

04 – Norwegian Oil and Gas Recommended model agreements for use of

Pipeline to Pipeline, Tie-in, Crossing, Proximity, Confidentiality



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TABLE OF CONTENTS

1.	Introduction	3
2.	Pipeline to Pipeline tie-in Agreement (PTPA)	5
2.1	Scope	5
2.2	Structure	5
2.3	Content	5
3.	Pipeline Crossing Agreement (PCA)	6
3.1	Scope	6
3.2	Structure	6
3.3	Content	6
4.	Proximity Agreement (PA)	7
4.1	Scope	7
4.2	Structure	7
4.3	Content	8
5.	Confidentiality agreement (CA)	8
5.1	Scope	8
5.2	Content	9

Attachments:

Norwegian Oil and Gas Standard Pipeline to Pipeline Tie-in Agreement
Norwegian Oil and Gas Standard Proximity Agreement
Norwegian Oil and Gas Standard Crossing Agreement
Norwegian Oil and Gas Standard Confidentiality Agreement

INTRODUCTION

Over the years several attempts have been made to develop standard agreements for use within the oil and gas industry in order to achieve a more cost efficient administration.

Today, there exist Norwegian Oil and Gas Model for use of standard Confidentiality Agreement in data room and Sale and Purchase Agreement for exploration licenses.

There has also been developed within the industry a “standard” crossing agreement and a pipeline tie-in agreement approved by the major oil companies and used by Gassco in connection with Gassled operations (the “Gassled Agreements”).

In connection with a proposed revision of the “Gassled Agreements” it was suggested to have these agreements approved as Norwegian Oil and Gas Recommended Guidelines. It was also proposed to include a standard proximity agreement and a general standard confidentiality agreement.

Following a decision in the Norwegian Oil and Gas Legal committee on 26 November 2009, a working group was established with the mandate to propose standardized terms and conditions for;

- Pipeline to Pipeline-Tie In Agreement
- Crossing Agreement
- Proximity Agreement
- Confidentiality Agreement

The working group has consisted of the following participants:

- Signe Thomassen, Gassco
- Charlotte Saunders, BP
- Eirik Tveit, Total
- Joakim Bakke-Nilsen, Statoil
- Audun Våge, ExxonMobil
- Morten Berg, Eni
- Elin Rødder Gundersen, ConocoPhillips
- Oluf Bjørndal, Norwegian Oil and Gas

The focus of the working group has been to update the present Gassled Agreements based on recent industry developments and developments in law and regulations. A comparison with similar agreements developed by the United Kingdom Offshore Oil and Gas Industry Association

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Limited (“UKOOA”) has also been performed. A report prepared by the working group was presented to the Norwegian Oil and Gas Legal committee on 29 January. Following the meeting the agreements have been circulated to the members of the Norwegian Oil and Gas legal committee for comments after which the Norwegian Oil and Gas recommended guidelines were drawn up.

Later on, the recommended guidelines have been transformed to recommended model agreements.

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These Norwegian Oil and Gas model agreements have been prepared with the broad-based participation of interested parties in the Norwegian petroleum industry, and they are owned by the Norwegian petroleum industry, represented by Norwegian Oil and Gas. Norwegian Oil and Gas is responsible for administration of these agreements.

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In the following the various agreements are described one by one.

2. PIPELINE TO PIPELINE TIE-IN AGREEMENT (PTPA)

2.1 Scope

It should be noted that the PTPA is intended to be used when a pipeline from an offshore field is connecting with an existing transportation system or pipeline. The scope of the agreement is limited to the actual tie-in operation and continued operation of installed equipment. Further use of the Host Facilities, such as transportation through the connected transportation system will be subject to a separate agreement. In case of a tie-in to the Gassled transportation system, this means the standard “Terms & Conditions for Transportation of Gas in Gassled”.

The PTPA may also be used outside the Norwegian Continental Shelf. This will require some modifications to the agreement, e.g the description of the parties.

2.2 Structure

The PTPA is divided into two parts; (i) special terms and conditions and (ii) general terms and conditions. The aim is to avoid as far as possible any (re)negotiation of the general terms. If a specific operation necessitates deviations from the general terms this will be included as part of the special terms.

The scope of work is described in a separate appendix.

It is pre supposed that the agreement will be concluded by the respective operators acting on behalf of the respective ownership groups.

2.3 Content

In connection with the Tie-in Work some new equipment (the Tie-in Equipment) will normally be installed at the tie-in point. The ownership of such equipment will be transferred to the Host Party after commissioning (the Transferred Equipment), but the Tie-in Party will have a continued obligation to pay operating and maintenance cost related to the Transferred Equipment. This implies that the agreement will not be terminated until the end of operation of either pipeline.

The liability regime under agreement is a standard knock-for-knock liability with the exception of incidents related to the Tie-in Work where the Tie-in Party has a strict liability up to 100 MUSD per Occurrence, provided the claim is not a result of gross negligence or willful misconduct by the managerial or supervisory personnel of the Host Party. Same applies for third party claims. The period of strict liability is limited to a 24 month period

following the completion of the RFO. Claims may be presented also outside the 24 month period provided they relate to the Tie-in Work and have occurred within the mentioned period.

Some of the standard terms, such as confidentiality, liability, insurance, force majeure, assignment and applicable law and arbitration have been given the same format as in the Crossing and Proximity Agreement.

3 PIPELINE CROSSING AGREEMENT (PCA)

3.1 Scope

The PCA is intended to be used when a pipeline is physically crossing another pipeline. If the pipelines lie within close proximity of each other without actually crossing each other at any point the standard Proximity Agreement should be used.

Whilst the PCA refers to pipelines, it can be used equally for other circumstances such as when a hose or cable is crossing a pipeline. This will require the definitions to be amended as appropriate.

The PCA is primarily drafted for offshore crossings however, it can be amended to apply to crossings taking place at an onshore location.

The PCA is intended to be used also outside the Norwegian Continental Shelf. This will require some modifications to the agreement, e.g the description of the parties.

3.2 Structure

The PCA is divided into two parts; (i) special terms and conditions and (ii) general terms and conditions. The aim is to avoid as far as possible any (re)negotiation of the general terms. If a specific operation necessitates deviations from the general terms this will be included as part of the special terms.

The Laying Operation is described in a separate appendix.

It is pre supposed that the agreement will be concluded by the respective operators acting on behalf of the respective ownership groups.

3.3 Content

The Crossing Points are described under the definitions of part one of the PCA with preliminary coordinates. Final coordinates will be determined in connection with development of detailed procedures as referred to in the general terms. The Laying Area is defined as the area within a radius of two nautical miles from the Crossing Points. The Laying Area is describing the geographical scope of the agreement.

The functional scope of the PCA is related to the Laying Operation and any subsequent Additional Work performed by either Party on their respective pipelines. Such Additional Work is however limited to work not anticipating physical contact with the other Party's pipeline, typically inspection work. In case more extensive operations (including decommissioning and removal) are

to be performed, this will require a new agreement. As the agreement also have Additional Work as part of the scope, the agreement will not be terminated until the end of operation of either pipeline.

The liability regime under agreement is a standard knock-for-knock liability with the exception of incidents related to the Laying Operation where the Crossing Party has a strict liability up to 100 MUSD per Occurrence, provided the claim is not a result of gross negligence or willful misconduct by the managerial or supervisory personnel of the Affected Party. Same applies for third party claims. The period of strict liability is limited to a 24 month period following the approval of the Post Laying Documentation. Claims may be presented also outside the 24 month period provided they relate to the Laying Operation and have occurred within the mentioned period.

Some of the standard terms, such as confidentiality, liability, insurance, force majeure, assignment and applicable law and arbitration have been given the same format as in the Pipeline to Pipeline Tie-in Agreement and Proximity Agreement.

4 PROXIMITY AGREEMENT (PA)

4.1 Scope

The PA is intended to be used when a pipeline is laid within close proximity to a pre-existing pipeline without actually crossing it at any point. When a pipeline is physically crossing another pipeline the Pipeline Crossing Agreement should be used.

Whilst the PA refers to pipelines, it can be used equally for other scenarios such as when a hose or cable is laid in close proximity to a pre-existing pipeline without actually crossing it at any point. PA may also be used for other operations performed in the vicinity of an existing pipeline. This will require the definitions to be amended as appropriate.

The PA is primarily drafted for offshore operations however, it can be amended to apply to operations taking place at an onshore location.

The PA is intended to be used also outside the Norwegian Continental Shelf. This will require some modifications to the agreement, e.g the description of the parties.

4.2 Structure

The PA is divided into two parts; (i) special terms and conditions and (ii) general terms and conditions. The aim is to avoid as far as possible any (re)negotiation of the general terms. If a specific operation necessitates deviations from the general terms this will be included as part of the special terms.

The Proximity Operation is described in a separate appendix.

It is pre supposed that the agreement will be concluded by the respective operators acting on behalf of the respective ownership groups.

4.3 Content

The Proximity Points are described under the definitions of part one of the PA with preliminary coordinates. Final coordinates will be determined in connection with development of detailed procedures as referred to in the general terms. The Proximity Area is defined as the area within a radius of two nautical miles from the Proximity Points. The Proximity Area is describing the geographical scope of the agreement.

The functional scope of the PA is related to the Proximity Operation and any subsequent Additional Work performed by either Party on their respective pipeline/facility. Such Additional Work is however limited to work not anticipating physical contact with the other Party's pipeline, typically inspection work. In case more extensive operations (including decommissioning and removal) are to be performed, this will require a new agreement. As the agreement also have Additional Work as part of the scope, the agreement will normally not be terminated until the end of operation of the respective pipeline or facility. However, if the agreement is used for an operation not involving installation of a new facility, the agreement may be terminated after the expiry of the 24 month period following the approval of the Post Operation Documentation.

The liability regime under agreement is a standard knock-for-knock liability with the exception of incidents related to the Proximity Operation where the Executing Party has a strict liability up to 100 MUSD per Occurrence, provided the claim is not a result of gross negligence or willful misconduct by the managerial or supervisory personnel of the Affected Party. Same applies for third party claims. The period of strict liability is limited to a 24 month period following the approval of the Post Operation Documentation. Claims may be presented also outside the 24 month period provided they relate to the Proximity Operation and have occurred within the mentioned period.

Some of the standard terms, such as confidentiality, liability, insurance, force majeure, assignment and applicable law and arbitration have been given the same format as in the Pipeline to Pipeline Tie-in Agreement and Crossing Agreement.

5 CONFIDENTIALITY AGREEMENT (CA)

5.1 Scope

The existing Norwegian Oil and Gas Recommended Guidelines for use of standard Confidentiality Agreement is limited for use in data room. The new CA is intended for general use within the industry where information is exchanged between different Parties. CA may also be used in case Confidential Information is only provided by one Party. This will require some modifications to the agreement.

The purpose of the data exchange will be described in the preamble to the CA and the use of the data is restricted to such purpose.

5.2 Content

The description of Confidential Information is made very general and will in principle include all information disclosed by one of the Parties under the agreement.

In handling of the received information the Receiving Party undertake to have control mechanisms as least as stringent as the Receiving Party would employ for handling own information

The Received Information may be disclosed to own employees, contractors, governmental authorities and in connection with a bona fide assignment subject to certain conditions as described in the agreement.

The agreement specifically exempt certain information from the confidentiality obligation, e.g in case the information already is or subsequently comes into the public domain.

The agreement prescribes that the Recipient is obliged to return Confidential Information upon the Disclosing Party's request. The obligation is not made absolute as there may be technical hindrances to a complete return of Confidential Information.

Whether the agreement itself is to be considered as Confidential Information is optional. In some cases this will be considered as an unnecessary and / or too restrictive obligation.

For the term of the agreement there are suggested two alternatives; according to alternative (i) the agreement may be terminated after a limited period of time, in such case five years is seen as a reasonable period. In alternative (ii) the term is set two the expiry of the respective license period. This will typically apply in case the Confidential Information is to be described as data related to a specific license and as such governed by confidentiality obligations under such license.

The material terms of the CA are included under the confidentiality provisions of the Pipeline to Pipeline Tie-in Agreement, the Crossing Agreement and the Proximity Agreement.