

## CONFIDENTIALITY AGREEMENT

THIS AGREEMENT, entered into this the \_\_\_ day of \_\_\_\_\_, 2021 (“**Effective Date**”), by and between **Sociedade Nacional de Combustíveis de Angola, Empresa Pública – Sonangol E.P.**, a company organized and existing under the laws of Republic of Angola, having its principal office at Rua Rainha Ginga, n.º 29-31, Luanda, Angola (“**Disclosing Party**”), and \_\_\_\_\_, a company organized and existing under the laws of \_\_\_\_\_, with registered office at \_\_\_\_\_, hereinafter also referred to as the (“**Receiving Party**”).

The Disclosing Party and the Receiving Party may be referred to herein individually as a “**Party**” or collectively as the “**Parties**”.

In consideration of the mutual benefits expected to be derived here from, the Parties hereby agree as follows:

1.

### PURPOSE

The Disclosing Party is willing, in accordance with the terms and conditions of this Agreement, to disclose to the Receiving Party certain and/or confidential information, for submit an investment proposal to plan, build and in partnership with SONANGOL, own and manage (Build, Own, Operate - BOO) an oil refinery and related infrastructure (hereinafter ‘Project’) in the city of Lobito, Benguela Province, Angola with processing capacity up to 200,000 bopd to be installed in one or more phases. To enable the Receiving Party to discuss business opportunities regarding the project, evaluating the project and to negotiate and potentially acquire (directly or via its Affiliated Companies) any rights and assets within the project (“**Potential Transaction**”). All the information received by the Receiving Party in connection with this Agreement is hereinafter referred to as the “**Confidential Information**”.

### 2. CONFIDENTIALITY OBLIGATION

2.1. The Receiving Party agrees that the Confidential Information shall be kept confidential at all times, therefore not published or otherwise disclosed to anyone in any manner whatsoever, including by means of photocopy or reproduction, except with the Disclosing Party’s prior written

consent or as otherwise specifically provided by this Agreement. The Receiving Party's obligations with respect to the Confidential Information, under this paragraph and elsewhere in this Agreement, may be referred to herein collectively as the "**Confidentiality Obligations.**"

2.2. The Disclosing Party acknowledges and agrees that the Receiving Party shall have no obligations, of confidentiality, limitation of use or otherwise, with respect to any of the Confidential Information which (i) is already known to the Receiving Party or its Affiliated Companies as of the date of disclosure hereunder, or (ii) is already in possession of the public or becomes available to the public other than through the act of any of the Receiving Party or its Affiliated Companies, or (iii) is acquired or developed independently by the Receiving Party or its Affiliated Companies either through unrelated internal efforts or by a third party on behalf of the Receiving Party or its Affiliated Companies (provided that such party is not known to the Receiving Party or its Affiliated Companies to be restricted, by a confidentiality obligation to the Disclosing Party, from disclosing proprietary and/or confidential information to the Receiving Party or its Affiliated Companies).

### 3. PERMITTED DISCLOSURE

3.1 The Receiving Party may disclose the Confidential Information without the Disclosing Party's consent to:

- (i) any administrative, governmental, regulatory or judicial authority to the extent such disclosure may be required by applicable law, regulation or other legal authority,
- (ii) the following persons to the extent that Receiving Party needs their involvement in connection with the Potential Transaction:

- (aa) employees, officers, and directors of Receiving Party;

- (bb) employees, officers, and directors of an Affiliated Company of Receiving Party and to the extent that such Affiliated Company is a partnership;

- (cc) any advisor, consultant or agent retained by Receiving Party or its Affiliated Company, including without limitation any insurer engaged by Receiving Party or its Affiliated Company;

- (dd) any bank, financial institution, or entity funding the Receiving Party or its Affiliated Company or proposing to fund participation by Receiving Party or its Affiliated Company in the Area, including any advisor or consultant retained by such bank, financial institution, or entity.

"**Affiliated Company**" ("**Affiliated Companies**" collectively) shall mean, with respect to any Party, any company or legal entity which (a) controls either directly or indirectly such Party, or (b) is controlled directly or indirectly by such Party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls such Party. "**Control**" means the right to exercise 50% or more of the voting rights in the appointment of the directors (or similar governing body) of a company or legal entity.

3.2 Prior to making any disclosures to persons under clause 3.1(ii)(cc) and clause 3.1(ii)(dd), however, the Receiving Party shall obtain an undertaking of confidentiality in substantially similar terms as this Agreement, from each such person subject to such modifications as may be necessary or appropriate for the industry, market or regulatory status of such recipient; provided, however, that in the case of outside legal counsel, Receiving Party shall only be required to procure that such legal counsel is bound by a professional obligation of confidentiality.

3.3 Receiving Party shall be responsible to Disclosing Party for any act or omission of the entities and persons described in clause 3.1(ii)(aa) and clause 3.1(ii)(bb) that would have breached this Agreement if the action had been by Receiving Party. Receiving Party shall use reasonable efforts to procure that each of the entities or persons described in clause 3.1(ii)(cc) and clause 3.1(ii)(dd) to whom Confidential Information is disclosed under this Agreement shall comply with the terms of the confidentiality undertaking that they are subject or required to be subject to pursuant to clause 3.1.

#### 4. RESTRICTIONS ON USE OF CONFIDENTIALITY INFORMATION

4.1 The Receiving Party shall only use the Confidential Information in connection with the Potential Transaction or as otherwise expressly permitted under this Agreement. Nothing in this Agreement shall restrict any negotiation toward or affect any subsequent contract, nor limit or otherwise affect any existing contract, between the Receiving Party, or any of its Affiliated Companies, and any other party (including the Disclosing Party).

4.2 The Parties recognize that persons authorized to review the Confidential Information under clause 4.1 may form mental impressions (i.e., impressions not written or otherwise reduced to a record) regarding the Confidential Information. The internal use of these mental impressions by those persons shall not be a violation of the restriction contained in clause 4.1.

#### 5. LIABILITIES

The liability of the Parties to each other for breach of this Agreement shall be limited to direct actual damages only and such direct actual damages shall be the sole and exclusive remedy. Neither Party nor their respective Affiliated Companies or any of the persons listed in clause 3.1 (ii) shall be liable for, and each Party hereby waives, releases and discharges the other Party, and the other Party's Affiliated Companies and persons listed in clause 3.1 (ii), from any liability for, special, indirect or consequential damages, loss of profit, loss of opportunity nor business interruptions, resulting from or arising out of or in connection with this Agreement or the Confidential Information, however same may be caused. Without limiting the preceding sentence, the Receiving Party hereby acknowledges and agrees that the Disclosing Party shall be entitled to injunctive relief in the event of any breach hereof by the Receiving Party as may be granted under clause 10.2.

## 6. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

The Confidential Information shall remain the property of the Disclosing Party, and the Disclosing Party may demand the return thereof at any time upon giving written notice to the Receiving Party. Within 30 days of receipt of such notice, the Receiving Party shall return all of the original Confidential Information provided hereunder and shall destroy all copies thereof in its possession or control, unless retention of such materials is otherwise permitted by this Agreement (e.g., for compliance with applicable law as allowed under Section 3.1 (i) herein), and provided, however, that the Receiving Party shall not be restricted hereby from retaining information as required by applicable document back-up and retention policies.

## 7. TERM OF CONFIDENTIALITY OBLIGATIONS

The Parties understand and agree that, unless and until a final definitive agreement regarding the services under this Confidentiality Agreement has been fully executed and delivered by the Parties, neither Party will be under any legal obligation of any kind whatsoever with respect to any possible transaction in connection with or by virtue of this Agreement, without limiting the rights and obligations specifically agreed to herein. Each Party reserves the right, in its sole discretion, to terminate discussions and/or negotiations, associated with or resulting from this Agreement, at any time. If the Receiving Party or any of its Affiliated Companies enters into a definitive agreement to acquire any rights in the Area held by the Disclosing Party and/or any of its Affiliated Companies, then the Confidentiality Obligations shall terminate upon the execution of such agreement unless such agreement specifically provides to the contrary. Unless earlier terminated under the preceding sentence, the confidentiality and limitations of use obligations set forth in this Agreement shall terminate on the later of: (i) five (5) years after the Effective Date; (ii) the date on which disclosure is no longer restricted by the terms of configuration of the refinery project. The Agreement would continue to be applicable only with respect to the respective Confidential Information restricted by the terms of the law.

## 8. NO WARRANTY

The Disclosing Party hereby represents that it has the right and authority to disclose the Confidential Information to the Receiving Party without the violation of any contractual, fiduciary or other obligation to any person or entity. The Disclosing Party agrees to act in good faith in its disclosure of Confidential Information to Receiving Party, but makes no representations or warranties, express or implied, as to the quality, accuracy or completeness of the Confidential Information disclosed hereunder, and the Receiving Party expressly acknowledges the inherent risk of error in the acquisition, processing and interpretation of engineering, geological and geophysical data. The Disclosing Party, its Affiliated Companies, their officers, directors and employees shall have no liability whatsoever with respect to any reliance by any of the Receiving Party upon the quality, accuracy or completeness of the Confidential Information.

## 9. EVALUATING MATERIAL

Information generated by Receiving Party or by a person described in clause 3.1 that is derived in whole or in part from Confidential Information is “**Evaluation Material.**” Evaluation Material includes models, analyses, estimates of reserves, interpretations, presentations for management, and economic evaluations. During the term of the confidentiality and limitations of use obligations set forth in this Agreement, Receiving Party shall not disclose Evaluation Material to anyone other than the persons described under clause 3.1 without the prior written consent of Disclosing Party.

## 10. GOVERNING LAW AND DISPUTE RESOLUTION

10.1 This Agreement shall be governed by and interpreted in accordance with the laws of Angola, excluding any choice of law or rules which would refer the matter to the laws of another jurisdiction.

10.2 Any dispute arising out of, relating to, or in connection with this Agreement, including any question regarding its existence, validity, or termination which is not resolved amicably between the Parties within 60 days from notice of such dispute shall be settled by arbitration in accordance with United Nations Commission on International Trade Law (“UNCITRAL”) Arbitration Rules. The proceedings shall be in the Portuguese language. The place of arbitration shall be Luanda, Angola. Each of the Parties hereby irrevocably waive their right to any form of appeal, review, or recourse to any court or other judicial authority, to the extent that such waiver may be validly made.

## 11. IMPROPER INFLUENCE

No member of each Party may, directly or indirectly, offer or make any payment, or offer or give anything of value to any official or immediate family member of an official of any government, public international organization, or political party (including any officer or employee of any department, agency, or instrumentality of any government or public organization), or to any candidate for public office, or solicit, accept or agree to accept from any of the above entities anything of value, in order to obtain, influence, induce or reward their or its act or decision, or to gain any other advantage for the Parties, its Affiliates, or any of them arising out of this Agreement.

## 12. NOTICES

All notices authorized or required between the Parties by any of the provisions of this Agreement shall be in written English, properly addressed to the other Party as shown below, and delivered in person, by courier, or by any electronic means of transmitting written communications that provides written confirmation of complete transmission. Oral communication and e-mails do not constitute notice for purposes of this Agreement. A notice given under any provision of this Agreement shall be deemed delivered only when received by the Party to whom the notice is

directed. "Received" for purposes of this clause means actual delivery of the notice to the address or facsimile address of the Party shown below.

**Sociedade Nacional de Combustíveis de Angola, Empresa Pública – Sonangol E.P.**

Address: Rua Rainha Ginga, n.º 29-31, Luanda, Angola

Attention: Mr Joaquim Fernandes (Executive Board Member)

Facsimile: (+244) 226 642066

Address: \_\_\_\_\_

Attention: \_\_\_\_\_

Facsimile: \_\_\_\_\_

**13. ASSIGNMENT**

The Receiving Party may assign this Agreement to an Affiliated Company; provided, however, the Receiving Party shall remain liable for all obligations under this Agreement. Receiving Party may assign this Agreement to a person or entity that is not an Affiliated Company only with the prior written approval of Disclosing Party. Any attempted assignment by Receiving Party to a person or entity that is not an Affiliated Company without the prior written approval of Disclosing Party shall be void. Without limiting the prior provisions of this clause 13, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

**14. GENERAL**

14.1. Unless otherwise expressly agreed in writing, any prior or future proposals or offers, or responses thereto, made in the course of discussions and/or negotiations between the Parties and/or any of their Affiliated Companies pertaining to the Confidential Information and/or the Area are implicitly subject to all necessary due diligence and management and government approvals and, prior to the execution of a definitive agreement, may be withdrawn, terminated or rejected at any time by the party making, or the party responding to, such proposal or offer. Nothing contained herein is intended to confer upon the Receiving Party any right whatsoever to own or obtain any portion of the Disclosing Party's interest in the areas of operation. Except with the prior written consent of the other Party, or as required by applicable legal or regulatory authority, neither Party nor its representatives shall make any public announcement concerning this Agreement or the subject matter hereof.

14.2. No waiver by either Party of any one or more breaches of this Agreement by the other Party shall operate or be construed as a waiver of any future default or defaults by the same Party. Neither 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.

14.3. The interpretation of this Agreement shall exclude any rights under legislative provisions conferring rights under a contract to persons not a party to that contract.

14.4. This Agreement may be executed in counterparts and each counterpart shall be deemed an original Agreement for all purposes; provided that neither Party shall be bound to this Agreement until both parties have executed a counterpart. For purposes of assembling the counterparts into one document, a Party is authorized to detach the signature page from one counterpart and, after signature by the other Party of a signature page, attach each signed signature page to a counterpart.

14.5. Should any provision of this Agreement be or become invalid, ineffective or unenforceable as a whole or in part, the validity, effectiveness and enforceability of the remaining provisions shall not be affected thereby. Any such invalid, ineffective or unenforceable provision shall be deemed replaced by such valid, effective and enforceable provision as comes closest to the economic intent and purpose of such invalid, ineffective or unenforceable provision as regards subject-matter, amount, time, place and extent. The aforesaid shall apply *mutatis mutandis* to any gap in this Agreement.

14.6. No amendments, changes or modifications to this Agreement shall be valid except if the same are in writing and signed by a duly authorized representative of each of the Parties. This Agreement comprises the full and complete agreement of the Parties with respect to the subject matter hereof and supersedes and replaces all prior communications and understandings between the Parties with respect thereto, whether written or oral.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have caused this Agreement to be executed effective as of the date first written above.

**DISCLOSING PARTY:****SOCIEDADE NACIONAL DE COMBUSTÍVEIS DE ANGOLA EMPRESA PÚBLICA – SONANGOL E.P**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**RECEIVING PARTY:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_