Completion Date but no later than thirty (30) days following the Completion Date.
- 4.4 [If prior to Completion, material loss or damage is sustained to the Assignor Asset (or any part thereof), the Assignee shall not be obliged to complete the sale and purchaser of the Assignor Asset and shall have the right by notice in writing to the Assignor to terminate this Agreement without prejudice to the rights and obligations accrued prior to termination.] [See 2.2.4].

5. PRE & POST ECONOMIC DATE COSTS AND BENEFITS

- 5.1 The rights and obligations in this Clause 5 shall not come into effect unless and until Completion takes place.
- 5.2
- 5.2.1 The Assignor agrees to indemnify, keep indemnified and hold harmless the Assignee against Pre-Economic Date Costs which are paid by the Assignee.
- 5.2.2 Subject to Clause 8.4, the Assignee shall pay to the Assignor an amount equal to the Pre-Economic Date Benefits received by the Assignee.
- 5.3
- 5.3.1 The Assignee agrees to indemnify, keep indemnified and hold harmless the Assignor against any Post-Economic Date Costs which are paid by the Assignor, provided that the payment of the sums require to be paid under Clause 7 shall wholly satisfy such obligation to indemnify in respect of Post Economic Date Cost applicable on an Accrual Basis of Accounting to the period prior to the Economic Date.
- 5.3.2 Without prejudice to the generality of the foregoing, the Assignee agrees to indemnify, keep indemnified and hold harmless the Assignor harmless against any Decommissioning Liabilities and any Environmental Liabilities of whatsoever nature and howsoever arising before or after the Post Economic Date.
- 5.3.3 Subject to Clause 8.4, the Assignor shall pay to the Assignee an amount equal to the Post-Economic Date Benefits received by the Assignor.

6. REPRESENTATIONS AND WARRANTIES

- 6.1
- 6.1.1 Subject to the provisions of this Clause 6, the Assignor represents and warrants to the Assignee that, except insofar as described in the Assignor Disclosure Letter or disclosed prior to Completion pursuant to the provisions of Clause 6.6, the representations made in Schedule 1(A) to this Agreement are true and accurate [in all material respects] [and the Assignee admits that it has not entered into this Agreement in reliance upon any representations or promise other than those incorporated in the Assignor Disclosure Letter or this Agreement].
- 6.1.2 The Assignee represents and warrants to the Assignor that the representations made in Schedule 1(B) to this Agreement are true and accurate.

- 6.2 The Warranties referred to in Clause 6.1 shall be deemed to be repeated immediately prior to Completion.
- 6.3 Save only as and to the extent set forth in this Clause 6, the Assignor makes no representations or warranties in respect of any matter or thing and disclaims all liability and responsibility for any representation, warranty, statement, opinion or information made or communicated (orally or in writing) to the Assignee in connection with the transaction contemplated hereby and the Assignee acknowledges and affirms that it has not relied upon any such representation, warranty, statement, opinion or information in entering into and carrying out the transaction contemplated by this Agreement. Without limiting the generality of the foregoing, the Assignor makes no forecasts or evaluations.
- 6.4 The provisions of this Clause shall operate to limit the liability of the Assignor under or in connection with the Warranties and the Assignor Disclosure Letter and references to 'such liabilities' shall be construed accordingly. The Parties agree as follows:
- 6.4.1 no liability shall attach to the Assignor unless the aggregate amount of such liabilities shall exceed the total sum of £[] or [five percent (5%) of the Consideration] but if such liabilities shall exceed that sum the Assignor shall (subject to the other provisions hereof) be liable for the whole of such liabilities and not merely the excess;
- 6.4.2 the aggregate amount of such liabilities shall not exceed [£] [the Consideration]; and
- 6.4.3 claims against the Assignor shall be wholly barred and unenforceable unless written particulars thereof (giving reasonable details of the specific matter or claim in respect of which such claim is made so far as then known to the Assignee) shall have been given to the Assignor within a period of [twenty-four (24) months] from the Completion Date.
- 6.5 If any amount is paid to the Assignee pursuant to a Warranty Claim and an amount which is referable to that Warranty Claim is subsequently recovered by the Assignee from a third party, so much of the amount paid as does not exceed the amount recovered from the third party (less all reasonable costs, charges and expenses incurred in obtaining such payment and in recovering such amount from the third party) shall be repaid to the Assignor forthwith.
- 6.6 The Assignor shall not do any act or thing, or authorise any act or thing to be done over which it has control or which it can otherwise by the exercise of any right or power prevent from being done, which would prevent any of the Warranties from being true and accurate if repeated immediately prior to Completion. If, notwithstanding the foregoing provisions of this Clause 6.6, any matter or thing occurs after the date hereof but prior to Completion which would be inconsistent with the Warranties being true and accurate [in all material respects] on Completion, the Assignor shall give notice in writing to the Assignee as soon as reasonably practicable and in any event prior to Completion stating such matter or thing and that it is disclosed pursuant to this Clause 6.6.
- 6.7 In the event of any material matter or thing inconsistent with any of the Warranties given by the Assignor becomes known or being notified to the Assignee on or before the Completion Date, the Assignee shall not be bound to complete the acquisition of the Assignor Assets and the Assignee may, by notice in writing to the Assignor prior to Completion, terminate this Agreement, without prejudice to rights and obligations accrued prior to termination.

- 6.8 [The Assignor shall not be liable under any Warranty Claim in respect of any matter(s) of which the Assignee or its agent or those for whom it is otherwise responsible have knowledge (actual or constructive) whether as the result of its/their investigation of the Assignor Assets (including access to the Assignor Data Room Documents for that purpose) or otherwise.]
- 6.9 [The Assignee warrants to and agrees and undertakes with the Assignor that there are no circumstances (save as those disclosed in the Assignor Disclosure Letter) within the actual knowledge of the Assignee or its agents or those for whom it is otherwise responsible at the date hereof and no circumstances will exist at Completion which will (or might) entitle the Assignee to make any Warranty Claim against the Assignor and, insofar as there are any such circumstances, the Assignee shall not be entitled to make any Warranty Claim in respect thereof.]

[NOTE: Additional Assignor or Assignee warranties may be included in Schedule 1(A) or (B)]

7. WORKING CAPITAL

- 7.1 The Assignee shall pay to the Assignor or the Assignor shall pay to the Assignee (as the case may be) a sum to reflect the monetary value of working capital attributable to the Assignor Assets as set out in [Schedule 4]. The said sum shall be set out in a statement to be prepared and given by the Assignor to the Assignee within [ninety (90)] days after the Completion Date. Such statement shall be a statement of working capital and a statement of adjustments made pursuant to [Schedule 4].
- 7.2 The Assignee shall have the right to verify the statement referred to in Clause 7.1 by reference to the figures derived from the statements of the relevant Operator. The Assignor shall endeavour to provide such supporting data to the Assignee as can reasonably be obtained. The Assignee shall be obliged to complete its verification within [ninety (90)] days of receipt of the said statement and either: (a) the Assignee shall be obliged to pay the Assignor the sum specified as due to the Assignor in the said statement or; as the case may be (b) the Assignor shall be obliged to pay the Assignee the sum specified as due to the Assignee in the said statement; (all as varied by any adjustment agreed between the Assignor and the Assignee) and whether or not the Assignee has agreed such statement within the said [ninety (90)] day period. In the event that the said statement cannot be agreed the provisions of Clause 7.3 shall apply.
- 7.3 In the event that the Assignor and the Assignee cannot agree the statement referred to in Clause 7.1, the same shall be referred for resolution to an independent chartered accountant appointed by the Assignor and the Assignee or in the event of the Assignor and the Assignee differing as to such appointment by the President for the time being of the Institute of Chartered Accountants of England and Wales. The decision of the chartered accountant so appointed shall, in the absence of manifest error, be final and binding on the Assignor and the Assignee, and settlement of any outstanding amount due to or by either the Assignor or the Assignee shall be made within [five (5) Business Days] of such decision. The cost of the independent chartered accountant shall be borne equally by the Assignor and the Assignee and such charter accountant shall be deemed to be acting as an expert and not as an arbitrator.
- 7.4 In the event of late payment, the Assignee shall pay to the Assignor or the Assignor shall pay to the Assignee (as the case may be) interest on such further sums as may be payable pursuant to Clause 7.1, 7.2 and/or 7.3 from the date such sums are due to be paid to the date the sums are paid (both dates inclusive) at a rate per annum [five percent (5%)] above the Reference Interest Rate calculated on a daily basis using simple interest.

- 7.5 In the event that the Assignor makes any payments, or receives any receipts, in respect of the period between the Economic Date and the Completion Date, in respect of the Assignor Assets, the Assignee will pay to the Assignor and the Assignor will pay to the Assignee (as the case may be) the amounts involved within [twenty (20) Business Days] of the Completion Date, or of the date of such payment or receipt, whichever is later. For the purpose of this Clause, payment will include, *inter alia*, cash calls for capital and operating costs and tariffs and receipts will include, *inter alia*, actual proceeds from the sale of Petroleum produced after the Economic Date.
- 7.6 Any and all amounts to be paid pursuant to this Agreement shall be paid in same day funds, in the case of payments to the Assignor to the Assignor Account and in the case of payments to the Assignee to such bank accounts as the Assignee shall nominate in writing.

8. TAXATION

- 8.1 In relation to any Assignor Assets, being an interest in a taxable oil field (within the meaning of Schedule 1 to the Oil Taxation Act 1975 and section 185 Finance Act 1993), the Assignor shall prepare and the Parties shall deliver to the Board of HM Revenue & Customs (the "Revenue") in a timely fashion a notice in accordance with paragraph 3 of Schedule 17 to the Finance Act 1980 [and shall not make an application under paragraph 4 of the said Schedule for the provision of Parts II and III of the said Schedule not to apply the transfer of the Assets pursuant hereto.]
- 8.2 The Parties acknowledge that in the periods up to [] the Assignor will have incurred expenditures in relation to the Assignor Assets which can be claimed for Petroleum Revenue Tax purposes under either Section 5 or 6 to the Oil Taxation Act 1975 (as amended). [The Assignor shall take all actions and do all things reasonably in its power to ensure that such expenditure is claimed and, in particular, the Assignor shall prepare and sign all Schedule 6 claims in respect of such expenditure and provide copies of the same to the Assignee on or before [].] [Each Assignee shall, as soon as reasonably practical, ensure that all documentation relating to any Petroleum Revenue Tax assessment, returns or claims issued by HM Revenue & Customs or Operators in respect of such periods, is communicated to the Assignor without unreasonable delay.]
- 8.3 The Assignor and the Assignee agree that the allocation with respect to the Assignor Assets set out in Clause 3 is a just apportionment of the Consideration. The Assignor and the Assignee agree that they will each present their returns for tax purposes on the basis of the said allocation and that they will use all reasonable endeavours to agree with the Revenue the figures so presented. No part of the Consideration attributable to the Balance of Assignor Assets allocation pursuant to [Schedule 2] shall be treated as a reimbursement of expenditure which the Assignor has incurred whether comprising tangible drilling expenditures or otherwise.
- 8.4
- 8.4.1 The Assignee warrants that it is registered for VAT in the U.K. and that it intends to use the Assignor Assets for its own trade or exploration/exploitation.
- 8.4.2 The Assignor warrants that it is registered in for VAT in the U.K.
- [8.4.3 The Parties confirm that no election has been made and election shall be made prior to the Completion Date under paragraph 2 of Schedule 10 of the Value Added Tax Act 1994 (as amended) in relation to any of the Assets.]

- [8.4.4 The Assignor confirms that the Assignor Assets has been used as part of its business operated by a group of companies which constitute a VAT group of which the Assignor is a member as a going concern for the purposes of Article 5 of the Value Added Tax Act (Special Provisions) Order 1995.]
- 8.4.5 The Assignee undertakes that it will use the Assignor Assets acquired as part of its going concern for a sufficient period to comply with the requirements of Article 5 of the Value Added Tax (Special Provisions) Order 1995, so that the assignment of the Assignor Assets thereof is neither a supply of goods nor a supply of services for VAT purposes.
- 8.4.6 The Parties believe that the assignment of the Assets hereunder is a transaction which is outside the scope of Value Added Tax by virtue of Article 5 of the Value Added Tax (Special Provisions) Order 1995. However, if the Assignor is advised in writing by the Revenue that the assignment of the Assets is subject to Value Added Tax, the Assignee undertakes to pay to the Assignor, on presentation of a Value Added Tax invoice by the Assignor, any amounts due in respect of Value Added Tax within thirty (30) days of demand.
- [8.4.7 Reimbursements pursuant to Clauses 5.2 and 5.3 shall be exclusive of VAT which a Party (“Charging Party”) may be required to charge and, if called upon to do so by the Charging Party, the other Party undertakes to pay the Charging Party on presentation of a VAT invoice any amounts properly due in respect of VAT set out in such invoice within thirty (30) days of demand.]
- 8.4.8 Following the repeal of Section 49(1)(b) Value Added Tax Act 1994 both Parties agree that all business records prior to the Completion Date remain the sole property of the Assignor. For the purposes of Section 49(5) Value Added Tax Act 1994 both Parties agree that the term “reasonably requires” shall be taken as being thirty (30) days notice in writing from the Assignee to the Assignor requesting the Assignor provides either information specified by the Assignee or copies of specified documents required by the Assignee for the purpose of complying with the Assignee’s duties under the Value Added Tax Act 1994.
- [8.4.9 Subject to Clause 8.4.7, any payments or reimbursements pursuant to Clauses 5.2 and/or 5.3 in respect of any payment or receipt being an amount in respect of which VAT has been paid or received shall be made on a basis disregarding the VAT element where the VAT is paid in fully deductible or is required to be accounted for in full to HM Revenue & Customs, but otherwise shall be made on a basis which leaves the Assignor in no better and no worse position (after taking account of VAT, and subject to the application of the provisions of this Clause 8) than had the payment or receipt not been made or received.]
- 8.5 The Parties shall indemnify each other in respect of any amounts paid by the Parties with respect to the Assets pursuant to any notice issued under paragraph 4 of Schedule 15 to the Finance Act 1973 received by the Parties after the date hereof, provided that the income which gave rise to such assessment was in respect of work performed in relation to the Assets or any part thereof prior to Completion. Notwithstanding anything else in this Agreement, the Parties agree to pay any tax required to be paid pursuant to any such notice of assessment which is received on or after the date hereof, and which relates to the Assets.
- [8.6 The Assignor acknowledges and agrees that the notice under paragraph 3 of Schedule 17 to the Finance Act 1980 (PRT80) in respect of the transactions contemplated by this Agreement will be completed and field by the Assignor.]

- [8.7 For the avoidance of doubt, the Parties agree the date of transfer of the Assets for all purposes (including without limitation Petroleum Revenue Tax and Corporate Tax purposes) shall be deemed to be the Economic Date and not the Completion Date.]
- 8.8 If any liability for or right to repayment of PRT in connection with the Assignor Assets which relates to the period of ownership prior to the Economic Date arises after the Economic Date and the adjustment giving rise to such liability or right is in respect of income and expenditure of the Assignor during such period of ownership then the liability or repayment shall be the responsibility or entitlement of the Assignor. Any repayment of PRT in connection with the Assignor Assets arising otherwise in respect of the Assignor's period of ownership shall be the entitlement of the Assignee.
- [8.9 The Assignor undertakes to submit Statements of Value in connection with payment of Royalty in relation to the Assignor Assets to the Department of Energy and Climate Control for the period [] to []. To the extent that the final liability of the Assignor to make payment of Royalty for such periods differs from payment on account already made by the Assignor to the DTI in that respect, the Assignor shall be responsible for settlement of any additional amounts due together with interest thereon for such periods and shall also be entitled to any repayment due together with interest thereon for such periods.]

9. INTERIM PERIOD OPERATIONS

- 9.1 Between the date hereof and Completion, the Assignor shall (to the extent it is able so to do having regard to the provisions of the relevant Assignor Operating Agreement):-
- 9.1.1 continue to carry on its activities in relation to the Assignor Assets in the ordinary and usual course so as to protect and maintain the same [in accordance with good oil field practice] and comply with previously agreed decisions of the Operating Committee in relation to the Assignor Assets;
- 9.1.2 consult with the Assignee with regard to the Assignor Assets and co-operator with the Assignee so as to ensure an efficient handover of the Assignor Assets on Completion and use its reasonable endeavours to protect or procure the protection of the Assignor Assets for the benefit of the Assignee;
- 9.1.3 insofar as reasonably practicable, keep the Assignee fully informed in a timely manner on any and all matters (not of routine nature) relating to the Assignor Assets; and
- 9.1.4 not to do or omit to do anything which would result in a breach of any of the Warranties given by it.

[NOTE: Additional provisions may be required]

- 9.2 The Assignor shall:
- 9.2.1 not, except where with the prior written approval of the Assignee (such approval not to be unreasonably withheld or delayed) amend or agree to amend any of the Assignor Asset Documents in any respect insofar as such amendment or agreement to amend relates to or affects the Assignor Assets or waive or agree to any of its rights or remedies thereunder or arising therefrom insofar as such rights and remedies relate to or affect the Assignor Assets;
- 9.2.2 if it is considered in good faith that a particular matter or proposal is of a nature which may have an adverse effect on the value of the Assignor Assets, notify the

Assignee in writing, consult (to the extent reasonably practicable) with the Assignee in relation to that matter or proposal, take account of any representation which the Assignee may make and, provided always that such action shall not be prejudiced to any of the Assignor's other business interest and the Assignor shall not be in breach of any contractual, legal, statutory or regulatory requirements whatsoever by doing so, carry out the wishes of the Assignee insofar as it is reasonably practicable to do so following such consultation; and

- 9.2.3 as soon as reasonably practicable provide the Assignee (to the extent it is contractually and legally permitted to do so) with details of any matter relating to or affecting the Assignor Assets on which the Assignor is entitled to vote (a "Voting Matter") and, prior to exercising its vote on a Voting Matter, consult (to the extent reasonably practicable) with the Assignee in relation to the Voting Matter, take account of any representations which the Assignee may make and provided always that such action shall not be prejudicial to any of the Assignor's other business interests and the Assignor shall not be in breach of any contractual, legal, statutory or regulatory requirements whatsoever by doing so, exercise its voting rights in a manner which is not inconsistent with the Assignee's representations.

10. ASSIGNMENT

No Party shall have the right to assign, transfer or otherwise dispose of its rights and/or obligations under this Agreement without the consent of the other Party, which consent shall not be unreasonably withheld.

11. INTEREST

Where, in this Agreement, any date is specified as being the due date for payment and payment is not made on that date, simple interest shall be paid on the amount outstanding on a daily basis (after as well as before any judgement) from the start of the due date to the end of the day preceding the date of actual payment at the rate of five percent (5%) above the Reference Interest Rate.

12. COSTS

The Parties shall pay their own costs and expenses in connection with this Agreement and the documents executed pursuant hereto.

13. CONFIDENTIALITY

This Agreement shall be held confidential by the Parties and shall not be divulged in anyway to any third party by one Party without the prior written approval of the other Parties; provided that any Party may, without such approval, disclose such terms to:-

- 13.1 any Affiliate of it provided the disclosing Party procures that such Affiliate maintains such terms confidential; or
- 13.2 any outside professional consultants or other professional advisers consulted in connection with the terms of this Agreement, provided the disclosing Party obtains a similar undertaking of confidentiality (but excluding this proviso) from such consultant; or
- 13.3 any bank or financial institution from whom such Party is seeking or obtaining finance, provided the disclosing Party obtain a similar undertaking of confidentiality (but excluding this proviso) from such bank or institution; or

- 13.4 the extent required by any applicable laws, the Licence, or the requirements of any recognised stock exchange in compliance with its rules and regulations; or
- 13.5 any Government agency lawfully compelling such terms; or
- 13.6 any Court of competent jurisdiction acting in pursuance of its powers; or
- 13.7 the extent that the terms of this Agreement become public knowledge or for any other reason ceases to be confidential otherwise than through breach of this undertaking.

14. ANNOUNCEMENTS

Neither Party shall make a public announcement or statement regarding the execution of this Agreement, the Assignor Completion Documents or Completion without the prior agreement of the other Party, such agreement not to be unreasonably withheld. [Where otherwise required to make a public announcement by law or in accordance with the directions of any governmental or regulatory authority, the Parties shall consult together and shall together take such steps as may be necessary to comply with all legal or regulatory requirements.]

15. MISCELLANEOUS

- 15.1 Except insofar as any term or provision of this Agreement is satisfied on Completion, this Agreement shall remain in full force and effect after Completion.
- 15.2 No waiver by either Party of any breach of a provision of this Agreement shall be binding unless made expressly in writing. Any such waiver shall relate only to the breach to which it expressly relates and shall not apply to any subsequent or other breach.
- 15.3 This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.
- 15.4 This Agreement represents the entire agreement between the Parties and supersedes all warranties and representations previously made and all prior negotiations, proposals, statements of intent, understandings and agreements relating to the subject matter hereof. Each of the Parties agrees that it will have no remedies in respect of any untrue representations or statements made by the other Party or its advisers (unless made fraudulently) and upon which it relied in entering into this Agreement.
- 15.5 To the extent that there is an inconsistency between this Agreement and any of the Assignor Completion Documents, this Agreement shall prevail as between the Parties.
- 15.6 [Unless expressly stated, no terms of this Agreement is intended to be enforceable by third parties under the Contracts (Rights of Third Parties) Act 1999 and, where an obligation is expressly stated to be enforceable by a third party, the consent of that third party will not be required to rescind or vary the relevant term.]
- 15.7 [If the Connected Agreement is terminated prior to Completion of this Agreement and completion under the Connected Agreement, either Party may terminate this Agreement.]

16. NOTICES

- 16.1 Any notices given pursuant to this Agreement shall be in writing and may be given by hand at, or sent by pre-paid first class post or facsimile to, the appropriate address stated in Clause 16.3 (or such other address as may be given for the purpose of this Agreement by notice to the other Parties).

16.2 Any such notice given as aforesaid shall be deemed to have been given at the time of delivery if delivered by hand on a Business Day or the first Business Day following the day of delivery by hand if delivery did not take place on a Business Day or following the day of sending it if sent by facsimile or the second Business Day following the day of sending if sent by pre-paid first class post.

16.3 The respective addresses for service are:

[Party 1]: []
Fax: []
Attention:[]

[Party 2]: []
Fax: []
Attention:[]

17. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of England and each of the Parties hereby submit to the exclusive jurisdiction of the English courts.

IN WITNESS WHEREOF this Agreement has been duly executed on the day and year first above written.

Signed for any on behalf of
[]

.....

Signed for any on behalf of
[]

.....

SCHEDULE 1(A)
ASSIGNOR'S WARRANTIES

SCHEDULE 1(B)
ASSIGNEE'S WARRANTIES

SCHEDULE 2
PART A
[Party 1] Assets

SCHEDULE 2
PART B
[Party 2] Assets

SCHEDULE 3
PART A
[PARTY 1] DATA ROOM DOCUMENTS

SCHEDULE 3
PART B
[PARTY 2] DATA ROOM DOCUMENTS

SCHEDULE 4
WORKING CAPITAL

SCHEDULE 5
PART A
[PARTY 1] COMPLETION DOCUMENTS

1. [Working Interest Assignment]
2. [Deed of Licence Assignment]
3. [Execution Deeds]
4. [Novations]

SCHEDULE 5
PART B
[PARTY 2] COMPLETION DOCUMENTS

1. [Working Interest Assignment]
2. [Deed of Licence Assignment]
3. [Execution Deeds]
4. [Novations]