



Standard Terms of 31 August 2018 for
Escrow and Pledge Agreements regarding
Licences Granted under the Mineral Resources Act

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Standard Terms of 31 August 2018 for Escrow and Pledge Agreements regarding Licences Granted under the Mineral Resources Act

1. Definitions, interpretation and application of these Standard Terms

1.1. In these Standard Terms, the following words and terms shall have the meanings stated below, unless otherwise apparent from or required by the context:

1. "**Deposited Amount**" means any amount deposited or paid into the Escrow Account for any purpose or reason by, for or on behalf of the Licensee.
2. "**Escrow Amount**" means the full (total) amount in the Escrow Account at any time. It includes all Deposited Amounts, all Interest Amounts and all Transferred Amounts. It is the aggregate (total) sum of all Deposited Amounts, all Interest Amounts and all Transferred Amounts with deduction of all Released Amounts.
3. "**Escrow and Pledge Agreement**" means any escrow and pledge agreement in which it is stated that it is based on, subject to and/or governed by these Standard Terms. Escrow and Pledge Agreement includes any such escrow and pledge agreement which is made to provide financial security for fulfilment of any obligation or liability of a licensee or a former licensee under or in relation to any licence or former licence granted under the Mineral Resources Act, any agreement in relation to any such licence or former licence made between the Greenland Government and a licensee or a former licensee under the licence or any decision of the Greenland Government in relation to any such licence or former licence. Escrow and Pledge Agreement includes any terms, including any amending and supplementing terms, in any addendum to the Escrow and Pledge Agreement, unless otherwise apparent from or required by the context.
4. "**Financial Security Obligations**" means any and all obligations and liabilities, including any closure obligation and any other related obligation, any environmental monitoring programme, any obligation relating to environmental liability and/or liability for environmental damage and any other related obligation, under the Mineral Resources Act, including sections 42-44, 63-72, 86 and 92, any other Greenland law and Danish law applicable in Greenland, the Licence, any applicable prospecting plan, exploration plan, exploitation plan, closure plan or other plan for activities under the Licence, any approval by the Greenland Government of any such plan, any approval by the Greenland Government of the Licensee's surrender of the Licence or part of the area comprised by the Licence or any agreement thereon between the Licensee and the Greenland Government, and any provision and term set and any decision made by the Greenland Government under section 84 or any other provision of the Mineral Resources Act.
5. "**Greenland Government**" means the Government of Greenland (in Danish: *Naalakkersuisut*).
6. "**Interest Amount**" means any positive interest amount accrued on the Escrow Amount.

7. "**Mineral Resources Act**" means Greenland Parliament Act no. 7 of 7 December 2009 on mineral resources and mineral resource activities, with subsequent amendments.
 8. "**Parties**" means the Licensee, the Greenland Government and the Bank.
 9. "**Party**" means the Licensee, the Greenland Government or the Bank.
 10. "**Released Amount**" means any amount released from the Escrow Account in accordance with a written instruction of release from the Greenland Government, made in accordance with the form letter attached as Schedule 3 to these Standard Terms and with the terms on release in these Standard Terms and any additional terms on release in the Escrow and Pledge Agreement.
 11. "**Standard Terms**" means these Standard Terms of 31 August 2018 for Escrow and Pledge Agreements regarding Licences Granted under the Mineral Resources Act.
 12. "**Transferred Amount**" means any amount transferred to the Escrow Account for any purpose or reason whatsoever by any party or person at any time other than any Deposited Amount and any Interest Amount.
- 1.2. In these Standard Terms, the words and terms defined in the Escrow and Pledge Agreement shall have the meanings thereby attributed to them.
 - 1.3. In these Standard Terms, the Escrow and Pledge Agreement and any addendum to the Escrow and Pledge Agreement, any reference to the singular number shall include a reference to the plural number and any reference to the plural number shall include a reference to the singular number, unless otherwise apparent from or required by the context. This also applies to defined word and terms.
 - 1.4. In these Standard Terms, the Escrow and Pledge Agreement and any addendum to the Escrow and Pledge Agreement, "including" means including without limitation or prejudice to the generality of any description, definition, term or expression preceding that word. In these Standard Terms, "including" also means including but not limited to. The word "include" and its derivatives shall be interpreted accordingly.
 - 1.5. These Standard Terms shall apply to and govern any escrow and pledge agreement and any addendum to any escrow and pledge agreement in which it is stated that the agreement is based on, subject to and/or governed by these Standard Terms.
- 2. Escrow Account and deposit of Deposited Amount**
- 2.1. Subject to the terms of the Licence, any applicable prospecting plan, exploration plan, exploitation plan, closure plan or other plan for activities under the Licence and any approval by the Greenland Government of such plans, the Deposited Amount shall be deposited in a segregated interest bearing escrow account denominated in Danish kroner ("DKK") by the Licensee. The Licensee shall be the account holder and pledgor and the Greenland Government shall be the beneficiary and pledgee of the escrow account and any amount in it.

2.2. The Bank confirms that it has established and maintains the Escrow Account, as stated and defined in the Escrow and Pledge Agreement, as a segregated interest bearing bank account denominated in DKK with the registration number and account number stated in the Escrow and Pledge Agreement and with the Licensee as account holder and pledgor and the Greenland Government as beneficiary and pledgee. The Bank also confirms that the Bank has registered this in its account system.

3. Escrow Amount, Deposited Amount, Interest Amount and Transferred Amount

3.1. Subject to clause 3.2, any Escrow Amount, including any Deposited Amount, any Interest Amount and any Transferred Amount, in the Escrow Account at any time shall be and remain part of the monies in the Escrow Account provided as security as set out in clauses 4 and 5 and shall be released by the Bank only as set out in clause 8.

3.2. The Bank may charge-back monies which incorrectly have been transferred to the Escrow Account instead of another account at the Bank due to an error of posting (in Danish: "*fejlkontering*").

4. Security for fulfilment of obligations under Mineral Resources Act and Licence etc.

4.1. The Licensee hereby irrevocably undertakes to provide and maintain, without any time limit and unconditionally without any reservation, the Escrow Account with the Escrow Amount in the Escrow Account at any time as security, in favour of the Greenland Government, for the Licensee's fulfilment of the Financial Security Obligations.

4.2. The Licensee hereby irrevocably undertakes, without any time limit and unconditionally without any reservation, not to provide or use in any other manner the Escrow Account or the Escrow Amount in the Escrow Account at any time as security in favour of any other party than the Greenland Government or as security in any other manner than as set in clause 4.1.

4.3. The Bank hereby undertakes to respect and act in accordance with the undertakings of the Licensee under clauses 4.1 and 4.2.

5. Pledge and notification

5.1. The Licensee hereby irrevocably pledges (in Danish: "*pantsætter*"), as a first priority pledge, in favour of the Greenland Government, the Escrow Amount in the Escrow Account at any time as security for the Licensee's fulfilment of the Financial Security Obligations.

5.2. The Licensee hereby undertakes to give notice (in Danish: "*foretage underretning*" or "*foretage denuntiation*") to the Bank of the pledge stated in clause 5.1. The Licensee undertakes to give such notice by a statement in the Escrow and Pledge Agreement. The Licensee undertakes also to give such notice in accordance with the form letter attached as Schedule 1 to these Standard Terms and to do so no later than the first banking day after the day when the Escrow and Pledge Agreement was made.

5.3. The Bank hereby undertakes to confirm to the Greenland Government the Bank's receipt of the notification stated in clause 5.2. The Bank undertakes to make such confirmation by a statement in the Escrow and Pledge Agreement. The Bank undertakes also to make such confirmation in accordance with the form letter attached as Schedule 2 to these Standard Terms and to do so no later than the first banking day after the day when the Bank received the notification stated in clause 5.2, third sentence. The Bank further undertakes to register in its account system a statement of the pledge stated in clause 5.1.

6. Undertakings of the Licensee

6.1. The Licensee undertakes all the following:

1. Not to create or accept or attempt to create or accept any further pledge of or security interest in the Escrow Account or the Escrow Amount in the Escrow Account at any time.
2. To pay any fee, negative interest (if the interest rate on the Escrow Account is negative (below nil)), charge, cost or expense in relation to the Escrow Account, including its establishment, maintenance and/or operation, as and when it falls due with other monies of the Licensee than any monies in the Escrow Account.
3. To negotiate and conclude, in good faith, one or more times one or more agreements with the Bank on interest rates and other matters regarding the Escrow Account and in relation thereto to ensure such terms are in accordance with generally recognised and applied principles for transactions between independent parties (arm's lengths transactions) and are as good and favourable as possible for the Licensee as holder of the Escrow Account and the Greenland Government as beneficiary of the Escrow Account.

7. Undertakings of the Bank

7.1. The Bank undertakes to do all the following:

1. To comply and act in accordance with the terms of the Escrow and Pledge Agreement, including these Standard Terms.
2. To establish, maintain and operate the Escrow Account in accordance with the terms of the Escrow and Pledge Agreement, including these Standard Terms.
3. To ensure that the rights of the Greenland Government as beneficiary and pledgee under these Standard Terms at any time are recorded electronically and in any other relevant manner on the Escrow Account.
4. To notify the Greenland Government no later than the first banking day after the day when any Deposited Amount or any other amount which increased the Escrow Amount has been paid into to the Escrow Account. To confirm in the notification the receipt in the Escrow Account of the Deposited Amount or the other amount which increased the Escrow Amount and the increased aggregate (total) Escrow Amount. To send with the notification an updated statement of account

for the Escrow Account. To confirm in the notification that other than the security and pledge established by the Licensee in favour of and to the benefit of the Greenland Government no other pledge or other security has been or is said to have been created, accepted or notified in respect of the Escrow Amount or any part of it in the Escrow Account, if that is the case. If such other pledge or other security has been or is said to have been created, accepted or notified in respect of the Escrow Amount or any part of it in the Escrow Account, to inform the Greenland Government thereof. To give such notice in accordance with the form letter attached as Schedule 2 to these Standard Terms.

5. To notify the Greenland Government if another pledge or other security in respect of the Escrow Amount or any part of it in the Escrow Account has been or is said to have been created, accepted or notified to the Bank.
6. To notify the Greenland Government, within three banking days, if a proposal is presented to the shareholders of the Bank with the actual or potential effect that the Bank would cease to be a limited liability company registered in Greenland or Denmark (as applicable) and subject to the law on limited liability companies in Greenland or Denmark (as applicable).
7. To notify the Greenland Government, within three banking days, if a proposal is presented to the shareholders of the Bank with the actual or potential effect that the Bank would cease to hold a banking licence and operate as a bank in Greenland or Denmark (as applicable).
8. To notify the Greenland Government, within three banking days, if the Financial Supervisory Authority withdraws or threatens to withdraw the Bank's banking licence, subject to any confidentiality obligations pursuant to the applicable Securities Trading Act (in Danish: "*værdipapirhandelsloven*").
9. To notify the Greenland Government, within three banking days, if the long-term debt rating of the Bank is downgraded by Standard & Poor's and/or Moody's Investors Services Limited. This undertaking only applies if the Bank's long-term debt was rated by Standard & Poor's and/or Moody's Investors Services Limited when the Escrow and Pledge Agreement was made.
10. To notify the Greenland Government, within three banking days, if the Bank is no longer designated as a Systemic Important Financial Institution (SIFI). This undertaking only applies if the Bank was designated as a Systemic Important Financial Institution (SIFI) when the Escrow and Pledge Agreement was made.
11. To notify the Greenland Government, within three banking days, if the total capital ratio (in Danish: "*den samlede kapitalprocent*"), as provided in Article 92 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 or any supplement or amendment thereto or any replacement thereof, (which in an annual report of the bank also may be called in Danish: "*kapitalprocenten*") of the bank no longer is equal to or exceeds 15% (fifteen per cent) calculated in accordance with Article 92 of Regulation (EU) No 575/2013, as stated above, and the law on financial business in Denmark or Greenland, including (if applicable) the Danish Act on financial business and any other applicable Danish or Greenland Act or EU Regulation or Directive on financial business and any amendment thereto or

replacement thereof. This undertaking only applies if the total capital ratio of the bank was equal to or exceeded 15% when the Escrow and Pledge Agreement was made.

12. To notify the Greenland Government as soon as reasonably possible of any failure by the Bank to comply with any of its undertakings under this clause 7 or of any other relevant matter in relation to the Escrow Account.
13. To send to the Greenland Government statements in respect of the Escrow Account at the request of the Greenland Government.
14. Not to make or effect any set-off or deduction of any counterclaim, withholding, adverse claim or any other amount, including any fee, negative interest or other expense pertaining to the Escrow Account, against the Escrow Amount or any part of it in the Escrow Account.

8. Release

- 8.1. The Bank shall, irrevocably, without any time limit and unconditionally without any reservation, on first demand release any amount of monies from the Escrow Account if, and only if, the Bank receives a written instruction of release from the Greenland Government, made in accordance with the form letter attached as Schedule 3 to these Standard Terms and duly executed in accordance with clause 11.1, and the instruction of release instructs the Bank to release a specific amount from the Escrow Account and specifies the recipient and the bank account, including the registration number and the account number, to which the said specific amount is to be transferred by the Bank. When the Bank has received any such written instruction of release from the Greenland Government, the Bank shall immediately release the said specific amount and transfer it to the specified recipient and bank account.
- 8.2. The Bank may not release any amount of monies from the Escrow Account on any other conditions, in any other event or manner or under any other circumstances than as stated in clause 8.1.

9. Term (duration) and termination

- 9.1. The Escrow Account shall have no definite term and shall remain in force and be operated and maintained by the Bank in accordance with the Escrow and Pledge Agreement and these Standard Terms until the Escrow and Pledge Agreement is terminated pursuant to clause 9.2.
- 9.2. The Escrow and Pledge Agreement shall terminate only when both of the following two cumulative conditions are met:
 1. The full Escrow Amount in the Escrow Account have been released and transferred to one or more bank accounts in accordance with clause 8.1 of these Standard Terms.
 2. The Greenland Government and the Licensee have both, individually or jointly, given notice to the Bank of the meeting of the condition in number 1 above and of the termination of the Escrow and Pledge Agreement.

9.3. The Escrow and Pledge Agreement shall not terminate or expire in any other event or manner or under any other circumstances than as stated in clause 9.2. A Party shall not be entitled or otherwise have any right to terminate the Escrow and Pledge Agreement in any other event or manner or under any other circumstances than as stated in clause 9.2.

10. Obligations and duties of Bank

10.1. Subject to clause 13.1, the obligations and duties of the Bank under the Escrow and Pledge Agreement shall be determined solely by the express terms of the Escrow and Pledge Agreement and these Standard Terms.

11. Persons authorised to act in relation to Escrow and Pledge Agreement

11.1. The Greenland Government shall deliver to the Bank and the Licensee one or more documents stating the person or persons who are duly authorised to act for and on behalf of and to bind the Greenland Government in all matters or certain specific matters relating to the Escrow and Pledge Agreement. Such documents may be amended by the Greenland Government from time to time.

11.2. The Licensee shall deliver to the Bank and the Greenland Government one or more documents stating the person or persons who are duly authorised to act for and on behalf of and to bind the Licensee in all matters or certain specific matters relating to the Escrow and Pledge Agreement. Such documents may be amended by the Licensee from time to time.

11.3. The Bank shall deliver to the Greenland Government and the Licensee one or more documents stating the person or persons who are duly authorised to act for and on behalf of and to bind the Bank in all matters or certain specific matters relating to the Escrow and Pledge Agreement. Such documents may be amended by the Bank from time to time.

12. Amendment and waiver

12.1. The Escrow and Pledge Agreement, any addendum to the Escrow and Pledge Agreement and these Standard Terms may be amended only by a written instrument signed by all the Parties.

12.2. Any right or entitlement of a Party under the Escrow and Pledge Agreement may be waived by that Party only by a written instrument signed by that Party.

13. Governing law and jurisdiction

13.1. The Escrow and Pledge Agreement, including these Standard Terms, is subject to and shall be governed by and construed in accordance with Greenland law and Danish law, as applicable in Greenland from time to time. Any dispute or claim arising out of or in connection with the Escrow and Pledge Agreement shall be subject to and decided in accordance with Greenland law and Danish law, as applicable in Greenland from time to time.

13.2. Any dispute or claim arising out of or in connection with the Escrow and Pledge Agreement shall be subject to the exclusive jurisdiction of the courts of Greenland and Denmark. Any such dispute or

claim shall be brought before and decided by the Greenland and Danish courts with jurisdiction in Nuuk, Greenland, which shall have exclusive jurisdiction in relation to any such dispute or claim unless other courts of Greenland and Denmark have exclusive jurisdiction under Greenland law and Danish law, as applicable in Greenland from time to time. A decision by any such court may be appealed according to the rules thereon.

14. Language and coming into force

- 14.1. The Escrow and Pledge Agreement and these Standard Terms have been drawn up in the English language. Any translation of the Escrow and Pledge Agreement or these Standard Terms shall have no validity.
- 14.2. The Escrow and Pledge Agreement shall come into force when it has been signed by the Licensee, the Bank and the Greenland Government.

Schedule 1

[*Letterhead of the Licensee*]

Place:

Date:

To: [*Name and address of the Bank*]

Re: Escrow and Pledge Agreement dated [*date*]

Reference is made to the Escrow and Pledge Agreement dated [*date*] (the "**Escrow and Pledge Agreement**"), a copy of which is enclosed with this letter. All words and terms defined in the Escrow and Pledge Agreement, including the Standard Terms, shall have the meanings thereby attributed to them.

This letter is a notification (in Danish: "*underretning*" or "*denuntiation*") to [*name of the Bank*] that the Escrow Amount in the Escrow Account at any time is pledged (in Danish: "*pantsat*"), as a first priority pledge, by us in favour of and to the benefit of the Greenland Government in accordance with the terms of the Standard Terms and the Escrow and Pledge Agreement.

This letter is also a notification that no other pledge or other security has been or is said to have been created, accepted or notified in respect of the Escrow Amount in the Escrow Account.

We kindly ask you to confirm to the Greenland Government the receipt of this notification. We also kindly ask you to confirm to the Greenland Government that no other pledge or other security has been or is said to have been created, accepted or notified in respect of the Escrow Amount in the Escrow Account.

The signatories stated below confirm they are authorised to sign this letter for and on behalf of the Licensee and thereby bind the Licensee under this letter and that their authority to do so is documented by the documents enclosed with this letter.

For and on behalf of the Licensee

[*Name of the Licensee*]

Name:

Position:

Address:

Nationality:

Civil reg. no.:

Passport no.:

Place of signing:

Date of signing:

Name:

Position:

Address:

Nationality:

Civil reg. no.:

Passport no.:

Place of signing:

Date of signing:

Schedule 2

[*Letterhead of the Bank*]

Place:

Date:

To: Government of Greenland
(in Danish: *Naalakkersuisut*)
Ministry of [*name of ministry*]
[*address of ministry*]
Post Office Box [*number*]
3900 Nuuk
Greenland

Re: Escrow and Pledge Agreement dated [*date*]

Reference is made to the Escrow and Pledge Agreement dated [*date*] (the "**Escrow and Pledge Agreement**"), a copy of which is enclosed with this letter. All words and terms defined in the Escrow and Pledge Agreement, including the Standard Terms, shall have the meanings thereby attributed to them.

This letter is a confirmation that we on [*date*] have received a notification (in Danish: "*underretning*" or "*denuntiation*") from [*name of the Licensee*] that the Escrow Amount in the Escrow Account at any time is pledged (in Danish: "*pantsat*"), as a first priority pledge, by [*name of the Licensee*] in favour of the Greenland Government in accordance with the terms of the Standard Terms and the Escrow and Pledge Agreement. Copies of the notification and the enclosed documents documenting the authority of the signatures are enclosed with this letter.

We also confirm that no other pledge or other security has been or is said to have been created, accepted or notified to us in respect of the Escrow Amount in the Escrow Account.

[This letter is also a confirmation that we have received in the Escrow Account [a Deposited Amount of DKK [*amount in numbers*] ([*amount in words*)].] / [[an additional Deposited Amount of DKK [*amount in numbers*] ([*amount in words*)], which increased the Escrow Amount to an aggregate (total) Escrow Amount of DKK [*amount in numbers*] ([*amount in words*)].]

A statement of account for the Escrow Account, including with information on any Escrow Amount, any Deposited Amount, any Interest Amount, any Transferred Amount and any Released Amount in the Escrow Account, is enclosed with this letter.

The signatories stated below confirm they are authorised to sign this letter for and on behalf of the Bank and thereby bind the Bank under this letter and that their authority to do so is documented by the documents enclosed with this letter.

For and on behalf of the Bank

[Name of the Bank]

Name:

Position:

Address:

Nationality:

Civil reg. no.:

Passport no.:

Place of signing:

Date of signing:

Name:

Position:

Address:

Nationality:

Civil reg. no.:

Passport no.:

Place of signing:

Date of signing:

Schedule 3

[*Letterhead of the Greenland Government*]

Place:

Date:

To: [*Name and address of the Bank*]

Re: Escrow and Pledge Agreement dated [*date*]

Reference is made to the Escrow and Pledge Agreement dated [*date*] (the "**Escrow and Pledge Agreement**"), a copy of which is enclosed with this letter. All words and terms defined in the Escrow and Pledge Agreement, including the Standard Terms, shall have the meanings thereby attributed to them.

With reference to clause 8 of the Standard Terms, the Greenland Government hereby instructs you to release an amount of DKK [*amount in numbers*] [*(amount in words)*] from the Escrow Account and transfer the said amount to the bank account in (*[name of bank]*) with reg. no. [...], and account no. [...], and with the Greenland Government or Naalakkersuisut as account holder.

For and on behalf of the Greenland Government:

Government of Greenland

(in Danish: *Naalakkersuisut*)

[*State title of minister or name of ministry*]:

Name:

Position: [*State the position if signatory is not a minister, and delete "Position:" if signatory is a minister*]

Place of signing:

Date of signing: