

Dated December 4, 2015

GAS AVAILABILITY AGREEMENT

By and Among

**Department of Natural Resources of the State of Alaska
ConocoPhillips Alaska, Inc.
BP Exploration (Alaska) Inc.**

This Gas Availability Agreement (the “Agreement”) is made effective on December 4, 2015, by and among:

- (1) **The Department of Natural Resources of the State of Alaska (“DNR”)**;
- (2) **ConocoPhillips Alaska, Inc.**, a corporation incorporated under the laws of the state of Delaware and qualified to do business in Alaska (“**ConocoPhillips**”); and
- (3) **BP Exploration (Alaska) Inc.**, a corporation incorporated under the laws of the state of Delaware (“**BP**”),

(each a “**Party**” and together the “**Parties**”).

Recitals:

- (A) The Parties and their Affiliates intend to work together to progress the AKLNG Project.
- (B) The Parties and their Affiliates intend to enter into further agreements governing the development of the AKLNG Project and the relationships between the Parties.
- (C) The Parties now wish to enter into this Agreement to provide for a process whereby, if a Party’s AKLNG Project Affiliate (other than the DNR AKLNG Project Affiliate) becomes a Non-continuing Party (as defined below) at any time during the term of this Agreement, the remaining Parties’ AKLNG Project Affiliates may continue to progress the AKLNG Project and such Non-continuing Party will make its gas available to the State or its designee if mutually agreed commercially reasonable terms can be reached between the relevant Party and DNR.

Now, in consideration of the foregoing, it is hereby agreed as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement, including the recitals hereto and except to the extent that the context expressly requires otherwise, capitalized terms used herein shall have the following meaning:

“**Affiliate**” means in relation to a Party, any company, corporation, partnership or other legal entity (in this definition, each such entity and each Party are sometimes referred to as a “**Company**”), which is:

- (a) directly or indirectly, owned or controlled by such Party;
- (b) directly or indirectly owns or controls such Party; or
- (c) directly or indirectly, owned or controlled by a Company that also, directly or indirectly, controls such Party.

For the purpose of this definition, a Company is directly owned or controlled by another Company that owns or controls shares or other interests carrying in the aggregate greater than 50 percent of the voting rights exercisable at a general, shareholders, or members meeting of the first-mentioned Company, or the right to appoint or dismiss a majority of the directors thereof, or the power to direct or cause the direction of the management or policies through the ownership of securities, by contract or otherwise. A Company is indirectly owned or controlled by a Company or Companies (the “**parent Company or Companies**”) if a series of Companies can be specified, beginning with the parent Company or Companies and ending with the particular Company, so related that each Company of the series, except the parent Company or Companies, is directly controlled by one or more of the Companies in the series. The Affiliates of DNR are those State entities, including AGDC, that otherwise meet the requirements of the definition above, when acting only in the State's proprietary capacity (and not in a governmental capacity) including other independent corporations.

“**AGDC**” means Alaska Gasline Development Corporation, a public corporation and government instrumentality of the state of Alaska including its Affiliate, TransCanada Alaska Midstream LP.

“**AKLNG Project**” means the LNG project to monetize North Slope gas resources as described in the Federal Energy Regulatory Commission Docket PF14-21-000.

“**AKLNG Project Affiliate**” means as to ConocoPhillips, ConocoPhillips Alaska LNG Company and as to BP, BP Alaska LNG LLC and as to DNR, AGDC in its capacity as a participant in the AKLNG Project.

“**Non-continuing Party**” has the meaning ascribed to it in Clause 3.

“**PBU**” means the Prudhoe Bay Unit.

“**PTU**” means the Point Thomson Unit.

1.2 Interpretation

In this Agreement, except to the extent that the context requires otherwise:

- (a) references to the laws of the State of Alaska include the applicable laws of any political sub-division of the State of Alaska;
- (b) recitals are not operative terms and impose no obligations and give rise to no rights;
- (c) references to an agreement or other document (including this Agreement), or to a provision contained in any of these, shall be construed, at the particular time, as a

reference to it as it may then have been amended, varied, supplemented, modified, suspended, assigned or novated; and

(d) references to Parties include their successors and permitted assigns.

2. **Intentions**

As of the effective date of this Agreement, each Party agrees that it or its AKLNG Project Affiliate is currently targeting a FEED sanction decision for the AKLNG Project no later than July 1, 2017.

3. **Bilateral Negotiations**

During the term of this Agreement, provided that the DNR AKLNG Project Affiliate is continuing and has not indicated it is discontinuing its participation in the AKLNG Project then to address the possibility that the ConocoPhillips AKLNG Project Affiliate or the BP AKLNG Project Affiliate indicates it does not intend to continue with the AKLNG Project (either such ConocoPhillips or BP AKLNG Project Affiliate a “Non-continuing Party”):

- (a) ConocoPhillips and DNR will continue to use reasonable efforts and negotiate in good faith for the purpose of ConocoPhillips entering into a bilateral agreement with the State or its designee on mutually agreed commercially reasonable terms, with such commercial reasonableness to be determined by each Party at the sole discretion of such Party, regarding the availability of natural gas from oil and gas leases in the PBU and the PTU from which the ConocoPhillips anticipates natural gas would be provided for the AKLNG Project in the event, if ever, that the ConocoPhillips AKLNG Project Affiliate becomes a Non-continuing Party; and
- (b) BP and DNR will continue to use reasonable efforts and negotiate in good faith for the purpose of BP entering into a bilateral agreement with the State or its designee on mutually agreed commercially reasonable terms, with such commercial reasonableness to be determined by each Party at the sole discretion of such Party, regarding the availability of natural gas from oil and gas leases in the PBU and the PTU from which the BP anticipates natural gas would be provided for the AKLNG Project in the event, if ever, that the BP AKLNG Project Affiliate becomes a Non-continuing Party.

4. **Term**

This Agreement is effective upon execution by all Parties and shall continue in effect until the earliest to occur of:

- (a) the written agreement of all Parties to terminate this Agreement;

- (b) for each Party other than DNR, upon full execution of its bilateral agreement, as referred to in Clause 3;
- (c) the DNR AKLNG Project Affiliate gives a final indication it does not intend to continue with the AKLNG Project;
- (d) the date falling ninety (90) days after any Party notifies the other Parties in writing that it has become aware of the expiry or termination of the Alaska LNG Project Pre-FEED Joint Venture Agreement, if such expiry or termination occurs; or
- (e) December 1, 2017.

5. **Assignment**

The Parties may not assign or transfer all or any part of their rights, benefits or obligations under this Agreement without the written consent of all of the other Parties.

6. **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the state of Alaska.

7. **No Liability or Damages**

- (a) Nothing in this Agreement requires any Party to reach or execute any legally binding or enforceable agreement or to refrain from engaging in any business whatsoever, nor does any Party have any liability in connection with the subject matter of this Agreement.
- (b) No Party is liable to any other Party or its Affiliates, officers, employees or agents, for any direct, indirect, special, incidental, consequential or punitive damages or otherwise liable for any loss of actual or potential profits, loss of production or business interruption arising out of or in any way connected with this Agreement, including any breach of the terms of this Agreement.

8. **Miscellaneous Provisions**

8.1 **No Agency**

- (a) This Agreement does not constitute any Party as the agent, partner or legal representative of another Party for any purposes whatsoever, and no Party shall have any express or implied right or authority to assume or to create any obligation or responsibility on behalf of or in the name of any other Party.
- (b) No Party is an agent for nor is obligated to enter into or cause the execution of agreements on behalf of any Affiliate or other entity.
- (c) The obligations of the Parties under this Agreement are several and not joint.

8.2 Other Agreements

This Agreement shall not be interpreted as:

- (a) altering or amending any upstream oil and gas agreement, including any lease or unit agreement, or
- (b) satisfying any duty or obligation thereunder.

8.3 Conduct of the Parties

Each Party warrants that it and its Affiliates have not made, offered, or authorized and will not make, offer, or authorize with respect to the matters which are the subject of this Agreement, any payment, gift, promise or other advantage, whether directly or through any other person or entity, to or for the use or benefit of any public official (i.e., any person holding a legislative, administrative or judicial office, including any person employed by or acting on behalf of a public agency, a public enterprise or a public international organization) or any political party or political party official or candidate for office, where such payment, gift, promise or advantage would violate (1) the applicable laws of the United States or the State of Alaska; (2) the laws of the country of incorporation of such Party or such Party's ultimate parent company and of the principal place of business of such ultimate parent company; or (3) the principles described in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on December 17, 1997, which entered into force on February 15, 1999, and the Convention's Commentaries. Each Party shall defend, indemnify and hold the other Parties harmless from and against any and all claims, damages, losses, penalties, costs and expenses arising from or related to, any breach by such first Party of such warranty. Such indemnity obligation shall survive termination or expiration of this Agreement. Each Party shall in good time (1) respond in reasonable detail to any notice from any other Party reasonably connected with the above-stated warranty; and (2) furnish applicable documentary support for such response upon request from such other Party.

8.4 Successors and Assigns

Subject to the limitations on transfer contained in Clause 5, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

8.5 Waiver

No waiver by a Party of any one or more breaches of this Agreement by any other Party shall operate or be construed as a waiver of any future default or defaults by the same Party. No Party shall be deemed to have waived, released, or modified any of its rights under this Agreement unless such Party has expressly stated, in writing, that it does waive, release or modify such rights.

8.6 No Third Party Beneficiaries

This Agreement is made for the sole benefit of the Parties, and their respective successors and assigns as permitted under this Agreement. The Parties do not intend and this Agreement shall not be construed to create, by implication or otherwise, any rights in any other person or entity not a Party to this Agreement, and no person or entity shall have any rights or remedies under or by reason of this Agreement or any right to the exercise of any right or power hereunder or arising from any default hereunder.

8.7 Assistance of Counsel

Each provision of this Agreement shall be construed as though all Parties participated equally in the drafting of the provision. The Parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

8.8 Severance of Invalid Provisions

If and for so long as any provision of this Agreement shall be deemed to be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other provision of this Agreement except only so far as shall be necessary to give effect to the construction of such invalidity, and any such invalid provision shall be deemed severed from this Agreement without affecting the validity of the balance of this Agreement.

8.9 Modifications

This Agreement may not be modified except by written consent of the Parties.

8.10 No Precedent

Nothing in this Agreement is intended to establish a precedent between the Parties with respect to any subsequent agreements.

8.11 **Counterparts**

This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Agreement.

IN WITNESS WHEREOF this Agreement has been duly executed on behalf of each of the Parties on the dates shown below, effective as of the day and year first written above.

State of Alaska Department of Natural Resources

By: 

Printed Name: MARK MYERS

Title: Commissioner, Department of Natural Resources

Date: December 4, 2015

ConocoPhillips Alaska, Inc.

By: 

Printed Name: Leo W Ehrhard

Title: Vice President

Date: December 4, 2015

BP Exploration (Alaska) Inc.

By: 

Printed Name: JANET L. WEISS

Title: PRESIDENT

Date: DECEMBER 4, 2015