

MEMBERSHIP AGREEMENT

For purposes of establishing membership in the Center for Offshore Safety (“COS”), (“COS Member”) enters into this Membership Agreement (the “Agreement”), effective upon the date of the COS Member’s signature, below (“Effective Date”).

The American Petroleum Institute (“API”) has formed the Center for Offshore Safety (“COS”), an API program reporting to the API Upstream Committee, to promote safety, health, and environmental protection in offshore oil and natural gas exploration and production activities in the U.S. Outer Continental Shelf (“OCS”). COS Members consist of owners, operators and lease holders, drilling contractors, primary services and equipment suppliers, and support services companies engaged in exploration or drilling operations in the U.S. OCS. In addition, COS includes affiliates that consist of trade associations representing companies working in U.S. OCS exploration and production.

This Agreement establishes the mutual benefits and responsibilities between API and COS Member related to COS participation. The parties agree as follows:

MEMBERSHIP REQUIREMENTS

1. COS Member states that it has operations in the U.S. OCS as an (1) owner, operator, or lease holder of record, (2) a drilling contractor, (3) a primary services or equipment provider, (4) a support services provider, or (5) affiliate. As used in this Agreement, the following are eligible COS Members:
 - (a) “Owner, operator, or lease holder of record” are companies that operate a facility in or are a full or partial owner of a leased area in the U.S. OCS.
 - (b) “Drilling contractor” includes any company (including its parent or subsidiaries) that owns or controls a drilling rig and contracts its services for drilling, testing, completing or servicing wells in the U.S. OCS.
 - (c) “Primary services or equipment provider” includes companies that provide primary well services to the drilling, testing, completion or operation of wells in the U.S. OCS, such as cementing, fluids, logging, well testing, and directional drilling. In addition, “primary services or equipment provider” includes those companies that provide equipment such as wellheads and blowout preventers to drilling contractors or operators for the purpose of drilling, testing, completing, operating and servicing wells in the U.S. OCS.
 - (d) “Support services provider” includes companies that provide engineering or secondary services to the offshore oil and natural gas industry in the U.S.
 - (e) “Affiliate” means a trade association, other non-profit organization, or academic institution representing the interests of offshore industry members. “Affiliate” shall not mean corporate entities related to other types of COS Members.
2. COS Member agrees to immediately notify API in writing if it ceases to qualify under any of the above categories of participation in the COS.
3. COS Member states that it has a fully operational safety and environmental management system (SEMS) in place. This provision does not apply to affiliates, as defined under paragraph 1(e) of this Agreement.
4. COS Member has conducted, or will conduct, a SEMS audit of its operations in the U.S. OCS meeting the most current requirements of the COS in effect at the time the audit is conducted. This provision does not apply to affiliates, as defined under paragraph 1(e) of this Agreement.

MEMBERSHIP AGREEMENT

LICENSE

5. API (including COS) grants to COS Member a limited, non-perpetual, non-exclusive, non-transferable, worldwide license to use the API trademark “COS Logo,” a sample of which is attached to this Agreement as Attachment 1, on written or electronic materials. The COS Member agrees that this license is limited to the use of the mark, during the period of COS membership, to identify the COS Member as a Member of the COS, and that in all instances, the COS Logo shall be accompanied by the following or similar language: **“Member of the Center for Offshore Safety”**
6. API represents and warrants to COS Member that API has full right, title and interest in the COS Logo and can convey the license in this Agreement to COS Member. API shall defend and hold COS Member harmless from any third-party infringement claims arising from or in connection with the COS Logo or its use.
7. COS Member understands and agrees that the trademark license contained in this Agreement is limited in scope, and does not permit COS Member to use the COS Logo in any fashion other than described in paragraphs 5, including, but not limited to, affixing the COS Logo to equipment or materials intended for use in exploration or production activity, or otherwise stating that COS has approved or endorsed COS Member’s products or services.
8. COS Member agrees that the trademarks “American Petroleum Institute,” “API,” “Center for Offshore Safety,” the API logos, and the COS Logo, (collectively, “the API Marks”) are the sole property of API, and that this Agreement does not grant COS Member any right or license to use any API Marks or other trademarks not specifically granted. COS Member agrees not to take any actions which are inconsistent with API’s ownership rights of the API Marks or other trademarks including, but not limited to, challenging API’s ownership rights and/or attempting to register the API Marks or other trademarks in any country, state, or other jurisdiction. API agrees that the COS Member’s trademarks and logos, (collectively, “the COS Member Marks”) are the sole property of the COS Member, and that this Agreement does not grant API any right or license to use any COS Member trademarks not specifically granted in this Agreement. API agrees not to take any actions which are inconsistent with COS Member’s ownership rights of the COS Member Marks including, but not limited to, challenging COS Member’s ownership rights and/or attempting to register the COS Member Marks in any country, state, or other jurisdiction.

PARTICIPATION

9. COS Member shall have the right to attend meetings and vote, as provided in the COS Charter and Operating Procedures, as they may be amended from time to time. At COS Member’s request, API will add COS Member’s name to the list of COS Members on the publicly available COS website. COS Member understands that membership in COS does not grant a seat on the COS Governing Board, and that the selection of representatives on the COS Governing Board shall be governed by the procedures found in the COS Charter and Operating Procedures. Current copies of the COS Charter and Operating Procedures are attached to or included with this Agreement. COS Member understands that COS meetings may be open to interested parties, including COS Member’s competitors, and that confidential and/or competitive information should not be disclosed during these meetings. No COS Member or affiliate is obligated to exchange confidential information during any COS meeting or otherwise. If any COS Member expresses concerns about the appropriateness of information shared or proposed to be shared during a COS meeting, COS will promptly seek antitrust guidance from legal counsel before proceeding to further share or make use of information. Further, COS Member agrees to comply with API’s written policies disclosed to COS Member as applicable.

MEMBERSHIP AGREEMENT

10. COS Member grants API a limited, non-exclusive, perpetual, royalty-free, worldwide license to use all copyrightable information and materials submitted by the COS Member for use in API or COS works, including a right to create derivative works from the information and materials submitted by the COS Member, which derivative work shall be the sole property of API. Notwithstanding the foregoing license, COS Member retains all ownership rights in all pre-existing copyrightable information and materials, and any derivative works COS Member creates from COS Member's pre-existing copyrightable information and materials. In the event that any court or government entity finds that COS Member retains any ownership rights in any derivative work created by API using information or materials submitted to API or COS, COS Member agrees to immediately assign all rights, title, and interest in such derivative works to API. COS Member agrees not to provide any information or materials to the COS that COS Member is aware would violate the rights of any third parties including, but not limited to, confidentiality obligation, patents, copyrights, trade secrets, trademarks, or other intellectual property right, and to disclose the existence of any known intellectual property rights, including known patent rights, in information or materials that COS Member does provide to COS or API.
11. COS Member agrees to:
 - (a) Comply with the Membership Requirements, as outlined in paragraphs 1-4 of this Agreement,
 - (b) Complete all regularly scheduled audits as per the COS program requirements, and
 - (c) Pay all applicable Program Fees as due and defined in the Membership Application and annual invoices.
12. Data Sharing Programs:
 - (a) COS SEMS Audits: Upon completion of a COS Member's first COS SEMS audit, the Audit Service Providers ("ASP") shall provide to the COS Member (i) an official COS SEMS Audit Certificate stating that it has completed a SEMS audit, (ii) a copy of a standardized final audit report, and (iii) a list and description of any good practices identified during the audit. COS Member agrees to cause to be submitted to COS by its chosen ASP, a standardized audit report in a style and format as agreed to by the COS Board and documented in COS publications. No company-identifying information shall be included in a standardized audit report, and standardized audit reports shall be submitted in the manner prescribed by the COS to ensure that COS is not provided with information identifying the identity of COS Members. All COS Members are encouraged to share learnings and good practices as contemplated by the Charter, subject to the confidentiality provisions in this Agreement, and COS Member may disclose good practices separately to COS at any time, in the COS Member's sole discretion. To the extent a COS Member voluntarily agrees to share the good practices identified during its audit with COS, COS Member agrees to remove information identifying the individual COS Member from such submissions, and COS will review the information to ensure it is blinded. Upon receipt of the standardized audit report, and at COS Member's request, COS will revise COS Member's listing in the list of COS Members on the publicly available COS website to reflect its completion of an audit.
 - (b) Safety Data: COS Member agrees to review the COS Safety Data Programs and the data collected by those programs and determine if participation is appropriate. COS Member Companies are encouraged to participate in the COS Data Sharing Programs, but participation is voluntary. If COS Member decides to participate in the COS Data Sharing Programs, COS Member agrees to submit to COS the COS specified safety data in a standardized report in a style and format as agreed to by the COS Board and documented in COS publications. No company-identifying information shall be included in the standardized report, and the standardized report shall be submitted in the manner prescribed by the COS to ensure that COS is not provided with information identifying the identity of COS Members.
13. COS Member understands and agrees that the COS SEMS Audit Certificate shall remain the property of API, that COS Member may not alter or amend the certificate in any fashion, and that upon termination of this Agreement, whether with or without cause, all copies of the COS SEMS Audit Certificate must be returned to API or destroyed. COS Member agrees to provide a written certificate to API within 30 days of termination of this Agreement that it has returned or destroyed all copies of the COS SEMS Audit Certificate.
14. The COS is a program reporting to the API Upstream Committee, consisting of API members and non-API members. Membership in COS does not convey any of the rights or responsibilities of membership in API.

MEMBERSHIP AGREEMENT

15. COS Members fulfilling all the requirements for membership under paragraph 4 of this Agreement shall be eligible to receive copies of aggregated safety data reports and other COS work products. COS Member may copy or redistribute these reports and other non-public COS work products for internal purposes. COS Member agrees that such reports and non-public COS work products are the sole property of API, and that COS Member will not distribute any non-public reports to any third party without API's written authorization, unless that the third party is a contractor performing consulting or auditing work for COS Member related to its SEMS program and has agreed in writing to be bound by confidentiality obligations that extend to the reports and non-public COS work products that are substantially similar in substance as those in this Agreement. Any aggregate reports prepared using COS Member shared audit or safety data pursuant to this Agreement must ensure that qualitative data will include the input of at least five contributors for each data element with no contributor providing more than 25% of the data for an element on a weighted average basis. Any report will be organized and disclosed so that individual COS Members cannot be reasonably linked to the specific information disclosed. Neither API nor COS will disclose any COS Member's or third party's confidential or proprietary information to any other COS Member or third party.

TERM AND TERMINATION

16. The term of this Agreement shall be for one (1) year from the Effective Date. This Agreement shall be automatically renewed annually thereafter upon the same terms and conditions unless either party gives the other written notice of its election to terminate this Agreement at the end of such period.
17. Either party may immediately terminate this Agreement at any time upon provision of written notice to API, with or without cause.
- (a) Upon termination by COS Member or API, without cause, prior to the end of the annual term, COS Member shall be entitled to a pro rata refund of the remaining full months of annual Program Fees, which shall be calculated by dividing the number of remaining full months in the COS Member's annual term by twelve. In the event that COS Member has not paid Program Fees as per the annual invoice for the year in which termination occurs, COS Member agrees to pay pro rata Program Fees for the months of the year up to and including the month in which termination occurred.
 - (b) Upon termination by API due to breach of any of the terms of this Agreement by COS Member, COS Member shall not be entitled to any refund of Program Fees paid. In the event that COS Member has not paid Program Fees for the year in which termination occurs, COS Member agrees to pay pro rata program fees for the months of the year up to and including the month in which termination occurred.
18. COS Member understands and agrees that, in the event of COS Member's breach of any of the terms of this Agreement, including timely payment of fees, API in its sole discretion, may suspend or cancel COS Member's membership in COS, or terminate this agreement upon provision of 45 days written notice. API makes no representations or warranties regarding continuing availability of COS program or its current requirements, and API may, in its sole discretion, with or without cause, choose to terminate this Agreement and/or the COS program at any time, and COS Member agrees to hold API, its employees, and contractors harmless for any damages whatsoever alleged to be caused by API's termination of this Agreement and/or the COS.

MEMBERSHIP AGREEMENT

COS AUDIT AND CONFIDENTIALITY

19. COS Member understands that the conduct and results of its COS audit are subject to the provisions of its agreement between COS Member and its chosen ASP.
20. COS Member understands that it is not required by this Agreement to submit to the COS any learnings or good practices not contained in its standardized audit report. COS Member agrees that if it does submit additional learnings or good practices, that COS or API may use any information that does not reasonably identify the submitting company as necessary to create industry reports for sharing with COS Members following the requirements provided in Section 15. COS industry reports prepared under Section 15 may be available to the public through the COS website and/or shared in public forums.
21. API and COS will not disclose and will treat all identifying information associated with company COS audits, learnings, and good practice submissions to API as confidential. COS Member agrees to take reasonable steps to ensure that information identifying the COS Member is removed from all submissions to API or COS. API agrees to delete or destroy information which directly identifies the COS Member in submissions it receives.

INDEMNIFICATION

22. COS Member agrees to hold harmless and indemnify API, API's officers, directors, and agents and employees for any and all liability, loss, damage, cost and expense, including legal fees, which they may suffer, incur, or be put to by reason of any claim, suit or proceeding, for personal injury, property damage, economic loss or other damages or injury alleged to be based on negligent or wrongful acts by COS Member arising out of performance of this Agreement. Neither party shall be liable to the other for any incidental, special, or consequential damages arising out of the performance, non-performance, or breach of this Agreement.
23. COS Member agrees to notify API of any threats of litigation or of any assertion or allegation that the rights of any third party have been violated by any actions under this Agreement within ten (10) business days of COS Member's knowledge thereof. Within five (5) business days of such notification, COS Member agrees to consult with API to determine what action needs to be pursued. The parties agree that if API, in its sole discretion, determines that (a) (i) there is a reasonable basis for said litigation, assertion, or allegation, or (ii) if COS Member fails to fulfill its notification and consultation obligation in a timely manner, and (b) the threatened litigation or asserted or alleged violation could reasonably be expected to have an adverse effect on API or the COS program, then API may terminate or suspend any or all rights provided to COS Member under this Agreement. API shall not be liable to COS Member for any lost royalty, cost, expense, or damage whatsoever resulting from a suspension or termination made pursuant to this paragraph.

MEMBERSHIP AGREEMENT

MISCELLANEOUS

24. Each party agrees that the use of the other party's mark(s) in any manner not authorized by this Agreement would mislead the public and agrees that any breach of this Agreement in this respect could not adequately be compensated for in money damages. For these and other reasons, each party agrees that, in the event of an unauthorized use of the other party's mark(s), an injunction, without posting security, may be issued restraining that party from further use of the other party's mark(s) in any manner whatsoever, together with any other equitable or legal relief which may be appropriate in the circumstances. The granting or issuance of such injunction shall not affect the right of the party obtaining the injunction to compensatory and other damages for the misuse of the other party's mark(s) and shall be in addition to, and not in lieu of, any other rights and remedies provided by this Agreement or by applicable law.
25. COS Member shall carry sufficient insurance to reasonably cover all of COS Member's operations and obligations in the COS and any facility audits. Alternatively, if requested, COS Member will provide a self-insurance letter to self-insure for all insurance requirements contained in this Agreement.
26. API is a nonprofit corporation exempt from United States federal income tax under section 501(c) (6) of the Internal Revenue Code of 1986 as amended. No provision of this Agreement shall obligate API to take any action that is inconsistent with or that could jeopardize its tax-exempt status.
27. COS Member shall be solely responsible for its compliance with all applicable laws and regulations, including, but not limited to, trade regulations of the U.S. Department of Commerce and the U.S. Department of the Treasury, and the U.S. Foreign Corrupt Practices Act.
28. This Agreement includes an intellectual property license to use the API trademarks which cannot be granted by or to any other entity. Neither party may assign this Agreement without the written consent of the other party.
29. This Agreement shall not and is not intended to benefit nor grant any right or remedy to any person or entity that is not a party to this Agreement.
30. The parties represent and warrant that the undersigned individuals are expressly and duly authorized by their respective entities or agencies to execute this Agreement and to legally bind their respective entities as set forth in this Agreement. Neither party is bound until both parties have executed this Agreement.
31. This Agreement sets forth the entire agreement between the parties. This Agreement supersedes all prior proposals, understandings or agreements, oral or written, relating thereto, and may be amended or otherwise changed only by a written document executed by the undersigned or their successors.
32. The waiver by either party of a breach or other violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision of this Agreement.
33. In the event of inconsistencies between this Agreement and its attachments or any other COS document referenced in this Agreement, the express terms of this Agreement shall govern over the attachments or referenced COS document.
34. The terms and conditions of this Agreement are severable. If any condition of this Agreement is deemed to be illegal or unenforceable under any rule of law, all other terms shall remain in force.

MEMBERSHIP AGREEMENT

35. This Agreement shall be construed and governed by the laws of the District of Columbia, USA. In the event of any litigation between the parties arising under this Agreement, the parties agree that the only proper venue for such litigation shall be the courts of the District of Columbia, United States of America.

36. Notices required under this Agreement shall be in writing and shall be effective as of the date such notice is delivered to:

(a) **For API:**

Executive Director, Center for Offshore Safety
American Petroleum Institute
1220 L Street, NW
Washington, D.C. 20005

(b) **For COS Member:**

Name or Title: _____
Company Name: _____
Address: _____

City: _____ State/Province: _____
Zip/Postal Code: _____ Country: _____
Email: _____

37. Paragraphs 7, 8, 10, 11(c), 13, 15, 21-29, 31, 33-35 shall survive termination of this Agreement, until by their respective terms, they are no longer operative or are limited by an applicable statute of limitations.

Agreed to:

(a) **For API:**

_____ Date
Executive Director, Center for Offshore Safety

(b) **For COS Member:**

_____ Date
Sign
Name or Title: _____
Company Name: _____
Address: _____

City: _____ State/Province: _____
Zip/Postal Code: _____ Country: _____
Email: _____

MEMBERSHIP AGREEMENT

ATTACHMENT 1