



Government of the Republic of Trinidad and Tobago  
**Ministry of Energy and Energy Industries**

# **Data Use Agreement**

**between**

**Ministry of Energy and Energy  
Industries**

**and**

.....

**REPUBLIC OF TRINIDAD AND TOBAGO**

**THIS DATA USE AGREEMENT** (hereinafter referred to as “**the Agreement**”) entered into this ..... day of ....., 202.... by and between the **PERMANENT SECRETARY** acting for and on behalf of **THE MINISTRY OF ENERGY AND ENERGY INDUSTRIES**, with its head office situated at Levels 15 and 22-26, Tower C – Energy Trinidad and Tobago, International Waterfront Centre, #1 Wrightson Road, Port of Spain, in the Island of Trinidad, in the Republic of Trinidad and Tobago (hereinafter referred to as “**the Disclosing Party**”) of the **One Part** and ..... situated at ..... (hereinafter referred to as “**the Receiving Party**”) of the **Other Part**.

The Disclosing Party and the Receiving Party are hereinafter referred to individually as “**Party**” or collectively as “**Parties**”.

**WHEREAS:**

- A. The Disclosing Party launched the 2023 Shallow Water Competitive Bid Round on..... in accordance with the Petroleum Regulations (Shallow Water Competitive Bidding Order), 2023 in respect of thirteen (13) offshore blocks namely: Block 1(b), Block 2(ab), Block 2(d), Block 4(c), Block 21, Block 22(a), Block 22(b), Guayaguayare Offshore, Lower Reverse L, Modified U(c), NCMA 2, NCMA 3 and NCMA 4(a), located in the shallow water acreages of Trinidad.
  
- B. The Receiving Party is now desirous of evaluating the data in respect of the thirteen (13) offshore blocks and has requested this data from the Disclosing Party via the use of the Data Request Form dated ..... 2023, which is attached as “**Appendix A**”.
  
- C. The Disclosing Party is willing, in accordance with the terms and conditions of this Agreement, to disclose to the Receiving Party, on a non-exclusive basis, certain confidential data as are more particularly described in “**Appendix B**”. Pursuant to this, the Disclosing Party shall make available to the Receiving Party certain data

(hereinafter referred to as the “**Confidential Information**”) as described in Appendix B with respect to the thirteen (13) offshore blocks upon execution of this Agreement.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the Parties hereby agree as follows:

#### **OBLIGATIONS AND USE OF CONFIDENTIAL INFORMATION**

1. (a) In consideration of the disclosure referred to in Paragraph C hereof, the Receiving Party agrees that the Confidential Information shall be kept strictly confidential and shall not be sold, traded, published, downloaded, scanned, vectorized, or otherwise disclosed to any third party in any manner whatsoever, including by means of image file transfer or printed reproduction, without the Disclosing Party's prior written consent, except as provided in Sub-clauses (b), (c) and (d) below.

(b) Without limitation to Clause 2, the Receiving Party may disclose the Confidential Information without the Disclosing Party's prior written consent to an Affiliated Company (as hereinafter defined). “**Affiliated Company**” shall mean any company or legal entity which (i) controls either directly or indirectly a Party, or (ii) is controlled directly or indirectly by such Party, or (iii) is directly or indirectly controlled by a company or entity which directly or indirectly controls such Party. “**Control**” means the right to exercise 50% or more of the voting rights in the appointment of the directors of such company.

(c) The Receiving Party may disclose the Confidential Information without the Disclosing Party's prior written consent only to the extent such information:

i) is already known to the Receiving Party or any of its Affiliated Companies as of the date of disclosure hereunder;

ii) is already in the possession of the public or becomes available to the public other than through the act or omission of the Receiving Party contrary to the term of this Agreement;

iii) is required to be disclosed under applicable law or legally binding order of any court, government, semi-government authority, administrative or judicial body, or a requirement of a stock exchange or regulator, whether or not the requirement arises independently or as a result of any action taken by the Receiving Party or its Affiliated Companies before or after the date of this Agreement (provided that the Receiving Party shall, to the extent permitted, give written notice to the Disclosing Party prior to such disclosure);

iv) is acquired independently from a third party that represents that it has the right to disseminate such information at the time it is acquired by the Receiving Party or any of its Affiliated Companies; and/or

v) is developed by the Receiving Party or any of its Affiliated Companies independently of the Confidential Information received from the Disclosing Party provided that the Confidential Information is not used in the development of said information.

(d) The Receiving Party shall be entitled to disclose the Confidential Information without the Disclosing Party's prior written consent to such of the following persons who have a clear need to know in order to evaluate the Confidential Information:

i) employees, officers and directors of the Receiving Party;

ii) employees, officers and directors of an Affiliated Company;

iii) any professional consultant, contractor or agent retained by the Receiving

Party or an Affiliated Company of the Receiving Party for the purpose of evaluating the Confidential Information; and

iv) any bank or other financial institution or entity financing or proposing to finance the Receiving Party's or an Affiliated Company's participation in the Data, including any professional consultant retained by such bank for the purpose of evaluating the Confidential Information.

Prior to making any such disclosures to persons under Sub-clauses (iii) and (iv) above, the Receiving Party shall ensure that each such person enters into a Confidentiality Agreement under the terms of this Agreement.

#### **TREATMENT OF CONFIDENTIAL INFORMATION BY UNAUTHORISED PERSONS**

2. The Receiving Party shall be responsible for ensuring that all persons to whom the Confidential Information is disclosed under this Agreement shall keep such information confidential and shall not disclose or divulge the same to any unauthorized person.

#### **WARRANTY**

3. The Disclosing Party hereby represents and warrants that it has the right and authority to disclose the Confidential Information to the Receiving Party. The Disclosing Party, however, makes no representations or warranties, expressed or implied, as to the quality, accuracy and completeness of the Confidential Information disclosed hereunder. The Disclosing Party, its Affiliated Companies, their officers, directors and employees shall have no liability whatsoever with respect to the use of or reliance upon the Confidential Information by the Receiving Party.

#### **OWNERSHIP OF THE CONFIDENTIAL INFORMATION**

4. The Confidential Information shall remain the property of the Disclosing Party and shall only be utilized by the Receiving Party for the duration of the 2023 Shallow Water Competitive Bidding Round. Upon the closure of the Bid Round the Receiving Party shall destroy all copies and reproductions (both written and electronic) in its possession and in the possession of persons to whom it was disclosed pursuant to Sub-clauses 1 (b), 1 (c) and 1 (d) hereof. The provisions of this Clause 4 do not apply to the following:

- a) Confidential Information that must be retained under applicable law, including by stock exchange regulations or by governmental order, decree, regulation or rule; or

- b) copies of any decision-making documents submitted to the board or equivalent decision-making body of the Receiving Party or its Affiliated Companies, which contain or incorporate Confidential Information, provided that the same shall be kept confidential.

#### **EFFECTIVE DATE**

5. This Agreement shall enter into force and effect from the Effective Date and shall terminate automatically without notice upon the closure of the 2023 Shallow Water Competitive Bidding Round.

#### **GOVERNING LAW**

6. This Agreement shall be governed by and construed in accordance with the Laws of the Republic of Trinidad and Tobago, excluding any choice of law rules which would refer the matter to the law of another jurisdiction.

#### **REMEDIES**

7. (a) The Receiving Party acknowledges the competitive value of the Confidential Information and the damage to the Disclosing Party that could result if the Confidential Information is disclosed to third parties. Accordingly, the Receiving

Party agrees that both injunctive relief and monetary damages, alone or in combination, are appropriate remedies for any breach of this Agreement, and that the Disclosing Party may obtain injunctive relief without proof of actual damages or the posting of a bond. Such relief shall not be exclusive of other remedies to which the Disclosing Party may be entitled at law or in equity.

(b) Neither the Disclosing Party nor the Receiving Party shall be entitled to special, punitive, indirect or consequential damages in connection with this Agreement and the matters contemplated hereby, and each of the Parties, for itself and on behalf of its Affiliated Companies, hereby expressly waives any right to special, punitive, indirect or consequential damages in connection with this Agreement and the matters contemplated hereby, including, without limitation, loss of profits or business interruptions, however the same may be caused.

#### **DISPUTE RESOLUTION**

8. Any dispute arising out of or relating to this Agreement, including any question regarding its existence, validity or termination, which cannot be amicably resolved by the Parties, shall be settled by the International Chamber of Commerce before three (3) arbitrators, one (1) to be appointed by each Party and the two (2) so appointed shall appoint the third (3<sup>rd</sup>) arbitrator in accordance with the arbitration rules of the International Chamber of Commerce. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. A dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect. The arbitration proceedings shall be conducted in the English language and the seat or legal place of the arbitration shall be London, England, U.K.

#### **AMENDMENTS OR MODIFICATIONS**

9. No amendments, changes or modifications to this Agreement shall be valid except if the same are in writing and signed by a duly authorised representative of each of the Parties hereto.

### **ENTIRE AGREEMENT**

10. This Agreement comprises the full and complete agreement of the Parties hereto with respect to the disclosure of the Confidential Information and supersedes and cancels all prior communications, understandings and agreements between the Parties hereto, whether written or oral, expressed or implied.

### **RIGHTS TO CONFIDENTIAL INFORMATION**

11. Nothing contained herein is intended to confer upon the Receiving Party or an Affiliated Company any right whatsoever to the Disclosing Party's Confidential Information nor should it be construed as constituting an offer by, or creating any obligation on the Receiving Party to purchase all or part of the Disclosing Party's Confidential Information.

### **PARTNERSHIP**

12. Nothing contained herein is intended to and does not create a partnership, joint venture or any other business combination between the Disclosing Party and the Receiving Party (or any of their respective Affiliated Companies).

### **ANNOUNCEMENTS**

13. No Party shall release any announcement relating to this Agreement unless the form and content of such announcement has been submitted to, and agreed by, the other Party. Nothing in this Clause 13 shall prohibit any Party from making any announcement as required by law, the rules of any stock exchange or governmental authority, judicial or regulatory body having jurisdiction over such Party or its Affiliated Companies.

### **COUNTERPARTS**

14. This Agreement may be executed in counterparts, each of which shall have the effect and be considered an original of this Agreement and together constitute one and the same agreement. Electronic signatures (e.g., by PDF or other agreed format) shall have the same effect as the transmission of an executed "wet-ink" counterpart of this



Agreement.

### **COSTS AND EXPENSES**

15. The Receiving Party shall bear all costs and expenses of its investigation and evaluation of the Confidential Information, including without limitation the costs, expenses, fees and disbursements of its employees, consultant and advisors and any such other costs that may arise as a result of executing this Agreement.

### **ASSIGNMENT**

16. The Receiving Party may assign this Agreement to an Affiliated Company provided however, the Receiving Party shall remain liable for all obligations under this Agreement.

### **WAIVER**

17. No failure or delay by either Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof.

### **SEVERABILITY**

18. (a) If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

(b) Notwithstanding Clause 18 (a) if any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the invalid, illegal, or unenforceable provision shall be modified to the extent necessary so that it is valid, legal, and enforceable.

## **NOTICES**

19. All notices authorised or required between the Parties by any of the provisions of this Agreement shall be in written English, properly addressed to the other Party as shown below, and delivered in person, by courier, or by any electronic means of transmitting written communications that provides written confirmation of complete transmission. Oral communication does not constitute notice for purposes of this Agreement. A notice given under any provision of this Agreement shall be deemed delivered only when received by the Party to whom the notice is directed. **“Received”** for the purposes of this Clause shall mean actual delivery of the notice to the address or facsimile address of the Party shown below. Notices may be transmitted by e-mail provided that the recipient transmits a manual written acknowledgment of successful receipt, which the recipient shall have an affirmative duty to furnish promptly after successful receipt. Automatic delivery receipts issued without direct human authorization shall not be evidence of effective notices for purposes of this Agreement.

### **The Disclosing Party**

THE MINISTRY OF ENERGY AND ENERGY INDUSTRIES

Level 26, Tower C – Energy Trinidad and Tobago,

International Waterfront Centre, #1 Wrightson Road, Port of Spain.

Attention : Permanent Secretary

E-mail : PermSec@energy.gov.tt

**The Receiving Party**

.....  
.....  
.....

Attention : \_\_\_\_\_  
E-mail : \_\_\_\_\_  
Telephone : \_\_\_\_\_

**IN WITNESS WHEREOF**, the duly authorised representatives of the Parties have caused this Agreement to be executed on the date first written above.

**For and on behalf of**

.....

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

In the presence of: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**For and on behalf of**

**THE MINISTRY OF ENERGY AND ENERGY INDUSTRIES**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: **Permanent Secretary**

Date: \_\_\_\_\_

In the presence of: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX A**

**Data Request Form from the Receiving Party in addition to data set requested**

**APPENDIX B**

**2023 Shallow Water Competitive Bidding Round Data Package Listing**