



HM TREASURY

Model Decommissioning Relief Deed

March 2013

Context

- At Budget 2012, the Government committed to introducing a new contractual approach to provide further certainty on decommissioning relief on the UK Continental Shelf.
- Following successful consultation, Budget 2013 announced that contracts will be signed later this year, providing the certainty needed to unlock billions of pounds of additional investment.
- This document provides further information on these contracts, in particular:
 - an overview of the provisions;
 - a model Decommissioning Relief Deed; and
 - the 'dummy' schedules.

It should be considered alongside the clauses provided in the Finance (No. 2) Bill 2013.

- The model Deed and 'dummy' schedules are illustrative and will be subject to technical amendment.

Provisions of the model Decommissioning Relief Deed and 'dummy schedules'

Provision	Description
Clause 1	Sets out the meaning of defined terms and the construction of certain expressions used in the model Deed.
Clause 2	Provides that the Deed will commence on the date on which it is executed and shall continue in effect until terminated by mutual written agreement.
Clause 3.1	Provides that the Deed applies in relation to Decommissioning Expenditure incurred by the Counterparty or an Associated Entity.
Clause 3.2	Ensures that a Counterparty utilising losses carried back to it as a predecessor in title to the party incurring Decommissioning Expenditure (under Schedule 17 Finance Act 1980) is entitled to claim under the Deed notwithstanding that it will not itself have incurred such expenditure.
Clause 3.2 – 3.4	Provide that if a payment under a claim relates to profits of an old participator for the purposes of paragraph 15 of Schedule 17 to the Finance Act 1980, the Claimant is obliged to pay any Decommissioning Relief received to such third party if a contractual arrangement exists for such payments under the tax code.
Clause 3.5	Provides that if an Associated Entity ceases to be associated, but meets the relevant conditions, then it may require the Government Counterparty to enter into a Deed.
Clause 3.6	Ensures consistent terms with any future Deed.
Clause 4	Contains standard representations and warranties ensuring that the parties are legally capable of entering into the Deed and will be bound by its terms.
Clauses 5.1-5.2	Provide that Difference Payments shall be due to a Claimant where the amount of Decommissioning Relief it obtains falls short of the relevant Reference Amount.
Clause 5.3	Provides that a PRT difference payment shall be reduced to reflect the Ring Fence Corporation Tax and Supplementary Charge that would have been chargeable under the tax code.
Clause 5.4-5.6	Provides that no Difference Payment relating to non-default Decommissioning Expenditure is allowed except to the extent that it would not have arisen but for a change in law since Finance Act 2013 having the effect of reducing the amount of relief under the tax code.
Clause 5.7	Provides a cap on the entitlement under the Deed where the Tax capacity of the Associated Entity is treated as being that of the Claimant.
Clause 6.1-6.2	Sets out the conditions for a claim statement.
Clause 6.3	Sets out general provisions regarding claim statements.
Clause 6.4	Requires the repayment of Difference Payment where a Claimant subsequently receives Decommissioning Relief
Clause 6.5.1	Sets out the Due Date in special cases where there are requests for further information.
Clause 6.5.7	Sets out the Due Date in special cases under Apportionment Determination Notices.
Clause 6.5.8	Sets out the Due Date in special cases for Disputed Payments.
Clause 6.6	Provides for the interest calculations under the Deed.
Clause 6.7	Set out the basis for dealing with Amended Information which results in a different calculation of the difference payment.

Clause 6.8	Provides a consent for disclosure of relevant information between HMRC and the Government counterparty in order to assess a claim made under the Deed.
Clause 6.9	Ensures payments from the Deed are not subject to further deduction or withholding.
Clause 6.10	Ensures that amounts received from third parties that would result in the company being in profit when added to Deed payments and tax relief require equivalent repayments to Government of Deed payments.
Clause 7	Change in law provisions, and the provision for an Amendment Request.
Clause 8.1-8.2	Ensure provisions in the Capital Allowance Act and Finance (No. 2) Bill 2013 2013 apply in calculating a reference amount.
Clause 8.3-5	Provide provisions for counteracting the effect of Inappropriate arrangements, were a Counterparty or Associated Entity has entered into a transaction or arrangement (or any feature in a transaction or arrangement) that has as one of its main purposes the obtaining of an increased entitlement under the Deed.
Clause 9.1 – 9.2	Imposes confidentiality obligations upon the Government Counterparty and Company or Associated Entity.
Clause 10	Restricts the third parties that may assert rights under the Deed to Associated Entities of the Counterparty.
Clause 11	Provides that rights and obligations under the Deed shall not be assigned or transferred save in specified circumstances, for example to a bank or financial institution by way of security.
Clause 12	Provides for the means by which notices relating to the Deed are to be given.
Clause 13	Preserves the rights of the parties in the event that they delay or fail to exercise them, provides that the exercise of certain rights does not preclude the exercise of others, and provides that any waiver in relation to a breach of contract is confined in its effect to that breach and does not extend to any future breaches.
Clause 14.1-14.2	Provides that the Deed may be amended by written Deed only.
Clause 14.3	Provides that the contents of the Deed (and any document incorporated by reference) represent the entirety of the agreement between the parties, to the exclusion of any other representations, and that no other representations or undertakings are being relied on in entering into it.
Clause 15	Provides that the provisions of the Deed have effect over any contrary provision in any schedule to it.
Clause 16	Provides that the Deed may be executed in several counterparts rather than as a single physical document.
Clause 17	Provides that the Deed and any rights and obligations arising out of or in connection with it are to be governed by English law and subject to the English courts.
Schedule 1	
Para 1	Sets out the meaning of defined terms and the construction of certain expressions used in Schedule 1.
Para 2.1	Sets out the legislation that the Reference Amount Calculation should be made to.
Para 2.2	Sets out further detail with regard to the incurring of expenditure.
Para 2.3	Provides for where a Claimant has inherited an Interest or part of an Interest as a result of a forfeiture.
Para 3	Reference Amount for Ring Fence Corporation Tax (RFCT) where there is no Imposition.
Para 4	Reference Amount for Supplementary Charge (SC) where there is no Imposition
Para 5	Reference Amount for Petroleum Revenue Tax (PRT)

Para 6	Reference Amount for Ring Fence Corporation Tax (RFCT) where there is an Imposition.
Para 7	Reference Amount for Supplementary Charge (SC) where there is an Imposition
Para 8	Reference Amount for Petroleum Revenue Tax (PRT) In an imposition where there are multiple claimants
Para 9	Other issues of clarification
Schedule 2	
Contact Details – Dummy Schedule	
Schedule 3	
Claim Statement – Dummy Schedule	
Schedule 4	
Principles supplementary to Clause 8	
Schedule 5	
Dummy Schedule - Sets out the process by which HMRC will issue HMRC Certificates validating tax histories for the purposes of ascertaining a PRT Reference Amount. Form of HMRC Certificate still to be provided.	
Schedule 6	
Dummy Schedule - Sets out the methodology for calculating Net Cost and Net Revenues for the purposes described in relation to Para 2 of Schedule 1. The methodology is extracted from that found in Appendix 5 to the standard form DSA (which is itself designed to estimate future decommissioning costs and calculate the amounts of security required to be posted).	

The model Decommissioning Relief Deed and 'dummy schedules'

DECOMMISSIONING RELIEF DEED

Between

THE LORDS COMMISSIONERS OF HER MAJESTY'S TREASURY

And

[COMPANY]

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THIS DECOMMISSIONING RELIEF DEED is made on the ___ day of _____ 20[xx]

BETWEEN:

- (1) **THE LORDS COMMISSIONERS OF HER MAJESTY’S TREASURY** (“**Government Counterparty**”); and
- (2) [COMPANY], a company registered in [England and Wales] with company number [NUMBER], and whose registered office is at [ADDRESS] (“**Company**”).

RECITALS:

- (A) The Company (which term shall for the purposes of these Recitals refer also to any Associated Entity) is currently liable to carry out, or may in the future be made subject to a duty to carry out, decommissioning of installations or pipelines in the United Kingdom or the UKCS with which it has been associated in the past, with which it is currently associated or with which it may be associated in the future.
- (B) In order to meet the cost of such liabilities, the Company has made or may in the future make provision in its accounts and/or has entered into or may in the future enter into security arrangements with third parties. As tax relief on expenditure in relation to decommissioning is granted only when the decommissioning is carried out, such provision and/or security is made or given or received without allowance being made for such tax relief.
- (C) To give the Company and its financiers certainty as to the basis on which tax relief will be available, and therefore enable such provision and/or security to be made or given or received net of tax relief and facilitate possible additional investment by the Company, the Government Counterparty and the Company have agreed to enter into this Deed. In reliance on the undertakings given by the Government Counterparty in this Deed, the Company may be able to provide security to, or agree to receive security from, third parties net of tax relief, and/or may make additional investments in oil and gas assets in the United Kingdom or on the UKCS.
- (D) The Government Counterparty considers that providing certainty as to the basis on which tax relief will be available is likely to encourage the development of the oil and gas resources of the United Kingdom and the UKCS and the undertakings given by the Government Counterparty in this Deed are therefore in the interests of the United Kingdom.

AGREEMENT:

1. Definitions and Interpretation

- 1.1 Words and phrases used in this Deed (including the Recitals) have the following meanings, unless the context requires otherwise:—

“Accounting Period”	shall mean an accounting period of the Claimant for the purposes of corporation tax (including Ring Fence Corporation Tax) and Supplementary Charge as determined in accordance with Enactment Date Legislation, including the notional accounting period provided for in section 165 of the Capital Allowances Act 2001 if appropriate, or if the Claimant is not within the charge to corporation tax, shall mean the period of twelve months ending on an accounting reference date of the
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	Claimant (or equivalent date under its jurisdiction of incorporation);
“Act”	means the Petroleum Act 1998;
“Alternative Reference Amount”	means a PRT Reference Amount, an RFCT Reference Amount or an SC Reference Amount calculated in each case in accordance with an Alternative Schedule, which schedule shall be deemed incorporated into this Agreement;
“Alternative Schedule”	means a schedule issued by the Government Counterparty in accordance with Clause 2.3 as an alternative to Schedule 1;
“Associated Entity”	any entity which is associated with the Company within the terms of sections 30(8) and 30(9) of the Act and is a “qualifying company” within the meaning of section [Clause 77(3) of the Finance (No. 2) Bill 2013];
“Available Profits”	means the assessable profits chargeable to Petroleum Revenue Tax in any Chargeable Period in respect of any Field that are capable of being reduced by relief for Decommissioning Expenditure (whether or not such profits would otherwise be relieved from Tax by virtue of any oil allowance or other relief or allowance), as identified in an HMRC Certificate in relation to such Field;
“Business Day”	means a day (other than a Saturday or Sunday) which is not a public holiday or bank holiday in London;
“Change in Tax Law”	means any change in the statutory regime for the computation of profits for the purposes of the Tax in question (including the amount of any loss, relief or allowance but not, for the avoidance of doubt, the rate at which such Tax is charged) from the regime in place on the Enactment Date, or in any published guidance or practice of HMRC which relates to that regime;
“Chargeable Period”	shall mean a chargeable period of six months for the purposes of Petroleum Revenue Tax ending at the end of June or December in any year;
“Claim”	means a claim for a Difference Payment made by the Company or an Associated Entity under this Deed;
“Claimant”	means the person making a Claim (being the Company or an Associated Entity);
“Claimant Certificate”	has the meaning given to it in Clause 6.1.4(b);
“Claim Statement”	a written statement in substantially the same form as that attached at Schedule 3 or in such form as may from time to time be required by the Government Counterparty;
“Communication”	has the meaning given to it in Clause 12.1;
“Confidential Information”	has the meaning given to it in Clause 9.1;

“Connected Persons”	means persons who are “connected” within the meaning given to that term by section 575 of the Capital Allowances Act 2001 (as that section has effect on the Enactment Date);
“Control”	has the meaning given to it in section 1124 of the Corporation Tax Act 2010 (as that section has effect on the Enactment Date) and cognate terms such as “ controlling ” and “ controlled ” shall be interpreted accordingly;
“Current Legislation”	means the legal regime for the computation of profits for the purposes of the Tax in question (including the amount of any loss, relief or allowance and the rate at which such Tax is charged) at the time a Claim is made, as the same may be interpreted by the UK courts from time to time, and all related published guidance or practice of HMRC;
“Decommissioning Expenditure”	<p>means:—</p> <p>(a) for Claims made in respect of Ring Fence Corporation Tax and Supplementary Charge, “general decommissioning expenditure” as defined in sections 163 of the Capital Allowances Act 2001 and qualifying expenditure incurred under section [416ZA] of that Act; and</p> <p>(b) for Claims made in respect of Petroleum Revenue Tax, the expenditure specified in section 3(1) (i) & (j) of the Oil Taxation Act 1975,</p> <p>which, in either case, is “decommissioning expenditure” within the meaning of [clause 78 of the Finance (No. 2) Bill 2013] and is also:—</p> <p>(i) incurred in relation to the ring fence trade which is or has at any time been carried on by the Company or an Associated Entity (or a company that was an Associated Entity at the time such trade was carried on), as the case may be, in the UKCS or the territorial waters of the United Kingdom; or</p> <p>(ii) where the Claimant falls within paragraph (d) of [clause 77(3) of the Finance (No. 2) Bill 2013], incurred by it as a result of an Imposition relating to a cross-boundary field (as referred to in that paragraph) where the person in default is party to a joint operating agreement or unit operating agreement (and has carried on a ring fence trade) in relation to that field,</p> <p>construing the statutory references in this definition as references to the relevant provisions as they have effect on the Enactment Date;</p>
“Decommissioning Relief”	means any reduction in Tax liability, or any Tax repayment, which results from incurring Decommissioning Expenditure;
“Deductible Expenditure”	means any expenditure, other than Decommissioning Expenditure, that is deductible or otherwise allowable for the purposes of a particular Tax and that arises otherwise than as a result of or in connection with an Imposition;
“Deed”	means this Decommissioning Relief Deed, including all of its Schedules;

“Defaulter Certificate”	has the meaning given to it in Clause 6.1.4(b);
“Defaulting Party”	means the party whose failure to meet its obligations, or the forfeiture of whose Licence Interest Share, has given rise to an Imposition;
“Difference Payment”	has the meaning given to it in Clause 5.2;
“Effective Date”	means the date first above written;
“Enactment Date”	means the day on which the Finance Act 2013 comes into force;
“Enactment Date Legislation”	means the statutory regime for the provision of reliefs and allowances in respect of Decommissioning Expenditure and the use of losses arising as a result of incurring Decommissioning Expenditure which is in place on the Enactment Date (but subject to any Permitted Amendments), as the same may be interpreted by the UK courts from time to time, together with all published guidance or practice of HMRC as at that date which relates to that regime;
“Field”	means an oil field determined in accordance with Schedule 1 of the Oil Taxation Act 1975;
“HMRC”	means Her Majesty’s Revenue and Customs;
“HMRC Certificate”	means a certificate issued by HMRC in accordance with the process set out in Schedule 5;

<p>“Imposition”</p>	<p>means any circumstance where:—</p> <p>(a) the Claimant is required to incur Decommissioning Expenditure due to the failure of another party to meet its obligations to incur Decommissioning Expenditure under (1) a joint operating agreement, unitisation agreement or any agreement entered into between some or all of the parties to such a joint operating agreement or unitisation agreement that is ancillary thereto, or a transportation, processing or similar agreement (whether or not the Claimant is a party to any such agreement) or (2) an abandonment programme (as such term is defined in the Act) (and in determining whether such circumstance has arisen, the fact that the Claimant may have had joint and several liability for the obligations of such other party by virtue of statute shall be ignored); or</p> <p>(b) the Claimant is required to incur Decommissioning Expenditure in respect of a Licence Interest Share which it acquired as the result of forfeiture, forced sale or similar transfer made in consequence of a default under a joint operating agreement, unitisation agreement or similar agreement,</p> <p>but shall exclude:—</p> <p>(i) any such circumstance where the Defaulting Party controls, is controlled by or is under common control with the Claimant at the time of the failure or forfeiture; and</p> <p>(ii) any such circumstance to the extent that it arises as a result of the Claimant (or a person which controls, is controlled by or is under common control with the Claimant) entering into any arrangement or understanding with the Defaulting Party (or with a person which controls, is controlled by or is under common control with the Defaulting Party) the main purpose or one of the main purposes of which is that any person should receive or become entitled to any right or benefit or increased right or benefit under this Deed in respect of Decommissioning Expenditure incurred as the result of an Imposition (or what would, apart from this paragraph (ii) or paragraph (i), constitute an Imposition);</p>
<p>“Imposition Decommissioning Expenditure”</p>	<p>means Decommissioning Expenditure incurred as a result of an Imposition (subject where relevant to the condition contained in Paragraph 2.3 of Schedule 1);</p>
<p>“Licence Interest Share”</p>	<p>means the percentage beneficial interest of any licensee in a petroleum production licence as specified under the relevant joint operating agreement or, where there is a single licensee, means the entire beneficial interest in the licence;</p>
<p>“Ordinary Decommissioning Expenditure”</p>	<p>means Decommissioning Expenditure other than Imposition Decommissioning Expenditure;</p>
<p>“Party”</p>	<p>means a party to this Deed and its respective legal and/or statutory successors and permitted assignees and “Parties” means both of them;</p>

“Permitted Amendment”	means any change in law from Enactment Date Legislation comprising legislation that:— (a) is introduced with the purpose and effect of preventing the circumvention of, or the exploitation of shortcomings in, the statutory regime for the provision of relief for Decommissioning Expenditure; and (b) is consistent with the principles set out in Paragraphs 2 to 6 of Schedule 4 and is enacted in furtherance of them or any of them;
“Petroleum Revenue Tax” or “PRT”	means petroleum revenue tax charged under the Oil Taxation Act 1975 and any other similar field-based or project-based tax which is introduced in addition to or as a replacement for petroleum revenue tax;
“Pounds Sterling”, “Sterling” and “£”	means the lawful currency of the United Kingdom;
“PRT Reference Amount”	means an amount calculated in accordance with Paragraph 5.1 of Schedule 1;
“PRT Relief”	means Decommissioning Relief in respect of PRT;
“Reference Amount”	means an RFCT Reference Amount, an SC Reference Amount or a PRT Reference Amount, as the case may be;
“Relevant Property”	means any property associated with an undivided legal interest under a petroleum production licence or with rights arising under a joint operating agreement, unitisation agreement or similar agreement relating to a Field or pipeline;
“RFCT Reference Amount”	means an amount calculated in accordance with Paragraph 3.1 of Schedule 1, or in the case of Imposition Decommissioning Expenditure, in accordance with Paragraph 6.1 of Schedule 1;
“RFCT Relief”	means Decommissioning Relief in respect of Ring Fence Corporation Tax;
“Ring Fence Corporation Tax”	means corporation tax charged under the Corporation Tax Act 2009 and the Corporation Tax Act 2010 in respect of ring fence trades and any other tax on profits which is introduced in addition to or as a replacement for such corporation tax but excluding Supplementary Charge;
“SC Reference Amount”	means an amount calculated in accordance with Paragraph 4.1 of Schedule 1, or in the case of Imposition Decommissioning Expenditure, in accordance with Paragraph 7.1 of Schedule 1;
“SC Relief”	means Decommissioning Relief in respect of Supplementary Charge;
“Similar Deed”	means any deed made on substantially the same terms as this Deed;
“Specified Certificate”	means the HMRC Certificate specified in a Claim Statement;

“ Supplementary Charge ”	means the charge in respect of ring fence trades imposed by Chapter 6 of Part 8 of the Corporation Tax Act 2010;
“ Tax ”	means any tax, levy, impost, duty, charge, assessment or fee of any nature that is imposed by any taxing authority in the United Kingdom;
“ Tax Capacity ”	means profits in any Tax Period against which the Decommissioning Relief in question may be utilised so as to reduce or eliminate such profits for the purposes of the Tax in question (whether or not such profits would otherwise be relieved from Tax by virtue of any oil allowance or other relief or allowance);
“ Tax Period ”	means an Accounting Period or a Chargeable Period;
“ Tax Return ”	means (i) in respect of Ring Fence Corporation Tax and Supplementary Charge, a corporation tax self-assessment or other return as required by Tax legislation, and (ii) in respect of Petroleum Revenue Tax, a return pursuant to section 1(1)(b) of the Petroleum Revenue Tax Act 1980;
“ Term ”	has the meaning given to it in Clause 2.2;
“ UKCS ”	means the “UK sector of the continental shelf” as that term is defined in section 1313(3) of the Corporation Tax Act 2009.

1.2 Unless the context requires otherwise or the contrary is stated:—

1.2.1 the singular includes the plural and vice versa;

1.2.2 “**persons**” includes individuals, firms, corporations, unincorporated associations and statutory authorities, and all references to persons shall include their successors and permitted assignees;

1.2.3 a reference to any enactment, order, regulation, directive, code, licence or similar instrument includes all enactments or instruments made under it and any amendment, re-enactment or replacement of it;

1.2.4 a reference to a “**Clause**”, “**Schedule**”, “**Paragraph**” or part thereof is a reference to a clause or schedule in this Deed or to a paragraph of such a schedule;

1.2.5 “**includes**” and its variations are to be construed without limitation;

1.2.6 clause headings, clause descriptions and examples are for convenience only and do not affect the interpretation of this Deed.

2. Commencement and Term

2.1 This Deed shall take effect and commence on the Effective Date.

2.2 The Parties hereby agree that this Deed is irrevocable and shall endure without limit of time, unless and until mutually terminated by both Parties by written agreement (the “**Term**”).

2.3 At any time in order to improve the operation of this Deed or to give greater certainty as to the amount of Tax relief which will be available in respect of Decommissioning

Expenditure, the Government Counterparty may issue to the Company a schedule which, as an alternative to Schedule 1 of this Deed, provides a different basis for the calculation of any of the Reference Amounts. It shall be entirely at the option of any Claimant as to whether to take advantage of such Alternative Schedule, as set out in Clause 5.2. Such Alternative Schedule having been issued may not be withdrawn, but further Alternative Schedules may be issued.

2.4 If the Government Counterparty issues an Alternative Schedule to the signatory to a Similar Deed it shall also issue such Alternative Schedule to the Company.

3. Scope of Deed

3.1 Subject to Clause 3.2, this Deed shall apply in relation to Decommissioning Expenditure incurred by the Company or any Associated Entity.

3.2 Where for the purposes of paragraph 15 of Schedule 17 to the Finance Act 1980 (as it applies at the Enactment Date) a loss is treated as an allowable loss falling to be relieved against assessable profits of the Company or an Associated Entity as an old participator (a “**Predecessor**”), then subject to Paragraph 9 of Schedule 1 to this Deed, insofar as this Deed applies in relation to Petroleum Revenue Tax:—

3.2.1 references to Decommissioning Expenditure being incurred by the Company or an Associated Entity shall be construed as references to so much of the Decommissioning Expenditure incurred by the new participator in relation to which the Predecessor is the old participator as gives rise to that loss;

3.2.2 references to Decommissioning Relief arising to or being obtained by the Company or an Associated Entity shall be construed as including references to that loss; and

3.2.3 the other provisions of this Deed shall apply so as to give full effect to the foregoing,

provided that the Predecessor shall have no greater right or entitlement under this Deed than it would have had if it had incurred the relevant part of the Decommissioning Expenditure itself.

3.3 Clause 3.4 applies where:—

3.3.1 any Claimant makes a Claim pursuant to Clause 3.2; and

3.3.2 if such Decommissioning Expenditure as is the subject of the Claim had fallen to be relieved against assessable profits of the Claimant as an old participator for the purposes of paragraph 15 of Schedule 17 to the Finance Act 1980 (as it applies at the Enactment Date), the Claimant would have been obliged pursuant to a contract with a third party to pay any Decommissioning Relief received to such third party.

3.4 Where this Clause 3.4 applies, the Claimant shall be obliged to pay to the third party in question an amount equal to any Difference Payment received in respect of the Decommissioning Expenditure referred to in Clause 3.3.2.

3.5 If during the Term any company which was an Associated Entity ceases to be an Associated Entity of the Company then within thirty (30) days of ceasing to be an Associated Entity such company may require the Government Counterparty to enter into a deed with such company in terms identical to this Deed, and the Government Counterparty shall enter into

such a Deed within ninety (90) days of receipt of such a request, provided that the company in question can show that it is:—

3.5.1 a “qualifying company” within the meaning of [clause 77(3) of the Finance (No. 2) Bill 2013]; and

3.5.2 liable to be served with a notice under either of section 29 or 34 of the Act.

3.6 The Government Counterparty shall not enter into an agreement with any other person for purposes similar to those set out in the recitals to this Deed on terms more favourable to such person than are afforded to the Company under this Deed unless it shall first offer to the Company the opportunity to amend this Deed so as to incorporate those more favourable terms.

4. Warranties

Each Party warrants to the other Party, as at the Effective Date and as at the date on which any Difference Payment becomes due:—

(a) that it has the power and capacity (i) to execute this Deed and any other documentation relating to this Deed to which it is a party, (ii) to deliver this Deed and any other documentation relating to this Deed that it is required by this Deed to deliver, and (iii) to perform its obligations under this Deed, and that it has taken or will take all necessary action to authorise that execution, delivery and performance, including, in the case of the Government Counterparty, by procuring the necessary appropriation of funds;

(b) that the execution, delivery and performance referred to in Clause 4(a) do not violate or conflict with any law applicable to it, any order or judgment of any court or other agency of government applicable to it or any contractual restriction binding on it; and

(c) that its obligations under this Deed constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (regardless of whether enforcement is sought in a proceeding in equity or at law).

5. Payment Obligations

5.1 In respect of each Tax Period during the Term, the Government Counterparty shall, subject to and in accordance with this Clause 5 and Clause 6, pay:—

5.1.1 to the Company any Difference Payment due in respect of Decommissioning Expenditure incurred by the Company; and

5.1.2 to any Associated Entity any Difference Payment due in respect of Decommissioning Expenditure incurred by such Associated Entity.

5.2 A payment (a “Difference Payment”) shall be due to a Claimant in respect of a Tax Period if:—

5.2.1 the aggregate amount of RFCT Relief obtained by the Claimant in respect of that Tax Period and any earlier Tax Period by virtue of Decommissioning Expenditure which it has incurred in that Tax Period and any earlier Tax Period shall be less than the RFCT Reference Amount for that Tax Period; or

- 5.2.2 the aggregate amount of SC Relief obtained by the Claimant in respect of that Tax Period and any earlier Tax Period by virtue of Decommissioning Expenditure which it has incurred in that Tax Period and any earlier Tax Period shall be less than the SC Reference Amount for that Tax Period; or
- 5.2.3 in respect of any Field, the aggregate amount of PRT Relief obtained by the Claimant in respect of that Tax Period and any earlier Tax Period by virtue of Decommissioning Expenditure which it has incurred in that Tax Period and any earlier Tax Period shall be less than the PRT Reference Amount for that Tax Period,

and in each case the Difference Payment shall (subject to Clauses 5.3, 5.4, 5.6 and 5.7) be the amount by which the relevant Reference Amount exceeds the Decommissioning Relief so obtained.

- 5.3 In a case where a Difference Payment is due under Clause 5.2.3, it shall be reduced to reflect the Ring Fence Corporation Tax and Supplementary Charge that would have been chargeable had the amount of the Difference Payment (before any reduction under this Clause 5.3) been an actual repayment of PRT in the Tax Period in respect of which the Difference Payment arises.
- 5.4 The Difference Payment due to a Claimant under Clause 5.2 in the case of a Claim relating to Ordinary Decommissioning Expenditure shall not exceed the amount determined under Clause 5.5.
- 5.5 Subject to Clause 5.6, the amount referred to in Clause 5.4 is so much of any difference between the two amounts referred to in Clause 5.2.1, 5.2.2 or 5.2.3 (as the case may be) as would not have arisen but for a Change in Tax Law having the effect that the amount of Decommissioning Relief in respect of Ordinary Decommissioning Expenditure is less than it would have been under Enactment Date Legislation in respect of the Tax Period(s) to which the Claim relates.
- 5.6 No Difference Payment shall be due to the extent that the difference between the two amounts referred to in Clause 5.2.1, 5.2.2 or 5.2.3 (as the case may be) arises because a Change in Tax Law has reduced the profits taken into account for the purposes of any Tax, provided that this Clause 5.6 shall not apply to a Difference Payment determined in accordance with Paragraph 6 or Paragraph 7 of Schedule 1 in circumstances where such a Change in Tax Law has the effect of reducing the relief from Ring Fence Corporation Tax or Supplementary Charge obtained by the Claimant and thereby creating or increasing a difference between the two amounts referred to in Clause 5.2.1 or 5.2.2.
- 5.7 Where in accordance with either of Paragraphs 3.3 or 4.4 of Schedule 1 the Tax Capacity of an Associated Entity is treated as being the Tax Capacity of the Claimant:—
- 5.7.1 the amount of any Difference Payment shall be no greater than the Difference Payment that could have been claimed by that Associated Entity; and
- 5.7.2 the aggregate amount of all such Difference Payments shall not exceed the aggregate of the Difference Payments that could have been claimed by that Associated Entity,

on the assumption that the Associated Entity in question had itself incurred the Decommissioning Expenditure that is the subject of the relevant Claim or Claims.

6. Billing and Payment

6.1 Claim Statements for Imposition Decommissioning Expenditure

- 6.1.1 Within four (4) years of the end of any Accounting Period during the Term in which the Company or an Associated Entity incurs Imposition Decommissioning Expenditure and thereby becomes entitled to a Difference Payment in respect of Ring Fence Corporation Tax or Supplementary Charge, or as soon as reasonably practicable thereafter, it may send to the Government Counterparty a Claim Statement setting out the Decommissioning Relief it expects to receive under Current Legislation (if any), the relevant Reference Amount(s) and calculations showing the Difference Payment(s) it considers to be owed by the Government Counterparty under Clause 5 for such Accounting Period.
- 6.1.2 Each Claim Statement submitted pursuant to Clause 6.1.1 shall be accompanied by:—
- (a) a copy of the Claimant's draft accounts or management accounts for the Accounting Period or, where the Claimant makes a declaration in accordance with Clause 6.3.5, a set of pro forma accounts relating to its operations in the United Kingdom and the UKCS;
 - (b) evidence that the Imposition has occurred;
 - (c) evidence that the Decommissioning Expenditure has been incurred and as to when payment has been or will be made in respect of it;
 - (d) a certificate from an officer of the Claimant certifying that the contents of the Claim Statement are correct and complete to the best of the knowledge and belief of the Claimant having made due enquiry, and certifying whether (and, if so, the extent to which) any of the Decommissioning Expenditure has involved, directly or indirectly, a payment to a Connected Person; and
 - (e) such other documentation or evidence of a similar nature as the Government Counterparty may reasonably require and shall have specified by public notice to holders of Similar Deeds.
- 6.1.3 At any time after the end of any Chargeable Period during the Term in which the Company or an Associated Entity incurs Imposition Decommissioning Expenditure and thereby becomes entitled to a Difference Payment in respect of Petroleum Revenue Tax, it may send to the Government Counterparty a Claim Statement setting out the Decommissioning Relief it expects to receive (if any) under Current Legislation, the relevant Reference Amount(s) and calculations showing the Difference Payment(s) it considers to be owed by the Government Counterparty under Clause 5 for such Chargeable Period.
- 6.1.4 Each Claim Statement submitted pursuant to Clause 6.1.3 shall be accompanied by:—
- (a) a copy of its Tax Return for PRT for the Chargeable Period or, where the Claimant makes a declaration in accordance with Clause 6.3.5, a set of pro forma accounts relating to its operations in the United Kingdom and the UKCS;

- (b) the relevant HMRC Certificate or HMRC Certificates in respect of which the Claim is made, each being a certificate showing Available Profits in relation to the relevant Field of either (i) the Claimant (or a predecessor in title) (a “**Claimant Certificate**”) or (ii) of the Defaulting Party (or a predecessor in title) (a “**Defaulter Certificate**”), provided that (subject to Clause 6.7.2), where in respect of the first Claim in relation to any particular Imposition the Claimant has submitted one or more Claimant Certificates (or, as the case may be, Defaulter Certificates), any further HMRC Certificate submitted in relation to such Imposition shall also be a Claimant Certificate (or, as the case may be, a Defaulter Certificate);
- (c) evidence that the Imposition has occurred;
- (d) evidence that the Decommissioning Expenditure has been incurred and as to when payment has been or will be made in respect of it;
- (e) a certificate from an officer of the Claimant certifying that the contents of the Claim Statement are correct and complete to the best of the knowledge and belief of the Claimant having made due enquiry and certifying whether (and, if so, the extent to which) any of the Decommissioning Expenditure has involved, directly or indirectly, a payment to a Connected Person; and
- (f) such other documentation or evidence of a similar nature as the Government Counterparty may reasonably require and shall have specified by public notice to holders of Similar Deeds.

6.1.5 Following receipt by the Government Counterparty of a valid Claim Statement in accordance with Clause 6.1.1 or 6.1.3, but subject to Clauses 6.4 and 6.5:—

- (a) the Government Counterparty shall, within sixty (60) days in the case of a Claim under Clause 6.1.1 and one hundred and twenty (120) days in the case of a Claim under Clause 6.1.3 (the last day of the specified period in either case being the “Due Date”) pay to the Claimant a sum equal to the Difference Payment(s) claimed in such Claim Statement; and
- (b) to the extent that the Claimant has not by the Due Date received a payment of Decommissioning Relief equal to the amount of Decommissioning Relief shown in such Claim Statement as payable pursuant to Current Legislation, the Difference Payment due to such Claimant shall be increased by the amount of any shortfall.

6.2 Claim Statements for Ordinary Decommissioning Expenditure

6.2.1 On or within four (4) years of submitting a Tax Return in respect of any Accounting Period during the Term in which the Company or an Associated Entity incurs Ordinary Decommissioning Expenditure and thereby becomes entitled to a Difference Payment in respect of Ring Fence Corporation Tax or Supplementary Charge (or where the Claimant is making a Claim on the basis of the Tax Capacity of an Associated Entity, within four (4) years of such Associated Entity submitting a Tax Return in respect of such Accounting Period), the Claimant may send to the Government Counterparty a Claim Statement setting out the Decommissioning Relief it expects to receive under Current Legislation (if any), the relevant Reference Amount(s) and calculations showing any Difference Payment(s) it considers to be owed by the Government Counterparty under Clause 5 for such Accounting Period.

- 6.2.2 Each Claim Statement submitted pursuant to Clause 6.2.1 shall be accompanied by:—
- (a) a copy of the Claimant's Tax Return or, where the Claimant is making a Claim on the basis of the Tax Capacity of an Associated Entity, the Tax Return of such Associated Entity for such Accounting Period and evidence of its Tax Capacity;
 - (b) evidence that the Decommissioning Expenditure has been incurred and as to when payment has been or will be made in respect of it;
 - (c) a certificate from an officer of the Claimant certifying that the contents of the Claim Statement are correct and complete to the best of the knowledge and belief of the Claimant having made due enquiry and certifying whether (and, if so, the extent to which) any of the Decommissioning Expenditure involved, directly or indirectly, a payment to a Connected Person; and
 - (d) such other documentation or evidence of a similar nature as the Government Counterparty may reasonably require and shall have specified by public notice to holders of Similar Deeds.
- 6.2.3 On or within four (4) years of submitting a Tax Return in respect of any Chargeable Period during the Term in which the Claimant incurs Ordinary Decommissioning Expenditure and thereby becomes entitled to a Difference Payment in respect of Petroleum Revenue Tax (or where the Claimant is making a Claim on the basis of the Tax Capacity of an Associated Entity, within four (4) years of such Associated Entity submitting a Tax Return in respect of such Chargeable Period), the Company or an Associated Entity may send to the Government Counterparty a Claim Statement setting out the Decommissioning Relief it expects to receive under Current Legislation (if any), the relevant Reference Amount(s) and calculations showing any Difference Payment(s) it considers to be owed by the Government Counterparty under Clause 5 for such Chargeable Period.
- 6.2.4 Each Claim Statement submitted pursuant to Clause 6.2.3 shall be accompanied by:—
- (a) a copy of the Claimant's Tax Return or, where the Claimant is making a Claim on the basis of the Tax Capacity of an Associated Entity, the Tax Return of such Associated Entity for such Chargeable Period;
 - (b) the relevant HMRC Certificate in respect of which the Claim is made, being a certificate showing Available Profits of the Claimant or of the Associated Entity, as may be applicable, in relation to the relevant Field;
 - (c) evidence that the Decommissioning Expenditure has been incurred and as to when payment has been or will be made in respect of it;
 - (d) a certificate from an officer of the Claimant certifying that the contents of the Claim Statement are correct and complete to the best of the knowledge and belief of the Claimant having made due enquiry and certifying whether (and, if so, the extent to which) any of the Decommissioning Expenditure involved, directly or indirectly, a payment to a Connected Person; and

- (e) such other documentation or evidence of a similar nature as the Government Counterparty may reasonably require and shall have specified by public notice to holders of Similar Deeds.
- 6.2.5 Following receipt by the Government Counterparty of a valid Claim Statement in accordance with Clause 6.2.1 or 6.2.3, but subject to Clauses 6.4 and 6.5:—
- (a) the Government Counterparty shall, within sixty (60) days in the case of a Claim under Clause 6.2.1 and one hundred and twenty (120) days in the case of a Claim under Clause 6.2.3 (the last day of the specified period in either case being the “Due Date”) pay to the Claimant a sum equal to the Difference Payment(s) claimed in such Claim Statement; and
 - (b) to the extent that the Claimant has not by the Due Date received a payment of Decommissioning Relief equal to the amount of Decommissioning Relief shown in such Claim Statement as payable pursuant to Current Legislation, the Difference Payment due to such Claimant shall be increased by the amount of any shortfall.

6.3 General Provisions Regarding Claim Statements

- 6.3.1 Where a Claimant wishes to make Claims in respect of both Imposition Decommissioning Expenditure and Ordinary Decommissioning Expenditure for the same Tax Period, it shall make such Claims in separate Claim Statements and may submit the Claims separately.
- 6.3.2 For the avoidance of doubt a Claimant shall be entitled to submit more than one Claim Statement in respect of any Tax Period:—
- (a) in respect of a Difference Payment due by virtue of Clause 5.2.3 if, in such Tax Period, it is required to incur Decommissioning Expenditure because of the default of more than one Defaulting Party (and in such a case it shall specify the relevant HMRC Certificate in respect of each such Claim); or
 - (b) pursuant to Clause 6.7.
- 6.3.3 The time limit on making Claims in Clauses 6.2.1 and 6.2.3 shall not prevent a Claim being made within thirty (30) days following the conclusion of an enquiry by HMRC into the subject-matter of the Claim.
- 6.3.4 Payment pursuant to this Clause 6 shall be made by the Due Date in Pounds Sterling by direct bank transfer or equivalent transfer of immediately available funds to the Company or the Associated Entity (as the case may be), to the credit of such account as may have been notified to the Government Counterparty in accordance with Clause 12.
- 6.3.5 In cases where the Claimant is not resident for tax purposes in the United Kingdom and is not carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom, it shall in any Claim Statement include declarations to that effect and to the effect that:—
- (a) it has no liability to corporation tax, PRT, Ring Fence Corporation Tax or Supplementary Charge; and
 - (b) the Imposition Decommissioning Expenditure to which the Claim relates was

incurred by it in compliance with its obligations under a notice issued under section 29 or section 34 of the Act or by reason of it being liable to be issued with such a notice.

6.4 Repayment of Difference Payment where Decommissioning Relief subsequently received

- 6.4.1 If the Government Counterparty shall have made any Difference Payment pursuant to this Deed and (whether before or after such Difference Payment is received) the Claimant receives Decommissioning Relief in respect of the Decommissioning Expenditure to which the Difference Payment (or any part thereof) relates and which relief was not taken into account in the calculation of such Difference Payment (a “**Recovered Relief**”), then the Claimant shall within thirty (30) days of receipt of the Recovered Relief repay to the Government Counterparty an amount equal to the lesser of such Recovered Relief or such Difference Payment (a “**Recovered Relief Repayment**”).
- 6.4.2 Except to the extent that the Recovered Relief corresponds to Decommissioning Relief in respect of which the Difference Payment was increased under Clause 6.1.5(b) or Clause 6.2.5(b), the Recovered Relief Repayment shall be treated as being paid in order to reverse an overpayment and interest shall be charged thereon in accordance with Clause 6.6.2, taking the Due Date as being the date on which the Difference Payment in question was paid.
- 6.4.3 To the extent that the Recovered Relief corresponds to Decommissioning Relief in respect of which the Difference Payment was increased under Clause 6.1.5(b) or Clause 6.2.5(b):—
- (a) where in addition to the receipt of Decommissioning Relief the Claimant receives any related interest or repayment supplement (a “**Time Value Payment**”), the proportion of that Time Value Payment (if any) that is determined in accordance with Clause 6.4.4 shall be deemed to form part of the Recovered Relief; and
 - (b) the corresponding part of the Recovered Relief Repayment (together with such amount of the Time Value Payment as is deemed to form part of it in accordance with paragraph (a) above) shall be treated as being paid in order to reverse an overpayment and interest shall be charged thereon in accordance with Clause 6.6.2, taking the Due Date as being the date on which the Recovered Relief was received.
- 6.4.4 In order to ascertain the proportion of a Time Value Payment referred to in Clause 6.4.3(a), there shall be determined the period for which the Time Value Payment is intended to compensate the Claimant for not having received, or received the benefit of, the Recovered Relief (the “**Time Value Period**”). The proportion relevant for the purposes of Clause 6.4.3(a) shall be equal to such proportion of the Time Value Period as falls on and after the date on which the Difference Payment increased by Clause 6.1.5(b) or Clause 6.2.5(b) was made. Where it cannot be determined whether the Time Value Payment was intended to compensate the Claimant in respect of a particular period of time, or such period cannot be ascertained to an appropriate degree of accuracy, then the apportionment of the Time Value Period shall be made on a just and reasonable basis.

6.5 Due Date in special cases

Requests for Further Information or Evidence

- 6.5.1 If in connection with a Claim Statement the Government Counterparty reasonably determines that further information or evidence is required in order to enable it to assess the validity of the Claim, the amount of any Difference Payment or any other matter relevant to the Claim, then the Government Counterparty shall within sixty (60) days of receipt of the Claim issue to the Claimant a notice setting out details of the information or evidence required (an “Information Request”). The Due Date for the payment of so much of the said Difference Payment as is the subject of the Information Request shall be set in accordance with Clause 6.5.3 (but without prejudice to the Due Date for the remainder (if any) of such Difference Payment).
- 6.5.2 Within twenty (20) days of receipt of an Information Request, the Claimant shall provide the information or evidence therein specified or, in any given case, set out in writing the reasons why any particular information or evidence cannot be provided or is not required (the “**Claimant Response**”).
- 6.5.3 Within thirty (30) days of receipt of a Claimant Response, the Government Counterparty shall (i) if it is then satisfied as to the matters giving rise to the Information Request and no new such matters have been disclosed or discovered, make payment in accordance with Clause 6.1.5 or Clause 6.2.5 (as the case may be) but taking the Due Date as being the date falling thirty (30) days after receipt of the Claimant Response, or (ii) in any other case, make a further Information Request within thirty (30) days of receipt of the Claimant Response, in which event the process described in Clauses 6.5.1 and 6.5.2 and this Clause 6.5.3 shall be repeated.
- 6.5.4 The Government Counterparty and the Claimant may, instead of or in addition to the steps described at Clauses 6.5.1 to 6.5.3, engage in any informal calls, meetings, correspondence or discussions in order to seek to settle the matters giving rise to the Information Request.
- 6.5.5 If within sixty (60) days of the first Information Request relating to any particular matters being received by the Claimant those matters have not been resolved as contemplated by Clause 6.5.3(i), then either Party may by written notice to the other declare the matter in dispute and the provisions of Clauses 6.5.10 and 6.5.11 shall apply accordingly.
- 6.5.6 Where a Difference Payment has been made, the Government Counterparty may from time to time require the Claimant to provide information or evidence regarding the incurring of the relevant Decommissioning Expenditure, the making of payment in respect of it and such other information or evidence as is reasonably required in order to enable the Government Counterparty to establish that the amount of the Difference Payment remains correct.

Paragraph 8 Claims

- 6.5.7 In any case where the provisions of Paragraph 8 of Schedule 1 are engaged, the time limits set out in this Clause 6 shall not commence until the later of (i) the date on which the Government Counterparty issues the related Apportionment Determination Notices (as defined in that Paragraph 8) and (ii) the date on which

they would otherwise commence. Any related Due Date or other time for payment shall be adjusted as required.

Disputed Payments

- 6.5.8 If the Government Counterparty disputes in good faith any Difference Payment as calculated by a Claimant and set out in a Claim Statement, it shall make payment of the undisputed amount on or before the Due Date and shall give notice of the amount in dispute and the reasons for the dispute to the Claimant on or before the date falling thirty (30) days after the Due Date.
- 6.5.9 The Government Counterparty and the Claimant shall seek in good faith to settle the disputed amount as soon as reasonably possible.
- 6.5.10 If the Government Counterparty and the Claimant are unable to settle the dispute and thirty (30) days have passed since the date on which the notice of the dispute was given, then either of them may take such action as is permitted by this Deed, including resorting to the English courts.
- 6.5.11 Any adjustment payment required to be made in accordance with the resolution of a dispute shall be made within thirty (30) days of that resolution.

6.6 Interest

- 6.6.1 If the Claimant or the Government Counterparty fails to pay to the other any amount due under this Deed by the Due Date then, subject to Clause 6.6.2, interest shall be payable on that amount at an annual rate equal to the base lending rate set by the Bank of England applicable from time to time plus three per cent (3%) from and including the Due Date to but excluding the date payment is made.
- 6.6.2 If the Claimant or the Government Counterparty is required to pay to the other an amount following resolution of a request for further information or evidence or of a dispute (as envisaged under Clause 6.5) or in accordance with Clause 6.4 or Clause 6.7, interest shall be payable on that amount:—
- (a) where the Claimant is required to pay, at the rate designated as the late payment rate; or
 - (b) where the Government Counterparty is required to pay, at the rate designated as the repayment interest rate,

in both cases for the purposes of the Taxes and Duties, Etc (Interest Rate) Regulations 2011 (SI 2011/2446) as those may be amended from time to time or any successor legislation, from (i) where Clause 6.5 applies, the date that would otherwise have been the Due Date or (ii) where Clause 6.4 or Clause 6.7 applies, the date on which payment was received by the Claimant in the case of an overpayment to the Claimant or the date that would otherwise have been the Due Date in the case of an underpayment to the Claimant, to (but excluding) the date that the relevant matter is resolved or determined, such date then being the Due Date for the purposes of applying Clause 6.6.1 to the payment.

6.7 Amended Information

- 6.7.1 If at any time following the end of any Tax Period in respect of which a Difference Payment has been made either the Government Counterparty or the Claimant considers or becomes aware that the information used to calculate such Difference Payment was incorrect, or further information becomes available which results in a different calculation of the Difference Payment such that the Difference Payment ought to have been of a different amount, then that party shall, by notice to the other, present an amended Claim Statement setting out the correct Difference Payment. The provisions of this Clause 6 shall apply mutatis mutandis to such amended Claim Statement as if it were a Claim Statement submitted by the Claimant on a timely basis, save that:—
- (a) where the original Difference Payment ought to have been greater, the Difference Payment due under the amended Claim shall be the amount by which the original Difference Payment was insufficient (and the total amount comprising the original Difference Payment and such additional payment shall be taken as a single Difference Payment made under a single Claim for the purposes of this Deed);
 - (b) where the original Difference Payment ought to have been less, the Claimant shall pay to the Government Counterparty the amount by which the original Difference Payment was excessive; and
 - (c) any interest shall be calculated in accordance with Clause 6.6.2.
- 6.7.2 If a Claimant has made a Claim under Clause 6.1.3 and has accordingly submitted a Claimant Certificate or, as the case may be, a Defaulter Certificate (the “**Initial Certificate**”) and, when submitting a subsequent Claim in relation to the same Imposition, wishes instead to submit a HMRC Certificate of the other kind (the “**Alternative Certificate**”), then it shall include a statement to that effect as part of the first Claim for which the Alternative Certificate is submitted. In that event, all previous Claims in relation to the said Imposition for which the Initial Certificate was submitted shall with effect from the date of receipt of the first Claim for which the Alternative Certificate is submitted be treated as if they were Claims made using the Alternative Certificate and Clause 6.7.1 shall apply accordingly. A Claimant shall be entitled to change to an Alternative Certificate only once in respect of any particular Imposition.

6.8 Consent to disclosure

It shall be a condition of submitting any Claim Statement that the Claimant authorises HMRC to disclose to the Government Counterparty such information regarding its financial and tax affairs as may be necessary or desirable in order to enable the Government Counterparty to verify the contents of the Claim Statement or to investigate whether an adjustment payment is due pursuant to Clause 6.7.

6.9 Tax Gross-Up

- 6.9.1 Any sum payable by the Government Counterparty to the Company or an Associated Entity (as the case may be) under this Deed shall be paid free and clear of any deduction or withholding whatsoever, save only as may be required by law.

6.9.2 If any deduction or withholding is required by law to be made from any payment by the Government Counterparty under this Deed (other than a payment of interest made pursuant to Clause 6.6), the Government Counterparty shall increase the amount of the payment by such additional amount as is necessary to ensure that the net amount received and retained by the Company or the Associated Entity (as the case may be) (after taking account of any deduction or withholding and of any credit for Tax obtained in respect of such deduction or withholding) is equal to the amount which it would have received and retained had the payment in question not been subject to any deduction or withholding.

6.9.3 If the Company or an Associated Entity (as the case may be):—

(a) is subject to Tax in respect of any payment by the Government Counterparty under this Deed (other than a payment of interest made pursuant to Clause 6.6); or

(b) would have been subject to Tax but for the availability of any Tax relief,

then the Government Counterparty shall increase the amount of the payment by such additional amount as is necessary to ensure that the net amount received and retained by the Company or Associated Entity (after taking account of all Tax) (or the net amount that would have been received and retained but for the availability of the Tax relief) is equal to the amount which it would have received and retained had the payment in question not been subject to Tax or, as the case may be, the Tax relief had not been used. In the case of Clause 6.9.3(b), the additional amount shall become due and payable only if and when the Company or Associated Entity shows that the Tax relief that was set against the payment would have reduced or eliminated an actual liability to Tax and that the Tax that would, accordingly, not otherwise have been due has been paid.

6.10 Recovery of amounts received from third parties

6.10.1 Where a Difference Payment has been made and the recipient (or any entity which controls, is controlled by or under common control with the recipient) receives a Compensating Payment, such recipient shall receive and hold such Compensating Payment (save for any Retainable Amount) on bare trust for the Government Counterparty and shall promptly notify the Government Counterparty of the same provided that in no event shall such recipient be obliged to hold on trust any Compensating Payments to the extent that in aggregate they exceed the Difference Payment received by the recipient.

6.10.2 A “**Compensating Payment**” is any payment made by or recoverable from any person (the “**Compensating Party**”, which may include any taxing authority outside the United Kingdom but not HMRC) to or by another (the “**Compensated Party**”) by way of compensation, or under any agreement, commitment, indemnity or covenant to pay, or by way of a repayment of Tax, to the extent that it relates to the same subject matter as the Difference Payment mentioned in Clause 6.10.1 and arises as a result of or in connection with:—

(a) the Compensated Party (or an Associated Entity thereof) having incurred or become liable to incur any Imposition Decommissioning Expenditure; or

(b) the Compensating Party having benefitted from the carry-back of relief for the purposes of Petroleum Revenue Tax because the Compensated Party (or an Associated Entity) incurred Decommissioning Expenditure.

The “**Retainable Amount**” is so much of a Compensating Payment as must be retained by the Compensated Party in order to secure that it is in no better and no worse a position (after Tax) than it would have been had the Decommissioning Expenditure to which the Compensating Payment relates been met by another person at the time it was originally incurred.

6.10.3 The Company shall, and shall (to the extent possible) procure that any Associated Entity shall:—

- (a) seek to recover any Compensating Payment to which it is or becomes entitled; and
- (b) procure that any recipient that is not bound by this Deed complies with Clause 6.10.1 in respect of any Compensating Payment it receives.

6.10.4 To the extent that Decommissioning Expenditure of any person corresponds to a Compensating Payment not dealt with under Clause 6.10.1, it shall not for the purposes of this Deed be regarded as Decommissioning Expenditure of that person or any Associated Entity thereof. To the extent that it has been so regarded and not dealt with under Clause 6.10.1, such adjustments shall be made to any calculation, amount or payment as are necessary to secure that it is effectively disregarded.

6.11 Claims Agent

The Government Counterparty may appoint an agent to deal with the processing of Claim Statements in accordance with this Clause 6 and related matters (a “**Claims Agent**”). The Government Counterparty shall notify the Company of the appointment of any Claims Agent and provide full details of where and to whom Claim Statements should be submitted and any related correspondence directed. Notwithstanding the appointment of a Claims Agent, the Government Counterparty shall remain primarily liable in respect of its obligations under this Deed.

6.12 Continuing Effect

This Clause 6 shall survive termination of this Deed.

7. **Change in Law**

7.1 If at any time following the date of this Deed there is a change in law (other than a Change in Tax Law or any other change in law relating to any Tax) which, in the reasonable opinion of the Company, has or will have the effect of materially impeding or frustrating the operation of this Deed in circumstances where it was not the object or purpose of the change in law to restrict or affect the operation of this Deed or any rights or obligations arising hereunder, then the Company may issue to the Government Counterparty a notice (an “**Amendment Request**”) requesting that the Parties seek to agree such amendments to this Deed as may be required in order to remedy, to the extent possible, the effect of the change in law.

7.2 On receiving an Amendment Request from the Company (or from another company made in relation to the same change of law under a Similar Deed (an “**Other Deed**”), the Government Counterparty shall use reasonable endeavours to:—

- 7.2.1 identify all the parties to Other Deeds (together with the Company, the “**Affected Parties**”) and notify all of the Affected Parties that are not aware of the Amendment Request that it has been made; and
- 7.2.2 discuss with the Affected Parties the issues raised by the Amendment Request (and any equivalent requests) and agree such amendments as may be necessary, provided that such amendments may and must be incorporated into this Deed and all Other Deeds in the like manner and that doing so would not prejudice the position of the Government Counterparty in any material respect (ignoring for this purpose its position under this Deed and any Other Deed), and would not be contrary to law or public policy.
- 7.3 Where such amendments have been agreed between the Government Counterparty and the Affected Parties, the Government Counterparty and the Company shall ensure that this Deed is altered accordingly.
- 8. Anti-Abuse**
- 8.1 For the purposes of calculating a Reference Amount under this Deed (and in particular under Paragraph 6 or Paragraph 7 of Schedule 1), the provisions of sections [165A to 165E, 416ZC and 416ZE] of the Capital Allowances Act 2001 and [Clause 204,205 and 206 of Finance (No 2.) Bill 2013] shall apply in the same way as they apply for the purposes of calculating a liability to Tax.
- 8.2 In Clause 8.1:—
- 8.2.1 references to sections are to those sections in the form they have as part of Enactment Date Legislation; and
- 8.2.2 it shall be assumed for the purposes of applying sections [165A to 165E, 416ZC and 416ZE] of the Capital Allowances Act 2001 that the person wishing to make a Claim is carrying on a ring fence trade (but only so that the condition in section [165E(1)(a)], section [165C(1)(a)] or, as the case may be, section [416ZA(1)(a)] is satisfied).
- 8.3 The Government Counterparty and the Company have entered into this Deed in a spirit of good faith. If the Company or any Associated Entity has entered into any Inappropriate Arrangement which would in the absence of the counteracting effect of this Clause 8.3 have secured an Entitlement, then any Difference Payment shall be no greater than it would have been in the absence of the Inappropriate Arrangement (or, where only part of the Inappropriate Arrangement is attributable to an Inappropriate Purpose, no greater than it would have been in the absence of that part).
- 8.4 For the purposes of this Clause 8 and Schedule 4:—
- 8.4.1 person enters into an “**Inappropriate Arrangement**” if it enters into a transaction or arrangement, or includes a feature in a transaction or arrangement, the main purpose or one of the main purposes of which is to enable the Company or an Associated Entity to obtain an Entitlement which would not otherwise be obtained and which is to any extent inconsistent with the principles set out in Paragraphs 2 to 6 of Schedule 4 (an “**Inappropriate Purpose**”); and
- 8.4.2 “**Entitlement**” means an actual or contingent entitlement to a Difference Payment or an increased Difference Payment under Clause 5 of this Deed.

8.5 A transaction or arrangement shall not be regarded as having an Inappropriate Purpose solely by virtue of the fact that it consists of the undertaking or procurement of decommissioning in the ordinary course, but any such transaction or arrangement may nevertheless constitute an Inappropriate Arrangement if it has, or includes a feature which has, an Inappropriate Purpose. Paragraph 1 of Schedule 4 shall have effect for the purposes of this Clause 8.5.

9. Confidentiality of Information

9.1 The Government Counterparty shall treat as confidential all information provided by or on behalf of the Company or any Associated Entity under or in connection with this Deed, including Claim Statements, (together the “**Confidential Information**”) and shall not disclose the Confidential Information without the prior written consent of the Company or the Associated Entity (as the case may be), save that consent shall not be required for disclosure:—

9.1.1 to HMRC;

9.1.2 to the extent required by any applicable laws or judicial process, provided that the Company or the Associated Entity (as the case may be) has been notified of the intended disclosure at least seven (7) days before it is made;

9.1.3 to the extent that the Confidential Information is in or lawfully comes into the public domain other than by breach of this Clause 9.

9.2 If the Company or an Associated Entity requests and receives an HMRC Certificate in relation to any of its predecessors or in relation to the Licence Interest Share of any other person, it shall treat as confidential the information relating to such parties contained in any such HMRC Certificate (together the “**Confidential Information**”) and shall not disclose the Confidential Information without the prior written consent of the party concerned, save that consent shall not be required for disclosure:—

9.2.1 to HMRC or the Government Counterparty;

9.2.2 as may reasonably be required in connection with its consideration of the purchase of an interest in a Field, the negotiation of decommissioning security arrangements, the calculation of security under such arrangements, the consideration of potential liability to decommissioning or the making of Claims;

9.2.3 to the extent required by any applicable laws or judicial process, provided that the party concerned has been notified (where practicable) of the intended disclosure at least seven (7) days before it is made;

9.2.4 to the extent that the Confidential Information is in or lawfully comes into the public domain other than by breach of this Clause 9.

10. Third Parties

10.1 Except as set out in Clause 10.2, the Parties intend that no provision of this Deed shall confer any benefit on, nor be enforceable by, any person who is not a Party by virtue of the Contracts (Rights of Third Parties) Act 1999 (“**1999 Act**”).

10.2 Subject to the remaining provisions of this Clause 10, by virtue of the 1999 Act:—

10.2.1 this Deed is intended to be enforceable by an Associated Entity; and

- 10.2.2 Clause 3.4 of this Deed is intended to be enforceable (against the Claimant only) by any third party with whom a Claimant has such a contract as is referred to in that Clause.
- 10.3 Notwithstanding Clause 10.2, this Deed may be amended or varied by the issue of an Alternative Schedule in accordance with Clause 2.3 or amended, varied or rescinded by the Parties, in either case without notice to or the consent of any Associated Entity or other third party.
- 10.4 The enforcement of the rights of any Associated Entity or third party under Clause 10.2 shall be conditional on the acceptance by the Associated Entity or third party of the terms of this Deed, and in making any claim under this Deed such Associated Entity or third party shall be taken to have accepted them.

11. Assignment

- 11.1 Subject to the remaining provisions of this Clause 11, neither Party shall assign or transfer to any person any of its rights or obligations in respect of this Deed.
- 11.2 The Company may assign its rights under this Deed by way of security to or in favour of any bank or other financial institution in relation to the financing of commercial activities which the Company or an Associated Entity carries on primarily on the UKCS or in the territorial waters of the United Kingdom, or in relation to the provision of any decommissioning security or guarantee.
- 11.3 The Government Counterparty may assign or transfer its rights and obligations under this Deed in whole or in part to any successor in relation to its rights and responsibilities.
- 11.4 As a separate and independent stipulation the Government Counterparty undertakes that if any such assignment or transfer as is referred to in Clause 11.3 is made and as a result any right of the Company or any Associated Entity under this Deed is rendered unenforceable, or the performance of any obligation by either Party arising under this Deed is rendered illegal or the Company's or any Associated Entity's rights under this Deed are adversely affected, then the Government Counterparty shall be liable to pay such compensation to the Company or such Associated Entity as is necessary to restore the Company or such Associated Entity to the position it would have been in had such assignment or transfer not taken place.

12. Notices

- 12.1 Except where expressly provided otherwise in this Deed, any notice or other written communication authorised or required by this Deed to be given or sent by either Party to the other (a "**Communication**") shall be in writing and signed by an authorised representative of the sender.
- 12.2 All Communications given by one Party to the other Party pursuant to this Deed may be delivered by hand, by facsimile, by commercial courier or, within the United Kingdom, by first class pre-paid recorded or special delivery post.
- 12.3 Communications shall be sent to the address or facsimile number specified for the receiving Party in Schedule 2 and shall be marked to the attention of the person named in Schedule 2. Either Party may, by written notice to the other, change its contact details given in Schedule 2.

12.4 Communications delivered in accordance with this Clause 12 shall be effective as follows:—

12.4.1 if delivered by hand or by commercial courier, on the Business Day of delivery or on the 1st Business Day after the date of delivery if delivered on a day other than a Business Day;

12.4.2 if sent by first class pre-paid or special delivery post in the United Kingdom, on the 2nd Business Day after the day of posting or, if sent from one country to another, on the 5th Business Day after the day of posting;

12.4.3 if sent by facsimile transmission and a valid transmission report confirming good receipt is generated, on the day of transmission if transmitted before 1800 hours on a Business Day or otherwise on the 1st Business Day after transmission,

but without prejudice to any provision of this Deed that refers to receipt of any communication.

12.5 In proving service of the Communication, it shall be sufficient to show that delivery by hand was made or that the envelope containing the Communication was properly addressed and posted by pre-paid registered post or that the facsimile was despatched and a confirmatory transmission report received.

13. Waiver

13.1 Save as expressly set out herein, no delay by or omission of either Party or any Associated Entity in exercising any right, power, privilege or remedy under this Deed shall operate to impair such right, power, privilege or remedy or be construed as a waiver of that right, power, privilege or remedy.

13.2 Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise of that right, power, privilege or remedy or the exercise of any other right, power, privilege or remedy.

13.3 No waiver of any breach of this Deed shall (unless expressly agreed in writing) be construed as a waiver of a future breach of the same term or as authorising the continuation of the particular breach. No waiver of any breach of this Deed shall operate unless expressly made in writing.

14. Entire Agreement

14.1 Save as expressly provided herein, this Deed can be amended only by written deed between the Parties executed by their duly authorised representatives.

14.2 This Deed together with any other document expressed to be incorporated herein constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes and extinguishes any representations previously given or made other than those included in this Deed and any other document expressed to be incorporated herein.

14.3 Each Party acknowledges and agrees that on entering into this Deed it does not rely on, and shall have no remedy for misrepresentation in respect of, any warranty, representation, undertaking or assurance (whether negligently or innocently made) of any person unless expressly set out in this Deed as a representation, and that such liability in respect of any such warranty, representation, undertaking or assurance is expressly excluded.

14.4 Nothing in this Clause 14 limits or excludes any liability for fraud in relation to any such representation, warranty, undertaking or assurance.

15. Conflict

If there is any inconsistency between a provision in this Deed (for this purpose excluding the Schedules) and a provision in a Schedule, the provision in this Deed prevails to the extent of the inconsistency.

16. Execution in Counterparts

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

17. Governing Law

This Deed, and any non-contractual rights or obligations arising out of or in connection with it or its subject matter, shall be governed by and construed in accordance with English law. Any claim, dispute or difference of whatsoever nature arising out of or in connection with this Deed and any non-contractual rights or obligations arising out of or in connection with it or its subject matter shall be referred to the exclusive jurisdiction of the courts of England.

IN WITNESS WHEREOF the Parties have caused this Decommissioning Relief Deed to be executed as a deed on the date first above written.

**Executed as a Deed by
THE LORDS COMMISSIONERS TO HER MAJESTY’S TREASURY**

Signature

Full Name

In the presence of:

Witness Signature

Witness Full Name

Witness Address

Witness Occupation

Signature

Full Name

In the presence of:

Witness Signature

Witness Full Name

Witness Address

Witness Occupation

**Executed as a Deed by
[COMPANY]**

[Director/Authorised Signatory] Signature

Director Full Name

In the presence of:

Witness Signature

Witness Full Name

Witness Address

Witness Occupation

Schedule 1

Reference Amount

1. Definitions

Definitions used in the body of this Deed shall have the same meanings when used in this Schedule and unless otherwise stated references in this Schedule to Paragraphs are to paragraphs of this Schedule. In addition, the following terms and expressions shall bear the following meanings:—

“Decommissioning End Date” means the date on which the final Decommissioning Expenditure in relation to the relevant decommissioning activity has been incurred.

“Net Cost” means the aggregate of the Claimant’s share of Decommissioning Expenditure calculated on the basis set out in Schedule 6.

“Net Revenues” means the aggregate of the Claimant’s share of:—

- (a) the sales value of petroleum produced and delivered from the Field; and
- (b) the proceeds of sale of any surplus Relevant Property sold prior to the Decommissioning End Date; and
- (c) the value of any tariffs or other income received from the owners of other fields arising out of the provision of services utilising the Relevant Property under transportation, processing and other agreements,

in each case calculated after deduction of attributable costs and tax on the basis set out in Schedule 6.

2. Calculation of the Reference Amount

- 2.1 Save as specifically set out in this Schedule, a Reference Amount shall be calculated by reference to Enactment Date Legislation. For the avoidance of doubt, where losses are carried back to Tax Periods ending before the Enactment Date, Tax Capacity shall be determined by reference to the legislation in force during those Tax Periods.
- 2.2 References in this Deed to any expenditure (including Decommissioning Expenditure) being **“incurred”** shall, except where reference is made in Schedule 4 to expenditure being **“actually incurred”**, be construed as references to the same being recognised as incurred for the purposes of the relevant Tax under Enactment Date Legislation (regardless of when payment was actually made in respect of such expenditure). Notwithstanding the foregoing, the fact that Decommissioning Expenditure may have been met directly or indirectly by a third party shall not prevent it being allowable Decommissioning Expenditure for the purposes of this Schedule, subject always to Clause 6 and to Paragraph 9.1.
- 2.3 Where there is an Imposition which requires the Claimant to incur Decommissioning Expenditure in respect of a Licence Interest Share which it acquired as the result of forfeiture under a joint operating agreement, unitisation agreement or similar agreement, the expenditure shall be treated as Imposition Decommissioning Expenditure if, and then only to the extent that, the Net Cost that the Claimant has incurred or reasonably expects to incur in future in respect of such Licence Interest Share exceeds the Net Revenues it has received

or reasonably expects to receive in respect of such Licence Interest Share, and for the purposes of these calculations the assumptions in Schedule 6 shall be applied. To the extent that such Net Cost does not exceed such Net Revenues, the expenditure so incurred shall be treated as Ordinary Decommissioning Expenditure.

3. Calculation of Reference Amount for Ring Fence Corporation Tax where there is no Imposition

- 3.1 In relation to Ordinary Decommissioning Expenditure, the RFCT Reference Amount for a Tax Period shall be equal to the amount of RFCT Relief that would under Enactment Date Legislation arise to the Claimant, in that or any earlier Tax Period, in respect of allowable Decommissioning Expenditure. For the avoidance of doubt, in applying this Paragraph 3.1 relief shall not be treated as being given against profits previously treated as relieved in applying this Paragraph 3.1, so that in aggregate relief shall not be treated as being given more than once in respect of the same profits.
- 3.2 For the purposes of this Paragraph 3, allowable Decommissioning Expenditure means Ordinary Decommissioning Expenditure incurred by the Claimant in the relevant Tax Period or any earlier Tax Period and allowable Deductible Expenditure means Deductible Expenditure incurred by the Claimant in the relevant Tax Period or any earlier Tax Period.
- 3.3 Where there is no Imposition because the Claimant controls, is controlled by or under common control with a Defaulting Party and the Tax Capacity of the Defaulting Party is greater than the Tax Capacity of the Claimant, the Claimant shall be treated as having the Tax Capacity of the Defaulting Party for the purposes of the calculation in Paragraph 3.1.
- 3.4 For the purposes of assessing the RFCT Relief that would arise in respect of allowable Decommissioning Expenditure under Enactment Date Legislation, any Difference Payment payable under Clause 5.2.3 (before any reduction of such Difference Payment under Clause 5.3) shall be treated as profit chargeable to Ring Fence Corporation Tax under Enactment Date Legislation.
- 3.5 To the extent that in determining the amount of RFCT Relief that would arise under Paragraph 3.1 a Claimant has insufficient Tax Capacity to treat as relievable all of its allowable Decommissioning Expenditure because that Tax Capacity has already been reduced as a result of incurring Imposition Decommissioning Expenditure, the RFCT Reference Amount for the Tax Period shall be increased by the amount of additional RFCT Relief that the Claimant would have received in respect of allowable Decommissioning Expenditure under this Paragraph had it not previously (or in the same Tax Period) incurred such Imposition Decommissioning Expenditure.
- 3.6 If a Claimant has insufficient Tax Capacity to treat as relievable all of its allowable Deductible Expenditure because that Tax Capacity has already been reduced as a result of incurring Imposition Decommissioning Expenditure, the RFCT Reference Amount for the Tax Period shall be or be increased by an amount equal to any reduction in Tax liability or repayment of Tax which the Claimant would have secured in respect of allowable Deductible Expenditure but for such insufficiency of Tax Capacity, to the extent that the insufficiency has not already been taken into account under any of Paragraphs 3.5, 4.6 or 4.7 or this Paragraph 3.6.

4. Calculation of Reference Amount for Supplementary Charge where there is no Imposition

- 4.1 In relation to Ordinary Decommissioning Expenditure and subject to Paragraph 4.3, the SC Reference Amount for a Tax Period shall be equal to the amount of SC Relief that would

under Enactment Date Legislation arise to the Claimant, in that or any earlier Tax Period, in respect of allowable Decommissioning Expenditure. For the avoidance of doubt, in applying this Paragraph 4.1 relief shall not be treated as being given against profits previously treated as relieved in applying this Paragraph 4.1, so that in aggregate relief shall not be treated as being given more than once in respect of the same profits.

- 4.2 For the purposes of this Paragraph 4, allowable Decommissioning Expenditure means Ordinary Decommissioning Expenditure incurred by the Claimant in the relevant Tax Period or any earlier Tax Period and allowable Deductible Expenditure means Deductible Expenditure incurred by the Claimant in the relevant Tax Period or any earlier Tax Period.
- 4.3 The following provisions apply for the purposes of calculating the SC Relief for the purposes of Paragraph 4.1:—
- 4.3.1 where the profits against which the Decommissioning Expenditure is set were subject to a rate of Supplementary Charge greater than 20%, such profits shall be treated as having been relieved at a rate equal to the lower of:—
- (a) the rate of Supplementary Charge to which they were subject; and
 - (b) a rate of 20% plus (i) in cases where the rate of Ring Fence Corporation Tax to which such profits were subject was less than 30%, the number of percentage points by which that rate was less than 30%, or (ii) in other cases, nil;
- 4.3.2 where such profits were subject to a rate of Supplementary Charge at or less than 20%, such profits shall be treated as having been relieved at that rate.
- 4.4 Where there is no Imposition because the Claimant controls, is controlled by or under common control with a Defaulting Party and the Tax Capacity of the Defaulting Party is greater than the Tax Capacity of the Claimant, the Claimant shall be treated as having the Tax Capacity of the Defaulting Party for the purposes of the calculation in Paragraph 4.1.
- 4.5 For the purposes of assessing the SC Relief that would arise in respect of allowable Decommissioning Expenditure under Enactment Date Legislation, any Difference Payment payable under Clause 5.2.3 (before any reduction of such Difference Payment under Clause 5.3) shall be treated as profit chargeable to Supplementary Charge under Enactment Date Legislation.
- 4.6 To the extent that in determining the amount of SC Relief that would arise under Paragraph 4.1 a Claimant has insufficient Tax Capacity to treat as relievable all of its allowable Decommissioning Expenditure because that Tax Capacity has already been reduced as a result of incurring Imposition Decommissioning Expenditure, the SC Reference Amount for the Tax Period shall be increased by the amount of additional SC Relief that the Claimant would have received in respect of allowable Decommissioning Expenditure under this Paragraph had it not previously (or in the same Tax Period) incurred such Imposition Decommissioning Expenditure.
- 4.7 If a Claimant has insufficient Tax Capacity to treat as relievable all of its allowable Deductible Expenditure because that Tax Capacity has already been reduced as a result of incurring Imposition Decommissioning Expenditure, the SC Reference Amount for the Tax Period shall be or be increased by an amount equal to any reduction in Tax Liability or repayment of Tax which the Claimant would have secured in respect of allowable Deductible Expenditure but for such insufficiency of Tax Capacity, to the extent that the

insufficiency has not already been taken into account under any of Paragraphs 3.5, 3.6 or 4.6 or this Paragraph 4.7.

5. Calculation of Reference Amount for Petroleum Revenue Tax

- 5.1 In relation to Ordinary Decommissioning Expenditure, the PRT Reference Amount for a Tax Period shall be equal to such amount of PRT Relief as would arise to the Claimant or any of its predecessors in respect of the relevant Field if Ordinary Decommissioning Expenditure were set against Available Profits on the basis set out in the remainder of this Paragraph 5.1, applying Enactment Date Legislation but on the assumption that [clause 81 of Finance (No 2.) Bill 2013] had not been enacted. Such PRT Reference Amount shall be calculated on a cumulative basis by reference to all Ordinary Decommissioning Expenditure incurred by the Claimant in the Chargeable Period in respect of which the Claim is made and any earlier Chargeable Period and the PRT Relief that would arise or have arisen to the Claimant in such Chargeable Period and any earlier Chargeable Period. For the avoidance of doubt, in applying this Paragraph 5.1 PRT Relief shall not be treated as being given in respect of profits (i) in respect of which relief has been given or (ii) which are otherwise treated as relieved in applying this Paragraph 5.1, so that in aggregate relief shall not be given or treated as being given more than once in respect of the same profits.
- 5.2 In relation to Imposition Decommissioning Expenditure, the PRT Reference Amount for a Tax Period shall be equal to such amount of PRT Relief as would arise under Enactment Date Legislation in respect of the relevant Field if Imposition Decommissioning Expenditure were set against Remaining Available Profits on the basis set out in the remainder of this Paragraph 5.2. Such PRT Reference Amount shall be calculated on a cumulative basis by reference to all Imposition Decommissioning Expenditure incurred by the Claimant in the Chargeable Period in respect of which the Claim is made and any earlier Chargeable Period and the PRT Relief that would arise or have arisen to the Claimant in such Chargeable Period and any earlier Chargeable Period and for the purposes of this calculation:—
- 5.2.1 any Ordinary Decommissioning Expenditure shall be taken into account in accordance with Paragraph 5.1 before any Imposition Decommissioning Expenditure is taken into account in accordance with this Paragraph 5.2; and
- 5.2.2 **“Remaining Available Profits”** are so much of the Available Profits shown in the valid Specified Certificate(s) supplied with the Claim as (i) are and have not been otherwise taken into account in accordance with Paragraph 5.1 or this Paragraph 5.2, (ii) are and have not been taken into account otherwise under the like provisions in any Similar Deed, and (iii) are not and have not been the subject of a claim for relief by any person.
- 5.3 If Petroleum Revenue Tax shall have been abolished, then the last Tax Period for which Petroleum Revenue Tax was chargeable shall be taken as being the most recent Tax Period for the purposes of applying Paragraphs 5.1 and 5.2 and the PRT Reference Amount shall be determined by reference to the level of relief that the Claimant would have achieved if the Decommissioning Expenditure had been incurred in that Tax Period.
- 5.4 Where there is no Imposition because the Claimant controls, is controlled by or under common control with a Defaulting Party, the Claimant’s Decommissioning Expenditure shall nevertheless be treated as Imposition Decommissioning Expenditure for the purposes of this Paragraph 5 provided that any HMRC Certificate submitted by the Claimant in accordance with Clause 6.1.4(b) shall be that of the Claimant or of the Defaulting Party only (and not any predecessor).

5.5 For the purposes of calculating PRT Relief where Imposition Decommissioning Expenditure has been incurred in respect of any Field, the Claimant shall not be required in respect of such expenditure to make use of any ability to set off an unrelieved field loss against the profits earned in respect of any other Field before making a Claim under this Deed.

6. Calculation of Reference Amount for Ring Fence Corporation Tax in an Imposition

6.1 The RFCT Reference Amount in respect of any Imposition Decommissioning Expenditure incurred by the Claimant in any Tax Period shall be calculated by multiplying allowable Decommissioning Expenditure by thirty per cent (30%).

6.2 Allowable Decommissioning Expenditure for the purpose of Paragraph 6.1 means Decommissioning Expenditure incurred by the Claimant during the relevant Tax Period as a result of such Imposition.

7. Calculation of Reference Amount for Supplementary Charge in an Imposition

7.1 The SC Reference Amount in respect of any Imposition Decommissioning Expenditure incurred by the Claimant in any Tax Period shall be calculated by multiplying allowable Decommissioning Expenditure by twenty per cent (20%).

7.2 Allowable Decommissioning Expenditure for the purpose of Paragraph 7.1 means Decommissioning Expenditure incurred by the Claimant during the relevant Tax Period as a result of such Imposition.

8. Calculation of Reference Amount for Petroleum Revenue Tax in an Imposition: Multiple Claimants

8.1 This Paragraph 8 shall apply where (i) the Claimant makes a Claim which relies on the Tax Capacity of a Defaulting Party, (ii) one or more claimants under Similar Deeds (“**Other Claimants**”) make or may be entitled to make claims which also rely on the Tax Capacity of the same Defaulting Party and (iii) the Tax Capacity of the Defaulting Party and its predecessors is not or would not be sufficient to meet such Claim and those other claims in full.

8.2 Upon becoming aware that the circumstances described in Paragraph 8.1 exist, the Government Counterparty shall notify the Claimant and shall use reasonable endeavours to identify any potential Other Claimants (and the Claimant shall render such reasonable assistance as may be requested for such purpose).

8.3 The relevant Tax Capacity shall be apportioned between the Claim and those other claims or potential claims so that the aggregate entitlement available under this Deed and the other deeds referred to in Paragraph 8.1 (taken together) is shared between the Claimant and the Other Claimants (including those who have not yet made a related claim) pro rata according to the amount of the Decommissioning Expenditure attributable to such Defaulting Party that is borne by them, unless the Government Counterparty, the Claimant and the Other Claimants agree an alternative apportionment.

8.4 Upon the final determination of the apportionment of the relevant Tax Capacity in accordance with Paragraph 8.3, the Government Counterparty shall issue to the Claimant and the Other Claimants notices setting out the amount of the relevant Tax Capacity respectively apportioned to them (an “**Apportionment Determination Notice**”). The amount of Tax Capacity stated in the Apportionment Determination Notice issued to the Claimant shall be final and binding for the purposes of this Deed.

9. Other Issues

- 9.1 Decommissioning Expenditure shall not be allowable Decommissioning Expenditure for the purposes of Ring Fence Corporation Tax, Supplementary Charge or Petroleum Revenue Tax if and to the extent that the same person or any other person shall have claimed any relief from Ring Fence Corporation Tax, Supplementary Charge or Petroleum Revenue Tax respectively in respect of such Decommissioning Expenditure, treated such Decommissioning Expenditure as deductible for the purposes of Ring Fence Corporation Tax, Supplementary Charge or Petroleum Revenue Tax respectively, or taken account of such Decommissioning Expenditure in calculating an RFCT Reference Amount, SC Reference Amount or PRT Reference Amount respectively under a Similar Deed.
- 9.2 For the avoidance of doubt, but subject to Clause 6.10, Paragraph 9.1 shall not apply to prevent a Claim, in circumstances where the Claimant shall have received reimbursement of Decommissioning Expenditure from a trustee under decommissioning security arrangements or from a bank or insurance company pursuant to a call on a letter of credit or bond in favour of the Claimant or any similar arrangement, merely because such trustee, bank, insurance company or similar entity has claimed a relief from Tax in respect of such payment.

Schedule 2
Contact Details

Schedule 3
Claim Statement

Schedule 4

Principles supplementary to Clause 8

Ordinary course decommissioning

1. The Company or an Associated Entity undertakes or procures decommissioning in the ordinary course for the purposes of Clause 8.5:—
 - 1.1 where the decommissioning relates to plant and equipment in which the Company or an Associated Entity has a beneficial interest, to the extent that the decommissioning cost relates to that beneficial interest (or those beneficial interests);
 - 1.2 where under arm's length commercial arrangements it has agreed to be responsible for other decommissioning costs, which might include (but are not limited to):—
 - (a) sole risk situations;
 - (b) carried interests;
 - (c) a user field agreeing to be responsible for the cost of decommissioning particular equipment installed for its benefit on a host platform or pipeline;
 - (d) arrangements under which it sells an interest in a field but retains an obligation to pay for all or part of the decommissioning of that field (whether or not allied to an obligation to take a re-transfer of the relevant interest);
 - (e) arrangements under which it ceases to benefit from production as a result of a withdrawal but retaining a liability for decommissioning commensurate with its former interest; or
 - (f) allocation or substitution arrangements; and
 - 1.3 where it is required by statute, or by arm's length commercial arrangements entered into in the ordinary course, to incur Decommissioning Expenditure as the result of the failure of another party to undertake decommissioning work or incur Decommissioning Expenditure which that party was required, by statute or by contractual arrangements entered into in the ordinary course, to undertake or incur.

Principles

2. No arrangements are to be used to enable a Claim to be made in respect of Imposition Decommissioning Expenditure which would otherwise relate to Ordinary Decommissioning Expenditure.
3. Relief for Decommissioning Expenditure is to be given, and any Difference Payment is to be made, only to the extent that:—
 - (a) Decommissioning Expenditure that is treated as incurred is actually incurred;
 - (b) the decommissioning to which the Decommissioning Expenditure relates

was carried out;

- (c) the Decommissioning Expenditure relates solely to the decommissioning carried out (and not for example to financing costs that the person undertaking the decommissioning may incur); and
- (d) the amount of Decommissioning Expenditure incurred is proportionate to the decommissioning carried out in the relevant Tax Period and has not been inflated with a view to obtaining increased Decommissioning Relief or an Entitlement.

4. There should not be arrangements which have as their main purpose or one of their main purposes securing relief for Decommissioning Expenditure or a Difference Payment sooner than it would have been secured in the absence of the arrangements.
5. Relief for Decommissioning Expenditure should be obtained, and any payment under this Deed should be made, only once in respect of a given tranche of expenditure.
6. Except as expressly stated otherwise herein, a Claim should only be made under this Deed after the person incurring the Decommissioning Expenditure has sought to obtain any Decommissioning Relief available under Current Legislation.

Schedule 5

HMRC Certification Process

1. HMRC shall:—
 - 1.1 on the request of the Company or any Associated Entity which is a participator in a Field provide a certificate showing the rate of relief which would be applied to such level of Decommissioning Expenditure as may be specified by the participator making the request if such Decommissioning Expenditure were to be carried back against the Tax Capacity of the participator and its predecessors in title in respect of all or part of its Licence Interest Share in such Field;
 - 1.2 on the request of any Associated Entity where the Company or another Associated Entity is a participator in a Field provide a certificate showing the rate of relief which would be applied to such level of Decommissioning Expenditure as may be specified by the Associated Entity making the request if such Decommissioning Expenditure were to be carried back against the Tax Capacity of the participator and its predecessors in title in respect of all or part of its Licence Interest Share in such Field;
 - 1.3 on the request of the Company or any Associated Entity which may incur Imposition Decommissioning Expenditure if a third party fails to incur the Decommissioning Expenditure associated with its Licence Interest Share, provide a certificate showing the rate of relief which would be applied to such level of Decommissioning Expenditure as may be specified by the Company or the Associated Entity, as the case may be, if such Decommissioning Expenditure were to be carried back against the Tax Capacity of the third party concerned and its predecessors in title in respect of all or part of its Licence Interest Share in such Field; and
 - 1.4 on the request of the Company or any Associated Entity which has incurred or reasonably expects that it may incur Imposition Decommissioning Expenditure provide a certificate showing the rate of relief which would be applied to such level of Decommissioning Expenditure as may be specified by the Company or the Associated Entity, as the case may be, if such Decommissioning Expenditure were to be carried back against the Tax Capacity of the Defaulting Party and its predecessors in title in respect of all or part of its Licence Interest Share in such Field.

Such certificate shall bear the date of its issue and shall also indicate the most recent Tax Period for the relevant participator and its predecessors which has been agreed with HMRC and which Tax Periods remain open. In relation to open periods the certificate shall specify the Available Profits identified in the tax return or returns submitted by the participator and its predecessors or, as the case may be, the Defaulting Party and its predecessors.

2. HMRC shall provide confirmations and issue further certificates in the circumstances set out in Paragraphs 2.1 and 2.2.
 - 2.1 Where a certificate has been issued in accordance with Paragraph 1, the certificate holder may no sooner than six months thereafter (and subsequently at intervals of no less than six months) submit that certificate (or any further certificate issued in accordance with this Paragraph 2) to HMRC together with a request that HMRC confirm whether the matters stated on such certificate remain accurate and, if not, for HMRC to cancel that certificate and issue a further certificate on the same

terms containing the correct information.

- 2.2 If a certificate holder considers that its circumstances are such that it will require its certificates to be verified and (if necessary) reissued on a more frequent basis, then it may so notify HMRC setting out its reasons and providing any necessary supporting evidence. HMRC shall give due and proper consideration to all requests and shall comply with them to the extent that they are reasonably made, provided that such requests must be founded on extraneous circumstances affecting the certificate holder or the Field in question rather than convenience or a desire to optimise cash flow.
3. A certificate issued in accordance with this Schedule 5 shall take account of any unrelieved field losses in any other Field already carried back and set off against the profits earned by the relevant participator in the Field which is the subject of the certificate but shall not take account of the ability of the participator to carry back any unrelieved field losses in the Field which is the subject of the certificate against the profits earned by the relevant participator in any other Field.
4. In preparing a certificate for the purposes of this Schedule 5, HMRC shall take no account of the fact that a participator or its predecessor in title may have been dissolved.
5. The Government Counterparty shall procure that HMRC observes its obligations under this Schedule 5.

Schedule 6

Calculation of Net Cost and Net Revenues

Unless otherwise agreed by the Claimant and the Government Counterparty, the following assumptions shall, where applicable, be used in any calculation of Net Cost or Net Revenues:

1. General
- 1.1 In calculating Net Cost and Net Revenues each future cost and receipt shall be inflated from the end of the calendar year in which the Tax Period in respect of which the Claim is made ends (the “**Relevant Year**”) to the dates when such costs and receipts are expected to arise at a rate equal to one third of the sum of the annual percentage increases in the Producer Price Index over the three (3) year period ending on the 31 March in the Relevant Year and then discounted at the Discount Rate from such dates back to the end of the Relevant Year.
- 1.2 In calculating Net Revenues, allowance shall be made for:
 - 1.2.1 the costs attributable to the Net Revenues, including but not limited to operating and capital costs (other than Decommissioning Expenditure) and sales costs;
 - 1.2.2 Tax, but taking account of Tax allowances and any Government grants, allowances or other assistance given in relation to the Relevant Property or the operation of the Relevant Property (other than any Tax allowances available to any person in respect of Decommissioning Expenditure or any payments due under this Deed).
- 1.3 In calculating Net Cost:
 - 1.3.1 allowance shall be made for anticipated receipts from decommissioning including any actual salvage value;
 - 1.3.2 allowance shall be made for Tax allowances available to the Claimant in respect of Decommissioning Expenditure or any payments due under this Deed (on the assumption that such Decommissioning Expenditure is not treated as arising as a result of an Imposition).
- 1.4 The “Producer Price Index” for these purposes shall mean the index called "Net Sector - Output of manufactured products (JVZ7) in the table "Price indices of United Kingdom output: All manufacturing and selected industries SIC 2007" as published by the UK Office for National Statistics or, if such index ceases to be published, such index as shall most closely resemble it.
- 1.5 The “Discount Rate” shall be the annual post-tax redemption yield (at the rate at which the income held under a decommissioning trust deed would be taxed) of a fixed interest security which is issued or unconditionally guaranteed by the UK government having a final maturity during the three year period commencing on January 1 of the calendar year in which decommissioning is to commence plus 100 basis points (that is, one percentage point), such redemption yield being as reported by a reputable source of financial data on 31 March in such year (or if not available on such date, on the first date thereafter on which it is available).

2. Currency

2.1 Net Cost and Net Revenues shall be expressed in Pounds.

2.2 The currency conversion rates to be applied to convert into Pounds any income, expenditure or liability which is reasonably expected to be denominated other than in Pounds shall be those published by the spot prices published in the Financial Times on 31st May in the year of calculation.

3. Cash Flows

3.1 Cash flows shall be treated as occurring at the mid point of the year in which they are forecast to arise and shall be deemed to have borne applicable tax (including but not limited to royalty, corporation tax, supplementary charge to corporation tax, petroleum revenue tax and other profit or petroleum-based taxes) as at such mid point.

4. No Double Counting

4.1 On no account shall any item be taken into account as an allowance in the calculation of Net Cost if it has already been taken into account in the calculation of Net Revenues and vice versa.

5. Tax Assumptions

5.1 All references to taxes and other Government take (either combined or independently) in this Deed shall be those computed using the following assumptions:

5.1.1 The applicable law shall be the legislation in existence at the time of the completion of the calculation under this Schedule 6.

5.1.2 The Claimant shall be deemed to own only the Licence Interest Share and no other Interest.

5.1.3 The income and expenditures shall be limited to those which are determined or computed under this Agreement.

5.1.4 There shall be no recognition of any income, expenditure, reliefs or allowances that do not flow from the information in this Agreement.

5.1.5 The Claimant shall be assumed to benefit from all available reliefs and allowances under law based on the assumptions in this Schedule 6.

5.1.6 The Claimant shall be assumed not to have any unrelieved expenditures or capital allowance pools at the beginning of the review period.

5.1.7 Losses shall be relieved within the review period only and no credit shall be computed for any excess losses.

5.1.8 For the purposes of this Paragraph 5, "review period" shall mean the period from after the end of the Relevant Year but prior to the last date on which decommissioning expenditure is incurred.

6. Operating Assumptions

- 6.1 It shall be assumed that offshore sea-bed Relevant Property (other than pipelines) will be required to be removed, and that pipelines will be required to be flooded (unless guidelines issued by the Government Counterparty or applicable law require otherwise).
- 6.2 In particular, it shall be assumed that a derogation from the terms of OSPAR Decision 98/3 in respect of the Relevant Property will not be granted unless the Government Counterparty has issued a permit allowing derogation from the terms of OSPAR Decision 98/3 or it is reasonably likely based on the previous history of derogations for similar structures that a derogation will be granted.
- 6.3 The costs charged under the joint operating agreement, unitisation agreement or other similar agreement of insuring Relevant Property against loss or damage and third party liability insurance shall be treated as operating costs for the purposes of calculating Net Revenues ; in the event no such costs are so charged, an amount calculated by reference to one (1) per cent of the original capital cost of Relevant Property increased in line with inflation, shall be added to the relevant operating costs.
- 6.4 The assumptions to be used for future market prices of crude oil shall be those published by *[source to be specified]*.
- 6.5 The assumptions to be used for the future market price of natural gas shall be those published by *[source to be specified]*.
- 6.6 Where any contract for the sale of natural gas has been entered into by the Claimant, the Claimant shall apply the price under such contract to calculate the price of any volumes of natural gas under such contract to which send or pay applies.
- 6.7 For the purposes of this Schedule 6, if any publisher of forecast future prices or currency conversion rates ceases to exist or ceases to publish any forecast future prices or currency conversion rates as referred to in this Schedule 6, the Claimant and the Government Counterparty shall agree replacement assumptions.
- 6.8 Subject to Paragraph 6.6, if any publisher of forecast future prices does not, or ceases to, publish forecast future prices that extend to the estimated date of completion of decommissioning, then the relevant forecast figure that relates to the time nearest to the estimated date of completion of decommissioning shall be deemed to continue from such time until the estimated date of completion of decommissioning.
- 6.9 The production profiles for petroleum utilised for calculations of Net Revenues under this Schedule shall be those contained in the life of Field production estimates (covering all reservoirs within the Field) as set out in the latest annual programme and budget approved pursuant to the joint operating agreement, unitisation agreement or similar agreement (or, if no such production estimates have been approved at such time, or there is no such agreement, the Claimant's best estimates of proven and probable reserves).
- 6.10 The operating costs and capital expenditures utilised for calculations of Net Cost and Net Revenues under this Agreement shall be those approved at the time of such calculation by the operating committee under the joint operating agreement, unitisation agreement or similar agreement (or, if, with respect to operating costs, no such costs have been approved at such time, or if there is no such agreement, the Claimant's best estimates thereof, consistent with the life of Field production estimates referred to above).

- 6.11 References in the foregoing provisions of this Schedule 6 to the “time of calculation” shall be construed as the latest time by which the Operator is required to submit, as the case may be, its estimate of the Net Cost and the Net Revenues.
- 6.12 In calculating Net Cost and Net Revenues, the Claimant shall act to the standard of a “Reasonable and Prudent Operator” meaning a person seeking in good faith to perform its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking in the UK Continental Shelf under the same or similar circumstances or conditions.

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This document can be found in full on our website: <http://www.hm-treasury.gov.uk>

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