**EXHIBIT XX**

**FORM OF PARENT COMPANY GUARANTEE FOR THE SOLE PURPOSE OF GUARANTEEING THE AMOUNT ADVANCED BY BUYER (SINGLE GUARANTOR)**

**FPSO PETROBRAS 91 (P-91)**

**\*\*\*\*\*\*\*\*\*\*\*\*Revision Control\*\*\*\*\*\*\*\*\*\*\*\*\***

**Rev 0: Bid original version**

**PARENT COMPANY GUARANTEE**

|  |  |  |
| --- | --- | --- |
|  | This Guarantee Contract (the “**Guarantee**”) is entered into this day of , | |
|  | by and between \_ [[1]](#footnote-2), a company organized and existing under the lawsllaws | |
| Laws of ,[[2]](#footnote-3) in its capacity as guarantor (the “**Guarantor**”), in favor of Petroleo Brasileiro S.A. as beneficiary (the “**Beneficiary**,” and together with the Guarantor, the “**Parties**”), and it has the purpose of guaranteeing the payment in full of the amount advanced by the Beneficiary to Seller according to Section 5.2 of the Purchase and Sales Agreement executed between the Beneficiary and \_\_\_\_\_\_ (the “**Seller**”) on \_\_\_\_\_ (the “**Agreement**”). All capitalized terms used but not otherwise defined in this Guarantee shall have the meaning ascribed to such terms in the Agreement. | | |
| to such terms in the Agreement. | |  |

**ARTICLE 1 GUARANTEE**

1. The Guarantor, as principal obligor and not merely as surety, hereby absolutely, unconditionally and irrevocably guarantees to the Beneficiary the full, prompt and complete payment when due, whether by acceleration or otherwise, of all obligations and liabilities of the Seller to the Beneficiary and the Buyer Group arising out of, under or in relation to the Advance (as defined in the Agreement) up to the Maximum Amount (as defined below), including all obligations and liabilities that survive the termination of expiration of the Agreement and all amounts that would become due but for the operation of the automatic stay under any applicable insolvency, bankruptcy or other debtor relief laws (the “**Guaranteed Obligations**”). This is a guaranty of payment and not of collection. This Guarantee shall remain in full force and effect until the Beneficiary has recovered the Advance and has accepted the Final Completion Certificate pursuant to Section 16 of the Agreement. For purposes of this Guarantee, “Maximum Amount” shall mean: (i) from the date of this Guarantee until the date on which Seller has paid at least 50% of the Lump Sum Price, an amount equal to 100% of the sum of the amount of the Advance and any amounts payable by the Seller under the Agreement in connection therewith; (ii) at any time after the date on which Seller has paid at least 50% of the Lump Sum Price, an amount equal to 50% of the sum of the amount of the Advance and any amounts payable by the Seller under the Agreement in connection therewith; and (iii) at any time after the date on which Seller has (x) paid at least 50% of the Lump Sum Price and (y) certified to the Beneficiary pursuant to the terms of the Agreement that Seller has successfully achieved the on-shore full load test pursuant to the Project Schedule and Exhibit XI to the Agreement, an amount equal to 20% of the sum of the amount of the Advance and any amounts payable by the Seller under the Agreement in connection therewith.
2. If the Seller shall fail to pay when due any or all sums hereby guaranteed (whether at stated maturity, by acceleration or otherwise), the Guarantor shall, within two (2) calendar days after receipt of notice of Seller’s failure to pay the applicable amounts, pay the full amount due and payable by the Seller in U.S. dollars and in immediately available funds at the place and in the manner required by the Agreement.
3. To the extent permitted by the Applicable Laws, the Guarantor waives all defenses or benefits the Guarantor may have under law or otherwise in any capacity, including without limitation in its capacity as guarantor. Without limiting the generality of the foregoing, Guarantor hereby waives notice of acceptance of this Guarantee and notice of the Guaranteed Obligations, and waives presentment, demand for payment, protest notice of dishonor for non-payment of obligations, suit for the taking of other action by the counterparty against the Seller, the Guarantor itself, or others. The Beneficiary shall not be required to exercise any right or remedy against the Seller before having the right to demand performance or receive payment from the Guarantor of the Guaranteed Obligations.
4. The guarantee of payment provided in this Guarantee is a continuing, absolute and unconditional guarantee and shall apply to all obligations and liabilities related to the Advance as they arise and until the earliest of (i) such time as they are indefeasibly discharged in full and (ii) the date on which the Maximum Amount has been paid by the Guarantor to the Beneficiary pursuant to the terms hereof. Without limiting the generality of the foregoing, the guarantee of the Guarantor shall not be released, discharged or otherwise affected by: (i) any changes in the name, authorized activities, legal existence, structure, personnel or direct or indirect ownership of the Seller or the Guarantor, (ii) the insolvency, bankruptcy, reorganization or any other similar proceeding affecting the Seller, the Guarantor or their respective assets, (iii) any release or surrender by the Beneficiary of any collateral or other security it may hold or hereafter acquire for the payment of any obligation or liability hereby guaranteed, or any change, exchange, alteration, substitution of such collateral or other security, (iv) any circumstance which might otherwise constitute a legal or equitable discharge or defense of the Guarantor, (v) the lack of genuineness, legality, validity, regularity or enforceability of the Agreement, (vi) failure by the Beneficiary to comply with any of the terms of the Agreement, (vii) any provision of Applicable Law purporting to prohibit the payment by the Guarantor of any amount payable by it under this Guarantee, (viii) any provision of Applicable Law purporting to prohibit the payment by the Seller of any amount payable by it under the Agreement; or (xix) any other act or omission or delay of any kind by the Seller, the Guarantor, the Beneficiary or any other person.
5. The obligations of the Guarantor are absolute and unconditional, irrespective of the value, genuineness, legality, validity, regularity or enforceability of the obligations of the Seller under the Agreement, or any substitution, release or exchange of any other guaranty of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by Applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantor hereunder, which shall remain absolute and unconditional as described above:
6. at any time or from time to time, without notice to the Guarantor, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;
7. any of the acts mentioned in any of the provisions of this Guarantee or any other agreement or instrument referred to herein or therein shall be done or omitted;
8. any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof or the Agreement, or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations;
9. any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy;
10. the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be modified, supplemented or amended in any respect, or any right under this Agreement or any other agreement or instrument referred to herein or therein shall be waived or any other guaranty of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;
11. any lien or security interest granted to, or in favor of, the Lenders as security for any of the Guaranteed Obligations shall be impaired or otherwise fail to be perfected; or
12. any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of the Guarantor in respect of the Guaranteed Obligations.
13. To the extent permitted by the Applicable Laws, the Guarantor agrees that, without notice and without requiring any confirmation, consent or additional guarantee on its part, the obligations of the Seller guaranteed hereunder may be settled or released according to the Section 3.33.1 of the Agreement, all of the foregoing without impairing or affecting in any way the obligation of the Guarantor in accordance with this Guarantee. Without limiting the generality of all of the foregoing, the Beneficiary may, at any time and from time to time, without impairing or releasing the obligations of Guarantor hereunder: (i) make any change in the terms of the obligations of the Seller under the Agreement, (ii) take or fail to take any action of any kind in respect of any security for the obligations of the Seller, (iii) exercise or refrain from exercising any rights against the Seller or others in respect of the Seller obligations under the Agreement or (iv) compromise or subordinate the Seller’s obligations, including any security therefore. Any and all other defenses are hereby waived by the Guarantor.
14. The Guarantor hereby undertakes to pay all costs and expenses (including, without limitation, all reasonable counsel fees and disbursements) incurred by the Beneficiary in connection with the enforcement of its rights under this Guarantee. If the Guarantors fails to pay any amount in respect of any such costs expenses, such amount shall accrue interest at a rate of [●] percent ([●] %) [*per annum]* from the date the relevant costs and expenses are incurred to the date of payment thereof by the Guarantor. Interest payable under this Section 1(g) shall be payable on demand.
15. If any amount of the Guaranteed Obligations payable hereunder is not paid by the date that is [thirty (30) days] after the date on which such amount is due hereunder (whether at stated maturity, by acceleration or otherwise), the Guarantor shall pay to the Beneficiary a default penalty in the amount of [●] percent ([●]%) of such overdue amount. Any default penalty payable pursuant to this Section 1(h) shall be payable on demand.
16. All payments by the Guarantor hereunder shall be made in U.S. dollars, in immediately available funds, without defense, set-off or counterclaim. If the Guarantor is required by law to deduct or withhold any taxes (including any interest, penalties or similar amounts with respect to such taxes or with respect to the non-payment thereof) from any payment hereunder, then the sum payable to the Beneficiary by the Guarantor shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional amounts payable under this Section 1(i)) the Beneficiary receives an amount equal to the sum it would have received had no such deduction or withholding been made.

**ARTICLE 2**

**GUARANTOR’S CONTINUING EXISTENCE;**

**INSOLVENCY OF THE SELLER**

Guarantor undertakes not to dissolve, wind up or take any other course of action that would materially prejudice the ability of the Seller to carry out its obligations to the Beneficiary under the Agreement.

**ARTICLE 3 REINSTATEMENT**

The obligations of the Guarantor under this Guarantee shall be automatically reinstated in the event and to the extent that for any reason, any payment relating to the obligations and liabilities guaranteed hereunder is rescinded or shall be recovered from or returned by the Beneficiary or other party, including as a result of any bankruptcy, insolvency, reorganization or other proceeding.

**ARTICLE 4 BENEFICIARY PRIORITY**

The Guarantor hereby waives any right of subrogation (or similar right or remedy) against the Seller until the full amount of the Advance and all amounts payable by the Guarantor hereunder have been indefeasibly paid in full. Guarantor shall not take any security for its liability under this Guarantee for so long as the recovery of the Advance by the Beneficiary is outstanding under the Agreement and shall not take any steps to enforce any rights or claim against the Seller or any co-guarantor in respect of any monies paid by Guarantor to the Beneficiary or any other liabilities between the Seller and the Guarantor unless and until all of the Seller’s obligations and liabilities owing to the Beneficiary (both actual and contingent) under the Agreement have been performed and indefeasibly discharged in full.

**ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

The Guarantor hereby represents and warrants that: (i) it is financially solvent, able to pay all debts as they mature and possesses sufficient capital to comply with its obligations hereunder, attaching a list with country location and current value of its assets which sum shall be at least equal to the Advance amount, (ii) is duly organized and validly existing under the laws of its jurisdiction of incorporation, (iii) it has full power and legal authority to execute and perform this Guarantee, (iii) it has complied with all corporate and other requirements for the execution and performance of this Guarantee, (iv) it has obtained all governmental and other authorizations necessary for the execution and performance of this Guarantee, (v) this Guarantee is a legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, (vi) the execution, delivery and performance of this Guarantee by the Guarantor have been duly authorized by all necessary corporate actions, and do not violate any provision of the (A) charter, bylaws, articles of association or other corporate rules of the Guarantor, or (B) Applicable Law, regulation, order, writ, judgment, injunction, decree, determination or award of any court or regulatory body, (vii) the obligations assumed by the Guarantor under this Guarantee will not result in the breach of, constitute a default, or require any consent under any agreement, instrument or document to which the Seller or the Guarantor is a party or by which the Seller or the Guarantor or any of their respective properties is bound or affected; and (v) this Guarantee is in proper legal form under its governing law for the enforcement thereof against the parties thereto.

**ARTICLE 6 VALIDITY**

If any provision of this Guarantee or the application of such provision to any circumstance is declared to be in any way invalid or unenforceable, the other provisions of this Guarantee and the application of such provision to other circumstances shall not be affected thereby.

**ARTICLE 7 ASSIGNMENT**

The Guarantor shall not in any way effect, or cause or permit to be effected, the assignment or transfer of any of its obligations hereunder without the express written consent of the Beneficiary. This Guarantee and every part hereof shall inure to the benefit of the successors and assigns of Petroleo Brasileiro S.A.

**ARTICLE 8**

**GOVERNING LAW AND ARBITRATION**

(a) This Guarantee shall be governed by and construed in accordance with the laws of the State of New York, U.S.A., without giving effect to principles of conflict of laws. Notwithstanding the foregoing, the Parties agree that all issues arising, relating to, or in connection with the imposition of any administrative sanction as provided for in Article 82 of Brazilian law 13.303/2016 shall be governed by Brazilian law.

(b) The Parties agree that any Dispute shall be finally resolved by binding arbitration before three (3) arbitrators in New York City, New York, U.S.A., in accordance with the Rules of Arbitration of the International Chamber of Commerce (the “ICC Rules”) in force on the date of the Dispute, except as those rules may be modified by this Article 8.

(c) Except as specified in this Article 8, the Parties agree that Arbitration shall be the exclusive means of resolving a Dispute. Except as specified in this Article 8, no Party shall refer or attempt to refer a Dispute to any court or other tribunal for resolution.

(d) The Arbitration shall be conducted in the English language. Unless agreed otherwise, all documents submitted in connection with the arbitration shall be in the English language or, if submitted in any other language, shall be accompanied by an English translation.

(e) The Party filing the Request for Arbitration (the “Request”) under the ICC Rules shall deliver a copy of the Request to the other Party at the same time and in the same manner as it delivers the Request to the Secretariat of the International Court of Arbitration of the International Chamber of Commerce (the “International Court of Arbitration”). The Request shall be made within a reasonable time after the Dispute arises.

(f) The arbitral tribunal (the “Tribunal”) shall consist of three (3) arbitrators who shall be qualified by experience and education to arbitrate disputes concerning international commercial agreements and who shall be chosen as follows:

(f.1) Each Party shall nominate one arbitrator. The request to the Secretariat shall include the nomination of the Party initiating the procedure. The other Party shall have thirty (30) Days to make its nomination. If a Party does not timely nominate an arbitrator, that Party’s arbitrator shall be appointed by the International Court of Arbitration in accordance with the ICC Rules; and

(f.2) Within twenty (20) Days after the latest date on which one of the co-arbitrators has been confirmed or appointed by the International Court of Arbitration, or within the time period extended by agreement of the Parties, the Parties in consultation with the two co-arbitrators selected under Section 8.(f.1) shall jointly nominate the third arbitrator, who shall act as chairman of the Tribunal after being confirmed by the International Court of Arbitration. If the Parties cannot agree on the third arbitrator, the International Court of Arbitration shall appoint the third arbitrator in accordance with the ICC Rules.

(g) The Tribunal’s award shall be denominated and made payable in US Dollars, exclusive of any tax or other deduction. If the Tribunal finds a breach of a payment obligation, the award may include interest thereon at a reasonable simple commercial rate until the date of the award. The Tribunal may also fix an appropriate reasonable commercial rate of interest from the date of the award until the award is paid in full.

(h) The Parties agree that judgment upon the Tribunal’s award may be entered in any court having jurisdiction thereof, and may not be challenged in any court, either at the place of arbitration or elsewhere. Each Party hereby irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such enforcement proceeding and to the proceeding being brought in an allegedly inconvenient forum. Each Party also hereby agrees to accept service of process in any such enforcement proceeding.

(i) The Parties agree that each Party shall bear the fees and expenses of the arbitrator nominated by it (or on its behalf) and its share of the ICC administrative expenses assessed by the International Court of Arbitration. The fees and expenses of the third arbitrator shall be borne by the Parties in equal parts. Any other arbitration fees and expenses, including attorneys’ and experts’ fees, shall be allocated by the Tribunal in its award. The Parties agree to instruct the Tribunal to allocate such fees and expenses to the Parties in proportion to their relative success on the merits (including the successful assertion of any defense).

(j) The Tribunal shall have the authority to enter interim, conservatory, injunctive, and declaratory relief, if appropriate under applicable substantive law. The Tribunal shall also have the power to determine whether a Dispute is appropriate for arbitration. The Tribunal shall not, however, have the power to award punitive or exemplary damages. Notwithstanding anything in this Section 8.(j), each Party retains the right to apply for injunctive relief in any court having jurisdiction thereof prior to or during the arbitration, and any such application shall not be deemed to be an infringement or waiver of the ability to arbitrate under Article 8 and shall not affect the relevant powers reserved to the Tribunal.

(k) This Article 8 shall survive termination of all or any part of this Guarantee.

**ARTICLE 9 NOTICES**

Any notice or other communication related to this Guarantee shall be in writing and shall be delivered personally during business hours, by international recognized courier (with acknowledgment of receipt), or electronically as follows:

If to Beneficiary:

If to the Seller:

If to the Guarantor:

Either party to this Guarantee may, by written notice to the other, change the address to which notices to such party shall be sent. Any notice or other communication shall be considered to have been given upon receipt by the addressee. Any communications related to this Guarantee shall be in English.

**ARTICLE 10 LANGUAGE**

This Guarantee is executed in English. Any translation of this Guarantee shall be for convenience purposes only and shall not be considered in its interpretation.

**ARTICLE 11**

**COUNTERPARTS;**

**ELECTRONIC EXECUTION; ELECTRONIC RECORDS**

This Guarantee may be executed by the parties in separate counterparts, each of which when signed and delivered shall be deemed to be an original, but which, taken together, shall constitute one and the same agreement.

The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in this Guarantee or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Beneficiary, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary, the Beneficiary is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Beneficiary pursuant to procedures approved by it; provided, further, without limiting the foregoing, upon the request of the Beneficiary, any electronic signature shall be promptly followed by such manually executed counterpart.

**IN WITNESS WHEREOF**, the parties have executed this Guarantee on the date first above written.

**[ULTIMATE PARENT COMPANY],**

**as Guarantor**

By: Name:

Title:

**AGREED AND ACCEPTED:**

**Petroleo Brasileiro S.A. As Beneficiary**

By: Name:

Title:

**EXHIBIT XX**

**FORM OF PARENT COMPANY GUARANTEE FOR THE SOLE PURPOSE OF GUARANTEEING THE AMOUNT ADVANCED BY BUYER (MULTIPLE GUARANTORS)**

**FPSO PETROBRAS 91 (P-91)**

**PARENT COMPANY GUARANTEE**

|  |  |  |
| --- | --- | --- |
|  | This Guarantee Contract (the “**Guarantee**”) is entered into this day of [[3]](#footnote-4), | |
|  | by and between (i) [[4]](#footnote-5), a company organized and existing under the | |
| laws of , [and] (ii) , a company organized and existing under the laws of , [*INSERT ADDITIONAL GUARANTORS AS APPLICABLE*] each in its  capacity as guarantor (collectively, the “**Guarantors**”, and each, a “**Guarantor**”), in favor of Petroleo Brasileiro S.A. as beneficiary (the “**Beneficiary**,” and together with the Guarantors, the “**Parties**”), and it has the purpose of guaranteeing the amount advanced by the Beneficiary to Seller according to Section 5.2 of the Purchase and Sales Agreement executed between the Beneficiary and \_\_\_\_\_\_ (the “**Seller**”) on \_\_\_\_ (the “**Agreement**”). All capitalized terms used but not otherwise defined in this Guarantee shall have the meaning ascribed to such terms in the Agreement. | | |
|  | |  |

**ARTICLE 1 GUARANTEE**

1. The Guarantors, as principal obligors and not merely as sureties, hereby on a joint and several basis absolutely, unconditionally and irrevocably guarantee to the Beneficiary the full, prompt and complete payment when due, whether by acceleration or otherwise, of all obligations and liabilities of the Seller to the Beneficiary and the Buyer Group arising out of, under or in relation to the Advance (as defined in the Agreement) up to the Maximum Amount (as defined below), including all obligations and liabilities that survive the termination of expiration of the Agreement and all amounts that would become due but for the operation of the automatic stay under any applicable insolvency, bankruptcy or other debtor relief laws (the “**Guaranteed Obligations**”). This is a guaranty of payment and not of collection. This Guarantee shall remain in full force and effect until the Beneficiary has recovered the Advance and has accepted the Final Completion Certificate pursuant to Section 16 of the Agreement. For purposes of this Guarantee, “Maximum Amount” shall mean (i) from the date of this Guarantee until the date on which Seller has paid at least 50% and of the Lump Sum Price, an amount equal to 100% of the sum of the amount of the Advance and any amounts payable by the Seller under the Agreement in connection therewith, (ii) at any time after the date on which Seller has paid at least 50% of the Lump Sum Price, an amount equal to 50% of the sum of the amount of the Advance and any amounts payable by the Seller under the Agreement in connection therewith, and (iii) at any time after the date on which Seller has (x) paid at least 50% of the Lump Sum Price and (y) certified to the Beneficiary pursuant to the terms of the Agreement that Seller has successfully achieved the on-shore full load test pursuant to the Project Schedule and Exhibit XI to the Agreement, an amount equal to 20% of the sum of the amount of the Advance and any amounts payable by the Seller under the Agreement in connection therewith.
2. If the Seller shall fail to pay when due any or all sums hereby guaranteed (whether at stated maturity, by acceleration or otherwise), each Guarantor shall, within two (2) calendar days after receipt of notice of Seller’s failure to pay the applicable amounts, pay the full amount due and payable by the Seller in U.S. dollars and in immediately available funds at the place and in the manner required by the Agreement.
3. Each Guarantor shall be jointly and severally liable for the performance of all obligations of the Guarantors under this Guarantee. To the extent permitted by the Applicable Laws, each Guarantor waives all defenses or benefits such Guarantor may have under law or otherwise in any capacity, including without limitation in its capacity as guarantor. Without limiting the generality of the foregoing, each Guarantor hereby waives notice of acceptance of this Guarantee and notice of the Guaranteed Obligations, and waives presentment, demand for payment, protest notice of dishonor for non-payment of obligations, suit for the taking of other action by the counterparty against the Seller, each Guarantor itself, or others. The Beneficiary shall not be required to exercise any right or remedy against the Seller before having the right to demand performance or receive payment from each Guarantor of the Guaranteed Obligations.
4. The guarantee of payment provided in this Guarantee is a continuing, absolute and unconditional guarantee and shall apply to all obligations and liabilities related to the Advance as they arise and until the earliest of (i) such time as they are indefeasibly discharged in full and (ii) the date on which the Maximum Amount has been paid by each Guarantor to the Beneficiary pursuant to the terms hereof. Without limiting the generality of the foregoing, the guarantee of each Guarantor shall not be released, discharged or otherwise affected by: (i) any changes in the name, authorized activities, legal existence, structure, personnel or direct or indirect ownership of the Seller or each Guarantor, (ii) the insolvency, bankruptcy, reorganization or any other similar proceeding affecting the Seller, each Guarantor or their respective assets, (iii) any release or surrender by the Beneficiary of any collateral or other security it may hold or hereafter acquire for the payment of any obligation or liability hereby guaranteed, or any change, exchange, alteration, substitution of such collateral or other security, (iv) any circumstance which might otherwise constitute a legal or equitable discharge or defense of each Guarantor, (v) the lack of genuineness, legality, validity, regularity or enforceability of the Agreement, (vi) failure by the Beneficiary to comply with any of the terms of the Agreement, (vii) any provision of Applicable Law purporting to prohibit the payment by each Guarantor of any amount payable by it under this Guarantee, (viii) any provision of Applicable Law purporting to prohibit the payment by the Seller of any amount payable by it under the Agreement; or (xix) any other act or omission or delay of any kind by the Seller, each Guarantor, the Beneficiary or any other person.
5. The obligations of each Guarantor are absolute and unconditional, irrespective of the value, genuineness, legality, validity, regularity or enforceability of the obligations of the Seller under the Agreement, or any substitution, release or exchange of any other guaranty of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by Applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder, which shall remain absolute and unconditional as described above:
6. at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;
7. any of the acts mentioned in any of the provisions of this Guarantee or any other agreement or instrument referred to herein or therein shall be done or omitted;
8. any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof or the Agreement, or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations;
9. any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy;
10. the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be modified, supplemented or amended in any respect, or any right under this Agreement or any other agreement or instrument referred to herein or therein shall be waived or any other guaranty of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;
11. any lien or security interest granted to, or in favor of, the Lenders as security for any of the Guaranteed Obligations shall be impaired or otherwise fail to be perfected; or
12. any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of the Guarantor in respect of the Guaranteed Obligations.
13. To the extent permitted by the Applicable Laws, each Guarantor agrees that, without notice and without requiring any confirmation, consent or additional guarantee on its part, the obligations of the Seller guaranteed hereunder may be settled or released according to the Section 3.33.1 of the Agreement, all of the foregoing without impairing or affecting in any way the obligation of such Guarantor in accordance with this Guarantee. Without limiting the generality of all of the foregoing, the Beneficiary may, at any time and from time to time, without impairing or releasing the obligations of any Guarantor hereunder: (i) make any change in the terms of the obligations of the Seller under the Agreement, (ii) take or fail to take any action of any kind in respect of any security for the obligations of the Seller, (iii) exercise or refrain from exercising any rights against the Seller or others in respect of the Seller obligations under the Agreement or (iv) compromise or subordinate the Seller’s obligations, including any security therefore. Any and all other defenses are hereby waived by each Guarantor.
14. Each Guarantor hereby undertakes to pay all costs and expenses (including without limitation all reasonable counsel fees and disbursements) incurred by the Beneficiary in connection with the enforcement of its rights under this Guarantee. If any Guarantor fails to pay any amount in respect of any such costs expenses, such amount shall accrue interest at a rate of [●] percent ([●] %) [*per annum]* from the date the relevant costs and expenses are incurred to the date of payment thereof by any Guarantor. Interest payable under this Section 1(g) shall be payable on demand.
15. If any amount of the Guaranteed Obligations payable hereunder is not paid by the date that is [thirty (30) days] after the date on which such amount is due hereunder (whether at stated maturity, by acceleration or otherwise), the Guarantors shall pay to the Beneficiary a default penalty in the amount of [●] percent ([●]%) of such overdue amount. Any default penalty payable pursuant to this Section 1(g) shall be payable on demand.
16. All payments by any Guarantor hereunder shall be made in [U.S. Dollars], in immediately available funds, without defense, set-off or counterclaim. If each Guarantor is required by law to deduct or withhold any taxes (including any interest, penalties or similar amounts with respect to such taxes or with respect to the non-payment thereof) from any payment hereunder, then the sum payable to the Beneficiary by any Guarantor shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional amounts payable under this Section 1(i) the Beneficiary receives an amount equal to the sum it would have received had no such deduction or withholding been made.

**ARTICLE 2**

**GUARANTOR’S CONTINUING EXISTENCE;**

**INSOLVENCY OF THE SELLER**

Each Guarantor undertakes not to dissolve, wind up or take any other course of action that would materially prejudice the ability of the Seller to carry out its obligations to the Beneficiary under the Agreement.

**ARTICLE 3 REINSTATEMENT**

The obligations of each Guarantor under this Guarantee shall be automatically reinstated in the event and to the extent that for any reason, any payment relating to the obligations and liabilities guaranteed hereunder is rescinded or shall be recovered from or returned by the Beneficiary or other party, including as a result of any bankruptcy, insolvency, reorganization or other proceeding.

**ARTICLE 4 BENEFICIARY PRIORITY**

Each Guarantor hereby waives any right of subrogation (or similar right or remedy) against the Seller until the full amount of the Advance and all amounts payable by the Guarantors hereunder have been indefeasibly paid in full. Each Guarantor agrees that it shall not take any security for its liability under this Guarantee for so long as the recovery of the Advance by the Beneficiary is outstanding under the Agreement and shall not take any steps to enforce any rights or claim against the Seller or any other Guarantor in respect of any monies paid by such Guarantor to the Beneficiary or any other liabilities between the Seller and such Guarantor unless and until all of the Seller’s obligations and liabilities owing to the Beneficiary (both actual and contingent) under the Agreement have been performed and indefeasibly discharged in full.

**ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

Each Guarantor hereby represents and warrants that: (i) it is financially solvent, able to pay all debts as they mature and possesses sufficient capital to comply with its obligations hereunder, attaching a list with country location and current value of its assets which sum shall be at least equal to the Advance amount, (ii) is duly organized and validly existing under the laws of its jurisdiction of incorporation, (iii) it has full power and legal authority to execute and perform this Guarantee, (iii) it has complied with all corporate and other requirements for the execution and performance of this Guarantee, (iv) it has obtained all governmental and other authorizations necessary for the execution and performance of this Guarantee, (v) this Guarantee is a legal, valid and binding obligation of such Guarantor, enforceable against such Guarantor in accordance with its terms, (vi) the execution, delivery and performance of this Guarantee by such Guarantor have been duly authorized by all necessary corporate actions, and do not violate any provision of the (A) charter, bylaws, articles of association or other corporate rules of such Guarantor, or (B) Applicable Law, regulation, order, writ, judgment, injunction, decree, determination or award of any court or regulatory body, (vii) the obligations assumed by such Guarantor under this Guarantee will not result in the breach of, constitute a default, or require any consent under any agreement, instrument or document to which the Seller or such Guarantor is a party or by which the Seller or such Guarantor or any of their respective properties is bound or affected; and (viii) this Guarantee in proper legal form under its governing law for the enforcement thereof against the parties thereto.

**ARTICLE 6 VALIDITY**

If any provision of this Guarantee or the application of such provision to any circumstance is declared to be in any way invalid or unenforceable, the other provisions of this Guarantee and the application of such provision to other circumstances shall not be affected thereby.

**ARTICLE 7 ASSIGNMENT**

Each Guarantor agrees that it shall not in any way effect, or cause or permit to be effected, the assignment or transfer of any of its obligations hereunder without the express written consent of the Beneficiary. This Guarantee and every part hereof shall inure to the benefit of the successors and assigns of Petroleo Brasileiro S.A.

**ARTICLE 8**

**GOVERNING LAW AND ARBITRATION**

(a) This Guarantee shall be governed by and construed in accordance with the laws of the State of New York, U.S.A., without giving effect to principles of conflict of laws. Notwithstanding the foregoing, the Parties agree that all issues arising, relating to, or in connection with the imposition of any administrative sanction as provided for in Article 82 of Brazilian law 13.303/2016 shall be governed by Brazilian law.

(b) The Parties agree that any Dispute shall be finally resolved by binding arbitration before three (3) arbitrators in New York City, New York, U.S.A., in accordance with the Rules of Arbitration of the International Chamber of Commerce (the “ICC Rules”) in force on the date of the Dispute, except as those rules may be modified by this Article 8.

(c) Except as specified in this Article 8, the Parties agree that Arbitration shall be the exclusive means of resolving a Dispute. Except as specified in this Article 8, no Party shall refer or attempt to refer a Dispute to any court or other tribunal for resolution.

(d) The Arbitration shall be conducted in the English language. Unless agreed otherwise, all documents submitted in connection with the arbitration shall be in the English language or, if submitted in any other language, shall be accompanied by an English translation.

(e) The Party filing the Request for Arbitration (the “Request”) under the ICC Rules shall deliver a copy of the Request to the other Party at the same time and in the same manner as it delivers the Request to the Secretariat of the International Court of Arbitration of the International Chamber of Commerce (the “International Court of Arbitration”). The Request shall be made within a reasonable time after the Dispute arises.

(f) The arbitral tribunal (the “Tribunal”) shall consist of three (3) arbitrators who shall be qualified by experience and education to arbitrate disputes concerning international commercial agreements and who shall be chosen as follows:

(f.1) Each Party shall nominate one arbitrator. The request to the Secretariat shall include the nomination of the Party initiating the procedure. The other Party shall have sixty (60) Days to make its nomination. If a Party does not timely nominate an arbitrator, that Party’s arbitrator shall be appointed by the International Court of Arbitration in accordance with the ICC Rules; and

(f.2) Within twenty (20) Days after the latest date on which one of the co-arbitrators has been confirmed or appointed by the International Court of Arbitration, or within the time period extended by agreement of the Parties, the Parties in consultation with the two co-arbitrators selected under Section 8.(f.1) shall jointly nominate the third arbitrator, who shall act as chairman of the Tribunal after being confirmed by the International Court of Arbitration. If the Parties cannot agree on the third arbitrator, the International Court of Arbitration shall appoint the third arbitrator in accordance with the ICC Rules.

(g) The Tribunal’s award shall be denominated and made payable in US Dollars, exclusive of any tax or other deduction. If the Tribunal finds a breach of a payment obligation, the award may include interest thereon at a reasonable simple commercial rate until the date of the award. The Tribunal may also fix an appropriate reasonable commercial rate of interest from the date of the award until the award is paid in full.

(h) The Parties agree that judgment upon the Tribunal’s award may be entered in any court having jurisdiction thereof, and may not be challenged in any court, either at the place of arbitration or elsewhere. Each Party hereby irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such enforcement proceeding and to the proceeding being brought in an allegedly inconvenient forum. Each Party also hereby agrees to accept service of process in any such enforcement proceeding.

(i) The Parties agree that each Party shall bear the fees and expenses of the arbitrator nominated by it (or on its behalf) and its share of the ICC administrative expenses assessed by the International Court of Arbitration. The fees and expenses of the third arbitrator shall be borne by the Parties in equal parts. Any other arbitration fees and expenses, including attorneys’ and experts’ fees, shall be allocated by the Tribunal in its award. The Parties agree to instruct the Tribunal to allocate such fees and expenses to the Parties in proportion to their relative success on the merits (including the successful assertion of any defense).

(j) The Tribunal shall have the authority to enter interim, conservatory, injunctive, and declaratory relief, if appropriate under applicable substantive law. The Tribunal shall also have the power to determine whether a Dispute is appropriate for arbitration. The Tribunal shall not, however, have the power to award punitive or exemplary damages. Notwithstanding anything in this Section 8.(j), each Party retains the right to apply for injunctive relief in any court having jurisdiction thereof prior to or during the arbitration, and any such application shall not be deemed to be an infringement or waiver of the ability to arbitrate under Article 8 and shall not affect the relevant powers reserved to the Tribunal.

(k) In accordance with and subject to Section 8.(a), the substantive law of the State of New York, without regard to its conflict-of-laws principles, shall apply to the arbitration. The Tribunal shall not have the power of an amiable compositeur.

(l) Unless the Parties agree otherwise, the arbitration shall be completed within of the time limit under the ICC Rules.

(m) This Article 8 shall survive termination of all or any part of this Guarantee.

**ARTICLE 9 NOTICES**

Any notice or other communication related to this Guarantee shall be in writing and shall be delivered personally during business hours, by international recognized courier (with acknowledgment of receipt), or electronically as follows:

If to Beneficiary:

If to the Seller:

If to [*INSERT NAME AND CONTACT DETAILS OF EACH GUARANTOR]*:

Either party to this Guarantee may, by written notice to the other, change the address to which notices to such party shall be sent. Any notice or other communication shall be considered to have been given upon receipt by the addressee. Any communications related to this Guarantee shall be in English.

**ARTICLE 10 LANGUAGE**

This Guarantee is executed in English. Any translation of this Guarantee shall be for convenience purposes only and shall not be considered in its interpretation.

**ARTICLE 11**

**COUNTERPARTS;**

**ELECTRONIC EXECUTION; ELECTRONIC RECORDS**

This Guarantee may be executed by the parties in separate counterparts, each of which when signed and delivered shall be deemed to be an original, but which, taken together, shall constitute one and the same agreement.

The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in this Guarantee or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Beneficiary, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary, the Beneficiary is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Beneficiary pursuant to procedures approved by it; provided, further, without limiting the foregoing, upon the request of the Beneficiary, any electronic signature shall be promptly followed by such manually executed counterpart.

**IN WITNESS WHEREOF**, the parties have executed this Guarantee on the date first above written.

**[ULTIMATE PARENT COMPANY],**

**as Guarantor**

By: Name:

Title:

**[INSERT EACH ADDITIONAL ULTIMATE PARENT COMPANY],**

**as Guarantor**

By: Name:

Title:

**[INSERT EACH ADDITIONAL ULTIMATE PARENT COMPANY],**

**as Guarantor**

By: Name:

Title:

**AGREED AND ACCEPTED:**

**Petroleo Brasileiro S.A. As Beneficiary**

By: Name:

Title:

**Template of Legal Opinion**

**THE LEGAL OPINION BY** **COUNSEL TO THE GUARANTOR regarding the laws of incorporation of the guarantor SHALL cover THE following itens or statements:**

1. The Guarantor is a [CORPORATION] duly organized and validly existing under the laws of [PLACE OF INCORPORATION OF THE GUARANTOR] and has full power, authority and legal right to execute, deliver and perform the Guarantee, and has taken all necessary corporate and legal action to authorize the execution, delivery and performance of the Guarantee.

2. Under the laws of [PLACE OF INCORPORATION OF THE GUARANTOR], the Guarantee constitutes legal, valid and binding obligations of Guarantor enforceable in accordance with its terms, except as enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, moratorium and other similar laws relating to or affecting the enforceability of creditors’ rights generally and by general principles of equity.

3. The execution, delivery and performance by Guarantor of, and the performance by Guarantor of its obligations under, the Guarantee will not violate the charter, bylaws or other corporate rules of Guarantor.

4. No consent, exemption or registration of any governmental authority is required which has not been obtained in connection with the execution, delivery, performance, validity or enforceability of the Guarantee in accordance with its terms.

5. It is not necessary or advisable under the laws of [PLACE OF INCORPORATION OF THE GUARANTOR] in order to assure the validity, effectiveness or enforceability of the Guarantee that such Guarantee be filed, registered or recorded in any public office in [PLACE OF INCORPORATION OF THE GUARANTOR].

6. The Guarantee is in proper legal form under [COUNTRY OF INCORPORATION OF THE GUARANTOR] laws for the enforcement and admissibility in evidence thereof against Guarantor in the courts of [COUNTRY OF INCORPORATION OF THE GUARANTOR], and, except for registration and court fees, no other stamp or similar tax will have to be paid.

7. The choice of the laws of the State of New York, USA as the governing law of the Guarantee is a valid choice of law under the laws of [PLACE OF INCORPORATION OF THE GUARANTOR].

8. The execution, delivery and performance by Guarantor of the Guarantee constitute private and commercial acts rather than governmental or public acts, and neither Guarantor nor any of its assets has any right of immunity from suit, jurisdiction, attachment prior to judgment, attachment in aid of execution of a judgment, set-off, execution of a judgment or from any other legal process.

9. Not applicable.

10. The submission of disputes pursuant to the Guarantee to arbitration in the State of New York, USA, as the seat of arbitration, for resolution is valid and binding upon the Guarantor. A final and conclusive arbitral award issued by such arbitral tribunal, in any disputes arising out of or in connection with the Guarantee would be recognized and enforced in the Country of Guarantor.

**Name:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Lawyer [or Law Firm, as the case may be] licensed to practice law in the GUARANTOR’s jurisdiction.

1. Insert name of ultimate parent company of the Seller. Alternative form to be used in the case of multiple ultimate parent company Guarantors, each of which will be jointly and severally liable for the obligations and liabilities of the Seller [↑](#footnote-ref-2)
2. Insert name of the Seller controlled by the Guarantor. [↑](#footnote-ref-3)
3. If the Seller is an IJV, insert name of each ultimate parent company of each shareholder of the IJV. [↑](#footnote-ref-4)
4. Insert name of the IJV Seller. [↑](#footnote-ref-5)