Appendix 8 - Confirmation of obligation to be liable for liquidated damages

Date: [●]

Ministry of Petroleum and Energy
Akersgata 59, 0180 Oslo

We refer to the Ministry of Petroleum and Energy's ("**MPE**") competition for the award of a project area for offshore wind in Sørlige Nordsjø II (the “**Competition**”).

[●] ("**Applicant**") will submit an application in accordance with the conditions for participation in the Competition. It is a condition for participation in the auction that the Applicant confirms its acceptance of the Competition terms and conditions, including the obligation to be liable for liquidated damages.

It is hereby confirmed that, if the Applicant fulfils the minimum requirements, becomes prequalified and wins the subsequent auction for the award of a project area in Sørlige Nordsjø II, the Applicant undertakes, as soon as possible and no later than four weeks after the end of the auction, to:

1. Establish a separate legal entity pursuant to Section 3-5 of the Offshore Energy Act (if the Applicant is not already, or has not already established, such a legal entity at the time of the auction),
2. Enter into a contract for difference with the State represented by the MPE, on terms and conditions prescribed by the MPE and announced well in advance of the auction, and
3. Provide guarantees for obligations in accordance with the contract for difference, as specified therein.

It is furthermore confirmed that, if the obligations specified in letters (a), (b) and (c) above are not fulfilled by the deadline, the Applicant agrees to pay liquidated damages in the amount of NOK 400,000,000 to the State represented by the MPE.

The liquidated damages shall fall due for payment upon demand. If several companies cooperate on the application (consortium), all applicant companies shall be jointly and severally liable for liquidated damages.[[1]](#footnote-1)

As collateral for the obligation to pay liquidated damages, the Applicant will ensure that an on-demand guarantee is provided in favour of the State represented by the MPE no later than 14 days before the start of the auction. The guarantee will, in its form and content, substantially correspond to the guarantee form enclosed with the announcement documents for the Competition.

The applicant acknowledges that failure to provide such a bank guarantee shall result in the right to participate in the auction lapsing.

Obligations under this confirmation shall be governed by Norwegian law, with Oslo District Court as legal venue.

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*[​Signature page follows​]*

*[​Signature page​ for Confirmation of obligation to be liable for liquidated damages]*

[Place], [date]

For Applicant

|  |  |
| --- | --- |
| Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: | Name:  |
| Title: | Title: |

Appendix: Documentation confirming that the signatory/signatories on the declaration is/are authorised to bind the Applicant through right of signature, power of attorney or special authority.

1. In such cases, confirmation of commitment shall be provided by each of the applicant companies. [↑](#footnote-ref-1)