

MEMORANDUM OF AGREEMENT AND INFORMATION SHARING ("MOA")

Respecting the administration of the *Management of Greenhouse Gas Act* and Regulations promulgated thereunder in the Offshore Area.

AMONG:

**Her Majesty the Queen in Right of Newfoundland and Labrador,
As represented by the Minister of Natural Resources ("NR") and the Minister of Municipal Affairs and Environment ("MAE")**

and

The Canada-Newfoundland and Labrador Offshore Petroleum Board ("the Board")

hereinafter collectively referred to as the "Parties"

WHEREAS under the federal *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the provincial *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* ("the *Accord Acts*") the Board has responsibility for administering the provisions of the *Accord Acts* on behalf of the Government of Canada and the Government of Newfoundland and Labrador, including matters respecting safety, protection of the environment, conservation of petroleum and joint production arrangements;

AND WHEREAS the Government of Newfoundland and Labrador enacted the *Management of Greenhouse Gas Act* which regulates greenhouse gas emissions from industrial facilities in the province and will reduce greenhouse gas emissions in the province;

AND WHEREAS on behalf of the Government of Newfoundland and Labrador, the Minister of Natural Resources has responsibilities related to the *Accord Acts*, other than Part III.1, for the management of offshore petroleum resources and petroleum-related work and activity conducted in the offshore area, including matters respecting safety, protection of the environment, conservation of petroleum and joint production arrangements;

AND WHEREAS the Minister of Municipal Affairs and Environment is responsible for the *Management of Greenhouse Gas Act* which includes matters with respect to regulation of greenhouse gas emissions;

AND WHEREAS section 159.2 of the *Canada Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* and section 164.3(1) of the *Canada- Newfoundland and Labrador Atlantic Accord Implementation Act* allows for the Board to enter into an agreement with the Minister of Municipal Affairs and Environment to administer and enforce the *Management of Greenhouse Gas Act* in the offshore area;

AND WHEREAS section 12.1 of the *Management of Greenhouse Gas Act* allows the Minister of Municipal Affairs and Environment to enter into an information sharing agreement with the Board and may share records with the Board in accordance with the agreement and section 12.2 of the *Management of*

Greenhouse Gas Act allows the Minister of Municipal Affairs and Environment to delegate a power, duty or function to the Board in relation to an industrial facility located in the offshore area;

AND WHEREAS it is appropriate to describe more formally the process to be followed by the Parties in respect of matters of mutual concern and the understanding among them in relation to the effective administration and enforcement of the carbon pricing regimes under the *Accord Acts* and *Management of Greenhouse Gas Act*.

THEREFORE, the Parties agree as follows:

1. GENERAL

- 1.1. The purpose of this MOA is to set out the roles and responsibilities of the Parties with respect to the administration of the *Management of Greenhouse Gas Act* in the offshore area and to promote effective co-operation and co-ordination in areas of mutual interest and benefit.
- 1.2. Any terms not otherwise defined have their meaning as set out in the *Management of Greenhouse Gas Act* and the *Accord Acts*.
- 1.3. If the name of any Party changes after the signing of this agreement, the new entity is bound by this agreement.

2. RESPONSIBILITIES OF THE BOARD

- 2.1. With respect to certain industrial facilities authorized to conduct petroleum-related work or activities in the offshore area, the Board is responsible for administering and enforcing certain provisions of the *Management of Greenhouse Gas Act* and the regulations made thereunder, as more particularly described herein.
- 2.2. With respect to certain industrial facilities authorized to conduct petroleum-related work or activities in the offshore area, the Board shall be responsible for receiving, reviewing and ensuring that each annual emissions, verification and compliance report complies with the *Management of Greenhouse Gas Act* and regulations and as delegated by the Minister of MAE pursuant to this MOA.
- 2.3. The Board shall ensure that the following reports are submitted to the Minister of MAE annually in accordance with the dates set in the *Management of Greenhouse Gas Reporting Regulations*, which at the date of signature are as set forth below:
 - 2.3.1 Emissions Report by June 1st
 - 2.3.2 Verification Report by September 1st
 - 2.3.3 Compliance Report by November 1st.
- 2.4. The Board shall transmit the annual reports received in accordance with section 2.3 of this MOA to MAE within 10 working days of their receipt by the Board, including any revisions that are submitted, using the template letter outlined in Annex A of this MOA. The Chief Conservation Officer of the Board shall confirm in writing to the Minister of MAE, or his or her designate,

whether each report that is transmitted to MAE is in compliance with the *Management of Greenhouse Gas Act* and regulations.

- 2.5. The Board shall provide MAE with such other information communicated from operators that is necessary to ensure the full implementation of the *Management of Greenhouse Gas Act* and regulations by the Minister of MAE.
- 2.6. The Board will recommend staff for designation as inspectors for the purpose of implementing this MOA and shall ensure that such staff receive any necessary accreditations.
- 2.7. The Board shall inform the other Parties of any decision that may impact another Party's regulatory oversight measures.

3. RESPONSIBILITIES OF MAE

- 3.1. The Minister of MAE may in accordance with section 12.2 of the *Management of Greenhouse Gas Act* provide a written delegation to the Board of any other roles and responsibilities of the Minister for administration of the *Management of Greenhouse Gas Act* or regulations in the offshore area.
- 3.2. Upon receipt of a recommendation from the Board for a designation of its staff to act as an inspector for the purposes of the *Management of Greenhouse Gas Act* and regulations, the Minister of MAE shall consider the qualifications of such staff and designate them as inspectors.

4. COMPLIANCE AND ENFORCEMENT

- 4.1. In accordance with section 159.2 of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* and section 164.3(1) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*, the Minister of MAE authorizes the Board to exercise any power and duty or function as more particularly described in the delegation letter attached at Annex C.
- 4.2. Where a report submitted to the Board is not in compliance with the *Management of Greenhouse Gas Act* and regulations or where a report was not submitted as required by the *Management of Greenhouse Gas Act* and regulations, the Board shall notify MAE in the format as set out in Annex B of this MOA that the operator is not in compliance with the *Management of Greenhouse Gas Act* and regulations.
- 4.3. The Board will notify MAE in writing of its intention to carry out inspections under the *Management of Greenhouse Gas Act* for the offshore area at least 15 days prior to planned inspections taking place and as soon as practicable for unplanned inspections.
- 4.4. In notifying MAE pursuant to 4.3 for planned inspections, the Board will provide MAE with documentation indicating how the inspection will be undertaken.

- 4.5. Following the completion of an inspection under the *Management of Greenhouse Gas Act*, the Board will provide MAE with an inspection report no later than 15 days of the inspection taking place.
- 4.6. Any Board staff designated as an inspector must seek approval from MAE, in accordance with established MAE processes, prior to taking any enforcement action under the *Management of Greenhouse Gas Act*, other than for verbal warnings.

5. COST RECOVERY

- 5.1 Any costs incurred by the Board respecting the administration of the *Management of Greenhouse Gas Act* or regulations in the offshore area shall be recovered in accordance with the *Accord Acts*.

6. CONFIDENTIAL INFORMATION

- 6.1. MAE shall provide the Board access to the necessary confidential information in the Registry established by MAE to manage Greenhouse Gas Reduction Credits for administration and compliance purposes according to the provisions set out in sections 2.2 and 2.4 of this MOA.
- 6.2. Any confidential information disclosed to the Board by MAE shall be used solely by the Board for administration or enforcement of this MOA. Such confidential information shall be held in confidence, safeguarded and shall not be disclosed by the Board, unless such disclosure is required pursuant to any applicable federal or provincial laws or judicial order.
- 6.3. The Board shall use all reasonable efforts and take such action as may be appropriate to prevent the unauthorized use or disclosure of, and to preserve the confidentiality of, all confidential information, including, without limitation, ensuring that the confidential information is disclosed only to those employees of the Board who:
 - a) have a need to know the information for the purposes of the administration of this MOA;
 - b) are subject to a duty of confidentiality; and
 - c) are properly instructed to maintain the confidential information in confidence.
- 6.4. Notwithstanding any of the above, confidential information does not include information that:
 - a) is in the public domain at the time of its disclosure or later becomes publicly available without breach of this MOA;
 - b) is already known to and in the rightful possession of the Board prior to the Board receiving confidential information pursuant to this MOA;
 - c) is rightfully obtained by the Board from a third party having the right to disseminate the information without restriction on disclosure;
 - d) is independently developed by the Board without reference to confidential information;
 - e) is reported to the Board under another federal or provincial law; or

- f) must be disclosed by the Board pursuant to any applicable law or to a court order, in which event the Board shall make reasonable efforts to give notice to MAE prior to any disclosure.

6.5. Information disclosed by the Board to the Minister of NR shall be subject to section 18 of the *Accord Acts*.

6.6. Information disclosed by the Board to MAE shall be subject to section 119(6) of the federal *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and section 115(6) of the provincial *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.

6.7. Nothing in this MOA shall be interpreted so as to preclude the Board or MAE from disclosing information that the Board or MAE may be required or ordered to disclose pursuant to any applicable federal or provincial laws or judicial order.

6.8. Upon termination of this MOA, if requested by MAE, all confidential information in any form, including without limitation, any hard or electronic copies, shall be promptly returned to MAE or destroyed without retaining any copies or excerpts thereof at the discretion of MAE. The Board shall have no right whatsoever to continue any use of or disclose the returned confidential information in any way.

6.9. Upon termination of this MOA, if requested by the Board, all privileged information provided pursuant to 6.6 in any form, including without limitation, any hard or electronic copies, shall be promptly returned to the Board or destroyed without retaining any copies or excerpts thereof at the discretion of Board. MAE shall have no right whatsoever to continue any use of or disclose the returned confidential information in any way. This section does not apply to the contents of the reports listed in section 2.2 of this MOA or any information directly related to the delegation letter provided for in section 3.1.

7. DISPUTE RESOLUTION

7.1. In the event of a dispute arising from the interpretation or implementation of this MOA which cannot be resolved at the staff level, it shall be referred to the Deputy Minister of Municipal Affairs and Environment, the Deputy Minister of Natural Resources and the CEO of the Board.

8. NOTICES

8.1. Any notice or other written communication between NR, MAE and the Board shall be in writing and sent as follows:

The Board: Canada-Newfoundland and Labrador Offshore Petroleum Board
Suite 101, TD Building
140 Water Street
St. John's NL A1C 6H6

Attention: Chief Conservation Officer and Director of Resource Management

MAE: Her Majesty the Queen in Right of Newfoundland and Labrador
Department of Municipal Affairs and Environment
West Block, 4th Floor
Confederation Building
St. John's, NL A1B 4J6

Attention: Assistant Deputy Minister, Climate Change Branch

NR: Her Majesty the Queen in Right of Newfoundland and Labrador
Department of Natural Resources
Natural Resources Building
50 Elizabeth Avenue
St. John's, NL A1B 4J6

Attention: Director of Regulatory Affairs

8.2. A Party may change the designate or contact information by notifying the other Parties in writing.

9. TERMINATION

9.1. Upon enactment of a statutory mechanism to replace this MOA, this MOA may be terminated.

10. SURVIVAL

10.1. All responsibilities which, expressly or by necessary implication, are required to survive the expiration or termination of this MOA shall continue to be in effect notwithstanding the expiration or termination of this MOA until such responsibilities have been fulfilled.

11. GOVERNING LAW

11.1. This MOA shall be governed by and construed in accordance with the laws of the province of Newfoundland and Labrador and the federal laws of Canada applicable therein.

12. OTHER

12.1. Officials of MAE, NR and the Board, or their delegates, shall meet as frequently as necessary, but no less frequently than annually, to review the operation of the MOA and to consider any amendment which may be required.

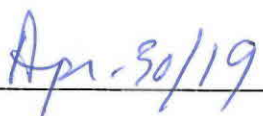
12.2. This MOA may be amended from time to time, separately or jointly, on the written agreement of all Parties.

(signature page immediately follows)

IN WITNESS THEREOF this MOA has been executed by duly authorized representatives of the Parties.



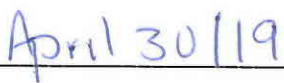
Chair
Canada-Newfoundland and Labrador
Offshore Petroleum Board
(or his authorized designate)



DATE



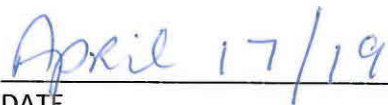
WITNESS



DATE



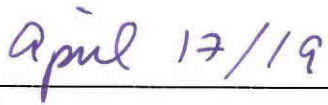
Minister for the Department of
Natural Resources
(or his authorized designate)



DATE




WITNESS



DATE




Minister for the Department of
Municipal Affairs and Environment
(or his authorized designate)



DATE



WITNESS



DATE

Annex A
Template Submission Letter for Reports

To Director of Research, Analysis and Government Relations
Climate Change Branch
Department of Municipal Affairs and Environment
West Block, 4th Floor
Confederation Building
St. John's, NL A1B 4J6

From C-NLOPB official

Date [insert date]

Pursuant to sections 2.3 and 2.4 of the Memorandum of Agreement and Information Sharing between the Canada-Newfoundland and Labrador Offshore Petroleum Board and the Minister of Natural Resources and Municipal Affairs and Environment [insert date], please find attached the [revised][emissions/verification/compliance] report from [operator] for [reporting year] for [facility]. This report was filed with the Canada-Newfoundland and Labrador Offshore Petroleum Board on [date, year]. This report, in the assessment of the Board, is [in compliance/not in compliance] with the *Management of Greenhouse Gas Reporting Regulations*.

Signature block

Attachments

Annex B
Template Letter for Non-Compliance

To Director of Research, Analysis and Government Relations
Climate Change Branch
Department of Municipal Affairs and Environment
West Block, 4th Floor
Confederation Building
St. John's, NL A1B 4J6

From C-NLOPB official

Date [insert date]

Pursuant to section 4.2 of the Memorandum of Agreement and Information Sharing between the Canada-Newfoundland and Labrador Offshore Petroleum Board and the Minister of Natural Resources and Municipal Affairs and Environment [insert date], please be advised that [operator] has [not submitted/submitted a non-compliant] a [revised] [emissions/verification/compliance] report for [reporting year] for [facility].

[Insert recommendation or other information outlining if enforcement action is or is not recommended.]

Signature block

Annex C

APR 17 2019

Mr. Roger Grimes
Chair
Canada-Newfoundland and Labrador Offshore Petroleum Board
Suite 101, TD Building
140 Water Street
St. John's NL A1C 6H6

Dear Mr. Grimes:

Pursuant to Section 3.1 of the Memorandum of Agreement and Information Sharing ("MOA") between the Canada-Newfoundland and Labrador Offshore Petroleum Board ("C-NLOPB") and the Departments of Natural Resources and Municipal Affairs and Environment, dated April 2019, I am writing to confirm the agreed upon delegation of responsibilities of the Minister of MAE under the MGGA and its regulations to the C-NLOPB.

Pursuant to 159.2 of the Canada Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act, section 164.3(1) of the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, and section 12.2 of the Management of Greenhouse Gas Act ("MGGA"), I am delegating to the C-NLOPB the powers, duties, and functions associated with the administration and enforcement of the following sections of the MGGA and its regulations in the offshore area:

- Sections 10(1), 13, 14(2) and (3), 15 to 19, 20(1), (2), and (3), and 21 to 26 of the MGGA, SNL 2016, c.M-1.001;
- The Management of Greenhouse Gas Reporting Regulations, Newfoundland and Labrador Regulation 14/17; and
- The Management of Greenhouse Gas Administrative Penalty Regulations, Newfoundland and Labrador Regulation 72/17.

I look forward to working with the C-NLOPB on this matter.

Thank you.



GRAHAM LETTO
Minister of Municipal Affairs and Environment

cc. Hon. Siobhan Coady, Minister of Natural Resources
Jeff O'Keefe, Chief Conservation Officer and Director of Resource Management, C-NLOPB
Jamie Chippett, Deputy Minister, MAE
Ted Lomond, Deputy Minister, NR