

Collaborative Research Agreement
By and Between
The North Slope Borough and
Shell Exploration & Production Company

RECITALS

WHEREAS, in accordance with the Memorandum of Understanding signed by (i) Peter E. Slaiby on 26 January 2010, on behalf of Shell Exploration & Production Company ("Shell"), and (ii) the Honorable Mayor Edward S. Itta on 5 February 2010, on behalf of the North Slope Borough ("Borough"), a home rule municipality organized under the laws of the State of Alaska, the foregoing Parties have confirmed their general interest in conducting scientific studies with particular focus on marine mammals, seabirds, fisheries, acoustics, oceanography (physical and biological), and community health and socioeconomics related to the Beaufort and Chukchi Seas. In addition, the entities confirmed their joint interest in conducting particular studies to (i) further understand and address the impacts of oil and gas exploration activities on the marine ecosystem and its ability to support marine mammals and other marine resources whose health and numbers are intimately connected to Iñupiat culture and means of subsistence and (ii) continue to assess the effectiveness of mitigation to protect subsistence resources and activities;

WHEREAS, both the Borough and Shell advocate for additional baseline science research to refine their understanding of the arctic marine ecosystem in order to guard the Arctic Ocean's ecological integrity and biodiversity, maintain the sustainable subsistence use of the living and non-living resources of the arctic environment, and enable responsible decision-making and government permitting of offshore oil and gas activities in the Chukchi and Beaufort Seas;

WHEREAS, the Borough believes that baseline research projects with a broader temporal and spatial range would provide information related to some fundamental Iñupiat concerns related to international shipping traffic, changing ice and climate conditions, and other global effects of industrial activity no matter the source;

WHEREAS, the Borough possesses extensive experience in overseeing and conducting baseline research on the biological, physical, and human environment, and is capable of integrating traditional knowledge and incorporating the concerns of the North Slope residents in the design and implementation of relevant baseline science research.

THIS AGREEMENT ("Agreement"), made this 24th day of September, 2010 ("Effective Date") by and between the Borough and Shell, comprises the following:

ARTICLE I. TERM OF AGREEMENT

- A. *Aggregate Term.* Subject to paragraph B below regarding annual renewals of the term of this Agreement, this Agreement shall be for a term of five calendar years.

- B. *Annual Terms.* Subject to Article VI (H), which addresses the Parties' rights to terminate this Agreement, the Parties will mutually decide whether to renew this agreement annually. The decision to renew this Agreement should be made within (90) ninety days of the expiration of each calendar year during the term of the Agreement.
- C. *Scope of Agreement.* All Articles in this Agreement apply only to baseline research projects to be carried out pursuant to the provisions of this Agreement, but shall not be construed in any way to apply to studies or analyses completed or initiated by either of the Parties outside of this Agreement.

ARTICLE II. STATEMENT OF OBJECTIVES

The Parties seek to collaboratively expand the baseline knowledge of the Arctic ecosystem, including human health, social and cultural conditions, through studies conducted under this Agreement.

ARTICLE III. STEERING COMMITTEE

- A. *Establishment of Steering Committee.* Within ten (10) days of the Effective Date of this Agreement the Borough will solicit by letter nominees from each of the communities and parties identified in section A of Appendix A. Within thirty (30) days of the Borough receiving the names of qualified nominees the Mayor will (i) consider appointment of the nominees proposed by Shell, (ii) consider appointment of four (4) of the (10) ten independent scientists proposed by Shell, and (iii) consider the appointment of the nominees proposed from the Department of Wildlife Management and the village communities. For those positions that are not filled within eighty (80) days of the Effective Date, the Borough will repeat the process of soliciting nominees from the sponsoring Party or community as set forth in section A of Appendix A. The Mayor will consider appointment of all applicable nominees associated with an unfilled position within one hundred and twenty (120) days. This will constitute the Borough's best effort to establish a Steering Committee within one hundred twenty (120) days from the Effective Date.
- B. *Steering Committee Purpose.* The Steering Committee is the coordinating body responsible for establishing baseline science research study project needs and priorities as set forth in Appendix A.
- C. *Steering Committee Composition.* The Steering Committee will be composed of fourteen (14) representatives appointed as set forth in Appendix A.
- D. *Steering Committee Duties.* The Steering Committee will be responsible for carrying out the duties established for the Steering Committee as set forth in Appendix A.

ARTICLE IV. ROLE OF THE NORTH SLOPE BOROUGH

A. The Borough shall undertake and be primarily responsible for the following:

- (i) Establish a Steering Committee.
- (ii) Prepare the first-year's Budget for Shell's approval pursuant to Article VIII.
- (iii) Prepare requests for proposal(s) ("RFP(s)") for baseline science research for distribution to independent qualified Third Parties. Alternatively, the Borough may prepare implementation plans by which the Borough would conduct to carry out the RFP.

Prior to sending an RFP(s) to Third Parties, the Borough will email the RFP(s) to a Shell scientist for Shell's review. Shell will have a period of ten (10) days from the date of emailing such RFP(s) within which to provide the Borough with its advice and recommendations regarding the content of such RFP(s).

- (iv) In coordination with the Steering Committee, conduct a Peer Review of the proposals received from Third Parties based on an RFP(s) referred to in Article IV.A. (iii). In the event the Borough determines it does not possess the qualified resources or expertise necessary to conduct such Peer Review, then the Borough will contract qualified independent Third Parties to conduct such Peer Review. A Shell scientist that is a member of the Steering Committee must be given the opportunity to participate in all Peer Reviews of RFP(s).
- (v) Perform the requirements of the Peer Reviewed proposal(s) or award a contract(s) for such proposal(s) to a Third Party in compliance with the Borough's relevant contracting and procurement ordinances, policies and guidelines.
- (vi) Assure through the review of proposals that respond to an RFP(s) or otherwise, that a methodology and detailed plan (including QA/QC) are an integral part of the Work Plan by which the Borough or a Third Party executes the collection, analysis and interpretation of raw data in order to assure that validated and reported data meets standards for reliability, accuracy, and proper formatting.
- (vii) Review research reports to ensure the highest quality science is conducted.
- (viii) During the second quarter of any calendar year following 2010, provide Shell with its recommendation regarding the annual budget it estimates is required to carry out baseline science research determined by the Steering Committee for the next calendar year.
- (ix) Notify Shell of its decision to approve one or more of the Peer reviewed proposals subject to Shell's response on funding. The information that the Borough provides to Shell will include the following:

- (a) An overview of the research proposal. Such overview shall include, but not be limited to: (i) description of the baseline science research proposal(s); (ii) study objectives and methodologies to be applied; (iii) anticipated results; (iv) baseline science research proposal budget and cost categories; (v) study timeline and key milestones; and (vi) summary of methods to maintain high data quality and integrity (QA/QC).
- (b) Identity of the party awarded the contract and/or authority to carry out the baseline science research project(s).
- (c) Identity of the top three (3) Third Parties that submitted qualified proposals to the Borough.
- (d) Process used to solicit Third Party proposals.
- (e) Criteria and scoring methodology used to evaluate proposals based on an RFP(s).
- (f) Summary of scoring of top three (3) Third Parties that submitted qualified proposals to the Borough.
- (g) Identify Third Parties disqualified from the selection process and give a summary of reasons in support of such disqualification.
- (h) Summaries of any external Peer Reviews related to baseline science research proposals.
- (x) The Borough shall work closely with the Steering Committee to enable the following:
 - (a) Development of a Peer Review process and identification of independent scientific and traditional knowledge reviewers that is appropriate for different types of research proposals. This process will include Peer Review of research design and related details to the final stages of academic or other appropriate Peer Review of the scientists' findings and conclusions.
 - (b) Consultation with independent subject matter experts as advisors to the Steering Committee, when such expertise is not available within the membership of the Steering Committee.
 - (c) Development and implementation of a plan to communicate validated results and scientific conclusions of baseline science research to North Slope village leaders and key stakeholders. This reporting may be through written reports, newsletters, town-hall meetings or another approach.

- (xi) Provide the Steering Committee an overview of the annual baseline science research implementation plan. Such plan shall provide the identity of the entities that will execute such studies and a summary overview of the number and types (i.e., consulting firm, university, etc.) of parties that submitted proposals for such studies.
- (xii) Establish the protocols that comply with the Borough's purchasing ordinance and that proposers will follow in submitting proposals for baseline science research and for implementing the contract that authorizes the research.
- (xiii) Prepare, negotiate and execute agreements in respect of (i) Peer Reviews, and/or (ii) baseline science research to be carried out by Third Parties.
- (xiv) Arrange for the timely sharing of Data derived from any baseline science research study with Shell and to the public as soon as the same are available under the terms of this Agreement and applicable law.
- (xv) Share Data derived from all baseline science research funded under this Agreement to the Data subcommittee of the Steering Committee established pursuant to Appendix A, section C(4)(d).

ARTICLE V. ROLE OF SHELL

A. Shell shall undertake and be primarily responsible for the following:

- (i) To review, make recommendations and give advice to the Borough in respect of Data and Reports to be disclosed to a Third Party or to be made publicly available pursuant to Article VI.A.
- (ii) To approve and fund the annual budget pursuant to Article VIII.
- (iii) To provide the Borough advice and recommendations regarding RFP(s) pursuant to Article IV.A.(iii).
- (iv) To provide the Borough advice and recommendations regarding Data and Reports pursuant to Article VI.A.
- (v) To review information about baseline science research proposals provided and recommended by the Borough pursuant to Article VIII.B.1.
- (vi) To approve the specific baseline science research proposal(s) that Shell funds pursuant to Article VIII.B. Once approved the Borough will manage any changes to the proposal or contract pursuant to its procurement procedures without further approval from Shell.

ARTICLE VI. GENERAL PROVISIONS

- A. *Public disclosure/publication policy.* The Parties acknowledge that the Borough is subject to laws mandating the availability to its citizens of public records unless federal, state or local laws prohibit or exempt the disclosure of public access to information.

In accordance with the provisions of this Agreement, the North Slope Borough Charter Article XVI, Sec. 16.070, and the North Slope Borough Municipal Code § 2.42.030, the Borough shall have the right to make Data, including raw data, publicly available only after validated findings and conclusions (i) have been submitted to the Parties within the context of a final report, or (ii) have been published in a peer reviewed scientific journal or (iii) presented at a public scientific conference, whichever is later.

Notwithstanding the foregoing provisions of this Article VI, the Parties, including a principle investigator, shall each have the right to disclose to a Third Party or make available to the public:

- (i) Data, unless analysis of such data in respect of the QA/QC methodology applied gives rise to significant uncertainty in the reliability of the findings and conclusions corresponding to such data. The Data subcommittee established at Appendix C(4)(d) will unilaterally determine if the raw data is significantly uncertain along with the findings and conclusions corresponding to that data. Only after that determination is made may the data be disclosed to a Third Party and the public.
- (ii) Data, including raw data, if compelled to do so by federal or state law, or by order of a court of competent jurisdiction, after notice to the other Party. In addition, the Parties shall each have the right to disclose as much of the Data as is necessary to the Bureau of Ocean Energy Management, Regulation & Enforcement and other relevant regulatory agencies for purposes of providing support for NEPA reviews or permitting approvals.
- (iii) Data following two (2) years from the day on which data sampling has been successfully completed as described in the investigator's research proposal and consistent with proposed methodology to ensure the highest data quality and integrity. Raw data (e.g., field notes, field data forms, etc.) that meets the time limits set out herein may be released upon request.

Prior to making available to the public or disclosing to a Third Party, any Data sets, including raw data upon request, any preliminary or final reports, presentations or abstracts (collectively or individually referred to as "**Data and Reports**"), the Borough shall send such Data and Reports to Shell for its review. Shell will have a period of 5 days from receipt of such Data and Reports within which to provide the Borough with its advice and recommendations regarding the content of such Data and Reports.

B. *Intellectual Property Management.* The Parties acknowledge that Shell possesses Confidential Information collected as part of its studies conducted in the Beaufort and Chukchi Seas that remain subject to confidentiality requirements. Data gathering outside this Agreement will include confidential and proprietary information which Shell is not obliged to share with participating scientists until such time that Shell and/or the federal government determine it is appropriate to disclose it to approved recipients. At such time, if Shell were to disclose to the participating scientists the confidential data, the participating scientists will be required to sign confidentiality agreements outlining requirements for use and disclosure of the data. The scientists' obligation to maintain confidentiality of Shell's data will last as long as those data are protected under federal or state law, or under confidentiality agreements with Third Parties, and as outlined in the confidentiality agreements, irrespective of the duration of this Agreement.

B.1. *New Data Sets.* Neither Party shall assert copyright or any other intellectual property rights in raw (not yet validated) data, or reports or summaries drafted and presented by scientists conducting the baseline science research pursuant to this Agreement.

C. *Data Ownership.* Data, including raw data derived from any baseline science research study carried out pursuant to this Agreement shall, in addition to the Third Party that carried out such study, be jointly owned by the Borough and Shell. The Borough may release such data to the public in compliance with this agreement, consistent with Article VI(A), and does not need Shell or Third Party authorization to release such data.

D. *Additional Collaborators.* Either Party may solicit the participation of additional collaborative research partners, where data gaps in their respective baseline science research have been identified and supplemental research, technical capability, and funds would enable the Parties to acquire the additional relevant data. If either Party obtains a commitment from a potential outside party, the Parties must decide whether to accept, and on what conditions such additional resources will be accepted. If the Parties do not agree to accept a commitment from a potential outside party, the Borough may complete the agreement with the outside party outside of this Agreement.

Any amendments to this Agreement to accommodate such additional collaborators shall be subject to mutual agreement of the Parties.

E. *Third-Party In-Kind Contributions.* Either Party may solicit contributions in-kind to further the objectives of this collaboration, provided that the Parties agree upon such in-kind contributions, subject however to any limitations or requirements imposed either by federal or state tax laws, and the applicable provisions of the Borough Charter or municipal code. If the Parties do not agree to such in-kind contributions the Borough may accept the contributions outside of this Agreement.

F. *Dispute Resolution.* This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska, and venue for all actions or proceedings arising out of, in

relation to or in connection with this Agreement shall be exclusively in the Federal Courts located in the State of Alaska. If for any reason it is determined by a court that federal subject matter jurisdiction with respect to any such action or proceeding is not proper, jurisdiction and venue for such action or proceeding shall be exclusively in the State Courts of the State of Alaska located in Anchorage, Alaska.

- F.1. *Required Disclosure.* Neither Party will attempt to subject the other to liability for disclosure of information to the public, a state or federal governmental body or court if disclosure is required in order to comply with any ordinance, statute or governmental regulation, or court decree or order.
- G. *Amendment.* Either Party may provide written notice requesting an amendment to this Agreement, subject to the following conditions:
- (i) Before this Agreement expires, if either Party obtains additional third-party funding sources ("**Securing Party**") that would enable it to extend the duration or to expand the direct scope of any baseline studies already commenced under this Agreement, acceptance of such third-party funding would be subject to securing the prior written approval from the Parties which did not obtain such third-party funding ("**Non-Securing Parties**"). In the event such commitment is obtained by the Borough, the Non-Securing Party shall be under no obligation to commit additional funding. The Non-Securing Party shall have fourteen (14) days from receiving written notice from the Securing Party within which to approve the additional funding. The Borough may accept the additional third party funding and use it outside of the terms of this Agreement if a Non-Securing Party does not approve the additional funding.
 - (ii) If any proposed amendment will affect the progress or scope of research then underway, the Parties will mutually present to the Steering Committee a preliminary assessment of the expected impact. Any proposed modification of an existing contract must comply with the Borough's contracting, change order and amendment process.
- H. *Termination of Agreement or Suspension of Work.* Either Party may provide ninety (90) days written notice of its intent to terminate this Agreement, subject to the following conditions:
- (i) The amount of funds committed for a calendar year toward the completion of any given project funded by Shell will not be reduced, nor will any project then underway be terminated.
 - (ii) If catastrophic events destroy the scientists' ability to continue substantive work during any phase of the research project(s), the Parties will conduct a technical and funding analysis during the fourteen days following a catastrophic event. Thereafter, if the Steering Committee decides that a Suspension of Work rather than

the termination of this Agreement is in the public's best interest, the Parties will agree on the period of suspension and related conditions (if any).

- I. *Press Releases.* The Parties will agree in advance upon:
- (i) Any Press Release concerning data summaries, abstracts, presentations and scientific reports resulting from the studies conducted under this Agreement.
 - (ii) Any Press Release concerning the negotiations, entering into, and carrying out the terms of this Agreement.
 - (iii) Any other Press Release related to or regarding the baseline science research conducted pursuant to this Agreement and any statements giving credit to the scientists and their contributions.
- J. *Indemnification.* It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and *gives* no right to any other party. No joint venture or partnership is formed as a result of the Agreement.

The Borough, its successors and assigns, will protect, save, and hold harmless Shell its authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever by reason of the acts or omissions of the Borough, its subcontractors, assigns, agents, contractors, licenses, invitees, employees, or any person whomever arising out of or in connection with any acts or activities authorized by this Agreement. The Borough further agrees to defend Shell and its authorized agents and employees in any litigation; including payment of any costs or attorney's fees for any claims or actions commenced thereon arising out of or in connection with acts or activities authorized by this Agreement. This obligation shall not include such claims, costs, damages, or expenses which may be caused by the sole negligence of Shell or its authorized agents or employees, provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) Shell and its agents or employees, and (b) the Borough, its agents or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Borough, or the Borough's agents or employees.

ARTICLE VII. 2011 BASELINE SCIENCE RESEARCH – SCOPE OF WORK

Prior to 1 November 2010, the Parties shall agree upon one or more baseline science research studies to be conducted in 2011. All or part of such study(ies) shall be funded out of the first-year Budget.

The provisions of Articles IV.A.(iii) through and including Article IV.A.(xv) shall apply with respective differences taken into consideration to such studies.

ARTICLE VIII. BUDGET

The Borough will submit a first-year Budget to Shell for its review and approval. Upon receipt of the Budget the Borough will present it to the Borough Assembly for appropriation. Acceptance of such first-year budget requires Shell's delivery of the funds to the Borough.

Beginning on April 1, 2011, and each anniversary thereafter, the Parties will develop and agree upon an annual Budget for the succeeding year, if any, for approval by the Parties. Such Budget shall take into consideration the annual budget proposed by the Borough in accordance with Article IV.A.(viii). Shell's approval of an annual Budget for 2011, and each succeeding calendar year thereafter, shall be confirmed in writing by giving written notice to the Borough prior to October 15, 2011 in respect of the Budget for 2011 and each anniversary thereafter.

A. *First-Year Funding.* As soon as practicable following approval by Shell of the first-year Budget proposed by the Borough, and with the aim to do so prior to September 30, 2010, Shell agrees to contribute an amount not to exceed \$2,000,000.00 (two million dollars) toward the funding of the establishment of the Steering Committee, capacity building, and first years study or studies, as collectively set forth in the first-year budget.

The Borough shall timely provide Shell with an invoice, including all relevant banking instructions to enable Shell to make such payment on or before September 30, 2010.

B. *Authorized encumbrance of Shell funding for RFP(s) and Shell advice and recommendations.*

B.1 Shell shall, within a period of ten (10) days following notification from the Borough pursuant to Article IV.A.(ix)(a), review each of the baseline science research award proposals and provide the Borough with Shell's advice and recommendations.

B.2 Within ten (10) days following receipt of such notice from the Borough pursuant to Article VIII.B.1 Shell shall confirm in writing to the Borough the specific baseline science research award proposal(s) it approves. No Shell funds may be used to fund a proposal(s) that it has disapproved pursuant to this paragraph.

B.3 Subject to Shell receiving an invoice from the Borough, Shell shall arrange funding of any calendar year Budget approved subsequent to the first-year Budget as follows:

On or before 15 January of an approved or renewed calendar year, Shell shall arrange for the transfer to the Borough of the full amount of the annual Budget approved in accordance with the second paragraph of Article VIII.

Notwithstanding the foregoing provisions of this Article VIII.B.3, if at the end of any calendar year there is an amount of Budget funds that have not been expended, then such Budget funds shall be carried forward into subsequent calendar years and used in compliance with this Agreement.

- C. *Payment of Costs and Expenses.* Except for funds committed to an approved Budget, each Party will bear the cost of its respective oversight activities.
- D. *Accounting.* To enable the continuation of any study that may be conducted for one year or more, irrespective of the Borough's fiscal year, the Borough will incorporate contract funds into its budget, processing all receipts, disbursements and carry-forwards through its grants accounting system. The Borough will provide Shell with quarterly financial reports which shall include a detailed reconciliation and accounting for approved Budget funds spent against the approved Budget cost categories at the level of detail appropriate to reasonably satisfy Shell's needs.

Notwithstanding the foregoing provisions of this Article VIII, in no event is Shell responsible for funding any activity in excess of the Budget(s) approved by Shell for any given calendar year, unless Shell agrees otherwise as evidenced in writing by giving notice to the Borough.

ARTICLE IX. SPECIFIC ASPECTS

A. *No Assignment.* Neither Party may assign this Agreement or any rights under it, except for the following reasons, provided that the Parties' obligations under this Agreement remain intact:

- (i) Shell's corporate structure changes, including mergers or divisions or assignment to another company within the same group of owners or to a Third Party in connection with that party's complete or partial takeover of Shell's assets and liabilities.
- (ii) If Shell exercises its right to assign its rights and responsibilities, any Publications will reflect its partial funding of the initial study.

B. *Force Majeure.* Neither Party shall be liable in damages to the other or have the right to unilaterally terminate this Agreement for any delay in performing hereunder if such delay or default is caused by Force Majeure, provided such Force Majeure event does not exceed 1 year in duration.

- B. 1. *Force Majeure Coverage.* Neither the Borough nor Shell will be required to reimburse the other for failure to comply with its obligations under the Agreement, if the failure to perform is due to Force Majeure.

C. *Compliance with Laws.* In carrying out their respective obligations under this Agreement, the Parties will comply with applicable federal and state laws and Borough ordinances, including, subject to the limitations outlined in Article VI part A, Public Disclosure laws. All researchers and contractors will obtain regulatory permits required by federal or state law, or the Borough's municipal code, before commencing a research project.

D. *Benefits to Third Parties.* This Agreement is not intended to give any rights or benefits to Third Parties, or to authorize any individual or entity not a party to this Agreement the right to sue either Party for personal injury or property damage or any other cause.

E. *Personnel.* The Borough will retain only the additional scientists and support staff which are reasonably necessary to manage the steering committee, manage the funding, RFPs, and grant proposal reviews, and conduct the studies approved by Shell to be carried out by the Borough. Independent contractors will not be considered to be Borough employees.

F. This agreement is not intended to create, nor is it to be construed or otherwise characterized as creating, a partnership, association, or any other type of business entity between the Parties, or a separate governmental subdivision of the Borough.

G. *Notice.* All notices required under this Agreement shall be made to:

If to the North Slope Borough:

North Slope Borough
Attn: Edward S. Itta, Mayor
P. O. Box 69
Barrow, Alaska 99723

If to Shell:

Shell Exploration & Production Company
Attn: Pete Slaiby, Vice President, Shell Alaska
3601 C Street, Suite 1000
Anchorage, Alaska 99503

G.1. As regards those decisions to be made by the Parties as set forth in this Agreement, each Party will appoint a representative to make such decisions on its behalf.

G.2. The Steering Committee through its designee shall be responsible for notifying Shell and the Borough and requested attendees of the agenda, date, time and place of all Steering Committee meetings.

H. *Whole Agreement.* Any appendix to this Agreement is incorporated into and made a part of this Agreement as if fully set out. There exist no separate agreements, whether verbal or written, as to the intent, content, duration, or construction of this Agreement.

I. *Savings Clause.* If this Agreement is found by judicial construction to be invalid for any reason, the remaining portions of funding advanced by Shell or other parties that become funding parties of the objectives set forth in this Agreement, and which is not already spent, will be promptly returned to the corresponding Party.

J. *Conflict of Interest Clause.* All members of the Steering Committee have a duty and responsibility to conduct themselves in a professional manner in the performance of making recommendations, giving advice and making decisions in respect of aspects of this Agreement that are reserved for the Steering Committee, and to the extent (i) any member acts contrary to such expressed behaviors of conduct, or (ii) any member's personal interests

or concerns are inconsistent with such behaviors of conduct as a member of the Steering Committee, then such member may be replaced by mutual agreement of the Parties.

K. *Severability Headings.* If any part of this Agreement, including, but not limited to, any provisions, paragraph, clause, phrase or words, is found to be in conflict with applicable law, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder shall be given full force and effect.

Headings. The descriptive headings of the various parts, sections, paragraphs, and appendix have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms and provisions of this Agreement.

ARTICLE X. DEFINITIONS

"Borough" means the North Slope Borough, a home rule municipality established in 1974 under Alaska law.

"Budget" means an itemized budget detailing all the costs and expenditures budgeted for the calendar year concerned. Such budget shall include the general costs associated with (i) baseline science research studies to be conducted during such year (itemized costs will be available after proposals are submitted and accepted), and itemized costs for (ii) travel and accommodation costs as set forth in Appendix A, (iii) administrative costs associated with Steering Committee meetings, special meetings and any subcommittee meetings (iv) capacity building and providing appropriately experienced staff and scientists to meet their obligations under this Agreement, and (v) any other reasonable costs and expenditures to execute the objectives of this Agreement.

"Confidential Information" means information that a Party withholds from public scrutiny as required or allowed by federal or state law, or pursuant to confidentiality agreements with Third Parties, and for the purposes of this Agreement includes Shell's (i) statistical data, geophysical information that petroleum geologists can interpret as to existence of petroleum and mineral compositions in Shell's specific Chukchi or Beaufort Sea leaseholds, (ii) internal plans and plan documents related to the specific leases, and all business documents that Shell considers vital to its competitive ability, and (iii) data, analysis and reports derived from data collected pursuant to environmental and biological baseline scientific studies conducted by Shell or one of its affiliates or through agreements with Third Parties.

"Data" means the QA/QC'd results (validated for completeness, correctness, and conformance with predetermined QA/QC standards) of surveys, studies, analyses, reports and any other information, obtained or generated pursuant to the baseline research studies conducted pursuant to this Agreement.

"Force Majeure" means events totally out of the Parties' control, whether a natural disaster, acts of God, government restrictions, insurrections, act of war, or structural design failure of

equipment that was not and could not have been known to the scientists before use in a research phase, that prevent the scientists from completing a phase of the baseline research, the replication of which would require substantial expenditure of additional dollars and result in delay of the research beyond the termination date specified in the appendix detailing the research, and/or any other cause beyond the reasonable control of the Party whose performance is affected.

"Party" or **"Parties"** means the North Slope Borough and Shell, individually or collectively, as the case may be, and may include such other additional entities as may join the collaborative effort and sign this Agreement.

"Peer Review" means, according to the United States Office of Management & Budget guidelines, published December 15, 2004 as its Final Information Quality Bulletin for Peer Review, "an evaluation of a body of scientific or technical knowledge that typically synthesizes multiple factual inputs, data, models, assumptions, and/or applies best professional judgment to bridge uncertainties in the available information.

"Press Release" means any announcement made using any form of media to disseminate information on any aspect of this Agreement, its intent or substance, or the scientists' progress in or any draft, interim or final report written on any collaborative research.

"Public Disclosure" means the release to Third Parties of information, whether verbal or written.

"Publications" means any paper or electronic compilation of articles, essays, reports, digests, and similar items, and includes brochures or newsletters written for dissemination to Third Parties for any reason.

"Quality Assurance/Quality Control" or **"QA"/"QC"** is the review of raw data to meet predetermined guidelines for acceptability in analysis and data interpretation.

"Quality Control (QC)" means a system of routine technical activities, to measure and control the quality of data acquisition activities, using defined standards. The QC system is designed to ensure data integrity, correctness, and completeness; identify and address errors and omissions; and document and archive raw data, validated data, and record all QC activities. QC activities include general methods such as accuracy checks on data acquisition and calculations and the use of approved standardized procedures, measurements, methods, archiving information, and reporting.

"Quality Assurance (QA)" means an integrated system of management procedures involving planning, implementation, documentation, assessment, reporting, and quality improvement to ensure that data acquisition activities satisfy stated performance criteria. Reviews should be performed upon validated data following the implementation of QC procedures.

"Steering Committee" means that body of named individual natural persons who the Parties have agreed to perform certain duties and take certain decisions, as set forth in this Agreement, with respect to baseline research conducted pursuant to this Agreement.

"Suspension of Work" means the forced and temporary cessation of research required as a result of Force Majeure or catastrophic events for a period of time long enough to seriously compromise the Parties' ability to complete the whole of the Parties' collaborative research project or projects.

"Third Party" means any individual or entity other than the North Slope Borough or Shell, whether a natural person or not.

This the 2nd day of September, 2010.

NORTH SLOPE BOROUGH



Edward S. Itta, Mayor

SHELL EXPLORATION &
PRODUCTION COMPANY


Susan Childs, Regulatory Affairs Manager ^{SP}
Venture Support
Integrator

Reviewed As To Form:



North Slope Borough Law Department

APPENDIX A

Steering Committee:

- A. *Creation & Term.* The Steering Committee shall be comprised of a total of fourteen (14) members appointed by the Mayor of the Borough. The candidates for mayoral consideration will be nominated as follows: two (2) nominees by Shell for two positions to be filled from Shell nominees; two (2) nominees by the Department of Wildlife Management to be filled from Borough nominees; five (5) nominees one each by the cities of Wainwright, Barrow, Point Hope, Kaktovik and Nuiqsut, and one (1) nominee by the Native Village of Point Lay to fill the respective village positions; and four (4) independent qualified scientists, the appointment of whom shall be made by the Borough Mayor from a list of ten (10) nominees provided by Shell.

In the event the Parties or a village with members on the Steering Committee elects to replace its member(s) on the Steering Committee they shall notify the Borough Mayor and the other members of the Steering Committee of the name and qualifications of the replacement nominee(s) for the Mayor to consider for appointment.

The initial term of each member on the Steering Committee shall be (5) five years.

The sponsoring party of each member of the Steering Committee may re-nominate its member to serve for additional term(s) of three (3) years.

In the event an appointed member of the Steering Committee is absent without being excused for more than two (2) meetings of the Steering Committee during any calendar year the sponsoring Party or community shall nominate a replacement whom the Mayor will consider for appointment.

A newly appointed member will serve out the term of his/her predecessor.

- B. *Purpose.* The Steering Committee shall act as the coordinating body responsible for establishing baseline science research needs and priorities such that the Parties will be able to (i) further understand and address the impacts of oil and gas exploration activities on the marine ecosystem and its ability to support marine mammals and other subsistence species whose health and numbers are connected to Inupiat culture and subsistence; and (ii) continue to assess the effectiveness of subsistence resource mitigation measures.
- C. *Duties.* The Steering Committee will be responsible for performing the following duties:
- (1) Setting the baseline science research agenda for each calendar year. Such agenda shall include but not be limited to identifying the research topics to be addressed within the context of any annual baseline research program; and setting the baseline science research program priorities;

- (2) Providing the Parties with its recommendations regarding the scope of baseline science research studies to be carried out during the next succeeding calendar year. Such recommendations shall be provided to the Parties before the end of the 3rd quarter of the calendar year preceding the calendar year in which all or any part of such studies are to be carried out;
- (3) Developing research and monitoring guidelines;
- (4) Collaborating with the Borough to enable the following:
 - (a) To consult with independent subject matter experts as advisors to the Steering Committee, when such expertise is not available within the membership of the Steering Committee.
 - (b) To develop and implement a plan by which validated results and scientific conclusions of baseline science research will be communicated to North Slope village leaders and key stakeholders. Such reporting may be through written reports, newsletters, town-hall meetings, or other means facilitated by the Borough under the direction of the Steering Committee.
 - (c) To establish subcommittees, if necessary, that may include non-steering committee members.
 - (d) To establish a Data subcommittee to review the quality of the data for a project that is questioned by a Party. This subcommittee will include (3) three members of the Steering Committee and the pertinent principle investigator or his designee. Of the Steering Committee members, one will be from Shell's two appointed nominees, one will be from Wildlife's two appointed nominees, and one will be from the independent scientific appointees. This subcommittee at the request of any Party will unilaterally determine if the Data for a project is significantly uncertain pursuant to Paragraph VI(A)(i). The subcommittee members will sign a confidentiality agreement with the Borough. The Steering Committee may assign other tasks to the Data subcommittee.
- (5) Determining the Chairmanship of the Steering Committee and the duties, roles and responsibilities of the Chairmanship, term of service, and how the Chairman will be selected.

E. Duration. The Steering Committee will be active until this Agreement expires or is terminated by its terms or until the last research project undertaken pursuant to this Agreement is completed, and final reports distributed to the Parties, whichever date is later.

F. *Meetings.* Within one hundred and fifty (150) calendar days from the Effective Date or such other period of time as the Parties shall agree, the Steering Committee will meet in Barrow, Alaska. Thereafter, the Steering Committee shall meet at least once during each quarter in Barrow, Alaska, or such other location in Alaska agreed to by the Steering Committee, provided the costs associated with holding a meeting of the Steering Committee at such location are within the Budget approved by Shell.

G. *Travel.* The annual Budget agreed by the Parties will include sufficient funds to cover reasonable (i) round-trip commercial transportation from each Steering Committee member's home, office or village of residence in Alaska to Barrow, Alaska or such other location in Alaska where the meeting of the Steering Committee is to be held, and (ii) room, board, and other reasonable expenses for the days during which the Steering Committee convenes.

H. *Decisions.*

- (1) *Quorum.* A quorum of the Steering Committee shall be established by representation of at least eight members, which shall include: at least one external scientist; at least one member each from Shell's and the Department of Wildlife's nominees; and at least one member who resides in a coastal village.
- (2) *Sub-Committees.* Sub-committees of the Steering Committee may be formed in order to facilitate the role and objectives of the Steering Committee; however, in no event shall any sub-committee have any decision-making role or authorization reserved to the Steering Committee or the Parties.
- (3) *Special Meetings.* Special meetings of the Steering Committee may be called by the Chairman of the Steering Committee by giving members at least seven days advance notice. Such notice shall include sufficient details (including any relevant documentation) of the agenda items to be discussed at such special meeting.
- (4) *Meeting Protocol, Record of Minutes & Decisions.* The Steering Committee will establish its own meeting protocol, including recording minutes of meetings and any decisions taken at such meetings.
- (5) *Decisions.* The Steering Committee shall use its best efforts to take decisions based on a consensus wherein the judgment or opinion reached by the members comprising a quorum of the Steering Committee shall prevail. The Steering Committee shall establish at its first meeting a decision-making methodology to default to in the event a decision cannot be reached by consensus.