



Energistyrelsen

**Danish Energy Agency**

**January 2024**

**Licence CXXXX/XX**

**Xx group**

**MODEL JOINT OPERATING AGREEMENT**



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This Agreement is made between:

.....;

.....;

.....

and

Nordsøfonden, CVR no. 29435065, having its registered office at Sankt Kjelds Plads 11, 2100 København Ø, Denmark;

WHEREAS, the Parties are the holders of the Licence and wish to define their respective rights, interests, duties and obligations with respect to operations in connection with the Licence.

NOW, THEREFORE the Parties hereby agree as follows:





## 1. DEFINITIONS AND INTERPRETATIONS

### 1.1 Definitions

In this Agreement:

- (a) "Accounting Procedure" means the procedure set out in Appendix A hereto;
- (b) "Advance" means a payment of cash required to be made to the Operator pursuant to this Agreement;
- (c) "AFE" means authority for expenditure;
- (d) "Affiliate" means in relation to any Party any company which is a Subsidiary of such Party or a company of which such Party is a Subsidiary or a company which is another Subsidiary of a company of which such Party is a Subsidiary;
- (e) "Budget" means any budget in respect of a Programme;
- (f) "Cost of Funds Rate" means for DKK a rate equal to one (1) month CIBOR (Copenhagen Interbank Offered Rate) as quoted by Danmarks Nationalbank (the central bank of Denmark) and for currencies other than DKK a rate equal to one-month LIBOR (London Interbank Offered Rate) as quoted in the Financial Times for the relevant currency on the first day of the relevant period;
- (g) "Decommissioning Plan" means a plan, which is drafted in accordance to the requirements in Section 32 a in the Danish Subsoil Act;
- (h) DKK means Danish Kroner;
- (i) "Joint Account" means the account established and maintained by the Operator to record all Advances, expenditures and receipts in the conduct of Joint Operations;
- (j) "Joint Operations" means all joint operations of the Parties conducted in accordance with this Agreement;
- (k) "Joint Property" means all property acquired or held for use in connection with the Joint Operations;



- (l) "Joint Storage Capacity" means all Storage Capacity available under the Joint Operations;
- (m) "Licence" means Licence No. \_\_\_\_ for Exploration for and storage of CO<sub>2</sub> issued by the Minister for Climate, Energy and Utilities and shall include any other Licence issued to the Parties in substitution or partial substitution therefor;
- (n) "Licence Area" means the area at any time covered by the Licence;
- (o) "Managerial or Senior Personnel" means a party's designated managers or supervisors who are responsible for on-site drilling, construction or storage and related operations, or any other field operations, any employees of such party who function at a management level equivalent or superior to the foregoing, and the officers and directors of such party;
- (p) "Material" means equipment or supplies;
- (q) "Month" means a calendar month;
- (r) "Non Operator" means a Party other than the Operator;
- (s) "Operating Committee" means the committee established pursuant to Section 5.1;
- (t) "Operator" means the Party at any time designated as such under Article 4, acting in that capacity and not as the owner of a Percentage Interest;
- (u) "Original State Participation Share" means Nordsøfondens original Percentage Interest at the time this Agreement was signed;
- (v) "Parties" mean the parties to this Agreement and their respective successors and assigns;
- (w) "Percentage Interest" means for each of the Parties the undivided percentage interest held at any time by it pursuant to this Agreement and the Licence or, where the context so requires, in any sole risk development, and includes its



corresponding entitlement to Storage Capacity available under the Licence;

- (x) "Potential Storage Site" means any potential storage site for CO<sub>2</sub> as referred to in Section 5, Subsection 2 of the License;
- (y) "Programme" means any programme of operations;
- (z) "Quarter" means a period of three (3) Months ending March 31st, June 30th, September 30th or December 31st in any Year;
- (aa) "Storage Capacity" means capacity that is available for the storage of CO<sub>2</sub> delivered by the parties of this agreement;
- (bb) "Sub-Area" means at any given time, any part of the Licence Area, being delimited by surface area but applying only to that interpreted closure of any geological structure or stratigraphic trap in which the relevant reservoir or reservoirs exists, which is subject to development by less than all Parties and in which the entire Percentage Interest therein is owned by those of the Parties carrying out the development;
- (cc) "Subsidiary" means in relation to a company any other company more than fifty per cent (50 %) of whose stock is owned, directly or indirectly, by such first company;
- (dd) "Subsoil Act" means the Consolidated Act No. 1533 of 16 December 2019 on the use of the Danish Subsoil, as amended from time to time;
- (ee) "USD" means Dollars/the lawful currency of the United States of America;
- (ff) "Working Day" means a day upon which the banks are open for business in Denmark excluding Saturdays and Sundays;
- (gg) "Work Obligations" means the work program which the Parties are obligated to carry out according to Section 4, Subsection 1 and Annex 2 of the Licence; and
- (hh) "Year" means when spelled with a capital "Y" a calendar year beginning on January 1st, while year spelled with a small "y" means a year beginning on any date.



## 1.2 *Interpretations*

In this Agreement:

- (a) reference to any statute, statutory provision or statutory instrument includes a reference to that statute, statutory provision or statutory instrument as from time to time amended, extended or re-enacted;
- (b) reference to the singular includes a reference to plural and vice versa;
- (c) reference to any gender includes a reference to all other genders;
- (d) unless the context otherwise requires, reference to any Section or Article is to a Section or Article of this Agreement; and
- (e) the headings herein are used for convenience only and shall not affect the construction or validity of this Agreement.



## 2. SCOPE AND DURATION

### 2.1 *Scope*

The scope of this Agreement shall extend to the exploration of and the development and use of the subsoil for storage of CO<sub>2</sub> under the Licence and to the consideration of treatment and transportation of the same. This Agreement shall not extend to any joint financing arrangements or any joint marketing or sale of the Joint Storage Capacity.

### 2.2 *Duration*

This Agreement shall be considered effective as of the the date upon which the Licence commenced and shall, subject to Section 13.3, continue for so long as the Licence (including extensions thereof) remains in force, or until the Parties unanimously determine to terminate the Licence and Agreement in accordance with the terms and conditions of the Agreement, and until all obligations have been fulfilled, including the legal obligations related to the assignment of ownership of the licence to the Danish state and all Joint Property has been disposed of and final settlement has been made between the Parties in accordance with their respective rights and obligations hereunder and at law including the satisfaction of all decommissioning obligations and all obligations related to the post closure period.

### 2.3 *Adjustments*

Upon submission of an application for the extension of the Licence for the purpose of storage in accordance with Section 6.3, the Operating Committee shall review and, if needed, unanimously agree to adjust the amount limits set forth in Section 4.6.2, 4.13.1 and 4.13.2 of this Agreement and in Appendix A "Accounting Procedure" to the new circumstances. Further, the Operating Committee may unanimously amend all amounts from time to time.



### 3. INTERESTS OF THE PARTIES

#### 3.1 Percentage Interests

As of the effective date of this Agreement, the respective Percentage Interests of the Parties to the joint venture established by this Agreement are as follows:

_____	.....%
_____	.....%
_____	.....%
Nordsøfonden	20 %

Except as provided in Article 8, the Parties' Percentage Interests under this Agreement shall always be equal to the Parties' Percentage Interests under the Licence.

#### 3.2 Obligations and Rights

Except as otherwise provided in this Agreement or in the Licence:

- (a) all obligations, costs, expenses and liabilities accruing, resulting from or accrued in connection with the Joint Operations shall be the responsibility of the Parties in accordance with their respective Percentage Interests; and
- (b) all the rights with respect to and interests in and under the Licence, all Joint Property, all Joint Storage Capacity, all technology, all rights and claims against third parties and all other property produced or developed under the Joint Operations shall be owned by (and the title to the same shall automatically pass to) the Parties in accordance with their respective Percentage Interests.



## 4. OPERATOR

### 4.1 *Designation*

\_\_\_\_\_ is hereby designated and agrees to act as the Operator under this Agreement.

### 4.2 *Rights*

Subject to the other provisions of this Agreement, the Operator has the right and is obliged to conduct the Joint Operations by itself, or through its Affiliates, its agents or its contractors, under the overall supervision and control of the Operating Committee. If the Operator does not conduct all or any of the Joint Operations itself, it shall nevertheless remain responsible for such operations as Operator. The Operator's right shall not be assignable without the written consent of the Non Operators and the consent of the Danish Energy Agency.

Subject to Section 4.3.3, it is the intention of the Parties that the Party designated as Operator shall neither gain nor lose as a result of conducting Joint Operations under this Agreement.

### 4.3 *Responsibility*

#### 4.3.1 *Responsibilities*

Subject to the overall supervision of the Operating Committee, the responsibilities of the Operator shall include but not be limited to:

- (a) the preparation of Programmes, Budgets and AFEs pursuant to the provisions of this Agreement;
- (b) the obtaining and maintenance of all necessary permissions from the Danish Energy Agency and other governmental and municipal authorities to implement the Programmes;
- (c) the implementation of such Programmes and Budgets as shall, together with the relevant AFEs, have been approved by the Operating Committee;
- (d) the submission to each of the Parties of reports, data and information concerning the Joint Operations pursuant to the provisions of this Agreement;



- (e) the timely provision to the Danish Energy Agency or other governmental authorities of reports, data, samples, and information concerning the Joint Operations pursuant to the Licence and any applicable laws or regulations;
- (f) the planning for and obtaining of all requisite services and Materials;
- (g) the direction and control of accounting services;
- (h) the provision of all technical and advisory services required for the efficient performance of the Joint Operations;
- (i) the conduct of such other activities as the Operating Committee shall decide shall be appropriate for the proper and efficient carrying out of the Joint Operations; and
- (j) the administration of the Licence.

#### *4.3.2 Methods and Practices*

The Operator shall conduct the Joint Operations in a reasonable and prudent manner in accordance with methods and practices customarily used in good and prudent subsoil and CO<sub>2</sub> storage practice and with that degree of diligence and prudence ordinarily exercised by experienced operators under similar circumstances and conditions. The Operator shall endeavour to maintain and develop this manner as the aforementioned methods and practices evolve over time.

The Operator shall further do or cause to be done, with due diligence, all such acts and things within its control as may be necessary to keep and maintain the Licence in force and effect and shall conduct the Joint Operations in compliance with the Licence and any applicable laws or regulations.

#### *4.3.3 Operator's Liability*

The Operator shall not in its role as Operator be liable for any loss or damage in connection with its responsibilities and functions as Operator unless such loss or damage results from:

- (a) the gross negligence, wilful misconduct or wilful failure to act of the Managerial or Senior Personnel of the Operator or any of its Affiliates (to the extent such personnel perform functions as





Operator); or

(b) its failure to ensure that the Parties in respect of their Percentage Interest share of the Joint Operations and the Joint Property, have obtained and maintained all insurance required under the Licence or any applicable laws and regulations and any additional insurance determined by the Operating Committee, except where it has used all reasonable endeavours to ensure that the Parties have obtained and maintained such insurance but has been unable to do so and has promptly notified the Parties; or

(c) its failure to obtain or maintain any insurance which it is required to obtain or maintain under Section 4.12, except where it has used all reasonable endeavours to obtain or maintain such insurance but has been unable to do so and has promptly notified the Parties of such fact;

provided that in neither case shall the Operator be liable for any consequential loss or damage. For the purposes of this Section consequential loss or damage shall include but not be limited to inability to store CO<sub>2</sub>, environmental damage caused by a discharge of CO<sub>2</sub>, lost CO<sub>2</sub> or loss of profits.

#### **4.4** *Liens and Encumbrances*

The Operator shall, in so far as it may be within its control, keep all Joint Property and all Joint Storage Capacity free from all liens, charges and encumbrances, which might arise by reason of the conduct of the Joint Operations.

#### **4.5** *Employees*

Subject to the provisions of any approved Programme and Budget, the number of employees of the Operator employed in connection with its activities hereunder shall be determined by the Operator. The Operator shall also determine their selection, hours of work and remuneration.

#### **4.6** *Contractors and Contracts*

##### **4.6.1** *General Principles*

Subject to Section 4.6.2 hereof and to the provisions of any approved Programme and Budget the Operator shall have the right to determine the contractors, vendors and others to provide goods and services in connection with the Joint Operations, provided that the Operator shall utilise all reasonable efforts to ensure that each contract is entered into under the best commercial practice and provides the most



beneficial terms and rates for the goods and services based on various criteria depending on the contract in question such as e.g. price, quality, availability and reputation. Thus, under normal circumstances bids from several suppliers should be obtained.

Subject to Section 13 of the Licence the Operator shall at the request of any Party inform the Operating Committee fully about the administration of the provisions of this Section 4.6.

#### 4.6.2 *Information and Consultation of the Non-Operators*

In the case of any proposed contract for the Joint Operations where the cost thereof will or is likely to exceed .....DKK and subject to Section 13 of the Licence, the Operator shall:

- (a) in each case obtain competitive sealed bid tenders;
- (b) consult with the Parties regarding the contractors to be invited to tender on a timely enough basis to allow the Non-Operators to make recommendations, by forwarding to the Non-Operators the proposed list of such contractors (including any known subcontractors);
- (c) forward the tender documents if requested to do so by the Non-Operators;
- (d) after the expiry of the period allowed for tender and the opening of the bids, upon request promptly submit to the Non-Operators evaluations and recommendations and upon request, report details of all bids received, and any rebids, amendments to bids and subsequent negotiations, to the Non-Operators;
- (e) use its reasonable endeavours to ensure that any such contract can be fully assigned to any of the Non-Operators in the event of any change of the Operator;
- (f) promptly notify the Non-Operators when a commitment is entered into and upon request promptly supply the Non-Operators with confirmed copies of each such contract and any subsequent revisions thereto;
- (g) when an agreement for the delivery of goods or services with an anticipated contract value of .....DKK or more or such higher amount as may be agreed by all Parties during the development and storage phase is to be concluded, furnish to the contracts committee established according to Section 5.6 (or in case no contracts



committee has been established furnish to the Operating Committee acting as ad hoc contracts committee) the material referred to in Sections 4.6.2 (b), (c) and (d) and refrain from entering into such agreement until the contracts committee (or the Operating Committee as the case may be) has submitted to the Operator a recommendation on which of the bids received should be accepted; and

- (h) when an agreement for the delivery of goods or services with an anticipated contract value of .....DKK or more is to be concluded, and the recommendation of the contracts committee established according to Section 5.6 (if any) has been received, obtain the Operating Committee's approval of the bid and the applicable terms and conditions prior to the conclusion of the agreement..

#### **4.6.3**      *Liability under Contracts*

Unless otherwise decided by the Operating Committee, agreements with third parties shall be such that no Party other than the Operator shall be directly liable thereunder to such third party in connection with Joint Operations. The assumption of joint liability to a third party shall always require the unanimous vote of the Operating Committee. It shall be the responsibility of the Operator in concluding agreements to ensure that they are drafted so as to incorporate the legal position required by this Section 4.6.3.

#### **4.7**            *Representation of the Parties*

The Operator will represent the Parties regarding any matters or dealings with the Danish Energy Agency, any other governmental or municipal authorities or third parties in so far as the same relate to the Joint Operations and in accordance with any directions given by the Operating Committee. In reasonable time prior to any representation which concerns matters of a non-routine character the Operator shall consult with and obtain from the Operating Committee such directions, if any, as the Operating Committee sees fit. The Parties shall always have the right to be present as observers at meetings with the Danish Energy Agency, and any other governmental or municipal authorities where the Operator represents the Parties. There is reserved to each Party the unfettered right to deal with the Danish Energy Agency, any other governmental or municipal authorities in respect of matters relating to its own Percentage Interest.

#### **4.8**            *Records*

The Operator shall prepare and maintain proper books, records and inventories in respect of the Joint Operations which shall be kept in compliance with the



Accounting Procedure and with due regard to the requirements of the Licence and any applicable laws or regulations. The books, records, and inventories shall be preserved for a period of ten (10) years from the date of recording or, if arbitration proceedings have been instituted, until the termination of such proceedings, whichever is the longer.

#### 4.9 *Reports, Data etc.*

##### 4.9.1 *Common Data Base*

With a view to bringing all the Parties to as equal a footing as reasonably possible from the start of the Joint Operations the Operator shall propose a common database to be defined by unanimous decision of the Parties in the Operating Committee within six (6) months after the issuance of the Licence. As a minimum, any Party shall be able at such Party's request to acquire the technical part of the application for the Licence including pertinent data coverage of the Licence Area. The costs (including reproduction costs) related to acquiring the necessary data and information (with the deduction of any group rebate) shall be for the account of the receiving Party. Nordsøfonden does not account for costs incurred earlier than the award of the license.

##### 4.9.2 *Reporting*

The Operator shall, in respect of Joint Operations:

- (a) provide each Party with
  - (i) monthly progress reports on all exploration, appraisal and development activities or quarterly reports in periods of low activity;
  - (ii) during drilling: daily geological and drilling reports, and promptly when available with all types of field logs, final logs and well reports including composite log;
  - (iii) during storage: daily and monthly storage reports of CO<sub>2</sub>;
  - (iv) copies of evaluations and reports on technical, economical, health, environmental and safety as well as other issues (monthly or quarterly);



(v) copies of all reports submitted by the Operator to the Danish authorities immediately upon submittal;

(vi) minutes of the Operator's meetings with the Danish authorities within fourteen (14) days of the meeting and copies of any correspondence sent to or received from the Danish authorities regarding the Joint Operations immediately upon submittal/receipt;

(vii) such other reports as the Operating Committee may decide; and

(viii) at the sole cost of the Party requesting the same, such additional reports, data, analyses and such other information as such Party may reasonably request; and

(b) timely submit to the appropriate governmental authorities all reports concerning the Joint Operations required under the Licence and any applicable laws or regulations after review by the Parties (unless the Operating Committee decides that such review is not required) and, concurrently therewith, furnish copies of all such reports to all the Parties.

#### **4.10**      *Consultation and Information*

The Operator shall freely consult with the Parties and keep them informed of matters concerning the Joint Operations. Without prejudice to the generality of the foregoing, the Operator shall:

- (a) advise all Parties of circumstances that may warrant the taking out of insurance either for the Joint Account or for the Parties individually;
- (b) inform each Party of all logging, coring and testing operations with such advance notice as shall allow each Party subject to Section 4.15.3 (b) to have one (1) or more representatives present on location during the conduct of such operations;
- (c) provide each Party with copies of all seismic data, well logs and core analyses and with such engineering, geological, geophysical, technical and other data and information relating to the Joint Operations as each Party may reasonably request;



- (d) give each Party full access to examine all cores, including sidewall cores, cuttings and well samples such material after analysis to be stored in Denmark;
- (e) store materials as mentioned under (d) as well as other samples and data for a period to be decided by the Operating Committee, and before disposing thereof, offer The Geological Survey of Denmark and Greenland the right to acquire the same free of charge; and
- (f) consult on such other matters and provide the Parties with such other information relating to the Joint Operations as the Operating Committee may decide.

#### *4.11 Expenditures and Actions*

The Operator is authorised to make such expenditures, incur such commitments for expenditures and take such actions as may be authorised by the Operating Committee in accordance with this Agreement. The Operator is also authorised in circumstances constituting an emergency to make any expenditure for the Joint Account or incur any commitments for such expenditures or take any actions it deems necessary to safeguard lives or property or prevent or mitigate pollution or other damage to the environment. The Operator shall promptly notify all the Parties of any such emergency circumstances and the amount of expenditures and commitments for expenditures so made and incurred and the action so taken.

#### *4.12 Insurance*

##### *4.12.1 Joint and Individual Insurance*

Each Party shall obtain and maintain, in respect of its Percentage Interest, all insurance required under the Licence or any applicable laws and regulations and any additional insurance determined by the Operating Committee, with waiver of subrogation in favour of all the Parties.

A Party may instead of obtaining and maintaining insurance provide other evidence of financial responsibility as may reasonably be determined by the Operating Committee, provided that this is not in conflict with the insurance requirements under the Licence or any applicable laws, regulations and guidelines. If a Party – instead of insurance – provides such other evidence of financial responsibility, a waiver of subrogation in favour of all the Parties shall likewise apply.



The Operating Committee may decide that the Operator shall obtain and maintain insurance on behalf of all Parties instead of the individual Parties taking out individual insurance.

Upon written and in reasonable advance request of one Party or more Parties, the Operator shall obtain and maintain insurance on behalf and at the expense of such Parties.

In case a Party is not in compliance with the insurance requirements (or equivalent evidence of financial responsibility) as required under this Section 4.12.1, the Operator shall be obligated to arrange insurance coverage on behalf of and at the expense of such Party.

For the avoidance of doubt, the Operator shall during the development and storage phase and decommissioning phase obtain and maintain on behalf of the Parties CAR (Construction All Risk), DAR (Decommissioning All Risk), and/or similar insurances usually obtained in good and prudent subsoil and CO<sub>2</sub> storage practice under similar circumstances and conditions.

#### *4.12.2 Cost, Information, Co-insurance, Reporting and Filing of Claims*

The cost of insurance in which all the Parties are participating shall be for the Joint Account and the cost of insurance in which less than all the Parties are participating shall be charged to the Parties so participating in proportion to their respective interests in the insurance. The Operator shall, in respect of all insurance obtained pursuant to this Agreement:

(a) promptly inform the Parties participating therein of the insurance it has taken out and supply them with copies of the relevant policies when the same are issued;

(b) arrange for the Parties participating therein, according to their respective interests in the insurance to be named as co insured on the relevant policies with waivers of subrogation in favour of the Parties;

(c) provide the Parties with copies of any declaration of insurance submitted to the Danish Energy Agency in accordance with Section 30 of the Licence, cf. Section 4.3.1 (e);

(d) duly file all claims and take all necessary and proper steps to collect any proceeds with respect to insurance taken out by it and, if all the Parties are participating therein, credit them to the Joint



Account or, if less than all the Parties are participating therein, credit them to the participating parties.

**4.12.3**      *Evidence of Insurance*

Each of the Parties shall, as and when required by the Operator or any other Party, produce such evidence as may reasonably be required to establish that the insurance required under this Section 4.12 is being maintained.

**4.12.4**      *Contractors' Insurance*

The Operator shall take all reasonable steps to ensure that all contractors (including subcontractors) performing work in respect of the Joint Operations and the Joint Property obtain and maintain all insurance required under the Licence or any applicable laws or regulations and such additional insurance as the Operating Committee may determine. The Operator shall in respect of all such insurance take reasonable steps to arrange for such contractors (including subcontractors) to obtain from their insurers a waiver of subrogation in favour of the Parties.

**4.13**          *Litigation*

**4.13.1**        *Notification*

The Operator shall promptly notify the Parties of:

- (i) any incidents, accidents or circumstance causing damage to Joint Property, the cost of which may exceed ..... DKK; and
- (ii) any claim relating to the Joint Operations where the total amount in dispute and/or the total amount of damages together with any costs are estimated to exceed .....DKK;  
  
or such other amounts as may from time to time be determined by the Operating Committee; and
- (iii) any claim for injunction or analogous proceedings relating to the Joint Operations.

**4.13.2**        *Operator's Authority*

Unless otherwise limited by the Operating Committee the Operator shall have the authority to pursue, prosecute, defend or settle any claim relating to the Joint Operations (other than between the Parties) on behalf of the Parties provided that





where the total amount in dispute and/or the total amount of damages together with any costs are estimated to exceed..... DKK or such other amount as may from time to time be determined by the Operating Committee and where practicable in the case of any claim for specific performance, injunction or analogous proceedings the Operator shall seek the advice of the Operating Committee and shall comply with any directions given by the Operating Committee in respect thereto. In absence of such directions, the Operator shall act as it deems prudent in the interest of the Parties to endeavour to prevent judgement being given against any Party, or to challenge the jurisdiction of any court, whilst full authority from the Parties is being sought.

#### **4.13.3**      *Claims against Non-Operators*

Any Non Operator shall promptly notify the other Parties of any claim relating to or which may affect the Joint Operations, and in so far as such claim relates to or affects the Joint Operations such Non Operator shall defend or settle the same in accordance with any reasonable directions given by the Operating Committee, provided that prior to giving any such directions the Operating Committee shall take into account any other relevant contractual obligations of such Non Operator. Any costs, expenses and damages that are payable pursuant to such defence or settlement shall be for the Joint Account.

#### **4.13.4**      *Right to Participate*

Notwithstanding Sections 4.13.1, 4.13.2 and 4.13.3 each Party shall have the right to participate in any such pursuit, prosecution, defence or settlement conducted in accordance with Sections 4.13.1, 4.13.2 or 4.13.3 at its sole cost and expense provided always that such participation does not unreasonably prejudice the conduct thereof by the Operator or the interest of the Joint Operations.

#### **4.14**            *Rentals, Taxes, Fees and Charges*

The Operator shall pay for the Joint Account all rentals, taxes (except taxes based on income and profits), fees and charges which may be levied or assessed by, or due or payable to the Government of Denmark, any sub division thereof or any Danish municipality on or with respect to the respective Percentage Interests of the Parties.

#### **4.15**            *Rights of the Parties*

##### **4.15.1**        *Rights under the Licence*



Subject as otherwise provided in this Agreement, each Party reserves all its rights under the Licence.

#### *4.15.2 Inspection of Books, Records and Inventories*

Without prejudice to the provisions of Section 7.1 of the Accounting Procedure, each Party shall have the right to inspect at all reasonable times during usual business hours, all books, records and inventories of any kind or nature maintained by or on behalf of the Operator and relating to the Joint Operations other than those books, records and inventories maintained by the Operator as the owner of a Percentage Interest, provided that such Party gives the Operator not less than thirty (30) days prior notice of the date upon which it desires to make such inspection and identifies the person or persons to conduct such inspection.

#### *4.15.3 Access to the Licence Area*

(a) Each Party shall have the right, at all reasonable times and at its sole risk and expense, of access to the Licence Area and/or the Joint Operations provided such Party gives the Operator reasonable notice of the date such access is required and identifies the representative or representatives to whom such access is to be granted. If any Party wishes access to be given to more than one representative at a time the Operator shall not be required to grant such access for the additional representatives if, and to the extent that, the granting of such access will interfere with the conduct of the Joint Operations.

(b) In the case of offshore operations, the Operator shall, at the cost of the Joint Account, provide access to the means of transportation used in connection therewith from the nearest airport or heliport in Denmark to the place to which access is requested, and to accommodation offshore, provided that the provision of such access does not interfere with the conduct of the Joint Operations.

#### *4.16 Resignation and Removal*

##### *4.16.1 Resignation*

The Operator shall have the right to resign at the end of any Month following completion of the Work Obligations by giving not less than one hundred and eighty (180) days' notice to the Parties or such shorter period of notice as all Parties may agree.



#### 4.16.2 *Removal*

(a) The Operator may be removed for cause at the end of any Month by the Operating Committee giving not less than ninety (90) days' notice to it stating such cause.

(b) In addition, the Operator may be removed by notice given by the Operating Committee which notice shall have immediate effect if the Operator materially defaults in the performance of its obligations under this Agreement and, where such default is capable of remedy, it fails to remedy or commence actions which lead to such remedy within a reasonable period specified by the Operating Committee.

(c) Furthermore, the Operator may be removed immediately if the circumstances described in Section 35, Subsection 2, item (3), of the Licence apply to the Operator or if circumstances occur which may in the reasonable opinion of the Operating Committee materially adversely affect the ability of the Operator to continue to carry out its obligations hereunder.

(d) If the Operator has been removed immediately, then until election of a new Operator has taken place the Non Operator having the largest Percentage Interest shall act as Operator unless the Operating Committee otherwise decides.

(e) In respect of any vote of the Operating Committee on removal of the Operator, on any notice to the Operator according to Section 4.17.2 (a) and (b), on any determination as to whether a default is capable of remedy, on any request to the Operator to remedy the default and on any determination as to whether the default is satisfactorily remedied, on the period to be specified for remedy and on the nomination of a temporary Operator, the votes of the Party which is the Operator and the votes of any Party which is an Affiliate of the Operator shall be ignored and the vote required for any such decision shall be \_\_\_ per cent (..%) of the total Percentage Interests held by the other Parties. In the event of a change of any Party's Percentage Interest at the request of any Party, the Parties shall discuss whether the above percentage shall be revised. Any such revision shall be subject to the approval of the Danish Energy Agency.

#### 4.16.3 *Selection of a New Operator*



As soon as practicable after the effective date of the resignation or removal of the Operator, the Non-Operator obtaining the largest number of votes in favour of its appointment shall, subject to its acceptance of the position and subject to the consent of the Danish Energy Agency, be selected by the Operating Committee to assume the position of Operator with effect from the effective date of the resignation or removal of the prior Operator. In the case of the selection of a new Operator, if the Party, which is the Operator, or any Party which is an Affiliate of the Operator either fails to vote or votes for itself or any of its Affiliates as successor to the operatorship, those votes shall be ignored and the number of votes required for any such decision shall be \_\_\_ per cent (..%) of the total Percentage Interests held by the other Parties.

#### **4.16.4**      *Transfer of Operator's Rights and Responsibilities*

(a) The outgoing Operator and any successor Operator shall cooperate fully to ensure a timely and appropriate assignment and transfer of all rights and responsibilities of the Operator and all records and material pertaining thereto. This and the following Subsection shall apply mutatis mutandis in the event of the appointment of a temporary Operator to the extent necessary to ensure the continuation of the Joint Operations until the appointment of a successor Operator.

(b) As soon as practicable but in any event no later than the effective date of resignation or removal of the Operator under Section 4.17, the outgoing Operator shall hand or deliver to, or relinquish custody in favour of, the successor Operator which shall be the Non-Operator selected pursuant to Section 4.17.3 above as the successor Operator or, if no such selection shall be made by such date, the Party with the largest remaining Percentage Interest, all funds relating to the Joint Account, all Joint Property, All Joint Storage Capacity and all books, records and inventories relating to the Joint Operations other than those books, records and inventories maintained by the outgoing Operator as the owner of a Percentage Interest. Upon such delivery the outgoing Operator shall be discharged from all rights and obligations as Operator but without prejudice to any rights, obligations or liabilities which accrued or which subsequently accrue in respect of the period when it acted as Operator. The outgoing Operator shall further use its reasonable endeavours to transfer to the successor Operator, effective as of the effective date of such resignation or removal, its rights as the Operator under all contracts exclusively relating to the Joint Operations and the successor Operator shall assume all obligations of the Operator thereunder. Pending such transfer and in relation to



all other contracts relating to the Joint Operations (to the extent such so relate) the outgoing Operator shall hold its rights and interests as the Operator from such effective date for the account and to the order of the successor Operator and (without prejudice to any liability of the outgoing Operator arising pursuant to Section 4.3.3) the Parties shall, from such effective date, indemnify and hold harmless the outgoing Operator from all obligations thereunder.

(c) As soon as practicable after the date on which the outgoing Operator is required to transfer its responsibilities as provided in Section 4.17.4 (b), the Parties shall audit the Joint Account and conduct an inventory of all Joint Property and Material charged to the Joint Account and all Joint Storage Capacity and such inventory shall be used in the return of and the accounting for the said Joint Property and Material and Joint Storage Capacity by the outgoing Operator for the purposes of the transfer of responsibilities under this Section 4.17.4. All costs and expenses incurred in connection with such audit and inventory shall be for the Joint Account.

#### *4.17 Disposal and Abandonment*

##### *4.17.1 Disposal*

If the Operator shall consider that any item of the Joint Property is no longer needed or suitable for the Joint Operations the Operator shall, subject to the provisions of the Accounting Procedure and Section 37 of the Licence, dispose of the same.

##### *4.17.2 Abandonment*

If the Parties shall decide to abandon the Joint Operations, or any part thereof, the Operator shall recover and endeavour to dispose of as much of the Joint Property as the Operating Committee directs can economically and reasonably be recovered or as may be required to be recovered under the Licence or any applicable law, and the net costs or net proceeds therefrom shall be charged or credited to the Joint Account.

##### *4.17.3 Decommissioning Plan*

The Parties participating in the development will before submission of a development plan to the Danish Energy Agency agree on a Decommissioning Plan, which will be drafted in accordance with any applicable laws, regulations, guidelines and governmental decisions. The Decommissioning Plan must accompany the application for a development plan and shall be subject to the



approval of the Danish Energy Agency. Subsequent updates of the Decommissioning Plan shall similarly be subject to the approval of the Danish Energy Agency.

The Decommissioning Plan shall be updated on an annual basis and shall be made available to the Danish Energy Agency and possible previous owners of the License in accordance with any applicable laws, regulations, guidelines and governmental decisions.

If a party fails to provide and maintain the agreed security, such failure shall also constitute a default under this Agreement and the provisions of Article 12 shall apply to such default.



## 5. OPERATING COMMITTEE

### 5.1 *Establishment and Powers*

There is hereby established an Operating Committee which shall exercise overall supervision and control of all matters pertaining to the Joint Operations.

### 5.2 *Representation*

The Operating Committee shall consist of one (1) representative appointed by each of the Parties. Each Party shall as soon as possible after the date of this Agreement give notice to all of the other Parties of the name of its representative and of his alternate. Such representatives and alternates may be replaced from time to time by like notice. The representative of a Party, or in the absence of the representative his alternate, shall be deemed authorised to represent and bind such Party with respect to any matter which is within the powers of the Operating Committee and the representative of a Party does by virtue of this Agreement not have any authority to represent or bind a Party with respect to any matter which is outside the powers of the Operating Committee. The representative of the Party which is the Operator shall be the chairman of the Operating Committee, but such representative shall have no special voting powers as a result of its position as chairman. The representative of a Party and its alternate may be assisted at all meetings by any advisers which may reasonably be required.

Reference is made to the Licence, Section 19, Subsection 1. Representatives of the Danish Energy Agency are entitled to participate as observers at meetings in all Committees and sub committees under this Agreement. According to Section 19, Subsection 2, the Danish Energy Agency's representatives are entitled to receive the same calls for and receive the same material for the meetings as the Parties.

### 5.3 *Meetings*

#### 5.3.1 *Venue, Summons*

The Operating Committee shall hold meetings each Quarter or meetings at such other intervals as may be determined by the Operating Committee but in no event less than once a year. The meetings shall be held in Denmark or at such other place as may be unanimously agreed by the Operating Committee. The Operator shall call such meetings and shall unless the Parties otherwise unanimously agree give at least twenty (20) days' notice of the time and date of each meeting, together with an agenda and all relevant data and information relating to the matters to be considered at that meeting. By notice to all the other Parties, any Party may advise of an additional matter or matters which such Party desires to be considered at the



meeting, and shall provide all relevant data and information relating to the matters to be considered and provided such notice is given at least ten (10) days before the date of the meeting such matter or matters shall be deemed added to the agenda proposed by the Operator and be considered at the meeting. No decision shall be taken on items not included in the agenda sent to all the Parties or in the above-mentioned notice of additional matters unless all Parties are present and unanimously agree that such item shall be included.

### *5.3.2 Special Meetings*

The Operating Committee shall hold a special meeting upon the request of any Party. Such request shall be made by notice to all the other Parties and state the matter to be considered at that meeting. Upon receiving such request, the Operator shall call a special meeting for a date not less than seven (7) nor more than fifteen (15) days after receipt of the request. By notice to all the other Parties, any Party may advise of an additional matter or matters which such Party desires to be considered at the meeting, and provided such notice is given at least five (5) days before the date of the meeting such matter or matters shall be deemed added to the agenda proposed by the Operator and be considered at the meeting.

### *5.3.3 Waiver of Notice*

For any meeting of the Operating Committee, the notice to be provided may be waived with the consent of all the Parties.

### *5.3.4 Proxy, Prior Voting*

Any Party not represented at a meeting may vote on any matter on the agenda for such meeting by either appointing a proxy in writing or giving notice in writing of such vote to the Operator prior to the submission of such matter for vote at such meeting.

## *5.4 Minutes*

The Operator shall prepare the minutes of each meeting including a record of its decisions and a list of the actions required to be taken by the Operator, the Parties or any of them and provide each Party with a copy thereof not more than fourteen (14) days after the meeting. Each Party shall notify all other Parties of its approval or disapproval of the minutes within fourteen (14) days of receipt thereof. A Party who fails to do so will be deemed to have approved the minutes. The approval or disapproval of minutes as aforesaid shall not affect the validity of any action taken by the Operator in good faith prior to notice of disapproval in accordance with the





reasonable understanding of any decisions taken by the Operating Committee in the meeting to which such minutes relate.

#### 5.5 *Action without a Meeting*

The Parties may vote on and determine by notice to the Operator without holding a meeting any proposal which is submitted to them by the Operator by notice and which they could validly determine at a meeting of the Operating Committee. Each Party shall cast its vote within fourteen (14) days after the proposal is received by it except that where the Parties are requested to vote on and determine any proposal relating to the deepening, plugging back, side-tracking, suspension, testing or abandonment of a well on which drilling equipment is then located or where the matter presented for consideration by its nature requires determination in less than fourteen (14) days and such fact and such lesser period (which shall not be less than forty eight (48) hours) are so stated in the notice submitting the proposal, the Parties shall cast their votes within such lesser period after receipt of the proposal provided always that in such circumstances each party shall cast its vote as soon as possible within the relevant periods. Failure by a Party to cast its vote within the relevant period shall be regarded as a vote by that Party against the proposal. The Operator shall give prompt notice of the results of any such voting to the Parties and any decision so taken shall be binding on the Parties. In respect of any action without a meeting the Operator shall give notice to the Danish Energy Agency and furnish the Danish Energy Agency with the same information that is furnished to the Parties and at the same time in accordance with Section 19 of the Licence.

#### 5.6 *Sub Committees*

The Operating Committee may establish such sub committees as it considers desirable from time to time, however

- (a) a technical committee shall be established in any case to discuss all technical, safety and environmental matters relating to the Joint Operations;
- (b) at the request of any Party and always during the development phase the Operating Committee shall establish a contracts committee to consider and make recommendations to the Operator regarding such contracts as are described in Section 4.6.2 (g) and (h); and
- (c) at the request of any Party, an accounting committee shall be established to discuss all accounting matters relating to the Joint Operations.



Sub committee meetings shall be held in Denmark or at such other place as may be unanimously agreed by the Operating Committee. Each Party shall have one (1) representative on any such committee, which shall meet each Quarter unless the Operating Committee shall otherwise decide. The provisions of Section 5.4 are also applicable to this Section 5.6. Each sub committee established shall be given terms of reference and shall be subject to such procedures as the Operating Committee may determine.

The functions of the sub committees shall be in an advisory capacity or as otherwise determined unanimously by the Operating Committee.

## *5.7 Voting Procedure*

### *5.7.1 Voting Interest*

Each Party shall have a voting interest in the Operating Committee and (if applicable) in any sub committees equal to its Percentage Interest.

### *5.7.2 Pass-mark*

Unless otherwise provided in this Agreement, all decisions of the Operating Committee shall be made by the affirmative vote of [the Party or Parties] [at least ... Parties] who are not Affiliates having individually or in aggregate Percentage Interests of not less than \_\_\_\_\_ per cent (..%) provided that the surrender of acreage within the Licence Area or the surrender or abandonment of the Licence shall require the unanimous agreement of all the Parties. In the event of a change of any Party's Percentage Interest at the request of any Party, the Parties shall meet to discuss whether a revision of the voting rules in Section 5.7.2 is required. Any such revision shall be subject to the approval of the Danish Energy Agency.

### *5.7.3 Binding Decision*

All the Parties shall be bound by each decision of the Operating Committee duly made in accordance with the provisions of this Agreement.

### *5.7.4 Decision on Work Obligations*

If the Operating Committee cannot decide on the manner of carrying out the Work Obligations required under the Licence in sufficient time to fulfil those obligations within the Licence terms and in accordance with the Licence conditions, then such Work Obligations will be carried out or satisfied by the Operator in such manner as



shall be favoured by the Party or Parties holding individually or in the aggregate the greatest Percentage Interests, and all Parties shall be bound by any such decision.



## 6. PROGRAMMES, BUDGETS AND AFES

### 6.1 *Exploration Programmes and Budgets*

The Operator shall submit to each of the Parties not later than September 1st of each Year a proposed exploration Programme and Budget for the following Year, and forecasts for the next following three (3) Years and for planning purposes estimates for the remaining exploration period if any. The Operating Committee shall meet to consider such exploration Programme and Budget and to make such revisions thereto as may be agreed as soon as practicable but in any event not later than November 1st. Not later than December 1st the Operating Committee shall approve an exploration Programme and Budget for the following Year and consider the forecasts for the next following three (3) Years.

### 6.2 *Appraisal Programmes and Budgets*

In the event a Potential Storage Site is identified, the Operator shall, as soon as possible after such identification has been made, submit to the Parties a report on the potential storage site, and - unless otherwise decided by the Operating Committee – a recommendation on whether to further appraise the potential storage site and Budget therefor, if relevant. The recommendation, report and the proposed Programme and Budget shall be subject to consideration, revision and approval by the Operating Committee, which shall be completed as soon as possible, and in any event such that the time limit set forth in Section 4, Subsection 2, of the Licence and any time limit set out in the Work Obligations, as relevant, can be met. When the report and appraisal Programme have been approved, the Operator shall submit them to the Danish Energy Agency.

### 6.3 *Extension of the Licence*

#### 6.3.1 *Extension of the Licence for Storage*

In the event a Potential Storage Site is identified, and unless otherwise decided by the Operating Committee, and with due regard for the need to obtain the approval of the Parties in sufficient time before the expiry of the exploration period (or any extension thereof), the Operator shall submit to the Operating Committee a proposed application for the extension of the Licence for the purpose of storage. The proposal shall be accompanied by a report on the Storage Site concerned, which in accordance with the requirements of the Danish Energy Agency describes the geological, technical and economic characteristics upon which the appraisal of the storage site is based. As soon as possible after the approval by the Operating Committee of the application and the report, the Operator shall submit them to the Danish Energy Agency. If the Operating Committee decides that an application for



extension shall not be submitted, the Operator shall submit to the Danish Energy Agency a report on the storage site which has been approved by the Operating Committee. If the necessary majority required by Section 5.7.2 for the submission of an application for extension covering one or more storage sites is not achieved, and the failure to submit an application at the time in question will result in the expiry of the Licence, the Parties wishing to do so may submit an application for an extension of the Licence covering the storage site, to be effective as of the expiry of the exploration period. The Parties not participating in such an application shall cease to be Parties to said extension of the Licence. The Parties not wishing to join in such an application shall take no action which would unreasonably prejudice such an application.

### **6.3.2**      *Extension of the Licence for the Purpose of Further Exploration*

(a) Subject to Section 23, Subsection 1, first para, of the Subsoil Act and Section 6.3.3 below and except to the extent not already included in an application under Section 6.3.1 the Operator and any other Party may propose by notice to the Operating Committee to submit an application for extension of the Licence for the purpose of further exploration and the terms and conditions suggested to apply. As soon as possible after the approval by the Operating Committee of the application, the Operator shall submit it to the Danish Energy Agency.

(b) If the necessary majority required by Section 5.7.2 for the submission of an application for extension for the purpose of further exploration is not achieved, and the failure to submit an application at the time in question will result in the expiry of the Licence, the Parties wishing to do so may submit an application for an extension of the Licence for the purpose of further exploration to be effective as of the expiry of the Licence. If Nordsøfonden wishes to participate it shall at the same time notify the other Parties wishing to submit an application which Percentage Interest it will participate with in accordance with Section 6.3.4. In the event that such Parties are unable to agree on the terms and conditions suggested to apply to the extension, the proposal attracting the votes of the Party or Parties having the largest Percentage Interest(s) shall form the basis for the application. The Parties not participating in such an application shall cease to be Parties to said extension of the Licence and shall take no action which would unreasonably prejudice such an application. In the event that the Danish Energy Agency rejects an application thus submitted, but, however, allows for the re-submission thereof subject to amendment of terms and conditions as may be advised by it, then also the Parties which did not participate



in the application first submitted shall be offered and be entitled to participate in any amended application to be submitted.

### **6.3.3**            *Extension of the Licence for the Purpose of a Sole Risk Operation*

If an extension of the Licence is submitted for the purpose of carrying out or continuing a sole risk operation according to Article 8.2, the provision in Section 6.3.2 shall not prejudice the right of a Party not participating in such operation to continue as a Non Sole Risk Participant according to the provisions in Article 8 and in such case the provisions of Article 8 shall apply.

### **6.3.4**            *Percentage Interests of the Participants in an Extension*

If less than all Parties participate in an application for an extension of the Licence in accordance with Sections 6.3.1 or 6.3.2 and unless otherwise unanimously agreed by the participating Parties the percentage interest of each participating Party shall be the proportion that its Percentage Interest bears to the total of the Percentage Interests of all participating Parties.

However, in the event Nordsøfonden decides to participate in an application for an extension of the Licence in accordance with Sections 6.3.1 or 6.3.2 Nordsøfonden may elect to participate either with a percentage interest calculated as herein described or with its Original State Participation Share.

## **6.4**                *Development Programmes and Budgets*

### **6.4.1**            *Preparation and Decision*

At such time as the Operating Committee determines that a proposal for a development Programme and Budget for one or more storage sites shall be prepared, it shall direct the Operator to carry out such preparations. The Operating Committee shall establish a sub committee to supervise the preparations. The Operator shall keep this sub committee fully informed about the progress of the work and submit major decisions for the consideration of the sub committee. The proposal shall include:

(a) a description of the site(s) to be used for storage with detailed analysis and evaluations of geological conditions, technical aspects of the reservoir and storage, and economic factors;

(b) a storage plan with particulars concerning the potential date for commencement of storage and the potential magnitude of the annual storage capacity for each Year the storage site could sustain



in operation. If the plan encompasses more than one storage site, such particulars shall be given for each storage site covered by the plan as well as for the cumulative storage anticipated under the plan;

(c) a general description of the facilities planned to be installed, including the number and type of wells, and equipment for measurement, storage and processing, and of pipelines between individual parts of the facilities, as well as a more detailed description of the transportation system planned for the CO<sub>2</sub> to be stored;

(d) a risk analysis for the planned facilities with a statement of measures to be taken to reduce identified risks;

(e) a plan for the manner in which the development project is to be carried out, including a time schedule and organisational plan for the execution of the project; and

(f) a detailed description of any elements of uncertainty in the project with respect to capacity, the time schedule, economics etc., together with all other data, studies, interpretations, map models etc., which may be necessary for an evaluation of the project.

The proposed Programme and Budget shall be put before the Operating Committee as soon as possible after their preparation. If the proposed Programme and Budget are approved, each of the Parties shall, within the next one hundred (100) days or such longer period as may be determined by the Operating Committee (however, not exceeding one hundred and eighty (180) days), declare in writing to the other Parties whether it will participate in the development and the expenses thereof to the extent of its Percentage Interest share. The Programme and Budget shall be renewed and updated annually until the Programme has been completed. If fewer than all the Parties decide to participate in such development, the provisions of Section 8.6.3 shall apply. If the Operating Committee fails to approve the proposed Programme and Budget, the provisions of Section 8.6.2 shall apply.

#### **6.4.2**      *All Parties Participate*

If all the Parties decide to participate in such development the Operator, under the direction of the Operating Committee, shall prepare and submit a development plan to the Danish Energy Agency. If the Danish Energy Agency, in approving the development plan, requires that it be amended, any of the Parties may, by notice to the other Parties given within twenty eight (28) days following such approval, elect not to proceed with the development. If no Party gives such notice, the approved



plan (with any amendments as aforesaid) shall be adopted for the development, the Parties shall be obligated to participate in carrying it out, and the Operator shall be authorised and obligated to proceed in accordance with it. If less than all the Parties elect to proceed with the development, the provisions of Section 8.6.4 shall apply.

#### **6.5** *Storage Programmes and Budgets*

The Operator shall not later than September 1st of the Year prior to that in which storage will commence, and in each subsequent Year, submit to the Parties a proposed storage Programme and Budget for the next Year, and forecasts for the next following three (3) Years. The proposed storage Programme and Budget shall be subject to consideration, revision and approval by the Operating Committee, and the Operating Committee shall meet to consider such storage Programme and Budget and to make such revisions thereto as may be agreed as soon as practicable and in any event not later than November 1st. Not later than December 1st the Operating Committee shall approve a storage Programme and Budget.

#### **6.6** *Decommissioning Programmes and Budgets*

At such time as the Operating Committee determines that a proposal for a decommissioning Programme and Budget shall be prepared, it shall direct the Operator to carry out such preparations. The proposed Programme and Budget shall be put before the Operating Committee as soon as possible after their preparation. When the proposed decommissioning Programme and the Budget are approved, the Operator shall be authorised and obligated to proceed in accordance with it subject to the approval of the Danish Energy Agency. The Programme and Budget shall be renewed and updated annually until the Programme has been completed.

#### **6.7** *Information in Programmes and Budgets*

Each Programme and Budget provided for in this Article 6 shall set out in reasonable detail the projects and work proposed to be carried out, the goods and services to be purchased, the information required under Article 2 of the Accounting Procedure and such other information as shall be decided upon by the Operating Committee. The forecasts shall to a reasonable extent set out the same information. The Programmes and Budgets shall also set forth an estimate of the expenditures required, broken down by Quarters.

#### **6.8** *Status Reports*





The Operator shall as of June 30th of each Year provide to each of the Parties a status report regarding all current Programmes and Budgets and anticipated revisions to be proposed during the remainder of the Year. If required by the Operating Committee the Operator shall provide more frequent status reports. Furthermore, the Operator shall as of 31 January of each Year after a development plan has been approved provide to each of the Parties a status report of contracts entered into showing subject, date and amount of each contract.

#### **6.9** *Authorisation to Proceed*

Subject to Section 6.10 and to obtaining any necessary consents of the Danish Energy Agency, the Operator shall be authorised and obligated to proceed with any approved Programme and Budget.

#### **6.10** *AFEs*

Except for emergency expenditures as provided for in Section 4.11 and expenditures as mentioned in Section 2.3.2 of the Accounting Procedure, the Operator shall before entering into any commitment or incurring any expenditure under an approved Programme and Budget submit to the Parties an AFE therefor. An AFE shall include the information set out in, and be prepared in accordance with, Section 7.2 of the Accounting Procedure. To the extent that the Operating Committee approves an AFE, the Operator shall be authorised and obligated, subject to Section 6.11, to proceed with such commitment or expenditure.

#### **6.11** *Amendments*

At any time the Operator and any other Party may by notice to all the other Parties, propose that an approved Programme and Budget and/or approved AFE be amended.

To the extent that an amendment is approved by the Operating Committee, the approved Programme and Budget and/or AFE shall be deemed amended accordingly, and a revised AFE and/or Budget prepared, reflecting the decision provided that such amendment shall not invalidate any authorised commitment or expenditure made by the Operator prior thereto.



## **7. ACCOUNTING PROCEDURE AND COSTS AND EXPENSES**

### *7.1 Adoption and Conflict*

The Accounting Procedure attached hereto as Appendix A is hereby made a part of this Agreement. In the event of any conflict between any provision in the main body of this Agreement and any provision in the Accounting Procedure, the provision in the main body shall prevail.

### *7.2 Payment of Costs and Expenses*

Each Party agrees to pay to the Operator its respective share of costs and expenses and in accordance with the Accounting Procedure.



## **8. SOLE RISK OPERATIONS AND DEVELOPMENT BY LESS THAN ALL PARTIES**

### *8.1 Rights to Propose*

At any time one or more Parties may propose by notice to the Operating Committee that operations be carried out which are not included in a Programme approved by the Operating Committee. Any such notice shall include a description of the nature, method and timing of the operations proposed and the estimated total expenditure to be made in connection therewith together with such other relevant information as is necessary in order to allow the Parties to consider the proposal and elect whether or not to participate. Subject to the following provisions of this Article such operations may be carried out by the proposing Party and any Parties choosing to participate in such operations (the "Sole Risk Participants") on a sole risk basis.

### *8.2 Types*

Subject to the other provisions hereof, the following types of sole risk operations may be proposed and carried out:

- (a) geophysical surveys;
- (b) the drilling of an exploratory or appraisal well;
- (c) the deepening or side-tracking of a suspended well or well in the course of being drilled or the testing of zones penetrated by a suspended well or a well in the course of being drilled; or
- (d) the development of a Potential Storage Site.

### *8.3 Restrictions and Conditions*

The following restrictions and conditions shall be applicable with respect to any proposed sole risk operations:

- (a) no sole risk operations may be carried out unless the Operating Committee has decided that such operations shall not be carried out as part of the Joint Operations. Such decision of the Operating Committee shall be taken within one Month after the Operating Committee has received a written notice by the proposing Party giving the information required in Section 8.1. Each Party may choose to participate in any operation to be carried out on a sole risk basis provided that such Party within one Month after the decision of



the Operating Committee submits to the proposing Party written notice thereof. When a sole risk operation of the type referred to in Section 8.2 (c) in relation to a well in the course of being drilled is proposed the above mentioned time limits shall, however, be forty-eight (48) hours, respectively;

(b) no sole risk operations can be carried out if such operations would conflict with or prejudice any part of any development or other Programme approved by or under active consideration by the Operating Committee;

(c) no drilling of an appraisal well with respect to a Potential Storage Site can be carried out unless the Operating Committee shall have decided not to engage in any appraisal drilling with respect to such Potential Storage Site as part of the Joint Operations or the Operating Committee has abandoned or completed its appraisal Programme with respect to such Potential Storage Site and decided not to prepare a development Programme with respect thereto;

(d) any proposal to drill an exploratory well or to deepen or side-track a suspended well in or through an existing Potential Storage Site shall require the approval of the Operating Committee to evidence that such proposal is not in breach of Section 8.3 (b) above (such approval not to be unreasonably withheld) before such drilling, deepening or side-tracking is carried out; and

(e) if the sole risk operations are not commenced within twelve (12) Months after the time limit in Section 8.3 (a) third paragraph above the Sole Risk Participants lose the right to carry out the sole risk operations and the relationship between the Parties shall be deemed to be as if the sole risk operations had never been proposed.

## 8.4 *General Provisions*

### 8.4.1 *Indemnification*

Any sole risk operations will be carried out at the sole risk, cost and expense of the Sole Risk Participants. In addition, the Sole Risk Participants shall jointly and severally indemnify and hold harmless the other Parties ("Non Sole Risk Participants") and Operator (if a Non-Operator is operating the sole risk operations under Section 8.4.3), subject always to Section 4.3.3 against all actions, claims, demands and proceedings whatever brought by any third party arising out of or in connection with the sole risk operations and shall further jointly and severally



indemnify the Non Sole Risk Participants and Operator (if a Non-Operator is operating the sole risk operations under Section 8.4.3), subject always to Section 4.3.3, against all damages, costs, losses and expenses whatsoever directly or indirectly caused to or incurred by them as a result of anything done or omitted to be done in connection with the carrying out of the sole risk operations, excepting only damage inflicted to the subsurface including any storage site. Any approval by the Non Sole Risk Participants of the conduct of sole risk operations shall not constitute a waiver of these provisions.

#### *8.4.2 Use of Joint Property*

Sole Risk Participants carrying out sole risk operations shall be entitled to use Joint Property for such sole risk operations unless the Operating Committee otherwise decides. The Operating Committee shall also decide the terms and conditions upon which any Joint Property may be used, it being understood that the use of Joint Property shall not be unreasonably withheld and that the charges for such use shall be on a reasonable and equitable basis.

#### *8.4.3 Sole Risk Operator*

If the Operator is a Sole Risk Participant, or if the Operator and the Sole Risk Participants so agree, the Operator shall be operator for the sole risk operations. If the Operator is a Non Sole Risk Participant it may only decline to carry out sole risk operations which are new work, such as a new well, but not operations which are a continuation of work started, such as the deepening, side-tracking or testing of a well. If the Operator does not carry out the sole risk operations such work shall, subject to the prior consent of the Danish Energy Agency, be carried out by the Party designated by the Sole Risk Participants.

#### *8.4.4 Data and Information*

Sole Risk Participants shall be entitled for the purpose of sole risk operations to utilise any data and information owned jointly with the Non Sole Risk Participants. Data and information obtained pursuant to the carrying out of sole risk operations under Section 8.2 (b) or (c) shall not be made available to the Non Sole Risk Participants unless the Sole Risk Participant(s), or any of them or any Non Sole Risk Participant who has become an owner of such data and information makes a proposal to carry out further drilling or to carry out extended testing or development operations in respect of a Potential Storage Site, the subject of the operation under Section 8.2 (b) or (c). In this case a Non Sole Risk Participant shall be entitled to have access at the Sole Risk Participant's premises to such data and information to the extent relevant and for the purposes only deciding whether or not to participate in appraisal drilling or a development Programme as provided in Section 8.5.3 but



such data and information shall remain the property of the Sole Risk Participants. In the event that one or more of the Non Sole Risk Participants discharges in full its liability to Sole Risk Participants under Section 8.5.3 hereof, such data and information shall become the joint property of the participants discharging such liability and the Sole Risk Participants.

#### **8.4.5**      *Sole Risk Percentage Interest*

Unless the Sole Risk Participants otherwise unanimously agree the Percentage Interest of each participant in a sole risk operation shall be the proportion that its Percentage Interest bears to the total of the Percentage Interests of all Sole Risk Participants. In the event Nordsøfonden decides to participate in a sole risk operation Nordsøfonden may elect to participate either with a Percentage Interest calculated as herein described or with its Original State Participation Share in the area in which the sole risk operation is carried out. Upon a Non Sole Risk Participant electing to participate in further operations arising out of a sole risk operation and making such payments as may be due in accordance with Sections 8.5.1 – 8.5.2 inclusive (and without prejudice to any further payment which may become due pursuant to Section 8.5.3), such Sole Risk Participant shall (unless the Sole Risk Participants otherwise agree), assume a Percentage Interest share in such further operation and all rights and liabilities attributable thereto.

#### **8.4.6**      *Sole Risk Administration*

In connection with any sole risk operations:

- (a) the sole risk operation will be carried out under the overall supervision and control of the Sole Risk Participant in lieu of the Operating Committee;
- (b) the computation of costs and expenses of the sole risk operation incurred by the Sole Risk Participant shall be made in accordance with the principles set out in the Accounting Procedure;
- (c) the Operator or the Sole Risk participant carrying out the sole risk operation shall maintain separate books, records and accounts (including bank accounts) for the sole risk operations which shall be subject to the same right of examination and audit by the Sole Risk Participants and, so long as they are entitled to elect to participate in the sole risk operations, the Non Sole Risk Participant, as those relating to the Joint Operations;



- (d) the costs and expenses of the sole risk operation shall not be reflected in the statements and billings rendered by the Operator for the Joint Operations; and
- (e) if the Operator is carrying out a sole risk operation on behalf of a Sole Risk Participant, the Operator shall be entitled to make cash calls on the Sole Risk Participants in connection with the sole risk operation and shall not use Joint Account funds or be required to use its own funds for the purpose of paying the costs and expenses of the sole risk operations; furthermore the Operator shall not be obliged to commence or, having commenced, to continue the sole risk operations unless and until the relevant Advances have been received from the Sole Risk Participants.

## 8.5 *Consequences*

### 8.5.1 *Access to Data and Information*

Any Party which does not participate in sole risk operations carried out under Section 8.2 (a) shall not be entitled to have access to any data or information obtained in respect of such sole risk operations, provided that any Non Sole Risk Participant may at any time become entitled to have access to and shall become a joint owner of such data and information obtained from such sole risk operations upon payment in cash to the Sole Risk Participants of an amount equal to.....per cent (.....%) of the amount it would have contributed to the Joint Account if such operations had been carried out as part of the Joint Operations.

### 8.5.2 *Joint Drilling as a Result of Sole Risk Geophysical Survey*

If the sole risk operations carried out under Section 8.2 a) result in the identification of a prospect which the Operating Committee approves for drilling for the Joint Account, then each Non Sole Risk Participant with respect to such operations who has not previously in accordance with Section 8.5.1 obtained access to such data and information and who wishes or is obliged to participate in the drilling of a well on such prospect or development program shall pay the Sole Risk Participants with respect to such operations, in cash, an amount equal to..... per cent (.....%) of the amount it would have contributed to the Joint Account had such operations been carried out as part of the Joint Operations. Such payment shall be made before the commencement of drilling of such well, and the Parties making the payment shall thereupon receive from the Sole Risk Participants all data and information obtained from the sole risk operations and shall become a joint owner of such data and information.



### *8.5.3 Additional Activities as a Result of Sole Risk Drilling*

If sole risk operations carried out under Section 8.2 b) or 8.2 c) result in the identification of a particular Potential Storage Site or result in a decision by the Sole Risk Participants or one or some of them to carry out appraisal drilling or a development programme with respect to a particular Storage Site, then the Sole Risk Participants shall in each case notify the Non Sole Risk Participants thereof. Any Non Sole Risk Participant who wishes to participate in appraisal drilling or a development Programme relating to that Storage Site shall notify the Sole Risk Participants of its participation within twenty eight (28) days in case of appraisal drilling and within ninety days (90) days in case of a development programme and such Non Sole Risk Participant must pay to the Sole Risk Participant(s) an amount equal to the amount it would have contributed to the Joint Account had such sole risk operations been carried out as part of the Joint Operations plus a penalty equal to .....per cent (..... %) of such amount. Such amount shall be paid, in cash, before the commencement of the appraisal drilling or development Programme in question (in the currencies in which Advances were made by the Sole Risk Participants) plus interest at the Cost of Funds Rate from the date of notification from the Sole Risk Participants to the Non Sole Risk Participants until the date of payment. Such Payment shall be credited to the Sole Risk Participant or, if more than one, to each Sole Risk Participant in the proportion that its Percentage Interest bears to the sum of the Percentage Interests of all the Sole Risk Participants or in such other proportion as they may have agreed under Section 8.4.6. However in case of participation in a development programme the Non Sole Risk Participant may elect to pay the Sole Risk Participants' share of cost of the development until such amounts have been paid.

### *8.6 Sole Risk Development and Development by Less than All Parties*

#### *8.6.1 Sole Risk Preparation of a Development Programme*

In the event the Operating Committee rejects a proposal to prepare a development Programme and Budget for a particular Storage Site and provided that any appraisal Programme approved by the Operating Committee in relation to that Storage Site has been completed or any AFE in respect of appraisal work included in an appraisal work included in an appraisal Programme has been rejected by the Operating Committee, any Party may prepare and submit a proposed development Programme and Budget for such Storage Site to the Parties and the Operating Committee shall meet and consider it as soon as practicable after its proposal.

#### *8.6.2 Sole Risk Proposal of a Development Programme*





- (a) In the event the Operating Committee does not approve a development Programme and Budget submitted in accordance with Section 6.4.1 or Section 8.6.1, then any Party may give notice to the other Parties of its intention to develop the Potential Storage Site at sole risk. Such notice shall be accompanied by details of its proposed development Programme and Budget. The other Parties may give counter notice within sixty (60) days that they wish to participate in the development. If all the other Parties elect to participate, the Parties shall proceed with the development accordingly, and the provisions of Section 6.4.2 shall apply upon the Danish Energy Agency approving the development plan.
  
- (b) If the development of a Potential Storage Site is carried out in accordance with Section 8.6.2(a) then the Party or the Parties which prepared the development Programme and Budget shall be entitled to charge all reasonable costs incurred in the preparation thereof to the Joint Account together with interest calculated on a day to day basis at the rate of one per cent (1%) above the Cost of Funds Rate from the date on which the costs were incurred to the date of repayment, inclusive.

### **8.6.3**      *Development by Less than All Parties*

In the event that following approval by the Operating Committee of a development Programme and Budget pursuant to Section 6.4.1, or following any notice served under Section 8.6.2 (a) less than all the Parties elect to participate in the development of a Potential Storage Site, those Parties which elected to participate shall be entitled to proceed to develop the Potential Storage Site at their sole cost and risk in accordance with the relevant Programme and Budget; provided that if the Danish Energy Agency's approval of the development plan is conditional on such development plan being amended, then the Parties participating in the development shall give notice to the other Parties of such amendments and within twenty eight (28) days of such notice:

- (i) any of the Parties participating may, by notice to all the other Parties, elect not to proceed; and/or
- (ii) any of the Parties not participating may by notice to all the other Parties elect to do so.

Those Parties which at the expiration of the said period of twenty eight (28) days are participating in the development shall be obligated to carry it out.



#### 8.6.4 *Less than All Parties Proceed*

In the event that following the Danish Energy Agency approving the development plan in which all the Parties are participating, any of the Parties elects not to proceed with the development under Section 6.4.2 the other Parties shall be entitled to proceed with the development in accordance with the approved development plan (as amended) and if they do so proceed shall be obligated to carry out the development.

#### 8.6.5 *Percentage Interest in Sole Risk Development*

- (a) In the event that less than all the Parties participate in the development of a Potential Storage Site in which no sole risk drilling has been carried out, then, unless all the Parties participating in such development unanimously agree otherwise, the Percentage Interest of each Party in such development shall be the proportion that its Percentage Interest bears to the total of the Percentage Interests of all participating Parties.
- (b) In the event that less than all Parties participate in a development of a Potential Storage Site in respect of which sole risk drilling has been carried out then, unless the Parties participating in such development unanimously agree otherwise:
  - (i) if the original Sole Risk Participant in the first such sole risk drilling (or if more than one such participant, all such participants) participates in the development, then the Percentage Interest in such development of each Party which was not an original Sole Risk Party shall equal its Percentage Interest in the Licence, and the remaining Percentage Interest in the development shall be held by the original Sole Risk Participant (if more than one, in proportion to their Percentage Interest in the Licence or in such other proportions as they may have agreed),
  - (ii) if less than all such original Sole Risk Participants participate in the development, then the calculation under (i) above shall first be performed as though all such original Sole Risk Participants were participating. The Percentage Interest in such development of those original Sole Risk Participants who do not participate shall then be allocated to all the participating Parties, in proportion to the percentage interest obtained in such preliminary calculation.



Notwithstanding the above, Nordsøfonden is, however, entitled to choose to participate with the interest derived from such calculation or the Original State Participation Share in the area in which the development is carried out.

#### 8.6.6 *Rights in the Sole Risk Development*

Any Party which does not participate in the development of a Potential Storage Site shall have no further rights in such development.

#### 8.6.7 *Sub-Area*

Development of a Potential Storage Site by less than all Parties will in respect of the area comprised therein be regarded as creating a Sub-Area, and this Agreement shall as far as possible apply independently in the manner of a separate contract to such Sub Area and apply mutatis mutandis to the interests of the Parties participating in the sole risk development subject to the provision of Section 10.1 (a) provided that

- (a) forfeiture upon default under Section 12.3.3 with respect to operations shall mean forfeiture of the Defaulting Party's Percentage Interest in the entire Licence Area, subject to the following provisions:
  - (i) The Non Defaulting Parties who are also Sole Risk Participants for any particular sole risk operation shall have the right to acquire the Defaulting Party's Percentage Interest in the sole risk operation and relevant property and Sub-Area, subject to the provisions of Section 12.3 as applied mutatis mutandis to such sole risk operation, property or Sub-Area, and
  - (ii) All Non Defaulting Parties shall have the right to acquire the Defaulting Party's Percentage Interest in the remainder of the Licence area, subject to the provisions of Section 12.3;
- (b) the Sole Risk Participants shall have a right of access to the Sub-Area; and
- (c) there shall be no separate right of assignment or withdrawal and accordingly Article 10 shall not apply independently to such separate contract.



Non-participating Parties shall be indemnified by participating Parties in the manner described in Section 8.4.1.



## 9. UTILISATION OF STORAGE CAPACITIES

### 9.1 *Right and Obligation*

Subject to Section 12.3.1 each of the Parties participating in a development shall have the right and be obliged to separately access and utilize its Percentage Interest share of the Joint Storage Capacity available under this Agreement, at such times, in such quantities and in accordance with the delivery and operating procedures as shall be agreed by the Parties prior to commencement of storage of CO<sub>2</sub>.

### 9.2 *Delivery and operating Procedures for CO<sub>2</sub>*

The Parties participating in the development of a Potential Storage Site shall meet as soon as practicably possible, following the recommendation in accordance with Section 6.2 of the Licence and shall prior to the proposed commencement of storage discuss marketing arrangements and agree on supplemental agreements to this Agreement to cover delivery of CO<sub>2</sub> for the purpose of storage and operating procedures in respect of such development.



## 10. ASSIGNMENTS AND ENCUMBRANCES

### 10.1 *Assignments*

As used in this Article 10, "assign" refers to both the assignment of benefits, rights and interests and to the transfer of duties, obligations and liabilities, and "assignment", "assignee" and "assignor" shall be construed accordingly.

Subject to the provisions in Section 10.2 each of the Parties hereto shall have the right at any time to assign in whole or part its benefits, duties and obligations under this Agreement, provided, however that:

- (a) no Party may assign any right, title, interest, benefit, duty or obligation in or under the Licence or this Agreement separately, it being the intent hereof that any such assignment in or under the Licence must carry with it the equivalent right, title, interest, benefit, duty and obligation in and under this Agreement, and vice versa and so that, for the avoidance of doubt, any assignment of all or part of the Party's Percentage Interest shall include such Party's corresponding interest in any Sole Risk project and (if applicable) Sub-Area, and vice versa;
- (b) any assignee must be of technical and financial standing sufficient to perform the duties and obligations hereunder to the extent of the interest and property assigned;
- (c) any assignment shall be subject to the terms and provisions of this Agreement and the assignee shall assume and agree to perform or pay the assignor's duties, obligations and liabilities hereunder to the extent of the interest assigned and whether such duties, obligations and liabilities are incurred prior to or after the effective date of such assignment;
- (d) no Party may assign its right, title, benefits, interests, duties or obligations or any part thereof without the prior written consent of the other Parties to such assignment and all terms and conditions pertinent thereto provided, however, that such consent will not be unreasonably withheld if the assignee is a company or a corporation which on request can demonstrate that it has adequate technical and financial resources to meet its obligations hereunder including abandonment obligations and the provisions of any necessary security for the fulfilment of the obligations under the Licence in substitution (whether in whole or in part) for the security provided by the assignor and the other



provisions and conditions hereunder have been satisfied and met and provided further that a Party who fails to notify the assigning Party that it is withholding its consent on the aforesaid grounds within thirty (30) days of being notified by the assigning Party of the proposal to assign and the identity of the proposed assignee and the other provisions and conditions of this Section having been satisfied and met shall be deemed to have given its consent;

- (e) no such assignment shall be binding on any of the non assigning Parties hereto until the day on which the assignor furnished to each of the non assigning Parties a certified copy of the final assignment agreement(s) and any other documents inclusive of all terms and conditions pertinent to such assignment such documents to include a written instrument (in form and content to the reasonable satisfaction of the Parties and duly executed by the assignee) accepting and assuming all of the obligations under this Agreement insofar as the interest assigned is concerned;
- (f) no Party may assign any right, title, interest, benefit, duty, obligation or liability in or under the Licence or this Agreement without obtaining the written consent of the Danish Energy Agency to such assignment;
- (g) any Party assigning all or part of its interest in or under this Agreement or the Licence shall remain liable to the other Parties for all obligations attaching to the interest assigned which are incurred prior to the effective date of such assignment, and such obligations shall in addition become the obligations of the assignee;
- (h) all costs and expenses pertaining to any assignment shall be the responsibility of the assignor;
- (i) notwithstanding the provisions in Sections 10.1 (a)-(h), Nordsøfonden always shall be entitled to assign, in whole or in part, its rights in and under this Agreement and the Licence to the State, to a company owned by the State, or to a Subsidiary of any such company. The State or the company to which such rights and obligations are transferred shall similarly be entitled to assign its rights and obligations in whole or in part to the State, to a company owned by the State, or to a Subsidiary of any such company. Upon an assignment pursuant to this Section 10.1 (i)



the assignee shall assume the corresponding obligations which, as of the time of the assignment, were the responsibility of the assignor in its capacity as a Party; and

- (j) a Party may not include a clause in the assignment agreement to the effect that the agreement shall be terminated if the preferred right and option to purchase according to Section 10.2 is exercised.

## 10.2 *Option to Purchase*

### 10.2.1 *Bona Fide Offer and Exercise of the Option*

If any Party receives or makes a bona fide offer which it or (as the case may be) the prospective purchaser is willing to accept for the purchase of all or a part of such Party's Percentage Interest and the prospective purchaser (whether another Party or a third party) is able to purchase such interest, the Party receiving or making said offer shall give written notice thereof to each of the other Parties, including in said notice the name and address of the prospective purchaser, the price offered and all other pertinent terms and conditions of the offer. The other Parties, for a period of sixty (60) days after the receipt of said notice, shall have the prior and preferred right and option, in proportion to their respective Percentage Interests to purchase the interest covered by said offer. If fewer than all of the other Parties desire to exercise such right and option, they shall have the right to purchase the interest covered by said offer in proportion to the respective Percentage Interests of those electing to purchase.

### 10.2.2 *No Parties Exercise the Option*

If none of the other Parties exercises said right and option by giving written notice of its acceptance within sixty (60) days after receipt of the above mentioned notice, the Party which received or made said offer shall be entitled to receive the written approval of the other Parties, subject to the provisions of Sections 10.1 (a)-(j), and may complete the sale to the prospective purchaser in accordance with said offer within six (6) months after the expiration of said period of sixty (60) days; provided that, if the Party which receives or makes said offer fails to complete the sale within said period of six (6) months, the preferred right and option of the other Parties under Section 10.2.1 shall be considered as revived, and the Party which received or made said offer shall not complete the sale to the prospective purchaser unless and until said offer again has been presented to the other Parties, as hereinabove provided, and said other Parties again have failed to elect to purchase on the terms and conditions of said offer. All offers at any time made to or by any Party for the purchase of its Percentage Interest covered hereby shall be subject to all the terms





and conditions of Section 10.2.1. The six (6) months period hereinabove provided shall be extended as may reasonably be necessary to secure the approval of the assignment by the appropriate governmental authorities, provided the Party acts expeditiously in attempting to secure governmental approval.

### **10.2.3**      *Exceptions*

Sections 10.2.1 and 10.2.2 above shall not apply to:

- (a) any assignment by a Party to an Affiliate of that Party,
- (b) any assignment or disposition of the Percentage Interest of a Party by corporate merger or consolidation, or
- (c) any assignment under Section 10.1 (i).

### **10.3**      *Encumbrances*

Nothing contained in this Article 10 shall prevent a Party from mortgaging, pledging or otherwise encumbering all or part of its interests in the Licence and in and under this Agreement for the purpose of security relating to finance, provided that:

- (a) such Party shall remain liable for all obligations relating to such interest; and
- (b) the encumbrance shall be subject to any necessary approval of the Danish Energy Agency and be expressly subordinated to the rights of the other Parties under this Agreement.

### **10.4**      *Change of Control (indirect assignments)*

In the event of an agreement being made for a proposed change of control covered by Section 29 of the Danish Subsoil Act, of a Party, and prior to completion of the transaction that would result in such change of control, such Party shall give written notice to the other Parties and the other Parties shall have an option to purchase such Party's Percentage Interest in accordance with the provisions of Section 10.2 which shall apply mutatis mutandis. In the event of a change of control, Section 10.1 (j) shall apply to cash and non-cash transactions alike.



## 11. WITHDRAWAL

### 11.1 *Rights*

#### 11.1.1 *Notice of Withdrawal*

Any Party may, subject to the other provisions hereof, at any time give notice to the other Parties that it wishes to withdraw from the Licence and this Agreement by offering its Percentage Interest to such other Parties. Within ninety (90) days of receipt of such notice, any other Party may similarly give notice that it wishes to withdraw from the Licence and this Agreement by likewise offering its Percentage Interest to the other Parties. If all the other Parties give such notice, the Parties shall be deemed to have decided to abandon the Joint Operations and the Licence shall be surrendered on the earliest possible date. If less than all the Parties give such notice, the withdrawing Parties shall withdraw from the Licence and this Agreement on the earliest possible date and shall assign their respective interests in the Licence and in and under this Agreement to the non withdrawing Parties without any compensation whatsoever.

#### 11.1.2 *Work Obligations to be fulfilled*

Subject to Section 11.2.6, no Party shall have any right to withdraw hereunder until all Work Obligations shall have been fulfilled.

#### 11.1.3 *Withdrawal from a Development Programme*

No Party participating in a Development Programme may withdraw from the Licence and this Agreement unless the non-withdrawing parties unanimously agree otherwise.

#### 11.1.4 *Approval by the Danish Energy Agency*

A Party may only withdraw from the Licence and this Agreement after the Danish Energy Agency has approved that the conditions of the Licence for such withdrawal have been met with.

### 11.2 *Conditions*

#### 11.2.1 *Allocation of Percentage Interests*

A withdrawing Party shall assign all of its said Percentage Interest to such non withdrawing Parties as wish or are obliged to accept, and the said interest shall (unless otherwise agreed by such non withdrawing Parties) be allocated to them in



the proportion in which their respective Percentage Interests prior to the effective date of withdrawal (as hereinafter defined) bear to the total of the same.

#### *11.2.2 Execution of Documents*

A withdrawing Party shall execute and deliver any and all documents necessary to effect such assignment and a withdrawal shall not be effective and binding upon the Parties until the date upon which the documents have been approved by the Danish Energy Agency and by the Parties (the approval of the Parties not to be unreasonably withheld) and shall be in full force and effect ("the effective date of withdrawal").

#### *11.2.3 Continued validity of the Licence*

A withdrawing Party shall promptly join in all governmental procedural actions required by law to ensure the Licence remains in full force and effect after such Party's withdrawal, provided that its participation in such action shall not cause it to incur after the date on which notice of withdrawal shall have been given any financial obligations except as provided in this Article 11.

#### *11.2.4 Costs and Expenses*

A withdrawing Party shall pay all costs and expenses, including any fines and penalties, incurred by the other Parties in connection with such withdrawal.

#### *11.2.5 No Encumbrances, Liens and Charges*

A withdrawing Party shall not be allowed to withdraw from the Licence and this Agreement if its interest is subject to any encumbrances, liens or charges unless the other Parties are willing to accept the assignment subject to such additional encumbrances.

#### *11.2.6 Liability for Approved Programme and Budget*

Unless the Party or Parties acquiring its interest agree to accept the withdrawing Party's liabilities and obligations, a withdrawing Party shall remain liable and obligated for its Percentage Interest share of all expenditure accruing to the Joint Account under any Programme and Budget approved by the Operating Committee prior to the date on which notice of withdrawal is given even if the operations concerned are to be implemented thereafter.

#### *11.2.7 Liability for Abandonment*



A withdrawing Party shall remain liable and obligated for its share of all net costs and obligations that in any way relate to the abandonment of Joint Operations or a sole risk project in which such withdrawing Party participated, including the legal obligations related to assignment of ownership of the licence to the Danish State. Unless otherwise agreed, such share shall be the proportion which the withdrawing Party's cumulative deliveries of CO<sub>2</sub> up to the effective date of withdrawal bears to the aggregate cumulative deliveries of CO<sub>2</sub> of all the Parties up to the occurrence of abandonment, and prior to withdrawal such withdrawing Party shall provide the other Parties with such security therefor as is acceptable to all such other Parties based upon the then best estimate of aggregate cumulative deliveries.



## 12. DEFAULT IN PAYMENT

### 12.1 *Failure to Pay*

If any Party ("Defaulting Party") fails to pay in full its share of any Advance by the due date:

- (a) the Operator shall as soon as reasonably practicable notify in accordance with Section 13.8 all the Parties of such default in writing;
- (b) with the exception of the Defaulting Party each Party ("Non Defaulting Party") shall contribute, as hereinafter provided, a share of the amount in default in the proportion that its Percentage Interest bears to the total of the Percentage Interests of the Non Defaulting Parties and pending receipt of such additional contributions the Operator shall use reasonable endeavours to make arrangements to meet any commitments falling due either by borrowing the necessary finance from outside sources or by making the necessary finance available itself and all costs of any such finance shall be charged to the Non Defaulting Party and added to the amount in default and paid by the Non Defaulting Parties, finance made available by the Operator shall bear interest calculated on a day to day basis at a rate equal to two per cent (2%) above the Costs of Funds Rate in effect from time to time;
- (c) within three (3) Working Days following the notification by the Operator under (a) above, the Operator shall notify all the Parties of the liability of each of the Non Defaulting Parties to contribute to the amount in default and in addition the cost of and interest on funds used or provided by the Operator under (b) above, and shall request further advances on the expiry of the six (6) Working Days specified in (d) below; and
- (d) if such default continues for more than six (6) Working Days after the date of notification by the Operator each of the Non Defaulting Parties shall on the Working Day next following such sixth (6th) Working Day pay the amount notified under (c) above, and thereafter shall continue to pay, in addition to its share of subsequent Advances, the same proportion of that part of all such subsequent Advances attributable to the Defaulting Party and in addition the cost of the interest on funds used or provided by the Operator under (b) above until such time as the



Defaulting Party has remedied its defaults in full or until forfeiture, as hereinafter provided, and failure by any Party to make such payments shall likewise and with the same results render that Party in default.

## *12.2 Remedy of Default*

The Defaulting Party shall have the right to remedy the default at any time prior to forfeiture, as hereinafter provided, by payment in full to the Operator or, if the Non Defaulting Parties have paid any amounts under Section 12.1 (d), the Non Defaulting Parties, in proportion to the amounts so paid by them, of all amounts in respect of which the Defaulting Party is in default together with interest thereon calculated at the rate of five per cent (5%) above the Cost of Funds Rate from and including the due date for payment of such amounts until the actual date of payment. If the default is remedied in accordance with this Section 12.2, the Defaulting Party shall (from the day after the date on which the default is remedied) regain the right to utilise its Percentage Interest share of Storage Capacity, but for the avoidance of doubt shall not be entitled to receive or be compensated for any Storage Capacity utilised by the Non Defaulting Parties in accordance with Section 12.3.1, during the default period.

## *12.3 Continuation of Default*

### *12.3.1 No Right to Joint Storage Capacity*

If any default continues for more than six (6) Working Days after the date of notification by the Operator under Section 12.1 (a) then, for so long as the default so continues, the Defaulting Party shall not be entitled to its Percentage Interest of Storage Capacity thereafter which shall instead be utilised by the Non Defaulting Parties in the proportions which their respective Percentage Interests bear to the total of the same.

### *12.3.2 No Right to Representation or Voting*

During the continuation of any default the Defaulting Party shall not be entitled to be represented at meetings of the Operating Committee or any sub committee thereof nor to vote thereat (so that the voting interest of each Party other than the Defaulting Party shall be in the proportion which its Percentage Interest bears to the total of the Percentage Interests of such Parties) and shall have no further access to any data and information relating to the Joint Operations. The Defaulting Party shall be bound by decisions of the Operating Committee made during the continuation of the default and shall be solely responsible for the payment of all additional administrative costs and expenses occasioned by such default.



### 12.3.3 *Forfeiture*

In the event that the default continues for more than sixty (60) days then each of the Non Defaulting Parties shall have the right to claim forfeiture and to acquire, by notice to the other Parties given within thirty (30) days after such period of sixty (60) days, the interest of the Defaulting Party in the Licence and in and under this Agreement ("Defaulted Interest") or, if more than one (1) Non Defaulting Party exercises such right, its proportionate share of the interest of the Defaulting Party in the Licence and in and under this Agreement, such share being the proportion in which its Percentage Interest bears to the total Percentage Interests of such Non Defaulting Parties. If none of the Non Defaulting Parties exercises such right, then, without prejudice to any rights of the Non Defaulting Parties, the Parties shall unless all the Non Defaulting Parties agree internally and with the Defaulting Party to continue to fund the Defaulting Party's share be deemed to have decided to abandon the Joint Operations and each Party, including the Defaulting Party, shall in addition to each Party's unpaid share of costs and expenses in connection with the Joint Operations, pay its Percentage Interest share of the costs of abandoning the Joint Operations, including the legal obligations related to assignment of ownership of the licence to the Danish State. If in such case any Party is unable to pay its Percentage Interest share, the other Parties shall indemnify each other proportionally. It is provided, however, that no abandonment shall be allowed under this provision if the default occurs before satisfaction of the Work Obligations. In these circumstances all Non Defaulting Parties shall be required to take up their proportionate share of the Defaulted Interest, and each Party including the Defaulting Party shall pay its Percentage Interest share of the cost of the Work Obligations. In the event that any Non Defaulting Party takes up a share of the Defaulted Interest greater than the proportion in respect of which it has been paying Advances in respect of the Defaulted Interest, it shall forthwith after electing to or becoming bound to acquire the Defaulted Interest pay to the Joint Account for the credit of the appropriate Party or Parties who have paid Advances in respect of the Defaulted Interest such amounts as appropriate so that all such Non Defaulting Parties will have borne the Advances in respect of the amount in default, and interest as provided in Section 12.1 (b), in proportion to the respective shares in which they receive the Defaulted Interest. Further, in the event the Non Defaulting Parties take up the Defaulted Interest in proportions other than the proportions in which during the period of default they delivered CO<sub>2</sub> which but for the default would have been lifted by the Defaulting Party, fair and equitable adjustment shall be made between the Parties so that all such Non Defaulting Parties receive Storage Capacity or its value in the same proportions as they receive the Defaulted Interest.



#### 12.3.4 *Acquisition*

Any forfeiture and acquisition of the interest of the Defaulting Party in the Licence and in and under this Agreement shall be:

- (a) subject to any necessary consent of the Danish Energy Agency;
- (b) without prejudice to any other rights of each Party other than the Defaulting Party;
- (c) so forfeited and acquired free of any charges and encumbrances;
- (d) effective as of the date of default; and
- (e) subject to the Defaulting Party remaining liable and obligated for its share of all net costs and obligations that in any way relate to the abandonment of Joint Operations or a sole risk project in which the Defaulting Party participated. Said share shall be determined in the manner set forth in Section 11.2.7;

and the Defaulting Party shall promptly join in such actions as may be necessary or desirable to obtain any necessary consent of the Danish Energy Agency and shall execute and deliver any and all documents necessary to effect any such forfeiture and acquisition.

#### 12.3.5 *Surrender or abandonment*

The obligations of the Defaulting Party and the rights of the Non Defaulting Parties shall survive the surrender of the Licence, abandonment of Joint Operations and termination of this Agreement.





## 13. MISCELLANEOUS

### 13.1 *Covenant*

Without prejudice to the responsibilities of the Operator under Section 4.3, each Party hereby covenants with each other Party that it will comply with all the applicable provisions and requirements of the Licence and will do all such acts and things within its control as may be necessary to keep and maintain the Licence in force and effect.

### 13.2 *Relationship*

#### 13.2.1 *Relationship under the Agreement*

It is expressly agreed that it is not the purpose or intention of this Agreement to create, nor shall the same be construed as creating, any partnership.

#### 13.2.2 *Third Party Claims*

Subject to Sections 4.3.3 and 4.13.2 the Operator may charge to the Joint Account any amounts paid in settlement of claims from third parties, which has resulted from the Joint Operations including costs, expenses and damages as specified in Section 4.1 of the Accounting Procedure. Any other Party, having observed the provisions in Section 4.13.3, which has been made to pay any such amounts to a third party shall immediately notify the other Parties and furnish the Operator with all information necessary to determine whether the amounts paid including costs, expenses and damages are chargeable to the Joint Account.

#### 13.2.3 *Reimbursement of the Operator*

When reimbursement is claimed according to Section 13.2.2 second sentence the Operator shall submit an AFE and/or a revised Budget to the Parties for approval by the Operating Committee, and when the same is approved the Operator shall follow the procedures laid down in this Agreement and the Accounting Procedure to effect reimbursement.

#### 13.2.4 *Mutual Indemnification*

Without prejudice to the other provisions of this Agreement, each Party hereby undertakes to indemnify each other Party for such indemnifying Party's Percentage Interest share of any claim by or liability to (including any costs and expenses necessarily incurred in respect of such claim or liability) any person not being a Party hereto arising from or in connection with the Joint Operations. If any Party is



unable to pay its Percentage Interest share, said share shall subject to and in accordance with Article 12 hereof be paid proportionally by the other Parties.

### 13.3 *Confidentiality*

#### 13.3.1 *Main Rule and Exceptions*

All data and information acquired or received by any Party under this Agreement shall be held confidential during the continuance of this Agreement and for a period of five (5) Years thereafter and shall not be divulged in any way to any third party, without the prior written approval of all the Parties, provided that any Party may, without such approval, disclose such data and information:

- (a) to any Affiliate upon obtaining a similar undertaking of confidentiality from such Affiliate;
- (b) to any outside professional consultants, upon obtaining a similar undertaking of confidentiality from such consultants;
- (c) to any bank, insurance company or financial institution from which the Party is seeking to obtain financing or insurance, provided that before disclosing such information such Party shall obtain a similar undertaking of confidentiality from such bank, insurance company or financial institution;
- (d) to the extent required by the Licence or any other applicable law or the regulations of any recognised stock exchange, in which a Party or any of its Affiliates are listed or ordered by a court or authority of applicable jurisdiction provided that the Party so ordered endeavours to give prior notice to the other Parties;
- (e) to the extent that the same has become generally available to the public, otherwise than through a breach of this Section 13.3 by Party, any of its Affiliates or any employee, officer or agent of such Party or its Affiliates; or
- (f) to a bona fide potential assignee or employees or agents of such assignee upon obtaining an undertaking of confidentiality corresponding to that of the Parties.

In the event of any Party ceasing to hold a Percentage Interest, such Party shall nevertheless remain bound by Section 13.3.



The Operator may disclose such data and information to such persons as may be necessary in connection with the conduct of the Joint Operations upon obtaining a similar undertaking of confidentiality from such persons provided that the Operator shall promptly inform the other Parties of the names of such persons and the data and information disclosed to them.

### *13.3.2 Exchange of Data and Information*

The Operator may, with approval of the Operating Committee and on such terms and conditions as the Operating Committee may determine, exchange any such data and information for other similar data and information and the Operator shall promptly provide all the Parties with a copy of the agreement relating to such exchange together with the data and information acquired.

### *13.4 Public Announcements*

The Operator shall be responsible for the preparation and release of all public announcements and statements regarding the Joint Operations, provided that:

- (a) no such public announcement or statement shall be issued or made unless prior thereto all of the Parties have been furnished with a copy thereof with a period of consideration of at least 2 (two) Working Days and the approval of the Operating Committee has been obtained; and
- (b) a Party can itself make a public announcement or statement regarding the Joint Operations if prior thereto it furnishes all the other Parties with a copy of such announcement or statement and obtains the consent of all the other Parties, which consent shall not be unreasonably withheld or delayed; and
- (c) notwithstanding the above, the Operator shall be entitled to issue routine announcements concerning the Joint Operations without the prior written approval of the Operating Committee. Copy of written announcements shall be forwarded to the Parties by the Operator simultaneously.

Where a public announcement or statement becomes necessary or desirable because of danger to or loss of life, damage to property or of pollution arising under this Agreement, the Operator shall be authorised to issue and make such announcement or statement without prior approval of the Operating Committee if prompt contact with the other Parties has not proved possible, but shall promptly furnish all the Parties with a copy thereof. Notwithstanding the foregoing, but



subject to Section 13.3, each Party shall be entitled to include information of a general character concerning the Joint Operations in communications to which the public will have access.

### 13.5 *Force Majeure*

The obligations of each of the Parties hereunder, other than the obligations to make payments of money, shall be suspended during the period and to the extent that such Party is prevented or hindered in whole or in part from complying therewith by "Force Majeure" (as hereinafter defined). In such event, such Party shall give notice of suspension as soon as reasonably possible to the other Parties stating the date and extent of such suspension and the cause thereof. Any of the Parties whose obligations have been suspended as aforesaid shall resume the performance of such obligations as soon as reasonably possible after the removal of the cause and shall so notify all the other Parties.

In this Section 13.5, "Force Majeure" means any circumstance which could not reasonably be foreseen and reasonably overcome and is beyond the reasonable control of such Party including (in so far as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock outs and labour disputes, but such Party shall not be obliged to settle any labour dispute except in such manner as it shall in its sole judgement consider fit, and in compliance with any law or governmental order, rule, regulation or direction, if (and only if) the same is issued by governmental agencies or bodies in Denmark or by the European Union or by any other organisation with authority within Denmark. A lack of funds shall not constitute "Force Majeure".

### 13.6 *Arbitration*

Any dispute between the Parties arising out of or in connection with this Agreement shall be finally settled by a board of arbitration consisting of an umpire and two other arbitrators. The board of arbitration shall be appointed at the request of any one of the Parties to the dispute. When such request has been made, the Party or Parties which are complainants to the case shall nominate a single arbitrator, and the Party or Parties which are defendants to the case shall nominate a single arbitrator, such nominations to be made within thirty (30) days of receipt of the notice referring the dispute to arbitration. The two arbitrators thus nominated shall, within thirty (30) days, unanimously nominate the umpire, who shall be the chairman of the board of arbitration. If an agreement on such nomination cannot be arrived at either Party may request the President of the Supreme Court of Denmark to nominate the umpire. The President of the Supreme Court of Denmark may also be requested to appoint one of the other arbitrators in case either the complaining or the defending Party or Parties fail to do so within the time limit prescribed. The



board of arbitration shall have its seat in Copenhagen, unless otherwise agreed between the Parties to the case. The board of arbitration shall make its decisions on the basis of Danish law. In the event that a majority of the board of arbitration cannot agree on a result, the umpire shall have the deciding vote. Any awards made by the board of arbitration shall be final and binding upon the Parties to the case and shall be enforceable without the necessity of any judgement being rendered thereupon. Subject to the provisions hereof, the arbitration shall be conducted in accordance with the rules of Danish law, including the Danish Act on Arbitration (Act. No. 553 of 24th June 2005 as amended from time to time), and to the extent specified in said rules, the Danish courts shall have jurisdiction according to Section 13.7. The language of the arbitration shall be English and all documents shall be remitted to the arbitration in their original form together with an English translation unless the parties to the dispute agree that the language shall be Danish.

The proceedings and all information shall be confidential in accordance with Section 13.3.

### *13.7 Applicable Law and Jurisdiction*

This Agreement shall be governed by and construed in accordance with Danish law and subject to Section 13.6, each of the Parties hereby submits to the jurisdiction of the courts of Denmark.

### *13.8 Notices*

Unless otherwise expressly provided herein, all notices under this Agreement shall be in writing and may be given by delivering the same by hand, or by sending the same by recorded delivery post, or e-mail to the attention of the representatives of the Operating Committee of each Party at the latest address or e-mail provided by such representatives. Any such notice given as aforesaid shall, (if legible) be deemed to have been given and delivered:

- (a) if sent by email, when delivered to the recipient;
- (b) if sent by registered mail, on actual receipt; and
- (c) if personally delivered, when delivered.

Notices may be sent in the Danish or English language.

### *13.9 Danish Government*



This Agreement and any amendments, exceptions or additions hereto shall be subject to the approval of the Danish Energy Agency. This Agreement shall in no way limit the authority of the Danish Government or any part thereof to exercise its authority according to the law and the prevailing rules and regulations and which are at any time in force for activities covered by this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorised representatives as of

\_\_\_\_\_ 20XX.

By \_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_

Nordsøfonden



**Appendix A: Accounting Procedure**

See separate document.