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NIGERIA - SÃO TOMÉ E PRÍNCIPE  
JOINT DEVELOPMENT AUTHORITY

BLOCK 7.8 & 11

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**PREAMBLE**

THIS Production Sharing Contract ("Contract"), which has been approved by the Joint Ministerial Council (uJMC") established under the Treaty between the Federal Republic of Nigeria and the Oemocratic Republic of São Tomé e Príncipe, is dated this 14<sup>th</sup> day of March 2019, CEffective Date") BETWEEN The Nigeria - São Tomé e Príncipe Joint Oevelopment Authority ("JDA") established under the Treaty to act on behalf of the State Parties ANO Total E&P Nigeria Líimited (UTOTAL") a corporation organized and existing under the laws of the Federal Republic of Nigeria (hereinafter called the "CONTRACTOR Party")

**WITNESSETH**

WHEREAS, Petroleum existing within the Joint Oevelopment Zone established by the Treaty is a resource to be exploited jointly by the State Parties to the Treaty; and

WHEREAS, JDA, with the approval of the JMC, has the authority to ente r into a Contract for Petroleum Operations in and throughout the area, whose co-ordinates are described and outlined on the map in Annex 1 of this Contract and comprised of Blocks 7, 8 & 11 which were consolidated into a single 810ck named 'Block 7, 8 & 11' as per JOA authorisation of June 6,2018 and which is hereinafter referred to as the "Contract Area"; and

WHEREAS, JOA wishes to promote Petroleum Operations in the Contract Area and the CONTRACTOR Parties desire to join and assist JDA in accelerating the exploration and development of the discovered and potential petroleum resources within the Contract Area; and

WHEREAS, the CONTRACTOR Parties and their Affiliates have the necessary financial capability and technical knowledge and ability to carry out the Petroleum Operations hereinafter described; and

WHEREAS, in accordance with the Treaty and the Applicable Regulations, this Contract may be entered into between JDA and the CONTRACTOR Parties for the purpose of Petroleum Operations; and

WHEREAS, TOTAL, being the lead CONTRACTOR Party is hereof designated Operator under Clause 28 of this Contract..

NOW THEREFORE, in consideration of the premises and the mutual covenants herein reserved and contained, it is hereby agreed as follows:

## CLAUSE 1. DEFINITIONS

### 1.01 DEFINITIONS

As used in this Contract, unless otherwise specified, the following terms shall have the respective meaning herein ascribed to them:

- (a) "Accounting Procedure" means the rules and procedures as set forth in Annex 2 and attached to and forming part of this Contract;
- (b) "Affiliate" means a company or other entity that controls or is controlled by a Party to this Contract, or which is controlled by a company or other entity which controls a Party to this Contract, it being understood that control shall mean ownership by one company or entity of at least 50% of:
  - (i) the voting stock, if the company is a corporation issuing stock; or
  - (ii) the controlling rights or interests, if the entity is not a corporation;
- (c) "Allocation and Lifting Procedure Principles" means the principles as set forth in Annex 3 which is attached to and forming part of this Contract
- (d) "Applicable Regulations" means all regulations (including without limit, the Petroleum Regulations, the Petroleum Tax Regulations, the Non-Petroleum Regulations, the Environmental Regulations and the JDZ Local Content Policy & Relations Regulations, 2015) and amendments thereto validly approved from time to time by the JMC for the regulation of Petroleum and related operations in the JDZ;
- (e) "Appraisal Area" has the meaning ascribed to it in Clause 5.02(b)(ii);
- (f) "Appraisal Program" means that proposal submitted by CONTRACTOR to JDA to appraise a Discovery pursuant to the provisions of Clause 5.02;
- (g) "Appraisal Report" means the report submitted by CONTRACTOR in accordance with Clause 5.04(b).
- (h) "Appraisal Well" means any well drilled in accordance with an Appraisal Program whose purpose at the time of commencement of drilling such well is the determination of the extent or volume of hydrocarbons contained in a Discovery;
- (i) "Available Crude Oil" means all Crude Oil produced and saved from the

Contract Area; other than that used for Petroleum Operations;

- (j) "Available Petroleum" has the meaning ascribed to it in Clause 10.02;
- (k) "Barrel" means a quantity or unit of Crude Oil, equal to forty-two (42) United States gallons at the temperature of sixty degrees (60°) Fahrenheit at normal atmospheric pressure;
- (l) "BTU" means one thousand fifty-five and fifty-six one thousandths (1,055.056) Joule;
- (m) "Budget" means the cost of items included in a Work Program;
- (n) "Calendar Year" means a period of twelve (12) months commencing from January 1 and ending the following December 31, according to the Gregorian calendar;
- (o) "Chargeable Profit" shall have the meaning and be determined in accordance with section 9 of the Petroleum Tax Regulations in effect as at the Effective Date, as modified by Clause 16.02(e);
- (p) "Commercial Discovery" means any Discovery, which has been declared commercial by CONTRACTOR;
- (q) "Concession Rentals" means the rents payable pursuant to Clause 9.02(f) of this Contract;
- (r) "Condensate" means those low vapor pressure hydrocarbons obtained from Gas through condensation or extraction and refers solely to those hydrocarbons that are liquid at normal surface temperature and pressure conditions.
- (s) "Consequential Loss" means any loss, damage, cost or liability caused, directly or indirectly, by:
  - (i) reservoir or formation damage;
  - (ii) inability to produce, use or dispose of Petroleum;
  - (iii) loss or deferment of income or profit;
  - (iv) punitive damages; or
  - (v) indirect damages or losses whether or not similar to any of the foregoing.
- (t) "Contract Area" has the meaning ascribed to it in the recitals;
- (u) "Contract Area Non-Drilling Exploration Costs" refers to those costs and

expenses described in Article 2.04 of the Accounting Procedure:

- (v) "Contract Area Unsuccessful Exploration and Appraisal Costs" refers to those costs and expenses described in Article 2.05 of the Accounting Procedure;
- (w) "Contract Year" means a period of twelve (12) consecutive months according to the Gregorian calendar, from the Effective Date of this Contract or from the anniversary of the Effective Date;
- (x) "CONTRACTOR Parties" refers to all Parties other than JDA, which as at the Effective Date is TOTAL;
- (y) "Cost Recovery" means the aggregate of all costs and expenses incurred by CONTRACTOR for Petroleum Operations in the Contract Area;
- (z) "Cost Oil" means the quantum of Available Crude Oil allocated to CONTRACTOR for recovery of Operating Costs after the allocation of Royalty Oil to JDA;
- (aa) "Cost Recovery Oil" has the meaning ascribed to it in Clause 10.03;
- (bb) "Crude Oil" means liquid Petroleum (including Condensates), which has been treated but not refined, and excludes water and sediments;
- (cc) "Decommissioning" means the abandonment, restoration, decommissioning, dismantling, disposal, removal, shut down, reclamation, plugging and/or abandonment of wells, equipment and facilities including well heads, processing and storage facilities, platforms, pipelines, transport and export facilities, roads, buildings, wharves, plants, machinery, fixtures, the restoration of sites and structures and the payment of damages to property lessors (as applicable);
- (dd) "Decommissioning Fund" has the meaning ascribed to it in Clause 13.03(c);
- (ee) "Delivery Period" has the meaning ascribed to it in Clause 11.02(a);
- (ff) "Development Area" or "DA" means the extent of the whole area within the Contract Area that includes all depths within the geographical limits of a Commercial Discovery, provided that each Commercial Discovery shall be deemed a separate Development Area unless multiple Commercial Discoveries are to be developed together under a combined Field Development Program (in which event CONTRACTOR may elect for all Commercial Discoveries included in the combined Field Development Program to be included in a single Development Area, subject to JDA's approval, which shall not be unreasonably withheld, conditioned or delayed);
- (gg) "Development Area Non-capital Costs" refers to those costs and expenses

described in Article 2.02 of the Accounting Procedure;

- (hh) "Development Area Capital Costs" refers to those costs and expenses described in Article 2.03 of the Accounting Procedure;
- (ii) "Discovery" means an accumulation of Petroleum, which has for the first time, been proven by conventional petroleum industry testing methods via drilling one or more Exploration Wells;
- Uj) "Dispute" means any dispute, controversy, or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, relating to, or connected with this Contract or the operations and activities carried out under this Contract, including any dispute as to the construction, validity, interpretation, enforceability, breach, or termination of this Contract;
- (kk) "Dispute Resolution" refers to the procedure for resolution of Disputes set forth in CLAUSE 25;
- (ll) "Dollars" or "\$" refers to the lawful currency of the United States of America;
- (mm) "Effective Date" is the date provided for in the Preamble to the Contract;
- (nn) "Environmental Regulations" means the JDZ Environmental Regulations, 2015;
- (oo) "Exploitation Period" shall mean any period, not including the Exploration Period wherein CONTRACTOR shall have the exclusive right to develop, produce, and/or prospect or explore for hydrocarbons within the Development Area(s), as further described in Clause 4.01(a)(ii);
- (pp) "Exploration Operations" means:
  - (i) all Petroleum exploration and appraisal operations within the Contract Area, as well as any other activities or operations directly or indirectly related or connected with the said operations (including health, safety and environmental operations and activities), as authorized or performed in accordance with this Contract; and
  - (ii) all business, operations, support and management activities of CONTRACTOR and all other activities and components that would be expected to be performed by, and/or compose, an international petroleum operating company in accordance with Internationally Accepted Petroleum Industry Practices in support of the activities listed in (i) above;
- (qq) "Exploration Period" means the period comprised of one or more Phases, as appearing in Clause 4.01 (a)(i) wherein CONTRACTOR shall have the



exclusive right to prospect and explore for accumulations of hydrocarbons within the Contract Area;

- (rr) "Exploration Well" means a well which purpose at the time of commencement is to explore for an accumulation of hydrocarbons which existence at the time was unproven by drilling;
- (5S) "Field Development Program" means the program of activities presented by CONTRACTOR to the Management Committee outlining the plans for the development of a Commercial Discovery. Such activities shall include, but not be limited to:
  - (i) reservoir, geological and geophysical studies and surveys;
  - (ii) drilling of production and injection wells; and
  - (iii) design, construction, installation, connection and initial testing of equipment, pipelines, systems, facilities, plants and related activities necessary to produce and operate said wells, to take, save, treat, handle, store, transport and deliver Petroleum, and to undertake re-pressurising, recycling and other secondary or tertiary recovery projects;
- (tt) "Force Majeure" has the meaning ascribed to it in Clause 21.01 (a);
- (uu) "Gas" means all gaseous hydrocarbons and all of its constituent elements and all gaseous non-hydrocarbon substances therein;
- (vv) "Gas Field" means, within the Contract Area, a Gas reservoir or a group of Gas reservoirs within a common geological structure(s) or feature(s);
- (ww) "Gas Retention Area" shall have the meaning prescribed in the Petroleum Regulations;
- (xx) "Gross Negligence / Wilful Misconduct" means any act or failure to act by any Senior Supervisory Person (whether sole, joint or concurrent) of any person or entity which was intended to cause, or which was in reckless disregard of or wanton indifference to, harmful consequences such person or entity knew, or should have known, such act or failure would have on the safety or property of another person or entity;
- (yy) "IFRS" means the International Financial Reporting Standards issued by the IFRS Foundation and the International Accounting Standards Board from time to time.
- (zz) "International Auditors" refers to an auditor who is a member of an international third party chartered accountant firm with subsidiary registered in

either Nigeria or of São Tomé e Príncipe;

- (aaa) "Internationally Accepted Petroleum Industry Practice" means sound environmental, geological and engineering principles and reservoir management practices in accordance with all those uses and practices which are at the time in question generally accepted in the international petroleum industry as good, safe and efficient in exploring for, development, producing, processing and transporting Petroleum, taking into consideration the local practices generally recognized and observed by the petroleum industry in the Federal Republic of Nigeria and the Democratic Republic of São Tomé e Príncipe.
- (bbb) "Joint Development Authority" or "Authority" or "JDA" means the Joint Development Authority established by Part Three of the Treaty;
- (ccc) "Joint Development Zone" or "JDZ" means the area of seabed and subsoil, together with the superjacent waters, established as a joint development zone under Clause 2 of the Treaty;
- (ddd) "Management Committee" or "MACOM" means the committee consisting of representatives of JOA and CONTRACTOR constituted under CLAUSE 8;
- (eee) "Measurement Point" shall be the point as described in Clause 11.04(b);
- (fff) "Minimum Financial Commitments" refers to the financial commitments described for each Phase in Clause 7.03(a);
- (ggg) "Minimum Work Commitments" refers to the work commitments described for each Phase in Clause 7.02;
- (hhh) "Non-Petroleum Tax Regulations" means the JOZ Non-Petroleum Tax Regulations, 2012;
- (iii) "Operating Costs" refers to those costs and expenses described in Article 2.01 of the Accounting Procedure (Annex 2);
- (jj) "Participating Interests" means the percentage interest held by each CONTRACTOR Party in and to the rights and obligations under this Agreement (unless such rights and obligations are expressly stated to be held otherwise (i.e., Operatorship), with the initial Participating Interests of the CONTRACTOR Parties, as of the Effective Date, being held solely by CONTRACTOR as stated in Clause 28.01(a);
- (kkk) "Parties" means JDA and each of the CONTRACTOR Parties and "Party"

means any one of them;

(III) "Petroleum" means:

- (i) any hydrocarbons or mixture of hydrocarbons (including for certainty Crude Oil and Gas), whether in a gaseous, liquid or solid state, naturally occurring beneath the seabed;
- (ii) any hydrocarbons or mixture of hydrocarbons as referred to in subparagraph (i) that has been returned to a reservoir; and
- (iii) any other minerals which are produced in association with such hydrocarbons; but shall not include coal or other stratified deposits from which Crude Oil can be extracted by destructive distillation;

(mmm) "Petroleum Operations" means any exploration, appraisal, development, winning, obtaining and transportation operations of Petroleum in the Contract Area by or on behalf of CONTRACTOR (but not including refining at a refinery), carried on by or on behalf of CONTRACTOR, and all operations incidental thereto and any sale of or any disposal of Petroleum by or on behalf of CONTRACTOR;

(nnn)"Petroleum Regulations" means the JDZ Petroleum Regulations, 2015;

(ooo)"Petroleum Tax Regulations" means the JDZ Petroleum Tax Regulations 2015;

(ppp)"Phase" refers to one (1) of the three (3) phases of the Exploration Period;

(qqq)"Proceeds" means, in respect of Crude Oil, the amount in Dollars determined by multiplying the Value for Crude Oil by the number of Barrels of Available Crude Oil lifted by any Party;

(rrr) "Profit Oil" means the balance of Available Crude Oil after the allocation of Royalty Oil, Cost Oil and Tax Oil;

(sss) "Relinquished Area" means the portion(s) of the Contract Area relinquished to JDA pursuant to the provisions of CLAUSE 6 hereof;

(ttt) "Retained Area" means the portion(s) of the Contract Area retained by CONTRACTOR pursuant to the provisions of CLAUSE 6 hereof;

(uuu)"Royalty" means the amount owed as royalties to JDA as defined in CLAUSE 16 and the Petroleum Regulations;

(vv) "Royalty Oil" means the quantum of Available Crude Oil, which will generate an amount of Proceeds equal to the actual amount due in Royalty and

Concession Rentals for Crude Oil production pursuant to Clause 16.01 (a);

- (www) "SCF" refers to the amount of gas necessary to fill one cubic feet of space at atmospheric pressure of fourteen point seventy (14.70) pounds of pressure per square inch absolute at a base temperature of sixty (60) degree Fahrenheit; while "MCF" refers to one thousand (1,000) SCF, "MMCF" refers to one million (1,000,000) SCF and "BeF" refers to one billion (1,000,000,000) SCF;
- (xxx) "Senior Supervisory Personnel" means, with respect to a Party, any director or officer of such Party, and any individual who functions for such Party or one of its Affiliates at a management level equivalent or superior to any individual functioning as such Party's senior manager(s) reporting directly to the country general manager, (or a manager who is resident outside of the State Parties and reporting to a senior manager of a level at least equivalent to the country general manager) and who is responsible for directing the performance of seismic acquisition, drilling, construction or production and related operations and activities of such Party in the Joint Development Zone, but excluding all individuals functioning at a level below such direct report manager.
- (yyy) "State Party" or "State Parties" means the Federal Republic of Nigeria and the Democratic Republic of São Tomé e Príncipe, and, wherever the context so requires, their respective territories;
- (zzz) "Tax" means the tax owed pursuant to the Petroleum Tax Regulations and the Non-Petroleum Tax Regulations;
- (aaaa) "Tax Oil" means the quantum of Available Crude Oil allocated to JDA which will generate an amount of Proceeds equal to the actual amount of Tax due after the allocation of Royalty Oil and Cost Oil;
- (bbbb) "Treaty" means the Treaty signed on 21 February 2001 by the State Parties on the joint development of Petroleum and other resources in respect of areas of the Exclusive Economic Zones of the two State Parties;
- (cccc) "Value" shall be determined in accordance with Clause 11.02(c) or Clause 11.03, as applicable;
- (dddd) "Viable Market" means a market into which Gas which may be produced under this Contract, can be sold by CONTRACTOR under commercially reasonable terms;
- (eeee) "Work Program" means the statement itemizing the Petroleum Operations to be carried out in the Contract Area for the required period as defined in

Clause 7.01 ;

#### 1.02 INTERPRETATION

- (a) Reference to the singular includes a reference to the plural and vice versa.
- (b) The headings used in this Contract are for convenience only and shall not be used to construe or interpret the Contract.
- (c) A capitalized derivative or other variation of a defined term will have a corresponding meaning and be construed accordingly.
- (d) If the provisions in the body of this Agreement conflict with the provisions in any Annex, the provisions in the body of the Agreement shall prevail.
- (e) The terms 'include' and 'including' shall mean include or including without limiting the generality of the description preceding such term and are used in an illustrative sense and not a limiting sense.

### CLAUSE 2. BONUSES AND FEES

#### 2.01 SIGNATURE BONUS

Each CONTRACTOR Party shall pay to JDA its Participating Interest share of a signature bonus of five million Dollars (\$5,000,000) within thirty days (30) after the Effective Date of this Contract.

#### 2.02 DISCOVERY BONUS

Within thirty (30) days after MACOM approval of a new Field Development Program, CONTRACTOR shall pay JDA a non-refundable and non-recoverable Discovery bonus of four million Dollars (\$4,000,000).

#### 2.03 PRODUCTION BONUS

- (a) Within thirty (30) days following the first time the average daily production of Crude Oil across thirty (30) consecutive producing days is equal to or greater than:
  - (i) Ten thousand (10,000) Barreis per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of five hundred thousand Dollars (\$500,000);
  - (ii) Twenty thousand (20,000) Barreis per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of one

Clause 7.01 ;

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  - (i) Ten thousand (10,000) Barreis per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of five hundred thousand Dollars (\$500,000);
  - (ii) Twenty thousand (20,000) Barreis per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of one

million Dollars (\$1,000,000); and

- (iii) Thirty thousand (30,000) Barreis per day, CONTRACTO R shall pay to JDA a non-refundable and non-recoverable production bonus of one million five hundred thousand Dollars (\$1,500,000).
- (b) Within thirty (30) days following the first time the average daily production of Gas across thirty (30) consecutive producing days is equal to or greater than:
  - (i) two hundred twenty-five (225) MMCF per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of five hundred thousand Dollars (\$500,000);
  - (ii) three hundred (300) MMCF per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of one million Dollars (\$1,000,000);
  - (iii) three hundred seventy-five (375) MMCF per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of one million five hundred thousand Dollars (\$1,500,000);
  - (iv) six hundred (600) MMCF per day, CONTRACTOR shall pay to JDA a non-refundable and non-recoverable production bonus of one million five hundred thousand Dollars (\$1,500,000);

#### 2.04 SOCIAL PROJECTS

- (a) CONTRACTO R commits to spend a minimum of three hundred fifty thousand Dollars (\$350,000.00) per annum on social projects selected by the States Parties and approved by MACOM, which amount will be spent collectively across the State Parties. CONTRACTOR shall be responsible for funding, implementing and managing such social projects in accordance with CLAUSE 29 and CLAUSE 30 as well as its own internal policies and procedures, including compliance with its Code of Conduct and business integrity program, but will not be permitted to allocate any such funding towards those costs associated with CONTRACTOR's own supervision of such projects (however, allocation of funding towards costs associated with third parties contracted for such projects is permitted). The terms of each social project contemplated under this Clause 2.04(a) shall be subject to MACOM approval prior to their commencement.
- (b) The value of the projects provided for in Clause 2.04(a) above shall not be recoverable as Cost Oil or deductible for Tax purposes.

### CLAUSE 3. SCOPE

#### 3.01 SCOPE OF CONTRACT

- (a) This Contract is a Production Sharing Contract, governed in accordance with the terms and provisions hereof. The conduct of Petroleum Operations and provision of financial and technical requirements by CONTRACTOR under this Contract shall be with the prior approval of, or in prior consultation with, the MACOM as required under this Contract. JDA, by the authority granted it under the Treaty and Applicable Regulations, hereby appoints and constitutes CONTRACTOR as the exclusive entity to conduct Petroleum Operations in the Contract Area.
- (b) During the term of this Contract the total Available Crude Oil shall be allocated to the Parties in accordance with the Accounting Procedure (Annex 2) and the Allocation and Lifting Procedures Principles (Annex 3). The Allocation and Lifting Procedures, which shall be based on the principles set forth in Annex 3, shall be finalised by the Parties no later than six (6) months prior to the anticipated commencement of production from a Development Area.
- (c) CONTRACTOR shall provide funds and bear the risk of Operating Costs and the risk required to carry out Petroleum Operations and shall therefore have, *inter alia*, economic interests in any accumulations of hydrocarbons discovered as well as in the development and production of Petroleum.
- (d) CONTRACTOR shall be engaged in Petroleum Operations pursuant only to the Treaty, the Applicable Regulations (as modified by this Contract) and this Contract.

### CLAUSE 4. TERM

#### 4.01 TERM OF CONTRACT

- (a) This term of this Contract shall be comprised of:
  - (i) Subject to Clauses 4.01 (c), 4.01 (d), 4.02, 5.02(c), 5.06(d), 7.03(e) and 21.01 (b), an Exploration Period of eight (8) years divided into three



separate phases as follows:

- 1) Phase I: Four (4) years from the Effective Date;
  - 2) Phase II: From the end of Phase I until two (2) years after the end of Phase I
  - 3) Phase III - From the end of Phase II until two (2) years after the end of Phase II; and
- (ii) Subject to Clauses 4.01 (d), 21.01 (b) and 23.01 and provided that at least one (1) Field Development Program has been approved during the Exploration Period, an Exploitation Period for each such Commercial Discovery shall extend the term of the Contract for:
- 1) for each approved Field Development Program, the period of time between MACOM approval for such Field Development Program and CONTRACTOR's declaration that commercial production from the associated Commercial Discovery has commenced; plus
  - 2) one (1) of the applicable time periods:
    - A. for a Crude Oil Commercial Discovery, twenty (20) years from the date on which CONTRACTOR has declared that commercial production of Crude Oil from such Crude Oil Commercial Discovery has commenced;
    - B. for a Gas Commercial Discovery, twenty one (21) years from the date on which CONTRACTOR has declared that commercial production of Gas from such Gas Commercial Discovery has commenced, or
    - C. for a Commercial Discovery from which commercial quantities of both Crude Oil and Gas are produced, twenty-one (21) years from the date on which CONTRACTOR has declared that commercial production of either commodity from such Commercial Discovery has commenced;
- (b) CONTRACTOR shall commence operations not later than thirty (30) days after the Management Committee approves the first Work Program
- (c) Provided CONTRACTOR has fulfilled its obligations relative to the current Phase of the Exploration Period as described in Clause 7.02 hereof. CONTRACTOR may enter the next Phase upon providing JDA with written notice of its intention to enter the next Phase of the Exploration Period at least thirty (30) days before the end of the relevant Phase.
- (d) Provided CONTRACTOR has fulfilled its obligations relative to the current Phase of the Exploration Period as described in Clause 7.02 hereof, any

CONTRACTOR Party may terminate the Contract as it pertain to such CONTRACTOR Party at the end of any Phase, in accordance with Clause 20.04 hereof..

#### 4.02 EXTENSION OF TERM

Notwithstanding Clause 4.01:

- (a) Where CONTRACTOR reports a significant Discovery of Gas to JDA during Exploration Period, CONTRACTOR shall have the option to terminate the Contract or spend up to three (3) Years evaluating the Gas market with a view to securing a Viable Market for such Gas. During this Period CONTRACTOR may apply to JDA for a Gas Retention Area. If a Viable Market is not in existence or is not reasonably anticipated to be in existence at the end of such evaluation period, CONTRACTOR then has the further option to either enter into the Exploitation Period or to terminate the Contract..
- (b) Where available time is insufficient to complete Appraisal of a Discovery pursuant to an Appraisal Program approved under Clause 5.02 within the Exploration Period (including any previous extensions thereof), CONTRACTOR shall (upon prior written notice to JDA not less than sixty (60) days from the end of the Exploration Period) have the right to an extension of the Exploration Period to enable CONTRACTOR to complete Appraisal within the time limit stipulated in the Appraisal Program approved under Clause 5.02; provided that CONTRACTOR shall only be eligible for a maximum of two (2) such extensions of no more than three (3) years each during the Exploration Period.
- (c) In the event CONTRACTOR has discovered in the Contract Area estimated recoverable reserves of Gas of at least 350 SCF and CONTRACTOR proposes in writing to JDA at least sixty (60) days prior to the expiration of the Exploration Period including extensions, JDA may grant an extension of the Exploration Period to enable CONTRACTOR to:
  - (i) identify and/or develop a Viable Market *and/or* infrastructure for such Gas;
  - (ii) conduct further exploration and appraisal drilling to increase the reserves of Gas; and/or
  - (iii) conduct further exploration and appraisal drilling to increase the size of the recoverable Gas reserves to the level needed for an export project..
  - (iv) In this respect, JDA shall grant CONTRACTOR an extension of the Exploration Period by up to five (5) additional Years to the Term of this Production Sharing Contract for such purpose. The duration of extension, portion of Contract Area to be retained, minimum work obligation, and amount of performance bond/bank guarantee to be posted and other

conditions for the proposed extension shall be determined by JDA,, acting reasonably.

- (d) If commercial production from a Development Area remains possible beyond the applicable term specified in Clause 4.01 (a)(ii)2), CONTRACTOR may request by notice to JDA at least twelve (12) months prior to the end of the term to have the duration of this Contract extended with respect to such Development Area(s) for up to an additional five (5) years on terms and conditions to be determined by JDA.

## **CLAUSE 5. COMMERCIAL DISCOVERY AND DECLARATION OF COMMERCIALITY**

### **5.01 DECLARATION OF DISCOVERY**

- (a) CONTRACTOR shall have a period of up to forty-five (45) days from the date on which the drilling of the applicable Exploration Well terminates to declare whether the Exploration Well has proven a Discovery.
- (b) CONTRACTOR shall then have a period of two (2) years (unless otherwise agreed by JDA) from declaration of a Discovery to declare the Discovery, either on its own or in aggregation with other Discoveries, a Commercial Discovery, which may be extended for one (1) year, subject to the approval of JDA (which approval shall not be unreasonably withheld, conditioned or delayed) if the results of those activities indicate that further Appraisal is necessary.
- (c) If CONTRACTOR declares a Commercial Discovery, it shall have a period of two (2) years (unless otherwise agreed by the MACOM) from the time CONTRACTOR declares a Discovery or aggregation of Discoveries to be a Commercial Discovery to submit a Field Development Program to the MACOM for approval in accordance with Clause 5.06(c).
- (d) Once a Field Development Program is approved by the MACOM, CONTRACTOR shall initiate field development and production according to the time schedule outlined in such Field Development Program

### **5.02 APPRAISAL PROGRAM**

- (a) Within ninety (90) days of informing JDA in writing of a Discovery, CONTRACTOR shall inform JDA whether it intends to conduct appraisal on the Discovery. In the event CONTRACTOR intends to conduct appraisal on the Discovery, CONTRACTOR shall submit an Appraisal Program for MACOM approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Parties shall have thirty (30) days from receipt of an Appraisal Program to propose amendments or alternatives to same; provided that if no other Parties respond on or before such thirty (30) days have expired, such

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Appraisal Program shall be deemed to have been approved by the other Parties.

- (b) An Appraisal Program shall:
  - (i) specify the time frame, not exceeding three (3) years, within which CONTRACTOR shall commence and complete the Appraisal Program;
  - (ii) identify the area to be appraised ("Appraisal Area"), which shall not exceed the area encompassing the geological structure or feature and such margins to be specified surrounding the structure or feature as are common in Internationally Accepted Petroleum Industry Practices;
  - (iii) include a detailed Work Program and associated Budget..
- (c) Should another Party propose amendments or alternatives to a proposed Appraisal Program within the time permitted pursuant to Clause 5.02(a), CONTRACTOR shall revise and resubmit such program to MACOM and the process stipulated for MACOM review set forth in Clause 5.02(a) shall again apply; provided that if another Party again proposes amendments or alternatives to same within the time permitted, CONTRACTOR shall have the option to revise and resubmit a further revised Appraisal Program and repeat this process until such program has been approved by MACOM or refer such matter for Dispute Resolution. For certainty, the term of the Exploration Period shall be automatically extended for as long as it takes MACOM to approve the Appraisal Programo

### 5.03 NO ODECLARATION

In the event a Oiscovery is determined not to be a Commercial Oiscovery, upon expiration of the period set out in Clause 5.01 (b), JOA may, provided it gives at least eighteen (18) months' notice, require CONTRACTOR to promptly relinquish, without any compensation or indemnification whatsoever, the area encompassing the Discovery, including all of its rights to Petroleum which may be produced from such Discovery. After applying such relinquishment to the credit of CONTRACTOR under Clause 6.01 (a), JOA shall be free to appraise or offer such relinquished area to third parties for appraisal and/or development. .

### 5.04 APPRAISAL WORK AND REPORT

- (a) CONTRACTOR shall carry out the approved Appraisal Program within the time frame specified in same or as stipulated in Clause 5.02(b)(i), whichever occurs first.
- (b) Within one hundred and twenty (120) days after the completion of the Appraisal Program, CONTRACTOR shall submit to MACOM the Appraisal Report, which

report shall include, but not be limited to, the following information:

- (i) geological conditions, such as structural configuration;
- (ii) physical properties and extent of reservoir rocks;
- (iii) pressure, volume and temperature analysis of the reservoir fluid;
- (iv) fluid characteristics, including oil gravity, sulphur percentage, sediment and water percentage, and product yield pattern;
- (v) Gas composition, production forecasts (per well and per Discovery);
- (vi) estimates of recoverable reserves; and
- (vii) the declaration stipulated in Clause 5.05(a).

#### 5.05 DECLARATION OF COMMERCIAL DISCOVERY

- (a) As part of its Appraisal Report, CONTRACTOR shall submit a written declaration as to whether or not the Discovery is a Commercial Discovery in accordance with Clause 5.01 (b).
- (b) If CONTRACTOR determines that the Discovery is:
  - (i) a Commercial Discovery, it shall develop the Discovery and commence commercial production as provided for in this Contract;
  - (ii) not a Commercial Discovery, it shall forthwith relinquish the Appraisal Area. The provisions of Clause 5.03 above as they apply to relinquishment apply mutatis mutandis to this Clause 5.05(b)(ii);
  - (iii) a significant Discovery of Crude Oil, which may become a Commercial Discovery if certain conditions are met and where further work may be required outside the Appraisal Area, and CONTRACTOR has committed to undertake the work, it may proceed in accordance with Clause 5.06(a); or
  - (iv) a significant Discovery of Gas, it may propose to JDA as follows:
    - 1) that the significant Discovery of Gas may become a Commercial Discovery depending on the subsequent Discovery of one or more Gas Fields, the production from which, taken together with the production from this significant Discovery of Gas, would result in a sufficient total volume of Gas to declare a Commercial Discovery;
    - 2) may become a Commercial Discovery of Gas upon the development of infrastructure and a Viable Market for Gas; or

- 3) may in conjunction with the Discovery of one or more additional Gas Fields reach the threshold volume of 350BCF as required by Clause 4.02(c).

#### 5.06 RETENTION OF APPRAISAL AREA

- (a) In the event CONTRACTOR makes a determination under Clause 5.05(b)(iii) above, it shall be entitled to retain the Appraisal Area pending the completion of the additional work it has undertaken to complete, at which time CONTRACTOR shall advise the MACOM as to whether or not the Discovery is a Commercial Discovery of Crude Oil and the applicable provisions of Clause 5.05(b)(i) or Clause 5.05(b)(ii) shall be applied accordingly.
- (b) In the event CONTRACTOR makes a declaration under Clause 5.05(b)(iv), it shall be entitled to retain the Appraisal Area until, at a minimum, the termination of the Exploration Period (including any extension(s) thereof).
- (c) If CONTRACTOR declares pursuant to Clause 5.05(b)(i) that the Discovery is a Commercial Discovery, it shall submit with the Appraisal Report a proposed Field Development Program for approval by the MACOM and a designation of the Development Area. Upon approval of the Field Development Program, CONTRACTOR shall proceed with utmost dispatch and diligence and in accordance with Internationally Accepted Petroleum Industry Practice, to develop the Commercial Discovery, to install all necessary facilities and to commence commercial production. Should the MACOM not approve the Field Development Program, any Party that withheld its approval shall have thirty (30) days from its receipt to propose amendments or alternatives to same; provided that the other Parties' approval for same shall not be unreasonably withheld, conditioned or delayed and if none of the Parties respond on or before such thirty (30) days have expired, such Field Development Program shall be deemed to have been approved by the MACOM.
- (d) Should a Party propose amendments or alternatives to a proposed Field Development Program within the time permitted pursuant to Clause 5.06(c), CONTRACTOR shall revise and resubmit such program to the MACOM and the process stipulated for the MACOM's review set forth in Clause 5.06(c) shall again apply; provided that if another Party again proposes amendments or alternatives to same within the time permitted, CONTRACTOR shall have the option to revise and resubmit a further revised Field Development Program and repeat this process until such program has been approved by the MACOM or refer such matter for Dispute Resolution. For certainty, the term of the Exploration Period shall automatically be extended for as long as it takes the MACOM to approve such Field Development Program.

## CLAUSE 6. RELINQUISHMENT/RETAINMENT OF AREAS

### 6.01 RELINQUISHMENT AND RETAINMENT

- (a) Subject to Clause 6.01 (b), CONTRACTOR shall relinquish the following portions of the Contract Area and right to conduct Petroleum Operations therein:
- (i) at least twenty five percent (25%) of the original Contract Area not later than the end of Phase II of the Exploration Period; provided that such relinquished area(s) shall be as contiguous as possible, with each part of the relinquished area being, to the extent practicable, not less than thirty per cent (30%) of the total area being relinquished so that such relinquished partes) are of sufficient size and shape to enable other petroleum exploration and development activities to be conducted thereon; and
  - (ii) all remaining portions of the original Contract Area, no later than the end of the Exploration Period.
- (b) Notwithstanding Clause 6.01(a)(ii), CONTRACTOR shall have the right to retain all Development Areas for the duration of the applicable Exploitation Period set forth in Clause 4.01 (a)(ii).
- (c) CONTRACTOR may at any time voluntarily relinquish its rights under this Contract to conduct Petroleum Operations in all or any part of the Contract Area. Such voluntary relinquishment during the Exploration Period shall be credited towards CONTRACTOR's obligations under Clause 6.01 (a)(i); provided that if CONTRACTOR voluntarily relinquishes the entire Contract Area and the right to conduct Petroleum Operations therein, the Contract shall terminate.
- (d) No relinquishment shall relieve CONTRACTOR of any accrued but unfulfilled obligations under the Contract. In the event that CONTRACTOR desires to relinquish its rights under this Contract to conduct Petroleum Operations in all of the Contract Area without having fulfilled all accrued Minimum Work Commitments, CONTRACTOR shall, in accordance with Clause 7.03(c), pay JDA prior to the date of such final relinquishment an amount equal to the amounts specified under Clause 7.03(a) which correspond to all unfulfilled accrued Minimum Work Commitments.
- (e) At least ninety (90) days in advance of a relinquishment under Clause 6.01 (a)(i) or Clause 6.01 (c), CONTRACTOR shall notify JDA of the designation and size of the portion or portions of the Contract Area that CONTRACTOR is relinquishing.
- (f) Prior to relinquishment of any portion of the Contract Area, CONTRACTOR shall perform appropriate Decommissioning activities for those facilities,

equipment and installations which CONTRACTOR built or installed within such area, which activities shall be carried out in accordance with Internationally Accepted Petroleum Industry Practice and shall take actions which are reasonably necessary to prevent hazards to human life, property and the environment which may be caused by the abandonment *and/or* reclamation of such facilities, equipment and installations.

- (g) Notwithstanding the relinquishment of any portion of the Contract Area.. CONTRACTOR may continue to use such relinquished area for the duration of this Contract to the extent required for ingress to and egress from the retained parts of the Contract Area.

## **CLAUSE 7. MINIMUM WORK PROGRAM AND BUDGET**

### **7.01 WORK PROGRAM AND BUDGET**

Within two (2) months after the Effective Date and thereafter at least three (3) months prior to the beginning of each Calendar Year CONTRACTOR shall prepare and submit for review and approval by the Management Committee pursuant to CLAUSE 8, a Work Program and Budget for the Contract Area setting forth the Petroleum Operations which CONTRACTOR proposes to carry out during the ensuing year, or in case of the first Work Program and Budget, during the remainder of the current year.. The Management Committee shall review and approve such Work Program and Budget in accordance with the provisions of Annex 4 (Management Committee Meeting Procedures) prior to submission of the Work Program and Budget to JDA..

### **7.02 MINIMUM WORK COMMITMENTS**

The minimum work commitments for each Phase of the Exploration Period are as follows:

- (a) PHASE 1 - During Phase I, CONTRACTOR shall:
  - (i) acquire, process and interpret 3-D seismic data of 2000km<sup>2</sup> of the Contract Area.
- (b) PHASE II - If CONTRACTOR elects to enter Phase II, then during Phase II CONTRACTOR shall:
  - (i) purchase from JDA the existing environmental baseline study data over the Contract Area or conduct an environmental baseline study; and
  - (ii) drill one (1) Exploration Well to a minimum TIO of 3,500 meters (TVOSS) subsea on the Contract Area.
- (c) PHASE III - If CONTRACTOR elects to enter Phase III, then during Phase III



CONTRACTOR shall:

- (i) carry out geological & geophysical studies and *development* studies.

(collectively, the "**Minimum Work** Commitments").

### 7.03 MINIMUM FINANCIAL COMMITMENTS

- (a) The minimum financial commitments for each Phase of the Exploration Period are as follows:

- (i) PHASE I - Incur a minimum total financial commitment of six million Dollars (\$6,000,000.00) for data acquisition, processing and interpretation;
- (ii) PHASE II - Incur a minimum total financial commitment of twenty million Dollars (\$20,000,000) to:
  - 1) drill one (1) Exploration Well; and
  - 2) conduct or purchase of Environmental Baseline Data; and
- (iii) PHASE III - Incur a minimum total financial commitment of four million Dollars (\$4,000,000.00) to conduct geological & geophysical studies and *development* studies.

(collectively, the "**Minimum Financial** Commitments").

- (b) If CONTRACTOR fulfills the Minimum Work Commitment for a specific Phase as more particularly set forth in Clause 7.02(a), Clause 7.02(b) or Clause 7.02(c), then CONTRACTOR shall be deemed to *have* satisfied the corresponding Minimum Financial Commitment for such Phase.
- (c) If CONTRACTOR fails to complete the Minimum Work Commitment for a specific Phase as more particularly set forth in Clause 7.02(a), Clause 7.02(b) or Clause 7.02(c), and such commitment has not been carried over for completion into the next Phase with the consent of JDA (such consent not to be unreasonably withheld, conditioned or delayed), then CONTRACTOR shall pay JDA the difference between the Minimum Financial Commitment for the then current Phase and the amount actually expended in Petroleum Operations for such Phase, as liquidated damages in full and final settlement of all potential claims for breach of Contract and, subject to Clause 20 of this Contract, the Contract shall terminate.
- (d) CONTRACTOR shall be excused from any delay or failure to comply with the

terms and conditions of Clauses 7.02 and 7.03:

- (i) as a result of Force Majeure; or
  - (ii) if the Management Committee denies CONTRACTOR permission to drill at the specific location proposed by CONTRACTOR.
- (e) The time for performing any incomplete Minimum Work Commitments for any Phase and the term of this Contract shall be extended by the following periods:
- (i) with respect to Clause 7.03(d)(i) above, for the duration of such period of Force Majeure plus any additional time required to remedy or mitigate the impact(s) of such Force Majeure; provided that should additional time be required for such remediation or mitigation, the time period associated with same shall be subject to the prior approval of JDA (which approval shall not be unreasonably withheld, conditioned or delayed); and
  - (ii) with respect to Clause 7.03(d)(ii) above, for the time required for the Management Committee to approve an alternative drilling location; provided that CONTRACTOR pursues the identification of an alternative location with reasonable diligence and in good faith.
- (f) If the circumstances described in Clause 7.03(e)(i) are not resolved within the time period specified above or if the alternative drilling location referred to in Clause 7.03(e)(ii) is not pursued with reasonable diligence and good faith, then after consultation with JDA, CONTRACTOR shall be liable to pay to JDA an amount corresponding to any unfulfilled Minimum Work Commitments for that Phase.
- (g) Provided that the Minimum Work Commitments for a Phase have been completed, any expenditures made or work carried out by CONTRACTOR during such Phase which are in excess of the Minimum Work Commitments and/or Minimum Financial Commitments associated with such Phase shall be credited to reduce the Minimum Financial Commitments and/or the Minimum Work Commitments of the next succeeding Phase (insofar as such commitments form part of the next succeeding Phase).
- (h) For the purposes of determining whether an Exploration Well has been drilled in accordance with the Minimum Work Commitment, such a well shall be deemed drilled if the above minimum T/D is reached or if any one of the following events occurs prior to reaching the total depth:
- (i) A Discovery is made and further drilling may cause irreparable damage to such Discovery;
  - (ii) Basement is encountered;
  - (iii) JDA and CONTRACTOR agree the well is drilled for the purpose of

fulfilling the obligation to complete the Minimum Work Commitment; or

- (iv) Technical difficulties are encountered which, in the judgment of CONTRACTOR and in accordance with Internationally Accepted Petroleum Industry Practice, makes further drilling impracticable, uneconomic, unsafe or a danger to the environment. .

#### 7.04 CONTRACTOR PARTY SECURITY

##### (a) Performance Bond

- (i) Within thirty (30) days from the Effective Date of this Contract, each CONTRACTOR Party shall submit a performance bond from a reputable international financial institution to cover its Participating Interest share of six million Dollars (\$6,000,000.00) representing the Minimum Work Commitment for Phase I.
- (ii) If CONTRACTOR subsequently completes the Phase I Minimum Work Commitment, each such CONTRACTOR Party shall provide a new performance bond for its Participating Interest share of twenty million Dollars (\$20,000,000.00) within thirty (30) days from the date that CONTRACTOR notifies JDA it is proceeding into Phase " in accordance with Clause 4.01 (c).
- (iii) If CONTRACTOR subsequently completes the Phase " Minimum Work Commitment, each such CONTRACTOR Party shall provide a new performance bond for its Participating Interest share of four million Dollars (\$4,000,000.00) within thirty (30) days from the date that CONTRACTOR notifies JDA it is proceeding into Phase III in accordance with Clause 4.01 (c).
- (iv) In the event that the duration of a Phase extends beyond one (1) Year, the amount of the Performance Bonds may be reduced annually by deducting the verified expenditures each CONTRACTOR Party has incurred in the previous year of such Phase towards the Minimum Work Commitments then completed.

##### (b) Guarantee

Within thirty (30) days from the Effective Date of this Contract or the date a new CONTRACTOR Party becomes a Party to this Contract, as applicable, each CONTRACTOR Party shall submit a guarantee from an Affiliate guarantor which will:

- (i) be capped at its Participating Interest share of a maximum liability equal to two hundred percent (200%) of the Minimum Financial Commitments

as set forth in Clause 7.03(a); and

(ii) be valid for up to four (4) years after the term of this Contract;

provided that if such CONTRACTOR Party has a substantial balance sheet (i.e., Total E&P Nigeria Limited), it shall not be required to provide such a guarantee from an Affiliate guarantor..

## **CLAUSE 8. MANAGEMENT COMMITTEE**

### **8.01 MACOM POWERS AND DUTIES**

- (a) A Management Committee shall be established within sixty (60) days from the Effective Date of this Contract for the purpose of providing orderly direction of all matters pertaining to the Petroleum Operations and Work Programo
- (b) The powers and duties of the Management Committee are as stated in Annex 4 of this Contract..

## **CLAUSE 9. RIGHTS AND OBLIGATIONS OF THE PARTIES**

### **9.01 JDA RIGHTS AND OBLIGATIONS**

In accordance with this Contract, JDA shall:

- (a) provide the assistance described in CLAUSE 14;
- (b) assist and expedite CONTRACTOR's execution of Petroleum Operations and Work Programs including, but not limited to, assistance in supplying or otherwise making available all necessary visas, work permits, rights of way and easements as may be requested by CONTRACTOR.. Expenses incurred by JDA at CONTRACTOR's request in providing such assistance shall be reimbursed to JDA by CONTRACTOR in accordance with Clause 12.01 this Contract.. This reimbursement will be made against the invoice and shall be in Dollars. CONTRACTOR shall include such reimbursements in the Operating Costs;
- (c) have the right to recover from CONTRACTOR all costs approved by the Management Committee which are reasonably incurred by it should it perform Petroleum Operations for and on behalf of CONTRACTOR in the Contract Area (for certainty, such right of recompense does not exist for JDA for any costs and expenses it incurs in its capacity as a Party to this Contract);
- (d) have title to and shall keep copies of all data resulting from 3D seismic data acquisition, processing and interpretation, environmental baseline studies (if

carried out by CONTRACTOR) and Petroleum Operations including but not limited to geological, geophysical, engineering, well logs, completion, production, operations, status reports and any other data as CONTRACTOR may compile during the term hereof, provided however, that CONTRACTOR shall be permitted to keep and use such original data during the term of this Contract and JOA shall be permitted to have access to such original data during the term of this Contract; and

- (e) not exercise all or any of its rights or authority over the Contract Area in derogation of the rights of CONTRACTOR.

#### 9.02 CONTRACTOR RIGHTS AND OBLIGATIONS

In accordance with this Contract, CONTRACTOR shall:

- (a) pay to JDA in a timely manner, all fees, bonuses and Concession Rentals accruing out of the Petroleum Operations then due and owing;
- (b) provide all necessary funds for payment of Operating Costs including, but not limited to, funds required to provide all materials, equipment, supplies, and technical requirements (including personnel) purchased or leased;
- (c) provide such other funds for the performance of Work Programs including payments to third parties who perform services in accordance with terms contained therein as subcontractors;
- (d) prepare Work Programs and Budgets and carry out approved Work Programs in accordance with Internationally Accepted Petroleum Industry Practice with the objective of avoiding waste and obtaining maximum ultimate recovery of Petroleum at minimum cost;
- (e) CONTRACTOR shall pay the following fees to JDA if and when they become due in accordance with the provisions of CLAUSE 12:
  - (i) On application to assign a Participating Interest in the Contract (during the Exploration Period): \$100,000
  - (ii) On application to assign a Participating Interest in the Contract (during the Exploitation Period): \$500,000
  - (iii) On an application for a license to operate a drilling rig (during Exploration Period): \$100,000
  - (iv) On an application for a license to operate a drilling rig (during Exploitation

Period): \$150,000

- (v) For a permit to export samples for analysis (per well): \$1,000
- (vi) Submission of Abandonment and Oecommissioning Programme: \$100,000
- (vii) Application for Gas Flaring Permit: \$50,000

For certainty, no other fees (including any fees otherwise prescribed for in any of the Applicable Regulations) shall become due and payable by any CONTRACTOR Party to JOA in relation to any other Petroleum Operations undertaken for the duration of the Contract.

- (f) The following annual rents (Concession Rentals) shall be payable:
  - (i) Ouring the Exploration Period for every square kilometer or part thereof: \$200
  - (ii) Ouring the first 10 years of the Exploitation Period, for every square kilometer or part thereof: \$500
  - (iii) Ouring the remainder of the Exploitation Period, for every square kilometer or part thereof: \$200
- (g) ensure that ali leased equipment brought into the JOZ for Petroleum Operations is treated in accordance with the terms of the applicable leases;
- (h) in addition to the rights provided pursuant to Clause 6.01 (g), have the rights of ingress to and egress from the Contract Area and to and from facilities therein located at ali times during the term of this Contract;
- (i) submit to JOA for copies of ali geological, geophysical, drilling, well production, operating and other data and reports as it may compile during the term hereof and at the end of the Contract surrender ali original data and reports to JOA;
- (j) prepare estimated and final tax returns and submit same to JOA on a timely basis in accordance with the Petroleum Tax Regulations;
- (k) have the right to lift in accordance with the Allocation and Lifting Procedure Principies (Annex 3).
- (l) prepare and carry out plans and programs for industry training and education of nationals of Nigeria and São Tomé e Príncipe for ali job classifications with respect to Petroleum Operations in accordance with the Contract;
- (m) employ only such qualified personnel as required to conduct the Petroleum Operations in a prudent and cost-effective manner giving preference to

qualified nationals of Nigeria and São Tomé e Príncipe;

- (n) give preference to subcontractors incorporated within Nigeria and/or São Tomé e Príncipe which have been registered with JOA on a non-discriminatory basis, for the provision of materials, equipment, supplies, services and technical requirements necessary for to the proper functioning and execution of Petroleum Operations to the extent that such materials, equipment, supplies, services and technical requirements meet prescribed specifications and are competitive in terms of quality, quantity, availability, delivery and price;
- (o) give preference to such goods and services which are available in Nigeria and São Tomé e Príncipe or services that can be rendered by nationals of Nigeria and São Tomé e Príncipe; provided they meet the specifications of the goods and services and are competitive in terms of quality, quantity, availability, delivery and price;
- (p) CONTRACTOR shall pay all charges and fees as are imposed by the Contract;
- (q) indemnify, and hold JOA harmless against all losses, damages, injuries, expenses, actions of whatever kind and nature including but not limited to legal fees and expenses suffered by JOA where such loss, damage, injury is the result of the Gross Negligence / Wilful Misconduct of CONTRACTOR; provided, however, that in no event shall CONTRACTOR be required to indemnify, and hold JOA harmless against any Consequential Loss.
- (r) not exercise all or any rights or authority over the Contract Area in derogation of the rights of JOA; and
- (s) in the event of any emergency requiring immediate operational action, take all actions it deems proper or advisable to protect the interests of the Parties and any costs so incurred shall be included in the Operating Costs. Prompt notification of any such action taken by CONTRACTOR and the estimated cost shall be given to JOA within forty-eight (48) hours of becoming aware of the event.

### 9.03 PENAL TIES AND BREACHES

The following table contains the list of breaches which can occur under this Contract and the corresponding list of remedies available to JOA in the event of each such breach, which remedies shall, notwithstanding anything to the contrary contained in this Contract, the Treaty, the Applicable Regulations or that otherwise exist at law or in equity, be the sole and exclusive remedies available to JOA in the event of any such breach).

No.	TYPE OF BREACH BY CONTRACTOR	PENALTY BY JOA
1.	Failure/refusal to obtain required permits for, completion, work-over	Payment of a fine of \$20,000.00 for every required permit not obtained at time of activity commencement

No.	TYPE OF BREACH BY CONTRACTOR	PENALTY BY JDA
	and abandonment prior to commencement of such activities	
2.	Failure to obtain MACOM approval for Field Development Program prior to commencing development of Commercial Discovery.	Payment of a fine of \$50,00000
3.	Failure/refusal to secure and/or adhere to terms of MACOM's approval (if and when required in accordance with terms of this Contract) when commencing work following the award of oil service contract.	payment of a fine of \$50,000.00
4.	Forging/ use of forged licenses, permits and approvals which are required for work or activities then commenced by CONTRACTOR	a) Payment of a fine of \$150,000.00; b) Possible criminal prosecution in addition to the above penalties
5.	Breach of Clause 14.01 (b), Clause 14.01 (c), Clause 14.01 (d) or Clause 14.01(e).	Company shall pay \$50,000.00 per breach.
6.	Breach of Clause 18.02	A fine of \$50,000.00 for the first breach and \$100,000.00 for each and every subsequent breach.

9.04 PROCEDURES FOR APPLYING PENALTIES:

Whenever CONTRACTOR or another person engaged in Petroleum Operations on CONTRACTOR's behalf commits any or a combination of the above breaches, the following procedure shall be adopted at the discretion of JDA:

- (a) Upon establishing the breach, JDA shall notify CONTRACTOR, in writing, stating the nature of the breach.
- (b) The notice shall require CONTRACTOR to tender a written explanation within seven (7) days of its receipt of JDA's written notification, as to why the breach was committed.
- (c) If the explanation is satisfactory to JDA, JDA will request for remedial action of the breach where necessary.
- (d) If the explanation sought in Clause 9.04(c) above is not satisfactory to JDA the appropriate penalty shall apply.
- (e) Whenever necessary, remedial action will be required in respect of any of the



above breaches.

- (f) All remedial actions will be required to be performed within a reasonable time frame.

## CLAUSE 10. RECOVERY OF OPERATING COSTS AND SHARING OF PETROLEUM PRODUCTION

### 10.01 USE OF PETROLEUM

CONTRACTOR shall have the right to use, free of charge, Petroleum produced from the Contract Area to the extent reasonably required for Petroleum Operations under the Contract.

### 10.02 MEASUREMENT OF PETROLEUM

All Petroleum other than that used pursuant to Clause 10.01 (Le. "Available Petroleum"), shall be measured at the applicable Measurement Points and allocated as set forth hereinafter. Any testing or experiments done prior to Development, to the extent not required for Petroleum Operations hereunder, shall be carried out in accordance with Internationally Accepted Petroleum Industry Practice. Any Petroleum produced in relation to such tests or experiments shall be deemed to be Profit Oil and shall be allocated between JDA and the CONTRACTOR Parties in accordance with Clause 10.04.

### 10.03 COST RECOVERY

Subject to the Accounting Procedure and the auditing provisions of this Contract, CONTRACTOR shall recover all costs and expenses not excluded by the provisions of the Contract or the Accounting Procedure for all Petroleum Operations carried out to the extent of and out of a maximum of seventy-five percent (75%) per Calendar Year of all Available Crude Oil (collectively hereinafter referred to as "Cost Recovery Oil"). Such costs and expenses shall be allocated to Available Crude Oil and shall be recoverable from Cost Recovery Oil in the following manner and order:

- (a) All Operating Costs incurred after first commercial production from the Contract Area shall start to be recoverable in the month in which such expenses are incurred.
- (b) All capital costs incurred and paid by CONTRACTOR under an approved Field Development Program will start to be recoverable either in the month in which the expenditure was incurred (if incurred after first commercial production) or the month in which first commercial production occurs (if incurred prior to first commercial production).
- (c) Costs relating to Exploration Operations before first commercial production as well as all other expenses related to Petroleum Operations not directly related



to Clause 10.03(a) or Clause 10.03(b) above but incurred prior to first commercial production, will be recovered at the rate of twenty-five per cent (25%) per Calendar Year on a straight line basis, commencing in the month in which commercial production commences in the Contract Area.

- (d) Costs relating to Exploration Operations after first commercial production as well as other expenses not directly related to Clause 10.03(a) or Clause 10.03(b) above will be recovered in the month in which such expenses are incurred.
- (e) To the extent that in a month costs or expenses recoverable under Clause 10.03(a), Clause 10.03(b), Clause 10.03(c), and/or Clause 10.03(d) exceed the value of all Cost Recovery Oil for such month, those unrecovered costs and expenses shall be carried forward for recovery in the next succeeding month until fully recovered, but in no case after expiry of the Contract.

The procedures for valuation of Petroleum and measurement of Petroleum in CLAUSE 11 shall also be used for determining the quantity and value of Cost Recovery Oil to which CONTRACTOR is entitled hereunder.

10.04 PRODUCTION SHARING

- (a) Profit Oil shall be allocated to each Party pursuant to the following sliding scale for each Development Area:

R Factor	CONTRACTOR Share	JDA Share
R < 1.2	P = 80%	100% - P
11.2 < R < 2.5	$P = 25\% + \{[(2.5-R)/(2.5-1.2)] * (80\% - 25\%)\}$	100% - P
R > 2.5	P = 25%	100% - P

Where, for each Development Area:

$$R = \frac{\text{cumulative Cost Oil} + \text{cumulative CONTRACTOR Party share of Profit Oil}}{\text{cumulative Operating Costs}}$$

- (b) Each CONTRACTOR Party shall receive at the applicable Measurement Points its Participating Interest share of the Cost Recovery Oil and of Profit Oil. Title and risk of loss for same shall pass to each CONTRACTOR Party at the outlet flange of each applicable Measurement Point.
- (c) To the extent that the value of Cost Recovery Oil received by CONTRACTOR during a Month is greater or less than the amount CONTRACTOR was entitled

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to receive as Cost Recovery for that Month, an appropriate adjustment shall be made.

- (d) CONTRACTOR and JDA shall review annually the production forecast program *from* each Development Area established pursuant to Clause 5.04(b)(v) having due regard to ensuring compliance with CONTRACTOR's obligations under this Contract..
- (e) CONTRACTOR shall, not less than ninety (90) days prior to the beginning of each Quarter following commencement of commercial production, provide to the Management Committee a forecast setting out the total quantity of Petroleum that it estimates can be produced during each of the next four (4) Quarters in accordance with Internationally Accepted Petroleum Industry Practice and the production forecast program established in accordance with Clause 5.04(b)(v). CONTRACTOR shall endeavour to produce each Quarter the forecast quantity.
- (f) Crude Oil shall be stored in appropriate facilities in accordance with the Development Plan, maintained and operated at the Measurement Point under the Contract where it shall be measured for purposes of the Contract. JDA and each CONTRACTOR Party shall have the right to take in kind and separately dispose of its respective entitlement. .
- (g) Prior to the commencement of commercial production of Petroleum *from* Contract Area, JDA and the CONTRACTOR Parties shall use the Allocation and Lifting Procedure agreed to pursuant to Annex 3 to determine their respective entitlements following the procedures laid down therein on a regular basis and in a manner that is appropriate having regard to the respective destinations and uses for the Petroleum.
- (h) JDA may, on 180 Days' notice, elect to receive its share of Profit Oil in kind or in cash, or as mutually agreed between the Parties.

#### 10.05 PRODUCTION ALLOWANCE

Notwithstanding anything to the contrary in this Contract, the CONTRACTOR Parties shall be entitled to the "Production Allowance" as further described in section 14 of the Petroleum Tax Regulations and Paragraph 5(2) and Table 3 of the First Schedule thereto.

### **CLAUSE 11. VALUATION AND MEASUREMENT OF PETROLEUM PRODUCTION**

#### 11.01 VALUE OF CRUDE OIL

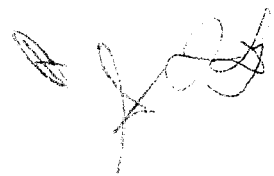
Where the different grades of Crude Oil are being produced in a Development Area, the Value shall be determined for each grade of Crude Oil.

#### 11.02 VALUE OF CRUDE OIL DETERMINED BY SALES

- (a) If there have been sales of Crude Oil produced from the Contract Area to third parties at arm's length sales during a particular month or such other period as the Parties may agree ("Delivery Period") all sales so made shall be valued at the weighted average of the prices actually received by CONTRACTOR, calculated by dividing the total receipts from all such sales FOB the delivery point by the total number of Barrels of the Crude Oil sold in such sales; provided that if a portion of such third party arm's length sales are made on a basis other than an FOB basis as herein specified, the said portion shall be valued at prices equivalent to the prices FOB the delivery point for such sales determined by deducting all costs (such as transportation, demurrage, loss of Crude Oil in transit and relevant costs) incurred downstream of the delivery point, and the prices so determined shall be deemed to be the actual prices received for the purpose of calculation of the weighted average of the prices of all third party arm's length sales for that particular month or the Delivery Period.
- (b) CONTRACTOR shall submit to JDA within ten (10) days of the end of the Delivery Period a report containing the actual prices obtained in their respective arm's length sales to third parties of any Crude Oil. Such reports shall distinguish between term sales and spot sales and itemize volumes with specifications in respect of grade and gravity, customs and prices received.
- (c) The Value of Crude Oil shall be determined in Dollars per Barrel on a monthly basis in accordance with the following procedure:
  - (i) Within ten (10) days following the end of each month, CONTRACTOR shall determine in accordance with provisions of Clause 11.02(a), the Value applicable for the Delivery Period concerned and shall notify JDA in writing of such Value, indicating the method of calculation and all data used in the calculation of such Value.
  - (ii) Within fifteen (15) days following receipt of the notice referred to in Clause 11.02(c)(i), JDA shall notify CONTRACTOR in writing of its acceptance or objections to the Value determined. Failing notification from JDA within the fifteen (15) day period, the Value provided for in CONTRACTOR's notice referred to in the preceding paragraph shall be deemed to have been accepted by JDA.
  - (iii) In the event JDA has given CONTRACTOR written objections to the proposed Value within the fifteen (15) day period, the Parties shall meet within fifteen (15) days following JDA's notification to mutually agree on the Value.

#### 11.03 VALUE OF CRUDE OIL NOT DETERMINED BY SALES

- (a) If there have been no sales of Crude Oil produced from the Contract Area to



third parties at arm's length during a Delivery Period, the Value of Crude Oil shall be determined on the basis of either the FOB selling price per Barrel of a basket of three Crude Oils which, at the time of calculation, are being freely and actively traded in the international market and are similar in characteristics and grade to the Crude Oil in respect of which the price is being determined, or the spot market for the same Crude Oils ascertained in the same manner. whichever price, in the opinion of the Parties, more truly reflects the current value of such Crude Oils. Crude Oils which qualify for inclusion in the basket shall be those for which the spot price and term price FOB point of export is published on a regular basis in Platt's Oilgram ("Platts") or in the Asian Petroleum Price Index (APPI) whichever the Parties mutually consider more relevant for this purpose. CONTRACTOR and JDA hereby agree that:

- (i) three (3) Crude Oils shall be mutually agreed at least six (6) Months before anticipated first commercial production from each Development Area; and
  - (ii) they shall meet to confirm or revise the selection of the three (3) Crude Oils referred to in Clause 11.03(a)(i) six (6) months after commercial production has commenced from the applicable Development Area.
- (b) The selection of three Crude Oils or the Value determination procedure pursuant to Clause 11.03(a) may be changed from time to time, by mutual consent, where prevailing market conditions would result in an unfair determination of the Value of Crude Oil to either JDA or CONTRACTOR or where it is required by an arbitral decision under Clause 11.03(c).
- (c) In the event that at the relevant time, no Crude Oils of similar quality to the Crude Oil to be sold are being actively traded in the international markets where prices can be ascertained by international publication, or the official FOB selling prices and the international spot market price varies significantly between producers, the Parties shall meet in good faith to determine an appropriate pricing basis; provided that if the Parties have differences and cannot agree to same, the Parties agree to submit their differences to a sole expert appointed pursuant to Clause 25 for final determination of Value.

#### 11.04 MEASUREMENT POINT

- (a) Ali Petroleum produced, saved and not used in Petroleum Operations shall be measured at the Measurement Point.
- (b) The Measurement Point shall be the location closest to the Development Area as designated in a Field Development Program, where the Petroleum is delivered for transportation therefrom by tanker or pipeline.
- (c) The production shall be measured in accordance with standards generally acceptable in the international Petroleum industry. Ali measurement equipment shall be installed, maintained and operated by CONTRACTOR.

JDA shall have the right to inspect the measuring equipment installed by CONTRACTOR and all charts and other measurement or test data at all reasonable times on reasonable prior notice to CONTRACTOR. The accuracy of CONTRACTOR's measuring equipment shall be verified by tests at regular intervals and upon the request of JDA, using means and methods generally accepted in the international Petroleum industry.

- (d) Upon discovery of a meter malfunction, CONTRACTOR shall immediately have the meter repaired, adjusted and corrected and subsequently tested or recalibrated to establish its accuracy. Upon the discovery of metering error, CONTRACTOR shall have the meter tested immediately and shall take the necessary steps to correct such error.
- (e) In the event a measuring error is discovered, CONTRACTOR shall make commercially reasonable efforts to correct the Production figures for the period during which there was a measuring error. CONTRACTOR shall submit a report on the corrections applied to JDA for its approval, which approval shall not be unreasonably withheld, conditioned or delayed. In determining the correction, CONTRACTOR shall use, where required, information from other measurements made inside or outside the Development Area. If it proves impossible to determine when the measuring error first occurred, the commencement of the error shall be deemed to be that point in time halfway between the date of the last previous test and the date on which the existence of the measuring error was first discovered.
- (f) All measurements shall for all purposes in this Contract be adjusted to the standard conditions of fourteen point seven (14.7) pounds per square inch and a temperature of sixty (60) degrees Fahrenheit.

## CLAUSE 12. PAYMENT

### 12.01 PAYMENT TERMS

- (a) Each Party shall make all payments to another Party for which it is liable under this Contract in Dollars or other currency agreed to between the Parties. Payments shall be made to an account held and designated by the Party to whom the amount is owing. Where payment is made in a currency other than Dollars, the exchange rate used to convert the Dollars liability into that currency shall be the exchange rate published on the date of payment by the Central Bank of Nigeria (for Naira), the Central Bank of São Tomé e Príncipe (for Dobra) and the Financial Times of London, (for other currencies). Overdue payments shall bear interest at the annual rate of one (1) month LIBOR or any substitute as agreed to by the Parties plus two percent (2%).
- (b) Any payments required to be made pursuant to this Contract shall be made within thirty (30) days following the end of the month in which the obligation to

make such payments is incurred or after receipt of valid invoice in approved form (as applicable).

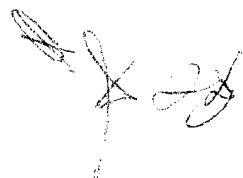
### **CLAUSE 13. TITLE TO EQUIPMENT, ABANDONMENT / DECOMMISSIONING**

#### **13.01 TITLE TO AND USE OF EQUIPMENT**

- (a) CONTRACTOR shall finance the cost of purchasing all equipment to be used in Petroleum Operations in the Contract Area pursuant to the Work Program and such equipment shall become the property of JDA upon cost recovery. Notwithstanding the foregoing, CONTRACTOR and JOA shall have the right to use such equipment exclusively for Petroleum Operations in the Contract Area at no cost during the term of this Contract.
- (b) Should JDA desire to use such equipment outside the Contract Area, such use shall be subject to terms and conditions agreed by the Parties; provided that it is understood that Petroleum Operations in the Contract Area hereunder shall take precedence over such use by JDA. CONTRACTOR shall only lease equipment with the approval of JDA, such approval not to be unreasonably withheld, conditioned or delayed if such lease is in the best interest of the Petroleum Operations.
- (c) Upon the termination or expiration (whichever is earlier) of this Contract, including any extensions thereof, CONTRACTOR shall transfer ownership of all equipment to JOA; provided that JDA shall not acquire title to any leased property belonging to local or foreign third parties, and such property may be freely exported from the JDZ in accordance with the terms of the applicable lease.
- (d) Subject to Clause 13.01 (c) above, all fixed assets purchased or otherwise acquired by CONTRACTOR for the purposes of Petroleum Operations hereunder shall become the property of JDA. Upon termination of this Contract pursuant to CLAUSE 20 of this Contract CONTRACTOR shall hand over possession of such fixed assets to JDA.
- (e) During the term of this Contract, any agreed sales of equipment, land, fixed assets, materials and machinery acquired for the purpose of the Petroleum Operations hereunder shall be conducted by CONTRACTOR on the basis of the procedure for sale of assets as contained in Annex 58.

#### **13.02 ABANDONMENT**

Abandonment shall be as provided for in Regulation 54 of Petroleum Regulations.



13.03 DECOMMISSIONING

- (a) The expenditure for Decommissioning will be estimated on the basis of technical studies by CONTRACTOR to be agreed by the Management Committee as part of each Field Development Program and can be revised as necessary.
- (b) Unless otherwise agreed by JDA, the procedure for providing funds to meet the Decommissioning obligation shall be established on a Development Area basis, commencing four (4) Calendar Years after the start of commercial production, on a unit of production basis as follows:

DP = (PVDC - DF) \* (P / RP), where:

DP = Decommissioning provision for the period (millions of Dollars)

PVDC = Present value of Decommissioning costs (millions of Dollars)

DF = Balance of Decommissioning Fund at the start of the period (millions of Dollars)

P = Crude Oil production in the period (millions of barrels)

RP = Estimated remaining Crude Oil (millions of barrels)

- (c) All Decommissioning provisions shall be held in a Decommissioning fund, which shall be an interest bearing escrow account jointly established by the Parties at a first class commercial bank or other financial institution (the "**Decommissioning** Fund"). The bank or financial institution shall have a long term rating of not less than "AA-/A 1" by Standard and Poor's Corporation or an "Aa3/P1" rating by Moody's Investor Service or a comparable rating by another mutually agreed rating service.
- (d) For the purposes of calculating the present value of Decommissioning costs, the following formula shall be used:

PVDC = EDC / (1 + i) <sup>n</sup>, where:

PVDC = Present value of Decommissioning costs

EDC = Estimated value of Decommissioning costs in nominal terms at the expected date of Decommissioning

i = interest rate applicable to the escrow account in the current period



n = number of years between current period and expected date of Decommissioning

- (e) All funds provided for Decommissioning shall be used solely for the purposes of paying for Decommissioning activities. No Party shall mortgage, pledge, encumber or otherwise use such Decommissioning Fund for any purpose whatsoever except as expressly provided herein. The Decommissioning Fund may be invested in investments approved by the Parties.
- (f) CONTRACTOR shall annually reevaluate the actual Decommissioning costs and the Decommissioning Fund for any Development Area within the annual Work Program and Budget, and update the amount then to be deposited and/or maintained in the Decommissioning Fund.
- (g) Any balance remaining in any Decommissioning Fund after all Decommissioning costs in the Contract Area have been met shall revert to the Parties in proportion to the amount they funded same.
- (h) Decommissioning provisions and Decommissioning expenditures incurred under these Decommissioning provisions are both cost recoverable as Development Area non-capital costs under the Accounting Procedure (Annex 2) from any Development Area and deductible for Tax purposes under the Petroleum Tax Regulations.

#### CLAUSE 14. EMPLOYMENT AND TRAINING OF NATIONALS OF STATE PARTIES

##### 14.01 EMPLOYMENT

- (a) Each Calendar Year, CONTRACTOR shall submit a detailed program for recruitment and training for the following Calendar Year in respect of its personnel needs to the State Parties in accordance with the Petroleum Regulations.
- (b) Qualified nationals from the State Parties shall be employed in all non-specialized positions.
- (c) Qualified nationals from the State Parties shall also be employed in specialized positions such as those in exploration, drilling, engineering, production, environmental safety, legal and finance etc. so as to meet the targets set forth in Regulation 71 of the Petroleum Regulations, however CONTRACTOR shall, have the right to employ non-nationals in such specialized positions where:
  - (i) There is no suitably qualified or experienced national of any of the State

Parties;

- (ii) CONTRACTOR has made diligent attempts to publicize and recruit nationals of the State Parties; and
  - (iii) CONTRACTOR has put in place a plan to ensure nationals of the State Parties are trained for such specialized positions.
- (d) Qualified competent professionals of the State Parties may be proposed by JDA to work with CONTRACTOR and such personnel and CONTRACTOR's national personnel from either of the State Parties shall not be treated differently with regards to salaries and other benefits. CONTRACTOR and JDA shall mutually agree on the number of State Parties' and JDA's staff to be assigned to the Petroleum Operations. The costs and expenses of such State Parties' personnel and JDA's personnel shall be included in Operating Costs.
- (e) Each of the State Parties shall be entitled to recommend to CONTRACTOR certain personnel for such recruitment and/or training; however notwithstanding the Applicable Regulations, CONTRACTOR shall be required only to employ and/or train local personnel should same be prudent and cost effective. For certainty, preference will be given to nationals of Nigeria and São Tomé e Príncipe for such employment and/or training if such nationals are available (as determined by CONTRACTOR via its diligent attempts to publicize and recruit nationals of the State Parties) and competitive with other non-national applicants in terms of qualification, accreditation and remuneration.

#### 14.02 FUNOING

- (a) CONTRACTOR shall spend a minimum of one hundred fifty thousand Dollars (\$150,000.00) in each year of the Exploration Period on JOA Staff training and an additional two hundred thousand Dollars (\$200,000.00) in each year of the Exploration Period on scholarship assistance for the training of nationals of Nigeria and São Tomé e Príncipe. In connection with the review of the annual Work Program and Budgets, JDA may propose additional budgets for training and the Parties may mutually agree to such proposal.
- (b) CONTRACTOR shall spend a minimum of two hundred thousand Dollars (\$200,000.00) in each year of the Exploitation Period on JOA Staff training and an additional minimum of three hundred thousand Dollars (\$300,000.00) in each year of the Exploitation Period on scholarship assistance for the training of nationals of Nigeria and São Tomé e Príncipe. In connection with the review of the annual Work Program and Budgets, JDA may propose additional budgets for training and the Parties may mutually agree to such proposal.
- (c) Amounts payable under Clauses 14.02(a) and 14.02(b) above shall be recoverable as Contract Area Non-Drilling Exploration costs under the terms

of the Accounting Procedure (Annex 2).

- (d) Ali scholarship assistance programs under this Clause 14.02 shall be subject to mutually agreed upon terms and conditions by the Parties and publicly advertised by the State Parties. Beneficiaries shall only be selected after submission of an application, inclusion on a short list and completion of a reasonably due diligence process administered by CONTRACTOR.

## **CLAUSE 15. BOOKS AND ACCOUNTS, AUDIT AND OVERHEAD CHARGES**

### **15.01 BOOKS AND ACCOUNTS**

- (a) CONTRACTOR shall be responsible for keeping complete and separate books of account for Petroleum Operations which shall be subject to the audit rights set forth in Clause 15.02 and the Accounting Procedure. Each of the Parties, via its International Auditors registered in either of the States Parties, shall have access to such books of account for such auditing purposes. All books of account and accounts maintained by CONTRACTOR in relation to this Contract shall be kept in Dollars.
- (b) All statutory books of account shall be kept at the registered address of CONTRACTOR in either Nigeria or São Tomé E Príncipe as the case may be.

### **15.02 AUDITS**

- (a) Each of the Parties shall have the right, at its own expense and at reasonable times during normal business hours, to have its International Auditors inspect and audit the accounting records relating to this Contract for any Calendar Year by giving sixty (60) days' written notice to CONTRACTOR. CONTRACTOR shall facilitate such inspection and auditing; provided however that such inspection and auditing shall be carried out within two (2) Calendar Years following the end of the Calendar Year in question. If not, the books and accounts relating to such Calendar Year shall be deemed to be accepted by the Parties. Any exception must be made in writing within ninety (90) days following the end of such audit and failure to give such written notice within such time shall establish the correctness of the books and accounts by the Parties. Each Party may have its International Auditors conduct one audit per year; provided that:
  - (i) JOA and the other Parties shall use reasonable efforts to carry out one (1) joint audit between themselves so as not to unduly interfere with CONTRACTOR's business and operations; and
  - (ii) each of the Parties' International Auditors shall be allowed clarification

visits.

- (b) JDA may undertake the inspection and audit in Clause 15.02(a) above either through its own personnel or through its International Auditors registered in either of the State Parties or elsewhere appointed for the purpose by JOA; provided, however, that
- (i) the reasonable transportation and per diem costs of JOA's own personnel shall be borne by CONTRACTOR as general administrative costs and shall be cost recoverable and deductible for purposes of Tax;
  - (ii) the audit is conducted on reasonable notice;
  - (iii) no more than one audit is conducted in a Calendar Year; and
  - (iv) for the International Auditors, the reasonable and pre-agreed costs shall be borne by JDA..
- (c) Notwithstanding that the said period of two (2) Calendar Years may have expired, if CONTRACTOR has been found guilty of Gross Negligence / Wilful Misconduct, each of the other Parties shall have the right to have its International Auditors conduct a further audit to the extent required to investigate such Gross Negligence / Wilful Misconduct in respect of any earlier periods; provided, however, that the costs of such investigations shall be borne by the other Parties conducting such audit..
- (d) The books and accounts of CONTRACTOR's Affiliates associated in the conduct of Petroleum Operations shall not be audited directly. If requested by JDA, CONTRACTOR shall, within twelve (12) months of such request, provide JDA with a report from an internationally recognized independent auditor selected by CONTRACTOR certifying that the costs and expenses invoiced by such Affiliate(s) include no element of profit and represent a complete and accurate allocation of the charges to the Petroleum Operations in accordance with generally accepted accounting practices used in the petroleum industry.

### 15.03 MATERIALS

CONTRACTOR shall maintain physical and accounting controls of materials in stock in accordance with IFRS and Internationally Accepted Petroleum Industry Practices. CONTRACTOR shall make a total inventory at least once in a Calendar Year and shall give the other Parties a four (4) week written notice prior to such inventory. Each of the other Parties shall, via their respective International Auditors, be entitled to observe such inventory at its own expense and may have such International Auditors carry out a partial or total check of such inventories at their own expense, whenever it considers necessary, provided such exercise does not unduly interfere with CONTRACTOR's business and operations.

15.04 HOME OFFICE OVERHEAD CHARGES

CONTRACTOR shall include for cost recovery and tax deductibility the following percentages of total annual recoverable expenditures as overhead charges in calculating total Operating Costs for each Development Area, calculated on a per Development Area basis:

Expenditure Tranche (Millions of Dollars)	% of Recoverable Expenditures
< 200	1.75%
= or > 200 and < 400	1.5%
= or > 400 and < 500	1.25%
= or > 500	0.75%

**CLAUSE 16. ROYALTY AND TAXES**

16.01 ROYALTY

- (a) Royalty for Crude Oil is payable to JDA on a sliding Available Crude Oil production scale as follows:

Production rate ('OOObbl/day)	Royalty Rate
0-50	0%
51 -100	1%
Over100	2%

16.02 TAXES

- (a) All Taxes shall be paid to JDA in accordance with provisions of the Petroleum Tax Regulations (for Petroleum tax) and Non-Petroleum Tax Regulations (for non-Petroleum-related activities performed), as modified by this Contract..
- (b) CONTRACTOR shall prepare annual tax returns in accordance with the Petroleum Tax Regulations, the Non-Petroleum Tax Regulations and this Contract.. The Tax payable will be computed for the Contract Area then remaining and is the obligation of each CONTRACTOR Party based on their Participating Interests which, as of the Effective Date, are as provided for in



Clause 28.01 (a);

- (c) In fulfillment of the Tax payable, Tax Oil (or its Dollar equivalent) will be made available to JDA and JDA shall issue tax receipts to each CONTRACTOR Party applicable to such Tax apportioned in accordance with their Participating Interests;
- (d) The Tax rate applicable to the Contract Area shall be thirty percent (30%) flat rate of the Chargeable Profits for the duration of the Contract. For certainty, the respective State Parties' tax regimes shall not apply to this Contract or the activities carried out hereunder.
- (e) Notwithstanding the wording of Section 9 of the Petroleum Tax Regulations, "the proceeds of sale of all chargeable oil sold by the company in that period" shall mean the Proceeds of the Contract Area less all Royalty Oil allocated to JDA in the same period.
- (f) Notwithstanding Section 11 of the Petroleum Tax Regulations the disallowance of:
  - (i) a deduction for expenditures for the purchase of information relating to the existence of petroleum deposits shall not apply to acquisition of seismic data covering the Contract Area, including third party processing; and
  - (ii) expenses incurred due to negligence shall only apply upon the occurrence of Gross Negligence / Wilful Misconduct.
- (g) Notwithstanding Section 32 of the Petroleum Tax Regulations the following shall apply:

Where Appeal Commissioners fail to hear an appeal within six (6) months from the date a CONTRACTOR Party gave notice in writing to JOA as required in subsection (1) of Section 32 of the Petroleum Tax Regulations, or no appropriate body of Appeal Commissioners has been appointed with jurisdiction to hear an appeal against an assessment made upon a CONTRACTOR Party, such CONTRACTOR Party may appeal against the assessment to the Tax Arbitration Tribunal upon giving notice in writing to the Authority. The defined terms shall have the same meaning given to them in the Petroleum Tax Regulations.

- (h) Notwithstanding Section 33, of the Petroleum Tax Regulations, the following shall apply:

A CONTRACTOR Party may appeal decisions adjudicated by the Appeals Commission to the Tax Arbitration Tribunal. Such appeals are not limited to legal procedural matters. The defined terms shall have the same meaning given to them in the Petroleum Tax Regulations.

- (i) Notwithstanding Section 34(2) of the Petroleum Tax Regulations the following shall apply:

Where an assessment has become final and conclusive, any Tax overpaid shall be refunded to a CONTRACTOR Party in cash, in accordance with 12.01. If payment is not received from JDA, the total amount due (including interest thereon pursuant to Clause 12.01(a)), a CONTRACTOR Party may be recovered as Cost Oil. The defined terms shall have the same meaning given to them in the Petroleum Tax Regulations.

- U) Notwithstanding Section 39(2) of the Petroleum Tax Regulations the following shall apply:

Where the Authority has given a certificate of the amount of any Tax to be repaid under any of the provisions of the Petroleum Tax Regulations and upon receipt of the certificate a CONTRACTOR Party shall be entitled to a refund; the refund shall be equal to any Tax in accordance with Clause 12.01. The Authority shall refund to such CONTRACTOR Party such amount in cash. If payment is not received from JDA, the amount due to such CONTRACTOR Party may be recovered as Cost Oil. The defined terms shall have the same meaning given to them in the Petroleum Tax Regulations.

- (k) The Value shall be used in determining the amount of Royalty Oil and Tax Oil due in respect of Crude Oil produced and lifted pursuant to this Contract. Accordingly, Section 16 of the Petroleum Tax Regulations shall not apply.

### 16.03 TAX EXEMPTIONS

Pursuant to Clause 21 of the Treaty, CONTRACTOR is exempt from customs duties, VAT and other taxes and duties to the JDZ, JDA, Nigeria and São Tomé e Príncipe in respect of the import of goods and services for use in, or export from the JDZ, JDA, Nigeria and São Tomé e Príncipe. This exemption does not include non-discriminatory fees of an administrative nature charged for the provision of services.

## CLAUSE 17. INSURANCE

### 17.01 INSURANCE

- (a) All property acquired under the provisions of this Contract shall be adequately insured with an insurance company of good repute by CONTRACTOR in consultation with JDA (which for certainty includes CONTRACTOR's Affiliate insurers, if any), with limits of liability not less than those required by good international petroleum industry practice. The premium for such policies shall be included in Operating Costs. All policies shall name the other Parties as co-

insureds with a waiver of subrogation rights in favor of CONTRACTOR. .

- (b) In case of loss or damage to property, any amounts paid by the insurance companies shall be entirely received by CONTRACTOR for Petroleum Operations. CONTRACTOR shall determine whether the lost or damaged property should be repaired, replaced or abandoned, as applicable. If the decision is to repair or replace, CONTRACTOR shall immediately replace or repair such lost or damaged property. Any excess cost of repair or replacement above the amount reimbursed by the insurance companies shall be regarded as Operating Costs. If the cost of repair is less than the amount reimbursed by insurance companies, the difference shall be used to fund Operating Costs. If the decision is to neither repair nor replace then the proceeds of any coverage shall also be used to fund Operating Costs.
- (c) CONTRACTOR shall take out and maintain an insurance policy covering any and all damages caused to third parties as a direct result of CONTRACTOR's Petroleum Operations to the extent such insurance is commercially reasonable, cost-effective and is available to cover such Petroleum Operations.
- (d) Unless and to the extent CONTRACTOR has decided to procure insurance from its Affiliates, all other insurance policies under this CLAUSE 17 shall be taken out in either Nigeria or São Tomé e Príncipe to the extent the premiums and coverage have been established further to a competitive process.

#### 17.02 SUBCONTRACTORS

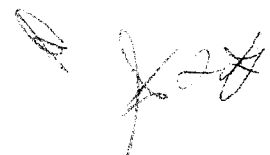
In entering into contracts with any sub-contractor for the performance of Petroleum Operations, CONTRACTOR shall

- (a) require such sub-contractor(s) to take out adequate insurance in accordance with this CLAUSE 17 to ensure proper indemnification of the Parties for any damage done *and/or* losses suffered by either of them; and
- (b) use commercially reasonable efforts to have such subcontractors indemnify and hold each of the Parties harmless against any and all claims from third parties.

### **CLAUSE 18. CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS**

#### 18.01 CONFIDENTIALITY

- (a) Except regarding the existence of this Contract and subject to the provisions of the Petroleum Regulations, the Parties shall keep information furnished to each other in connection with Petroleum Operations and all patented technologies, plans, maps, drawings, designs, data, scientific, technical and financial reports and other data and information of any kind or nature relating to Petroleum Operations including any discovery of Petroleum as strictly





confidential and shall ensure that their entire or partial contents shall under no circumstances be disclosed in any announcement to the public or to any third party without the prior written consent of the other Party, unless such disclosure is made to:

- (i) Affiliates;
  - (ii) subcontractors, representatives, agents, proxies, auditors, financial consultants or legal advisers, provided that such disclosures are required for the effective performance of the aforementioned recipients' duties related to Petroleum Operations;
  - (iii) comply with any statutory obligations, legal proceedings or the requirements of any governmental agency or the rules of a stock exchange on which a Party's stock is publicly traded in which case the disclosing Party will use commercially reasonable efforts to notify the other Parties of any information so disclosed prior to such disclosure;
  - (iv) financial institutions involved in the provision of financing for the Petroleum Operations hereunder provided, in all such cases, that the recipients of such data and information agree in writing to keep such data and information strictly confidential; and
  - (v) bona fide prospective assignee for the purpose of negotiating an assignment of interest hereunder provided such third party executes an undertaking to keep the information disclosed strictly confidential.
- (b) The Parties shall take necessary measures in order to ensure any person or entity to whom they make a disclosure pursuant to Clause 18.01 (a) comply with a similar obligation of confidentiality as provided for in this Clause 18.01.
- (c) The obligations of confidentiality described in this Clause 18.01 shall terminate three (3) Calendar Years after the expiration of this Contract.

#### 18.02 PRESS RELEASES

If a Party wishes to issue or make any public announcement or statement regarding this Agreement or the Petroleum Operations, it shall not do so unless, before the release of the public announcement or statement, such Party furnishes all other Parties with a copy of such announcement or statement, and obtains the approval of such other Parties; provided that, despite any failure to obtain such approval, no Party shall be prohibited from issuing or making any such public announcement or statement if it is necessary to do so in order to: (a) comply with the applicable laws, rules, or regulations of any government, legal proceedings or stock exchange having jurisdiction over such Party or its Affiliates; or (b) preserve the reputation or the legal position of the Party concerned.

## CLAUSE 19. ASSIGNMENT

### 19.01 Assignment by CONTRACTOR Party

- (a) A CONTRACTOR Party shall not sell, assign, transfer, convey or otherwise dispose of part or all of its Participating Interest under this Contract to a third party without a prior written notice to and without prior written consent of:
  - (i) firstly, the CONTRACTOR Parties; and
  - (ii) secondly, JOA,which consents shall not be unreasonably withheld or delayed.
- (b) If the prior written consent by the other Parties is given, the assigning CONTRACTOR Party shall be relieved of its liability to the extent of the Participating Interest being assigned.
- (c) A CONTRACTOR Party shall not sell, assign, transfer, convey or otherwise dispose of part or all of its Participating Interest under this Contract to an Affiliate without a prior written notice to the other Parties.
- (d) Any request for consent made by a CONTRACTOR Party to the other Parties pursuant to Clause 19.01(a) shall include the proposed form of assignment and other relevant information relating to financial and corporate standing of the proposed assignee, and its capability to contribute to the Petroleum Operations under this Contract.

## CLAUSE 20. TERMINATION

### 20.01 Termination by JOA

- (a) Subject to Clause 20.01 (b), JOA shall be entitled to terminate this Contract with respect to one or all CONTRACTOR Parties, as applicable, should the one of the following events occur in respect of such Party:
  - (i) CONTRACTOR Party defaults in the performance of any of its obligations set forth in CLAUSE 9 of this Contract (but only to the extent that this and/or other remedies available for such breach have not otherwise been expressly excluded);
  - (ii) CONTRACTOR Party has failed to complete a Minimum Work Commitment within the time permitted to complete such Minimum Work Commitment;
  - (iii) A CONTRACTOR Party assigns its rights and interests under this Contract without the prior written consent of JOA (other than to an

Affiliate, for which only notice is required);

- (iv) A CONTRACTOR Party is adjudged insolvent or bankrupt by a court of competent jurisdiction in either Nigeria or São Tomé e Príncipe;
  - (v) A CONTRACTOR Party liquidates or terminates its corporate existence.
  - (vi) Warranties made by a CONTRACTOR Party, as the case may be, under 24.01 of this Contract are found to be untrue when they were made.
  - (vii) A CONTRACTOR Party fails to pay its Participating Interest share of one or more of the payments mandated pursuant to CLAUSE 2
  - (viii) A CONTRACTOR Party fails to submit a form of security as required pursuant to Clause 7.04.
  - (ix) A CONTRACTOR Party fails to pay its Participating Interest share of the Concession Rentals.
  - (x) A CONTRACTOR Party fails to pay its Participating Interest share of one or more of the payments required pursuant to Clause 2.04(a), Clause 14.02(a) or Clause 14.02(b).
- (b) If the cause for termination is an event specified in Clause 20.01 (a)(i), Clause 20.01 (a)(ii), Clause 20.01(a)(vii), Clause 20.01(a)(viii), Clause 20.01 (a)(ix) or Clause 20.01 (a)(x), JDA shall give written notice thereof to the applicable CONTRACTOR Party to remedy such default within thirty (30) days of receipt of JDA's notice or such additional days as JDA deems appropriate in the circumstances. If upon the expiration of the said period such default has not been remedied or removed, JDA may by written notice to the applicable CONTRACTOR Party, declare the Contract terminated for such Party. All other CONTRACTOR Parties will be notified of such termination.
- (c) Termination for any of the events specified in Clause 20.01 (a)(iii), Clause 20.01 (a)(iv), Clause 20.01 (a)(v) or 20.01 (a)(vi), shall be with immediate effect and JDA may by written notice to the applicable CONTRACTOR Party, declare the Contract terminated for such Party.
- (d) Termination of the Contract for one CONTRACTOR Party (which for certainty includes CONTRACTOR) shall not constitute termination for all CONTRACTOR Parties.

#### 20.02 ACQUISITION OF DEFAULTING CONTRACTOR PARTY PARTICIPATING INTEREST

- (a) Where the Contract has been terminated for one or more, but not all, of the CONTRACTOR Parties, the Participating Interest of such defaulting CONTRACTOR Party under this Contract shall be offered by JDA to the

remaining non-defaulting CONTRACTOR Parties.

- (b) Each non-defaulting CONTRACTOR Party shall have seven (7) days from receipt of the offer made by JOA pursuant to Clause 20.02(a) within which to respond and twenty-three (23) days thereafter within which to elect to acquire the Participating Interest of the defaulting CONTRACTOR Party. If more than one of the non-defaulting CONTRACTOR Parties elects to take such Participating Interest, they will each get to take a portion of such Participating Interest in proportion to their initial Participating Interests.
- (c) In the event that all the non-defaulting CONTRACTOR Parties fail to respond in accordance with Clause 20.02(b) above, JOA shall be free to offer the interest of the defaulting CONTRACTOR Party to any third party it chooses on any terms or conditions that it sees fit.

#### 20.03 RIGHTS AND OBLIGATIONS UPON CONTRACTOR PARTY TERMINATION

- (a) Except for those rights that accrued prior to the date of termination, all other rights of a defaulting CONTRACTOR Party shall cease upon the termination of this Contract; provided however that such termination shall take place without prejudice to any of the rights or remedies made available to the other Parties against such defaulting CONTRACTOR Party which relate to the obligations of such defaulting Contracting which arose while they were a Party to the Contract.
- (b) Audit rights shall survive for the periods provided for in CLAUSE 15.

#### 20.04 TERMINATION BY CONTRACTOR PARTY

Each CONTRACTOR Party shall have the right, at its sole discretion, to relinquish its rights and to terminate this Contract without further obligations or liabilities, upon completion of the stipulated Minimum Work Commitment at the end of any Phase of the Exploration Period, upon giving a thirty (30) days' notice to JOA.

#### 20.05 END OF TERM TERMINATION

This Contract shall terminate if no Field Development Program has been approved by the end of the Exploration Period (as the same may have been extended in accordance with the terms of this Contract).

### CLAUSE 21. FORCE MAJEURE

#### 21.01 FORCE MAJEURE

- (a) Any failure or delay on the part of any Party in the performance of its obligations or duties under this Contract shall be excused to the extent attributable to force

majeure and occurs when delays, defaults or inability to perform under this Contract are due to any event beyond the reasonable control of any Party ("Force Majeure"). Force Majeure may be, but is not limited to, any act, event, happening, or occurrence due to natural causes; and acts or perils of navigation, fire, hostilities, war (declared or undeclared), blockage, labor disturbances, strikes, riots, insurrection, civil commotion, quarantine restrictions, epidemics, storms, floods, earthquakes, accidents, blowouts, lightning, and, acts of or orders of any governmental authority.

- (b) If operations are delayed, curtailed or prevented by Force Majeure, then the time for carrying out the obligations and duties thereby affected, and rights and obligations hereunder, shall be extended for the duration of such period of Force Majeure plus any additional time required to remedy or mitigate the impact(s) of such Force Majeure; provided that should additional time be required for such remediation or mitigation, the time period associated with same shall be subject to the prior approval of JDA (which approval shall not be unreasonably withheld, conditioned or delayed);
- (c) The Party who is unable to perform its obligations as a result of the Force Majeure shall promptly notify the other Party thereof not later than forty-eight (48) hours after the establishment of the commencement of the force majeure, stating the cause, and the Parties shall do all that is reasonably within their powers to remove such cause.
- (d) CONTRACTOR's failure or inability to find Petroleum in commercial quantity for reasons other than as specified in Clause 21.01 (a) above shall not be deemed force majeure.
- (e) Notwithstanding, and without prejudice to anything in this Clause 21.01, no acts of any or both of the States Parties shall form the basis of JDA declaring Force Majeure.
- (f) If an event of Force Majeure prevails for a continuous period in excess of two weeks, the Parties shall enter into bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable.

## **CLAUSE 22. LAWS AND REGULATIONS**

### **22.01 GOVERNING LAW**

To the extent they are not inconsistent or in conflict, this Contract shall be governed by and construed in accordance with its terms, the Treaty and the Applicable Regulations as existing as at the Effective Date, unless modified by agreement under CLAUSE 27.

## 22.02 PRECEDENCE IN EVENT OF CONFLICT OR DISPUTE OF LAW

- (a) In the event of an inconsistency or conflict between the Applicable Regulations and this Contract, the terms of this Contract shall prevail and will be binding.
- (b) In the event the Treaty and the Applicable Regulations are silent on a matter of law in dispute, the laws of Nigeria shall be applied to resolve the matter of law in dispute.

## 22.03 OFFICIAL LANGUAGE

All affairs related to this Contract shall be conducted in the English language.

## CLAUSE 23. USE OF GAS

### 23.01 COMMERCIAL DISCOVERY

If CONTRACTOR discovers a significant quantity of Gas, which in the opinion of CONTRACTOR, may have a Viable Market, CONTRACTOR shall have the right to develop, commercialize, recover the costs and share in the profits of a development of such Gas under this Contract on terms to be mutually agreed to enable CONTRACTOR to develop the Gas Discovery in a commercially reasonable and viable manner. Such terms when agreed shall become an integral part of this Contract. For the avoidance of doubt, the term of the Contract shall be extended in accordance with Clauses 4.01 (a)(ii)2 and 4.02, as applicable.

### 23.02 USE FOR PETROLEUM OPERATIONS

- (a) Notwithstanding Clause 23.01, CONTRACTOR may use any Gas, free of charge, in the Contract Area for the purpose of increasing the recovery of Crude Oil, where Internationally Accepted Petroleum Industry Practice indicate that the use of Gas for this purpose is desirable.
- (b) Any Gas as is not used under Clause 23.02(a) which CONTRACTOR does not consider possible to recover economically and whose production and/or handling will not have an impact on the production and/or handling of Crude Oil, shall be offered to JDA without any payment to CONTRACTOR but at JDA's sole cost, risk and expense at the applicable wellhead in the Development Area.

### 23.03 FLARING

CONTRACTOR shall reduce the flaring of Gas by re-injecting same in accordance with Internationally Accepted Petroleum Industry Practice. CONTRACTOR shall not flare any Gas without having first obtained a license to flare Gas from JDA; provided that JDA shall approve such application where Internationally Accepted Petroleum Industry Practice

permits such flaring. Such approval shall not be unreasonably withheld, conditioned or delayed.

#### **CLAUSE 24. REPRESENTATIONS AND WARRANTIES**

##### **24.01 CONTRACTOR PARTY REPRESENTATIONS AND WARRANTIES**

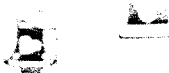
In consideration of JDA entering into this Contract, each CONTRACTOR Party warrants as follows:

- (a) it has the power to enter into and perform this Contract and has taken all necessary action to execute, deliver and perform the Contract in accordance with the terms herein contained.
- (b) The execution, delivery and performance of this Contract by it will not contravene in any respect, any of the provisions of:
  - (i) any law or regulations or order of any governmental authority, agency or court applicable to or by which it may be bound;
  - (ii) any mortgage, contract or other undertaking or instrument to which it is a party or which is binding upon it or any of its respective revenues or assets.
- (c) Full disclosure has been made to JDA prior to the Effective Date of all facts in relation to it and its financial condition and affairs as are material and ought properly to be made known to JDA..
- (d) That it, together with its Affiliates (if applicable) have the funds both in foreign and local currencies to carry out Petroleum Operations under this Contract..
- (e) The representations and warranties set out above shall remain for the duration of this Contract..

##### **24.02 JDA REPRESENTATIONS AND WARRANTIES**

In consideration of the CONTRACTOR Parties entering into this Contract, JDA warrants as follows:

- (a) With the exception of certain rights that have been disclosed in writing on or before the Effective Date, there are no other agreements, liens, encumbrances or understandings that attach to, impact or affect, the Contract Area.
- (b) All actions, consents and approvals required to be taken by JOA and the Joint Ministerial Council to approve the terms of this Contract have been taken.



## CLAUSE 25. CONCILIATION, EXPERT DETERMINATION AND ARBITRATION

### 25.01 NOTICE OF DISPUTE

A Party who desires to submit a dispute for resolution shall commence the Dispute resolution process by providing the other Parties to the Dispute written notice of the Dispute ("Notice of Dispute"). The Notice of Dispute shall identify the Parties to the Dispute and contain a brief statement of the nature of the Dispute and the relief requested. The submission of a Notice of Dispute shall toll any applicable statutes of limitation related to the Dispute, pending the conclusion or abandonment of Dispute resolution proceedings under this CLAUSE 25. The Parties to the Dispute shall attempt to resolve all Disputes as soon as possible and in an amicable manner; first through discussions involving Senior Supervisory Personnel from each Party to the Dispute for the first thirty (30) days following receipt of the Notice of Dispute by the last Party to the Dispute and failing resolution, by mediation and/or arbitration.

### 25.02 MEDIATION

Thirty (30) days after the date of the receipt by the last Party to the Dispute of the Notice of Dispute, any party to the Dispute may then initiate such mediation pursuant to the International Chamber of Commerce (ICC) Mediation Rules then in effect, by sending all other Parties to the Dispute a written request that the Dispute be mediated. The Parties receiving such written request will promptly respond to the requesting Party so that all Parties to the Dispute may jointly select a neutral mediator and schedule the mediation session. The mediator shall meet with the Parties to the Dispute to mediate the Dispute within thirty (30) days after the date of receipt of the written request for mediation. Despite the above, any Party may initiate arbitration proceedings under Clause 25.03 concerning such Dispute after thirty (30) days have lapsed since the Notice of Dispute was received by the last Party to the Dispute.

### 25.03 ARBITRATION

Any Dispute arising out of, relating to, or in connection with this Agreement, including any question regarding its existence, validity, or termination shall be settled before a sole/three (3) arbitrator(s) in accordance with the Arbitration Rules of the International Chamber of Commerce (ICC)(the "Rules") in Geneva, Switzerland. The proceedings shall be in the English language. The resulting arbitral award shall be final and binding without right of appeal, and judgment upon such award may be entered into any court having jurisdiction thereof. A Dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect. Each Party acknowledges that remedies at law may be inadequate to protect against breach of this Agreement; accordingly, the arbitrator may award both monetary and equitable relief, including injunctive relief and specific performance. A Party may apply to any competent judicial authority for interim or conservatory relief; an application for such measures or an application for the enforcement of such measures ordered by the arbitrator shall not be deemed an infringement or waiver of the Agreement to arbitrate and shall not affect the powers of the arbitrator. Disclosure of documents, expert evidence and witness statements shall be carried out in accordance with the International Bar Association Rules on the Taking of





Evidence in International Arbitration, serving as a guideline, subject to the arbitral tribunal powers under the Rules.

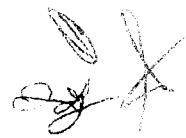
- (a) The award shall include interest, as determined by the arbitral tribunal, from the date of any default or other breach of this Contract until the arbitral award is paid in full.
- (b) The arbitral award shall be made and payable in Dollars, free of any tax or other deduction.
- (c) The Parties waive their rights to claim or recover from each other, and the arbitral tribunal shall not award, any punitive, multiple, or other exemplary damages (whether statutory or common law) except to the extent such damages have been awarded to a third party and are subject to allocation between or among the parties to the Dispute.
- (d) If the Parties initiate multiple arbitration proceedings, the subject matters of which are related by common questions of law or fact and that could result in conflicting awards or obligations, then all such proceedings may be consolidated into a single arbitral proceeding.

#### 25.04 CONFIDENTIALITY

All negotiations, mediation, arbitration, and expert determinations relating to a Dispute (including a settlement resulting from negotiation or mediation, an arbitral award, documents exchanged or produced during a mediation or arbitration proceeding, and memorials, briefs or other documents prepared for the arbitration) are confidential and may not be disclosed by the Parties, their employees, officers, directors, counsel, consultants, and expert witnesses except under Clause 18.01 (a) and/or to the extent necessary to enforce this CLAUSE 25 or any arbitration award, to enforce other rights of a Party, or as required by law; provided, however, that breach of this confidentiality provision shall not void any settlement, expert determination or award.

#### 25.05 EXPERT DETERMINATION

For any Dispute arising in relation to the provisions of CLAUSE 11, the Parties hereby agree that such decision shall be conducted expeditiously by an expert selected unanimously by the Parties to the Dispute. The expert is not an arbitrator of the Dispute and shall not be deemed to be acting in an arbitral capacity. The Party desiring an expert determination shall give the other Parties to the Dispute written notice of the request for such determination. If the Parties to the Dispute are unable to agree upon an expert within ten (10) days after receipt of the notice of request for an expert determination, then, upon the request of any of the Parties to the Dispute, the ICC International Centre for ADR shall appoint such expert and shall administer such expert determination through the Rules for the Administration of Expert Proceedings of the International Chamber of Commerce. The expert, once appointed, must not have any ex parte communications with any of the Parties to the Dispute concerning the expert determination or the underlying Dispute. All Parties agree to cooperate fully in the expeditious conduct of such



expert determination and to provide the expert with access to all facilities, books, records, documents, information, and personnel necessary to make a fully informed decision in an expeditious manner. Before issuing his final decision, the expert shall issue a draft report and allow the Parties to the Dispute to comment on it. The expert shall endeavor to resolve the Dispute within thirty (30) days (but no later than sixty (60) days) after their appointment, taking into account the circumstances requiring an expeditious resolution of the matter in Dispute. The expert's decision shall be final and binding on the Parties to the Dispute unless challenged in an arbitration under Clause 25.03 within sixty (60) days of the date the expert's final decision is received by the Parties to the Dispute. In such arbitration:

- (a) the expert determination on the specific matter under CLAUSE 11 shall be entitled to a rebuttable presumption of correctness; and
- (b) the expert shall not (without the written consent of the Parties to the Dispute) be appointed to act as an arbitrator or as adviser to the Parties to the Dispute.

#### 25.06 WAIVER OF SOVEREIGN IMMUNITY

Any Party that now or later has a right to claim sovereign immunity for itself or any of its assets hereby waives any such immunity to the fullest extent permitted by the laws of any applicable jurisdiction. This waiver includes immunity from:

- (a) any expert determination, mediation, or arbitration proceeding commenced under this Contract;
- (b) any judicial, administrative or other proceedings to aid the expert determination, mediation, or arbitration commenced under this Contract; and
- (c) any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from an expert determination, mediation, arbitration or any judicial or administrative proceedings commenced under this Contract.

Each Party acknowledges that its rights and obligations hereunder are of a commercial and not governmental nature.

### CLAUSE 26. THE EFFECTIVE DATE AND AMENDMENT

#### 26.01 EFFECTIVE DATE

This Contract shall come into force on the Effective Date.

26.02 AMENDMENT

This Contract shall not be amended or modified in any respect except by mutual consent, in writing, of the Parties hereto.

**CLAUSE 27. REVIEW / RE-NEGOTIATION OF CONTRACT AND FISCAL TERMS**

27.01 CERTAINTY OF TERMS AS OF EFFECTIVE DATE

- (a) The Parties agree that the commercial terms and conditions of this Contract have been negotiated and agreed having due regard to the existing fiscal terms in accordance with the provisions of the Treaty and the Applicable Regulations in force at the time of the Effective Date. If such fiscal terms are changed as a result of any change in the Treaty or the Applicable Regulations as they apply to this Contract, the Parties agree to review the terms and conditions of this Contract affected by such changes to align such terms and conditions with the fiscal terms in force as at the Effective Date.
- (b) Further to Clause 27.01 (a), JDA guarantees to the CONTRACTOR Parties that any change in the fiscal terms resulting from any amendment to the Treaty or any of the Applicable Regulations as they apply to this Contract after the Effective Date will not apply to this Contract. JDA also guarantees that JDA will not impose penalties, fines or other imposts as an indirect means of changing the fiscal and commercial terms in place as per the terms of this Contract on the Effective Date.

**CLAUSE 28. OPERATOR**

28.01 OPERATOR

- (a) CONTRACTOR under this Contract is comprised of the following entities whose Participating Interest is stated below:

CONTRACTOR Party	Participating Interest (%)
TOTAL	100.00

- (b) TOTAL is the lead CONTRACTOR Party and is designated the Operator under the Contract to execute, on behalf of the CONTRACTOR Parties, the Petroleum Operations in the Contract Area.
- (c) CONTRACTOR, as Operator, shall have the exclusive control and administration of the Petroleum Operations within the limits defined by the

Management Committee and this Contract and shall execute contracts, incur expenses, make commitments, and implement other actions in connection with the Petroleum Operations.

#### **CLAUSE 29. CONFLICT OF INTERESTS**

##### **29.01 NO CONFLICT**

- (a) Each Party represents and warrants that it did not engage any person, firm or company as a commission agent for purposes of this Contract and that it has not given or offered to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of significant value as an inducement or reward for doing or forbearing to do any action or take any decision in relation to the Contract, or for showing or forbearing to show favor or disfavor to any person or entity in relation thereto.
- (b) Each Party further represents that it shall not either directly or indirectly give to any person, director, employee, representative or agent of the another Party or any government official any commission, fee rebate, gift or any entertainment of significant cost or value, and shall not procure the services of any commission agent or other third party to give any such gift, fee, reward, concession, bribe, entertainment of significant cost or value or anything of similar nature, for the purpose of influencing or inducing positively or adversely the award of the Contract or doing any act in connection with the Contracto

#### **CLAUSE 30. TRANSPARENCY**

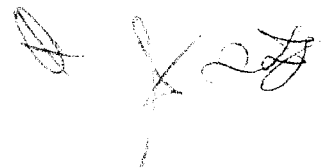
##### **30.01 PAYMENT DISCLOSURE**

Notwithstanding the confidentiality provisions in this Contract, the Parties shall, in line with the June 26, 2004 Abuja Joint Declaration on Transparency and Governance in the JDZ, make public the payments made to JDA under this Contract as follows:

- (a) Each CONTRACTOR Party shall report to JDA the amount of Signature Bonus it paid to JDA under Clause 2.01 and JDA shall publish said report on its website within ten (10) days of receipt of such report. JDA shall include such amount in the amount of aggregated Signature Bonus payments it receives from all sources in respect of the JDZ during the relevant reporting period and then publish such aggregate amount on its website.
- (b) CONTRACTOR shall report to JDA the amount of Discovery Bonus, Production Bonus, Gas Discovery Bonus and amounts for social projects it paid to JDA under Clauses 2.02, 2.03 and 2.04 and JDA shall publish said report on its website within ten (10) days of receipt of such report. JDA shall

include such amount in the amount of aggregated Production Bonus payments it receives from all sources in respect of the JDZ during the relevant reporting period and then publish such aggregate amount on its website.

- (c) Each CONTRACTOR Party or CONTRACTOR, , as the case may be, shall report to JDA the amount of any fees and annual rents it paid to JDA on an annual basis and JDA shall publish said report on its website within ten (10) days of receipt of such report. JDA shall include such amount in the amount of aggregated fee and rental payments it receives from all sources in respect of the JDZ during the relevant reporting period and then publish such aggregate amount on its website.
- (d) CONTRACTOR shall report to JDA the aggregate volume of Available Crude Oil allocated to JDA pursuant to CLAUSE 10 by category (Royalty Oil, Tax Oil, and Profit Oil) that was lifted by or on behalf of JDA on a quarterly and annual basis and JDA shall publish said report on its website within ten (10) days of receipt of such report. JDA shall include such amount in the amount of aggregated volumes of Available Crude Oil lifted by JDA by category (Royalty Oil, Tax Oil, and Profit Oil) from all sources in respect of the JDZ during the relevant reporting period and then publish such aggregate amount by category on its website.
- (e) If JDA elects to receive cash Proceeds in lieu of lifting the Available Crude Oil to which it is entitled, CONTRACTOR shall report to JDA the aggregate cash Proceeds paid to JDA for its Available Crude Oil by category (Royalty Oil, Tax Oil, and Profit Oil) on a quarterly and annual basis and JDA shall publish said report on its website within ten (10) days of receipt of such report. JDA shall include such amount in the amount of aggregated cash Proceeds it received for its Available Crude Oil by category (Royalty Oil, Tax Oil, Profit Oil), from all sources in respect of the JDZ during the relevant reporting period and then publish such aggregate amount by category on its website.
- (f) CONTRACTOR shall report to JDA the amount of payments it makes to JDA under Clauses 7.03, 9.01(e) and 13.03(g) and JDA shall publish said report on its website within ten (10) days of receipt of such report. JDA shall include such amount in the amount of the aggregated payments it receives under similar clauses it receives from all sources in respect of the JDZ during the relevant reporting period and then publish such aggregate amount on its website.
- (g) In the event CONTRACTOR or a CONTRACTOR Party (as the case may be) fails to make a report under this CLAUSE 30, JDA shall give a written notice of such failure and CONTRACTOR or CONTRACTOR Party in violation shall have thirty (30) days to rectify such failure.



CLAUSE 31. NOTICES

31.01 SERVING NOTICE

- (a) Any notice required to be given by each Party to the other shall be in writing and shall be deemed to have been duly given and received if hand-delivered in person or by courier or by electronic means of transmitting written communication, which provides written communication of receipt, at the following registered offices:

THE STATE PARTIES:

The Nigeria - São Tomé e Príncipe Joint Development Authority  
No. 13 Audu Ogbe Street  
Jabi, Abuja,  
Nigeria

Attn: Chairman of the Board and Authority  
Tel: +234 (0) 9 290 0630  
E-Mail: m°IQç\_~1~JI@fl5tpjd.org

CONTRACTOR:

Total E&P Nigeria Limited  
Plot 1415-E Adetokunbo Ademola Street  
Victoria Island  
Lagos, Nigeria

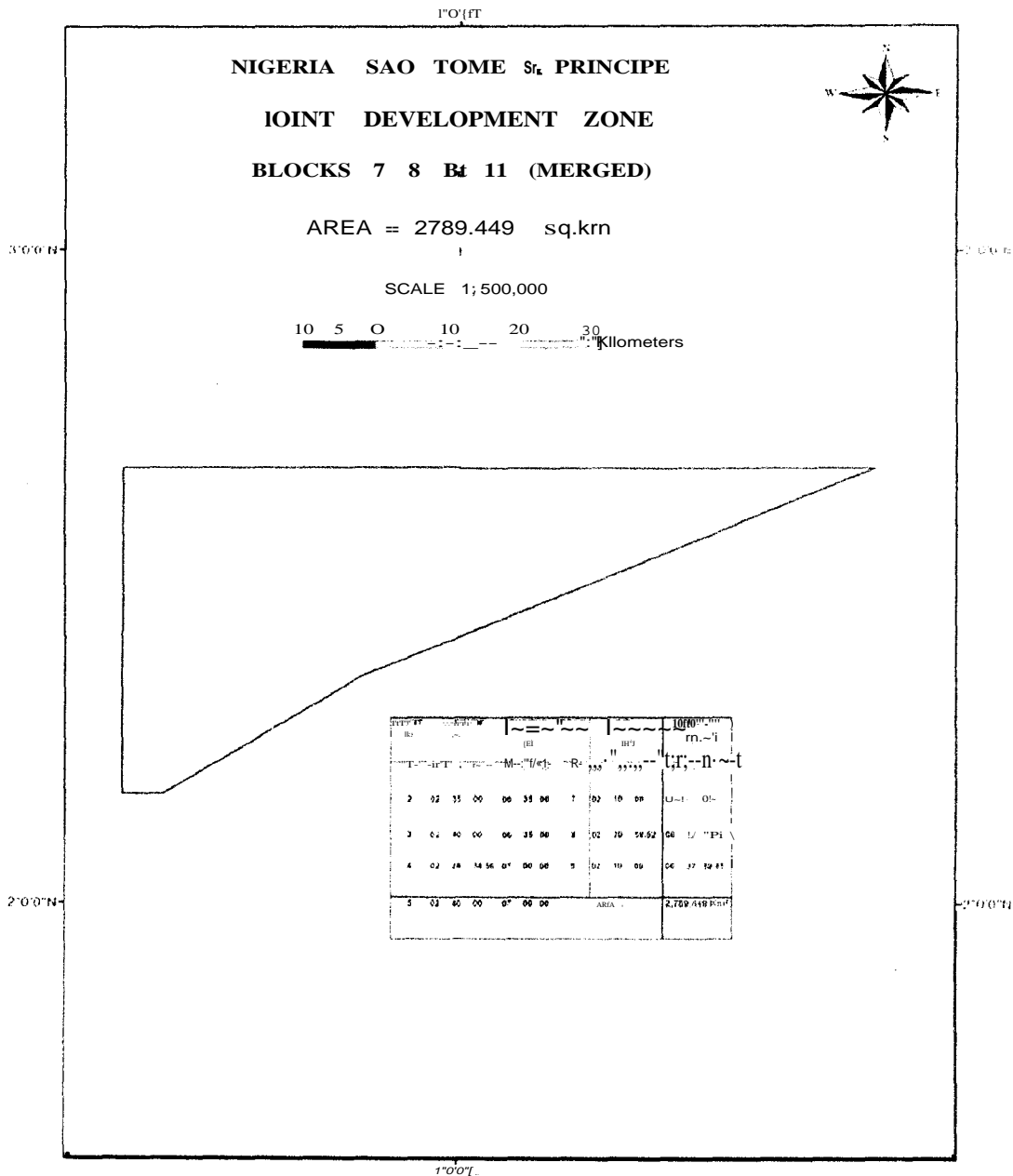
Attn: Managing Director  
Tel: + 234 (0) 803 906 26 00  
E-Mail: f.P.~HC?c-JD2.JBJJ @TOTAL.COM CONTACT NOTICE@TOTAL.COM

- (b) Each Party shall notify the other promptly of any change to their aforementioned contact information.



**ANNEX 1 - CONTRACT AREA DEFINITION**

Co-ordinates and Map





## ANNEX 2 - ACCOUNTING PROCEDURE

### ARTICLE 1. GENERAL PROVISIONS

#### 1.01 Definitions

This Accounting Procedure attached to and forming a part of the Contract is to be followed and observed in the performance of any Party's obligations thereunder. The purpose of this Accounting Procedure is to establish equitable methods for determining charges and credits applicable to Petroleum Operations under the Contract to the end that CONTRACTOR shall neither gain nor lose in carrying out Petroleum Operations. The defined terms appearing herein shall have the same meaning as is ascribed to them in the Contract.

#### 1.02 Accounts and Statements

CONTRACTOR's accounting records and books shall be kept as provided under CLAUSE 15 in main body of the Contract in accordance with IFRS. All original books of accounts together with original supporting documentation shall be kept and maintained at the Registered Office of CONTRACTOR in either Nigeria or São Tomé e Príncipe.

#### 1.03 Interpretation

- (a) In the event of a conflict between the terms of this procedure and the terms contained in the body of the Contract, the terms contained in the body of the Contract shall apply.
- (b) The procedure set herein may be amended from time to time by the mutual agreement of the Parties.

### ARTICLE 2. OPERATING COSTS

#### 2.01 Operating Costs

Operating Costs shall be defined as costs and expenses paid and obligations incurred in carrying out Petroleum Operations chargeable and recoverable under the Contract and shall consist of:

- (a) Development Area Non-capital Costs;
- (b) Development Area Capital Costs;
- (c) Contract Area Non-Drilling Exploration Costs; and
- (d) Contract Area Unsuccessful Exploration and Appraisal Costs.

Operating Costs shall be calculated separately for each Development Area.

**2.02 Development Area Non-capital Costs:**

Development Area Non-capital costs means those Operating Costs incurred that are chargeable to the current year's operations. Development Area Non-capital costs include, but are not limited to, the following:

- (a) General office expenses - office, services and general administration services pertaining to Petroleum Operations including but not limited to, internal services of legal, financial, purchasing, insurance, accounting, computer, and personnel department; communications, transportation, rental of specialized equipment, additional social projects (other than the social projects described under Clause 2.04 in main body of the Contract), charitable contributions and educational awards.
- (b) Labour and related costs - salaries and wages, including bonuses of employees of CONTRACTOR who are directly engaged in the conduct of Petroleum Operations, whether temporarily or permanently assigned, irrespective of the location of such employee including but not limited to, the costs of employee benefits, customary allowance and personal expenses incurred under CONTRACTOR's practice and policy, and amounts imposed by applicable governmental authorities which are applicable to such employees. These costs and expenses shall also include:
  - (i) Cost of established plans for employee group life insurance, hospitalization, pension, retirement, savings and other benefit plans;
  - (ii) Cost of holidays, vacations, sickness and disability benefits;
  - (iii) Cost of living, housing and other customary allowances;
  - (iv) Reasonable personal expenses, which are reimbursable under CONTRACTOR's standard personnel policies;
  - (v) Obligations imposed by governmental authorities;
  - (vi) Cost of transportation of employees, other than as provided in paragraph (c) below, as required in the conduct of Petroleum Operations; and
  - (vii) Charges in respect of employees temporarily engaged in Petroleum Operations, which shall be calculated to reflect the actual costs thereto during the period or periods of such engagement.
- (c) Employee relocation costs - costs for relocation, transportation and transfer of employees of CONTRACTOR engaged in Petroleum Operations including but not limited to the cost of freight and passenger service of such employees' families and their personal and household effects together with meals, hotel

and other expenditures related to such transfer incurred with respect to:

- (i) employees of CONTRACTOR within either Nigeria or São Tomé e Príncipe including expatriate employees, engaged in Petroleum Operations;
  - (ii) transfer to either Nigeria or São Tomé e Príncipe for engagement in Petroleum Operations;
  - (iii) relocation costs and other expenses incurred in the final repatriation or transfer of CONTRACTOR's expatriate employees and families in the case of such employees' retirement, or separation from CONTRACTOR, or in case of such employees' relocation to CONTRACTOR's point of origin; provided that relocation costs incurred in moving an expatriate employee and his family beyond point of origin, established at the time of his transfer to either of the Nigeria or São Tomé e Príncipe will not be recoverable as Operating Costs; and
  - (iv) Nigerian or Sao-Tomean employees on training assignments outside the Contract Area.
- (d) Services provided by third parties - cost of professional, technical, consultancy, utilities and other services procured from third party sources pursuant to any Contract or other arrangements between such third parties and CONTRACTOR for the purpose of Petroleum Operations.
- (e) Legal expenses - All costs or expenses of handling, investigating, asserting, defending, and settling litigation or claims arising out of or relating to Petroleum Operations or necessary to protect or recover property used in Petroleum Operations including, but not limited to, legal fees, court costs, arbitration costs, cost of investigation or procuring evidence and amount paid in settlement or satisfaction of any such litigation, arbitration or claims in accordance with the provisions hereof.
- (f) Head office overhead charge - parent company overhead in the amount specified in Clause 15.04 in main body of the Contract..
- (g) Insurance premiums and settlements - premiums paid for insurance normally required to be carried for the Petroleum Operations together with all expenditures incurred and paid in settlement of any and all losses, claims, damages, judgments, and other expenses, including fees and deductibles relating to CONTRACTOR's performance under this Contract..
- (h) Duties and taxes - All duties and taxes, fees and any government and JOA assessments, including but not limited to, gas flare charges, license fees, custom duties, and any other assessments and levies except Royalty Tax and

income Tax.

- (i) Operating expenses - labour (provided such labour is charged by CONTRACTOR in accordance with 'at cost' principles, as certified by International Auditors), materials and services used in day to day Petroleum Operations, including but not limited to oil well operations, oil field production facilities operations, secondary recovery operations, storage, transportation, delivering and marketing operations; and other operating activities, including repairs, well workovers, maintenance and related leasing or rental of all materials, equipment and supplies.
- U) Successful Exploration drilling - all expenditures incurred in connection with the drilling of any Exploration Well which results in a Commercial Discovery.
- (k) Successful Appraisal drilling - all expenditures incurred in connection with the drilling of Appraisal Wells on a Commercial Discovery.
- (l) Unsuccessful Development drilling - all expenditures incurred in connection with drilling of development wells which are dry, including costs incurred in respect of casing, well cement and well fixtures.
- (rn) Successful Development drilling - all intangible expenditures incurred in connection with labour (provided such intangibles expenditures are charged by CONTRACTOR in accordance with 'at cost' principles, as certified by International Auditors), fuel, repairs, maintenance, hauling, and supplies and materials (not including, casing and other well fixtures) which are for or incidental to drilling, cleaning, deepening or completion wells or the preparation thereof incurred in respect of:
  - (i) determination of well locations, geological, geophysical, topographical and geographical surveys for site evaluation preparatory to drilling including the determination of near surface and near seabed hazards;
  - (ii) cleaning, draining and leveling land, road-building and the laying of foundations;
  - (iii) drilling, shooting, testing and cleaning wells; and
  - (iv) erection of rigs and tankage assembly and installation of pipelines and other plan and equipment required in the preparation or drilling of wells producing Petroleum.
- (n) Decommissioning provisions - any deposits in a Decommissioning Fund set aside for the purposes of Decommissioning or when the security is provided, pursuant to CLAUSE 13 in main body of the Contract and any cost incurred for the purposes of Decommissioning.
- (o) Affiliate services - professional, administrative, scientific and technical

services provided by Affiliates of CONTRACTOR for the direct benefit of Petroleum Operations including, but not limited to, services provided by the exploration, production, legal, financial, purchasing, insurance, accounting and computer services departments of such Affiliates. Charges for providing these services shall reflect costs only and shall not include any element of profit. The services are charged to the Petroleum Operations based on hourly rates or other allocation method for time spent performing the requested services. The cost of Affiliate services include: salaries and wages, lost time, governmental assessments, employee benefits, rent, utilities, clerical support staff, drafting, telephone and other communication expenses, computer support, supplies, depreciation, and other reasonable costs.

- (p) Pre-production Development Area Non-capital costs - all recoverable Development Area non-capital costs incurred before first production from the Development Area are accumulated and treated as if they had been incurred on the first day of production from the Development Area.

### 2.03 Development Area Capital Costs

Development Area Capital Costs mean those Operating Costs incurred that are subject to recovery, Development Area Capital Costs include, but are not limited to, the following:

- (a) Plant expenditures - expenditures in connection with the design, construction, and installation of plant facilities (including machinery, fixtures, and appurtenances) associated with the production, treating, and processing of Petroleum (except such costs properly allocable to intangible drilling costs) including offshore platforms, secondary or enhanced recovery systems, gas injection, water disposal, expenditures for equipment, machinery and fixtures purchased to conduct Petroleum Operations such as office furniture and fixtures, office equipment, barges, floating crafts, automotive equipment, petroleum operational aircraft, construction equipment, miscellaneous equipment.
- (b) Pipeline and storage expenditure - expenditures in connection with the design, installation, construction of pipeline, transportation, storage, and terminal facilities associated with Petroleum Operations including tanks, metering, and export lines.
- (c) Building expenditure - expenditures incurred in connection with the construction of building, structures or works of a permanent nature including workshops, warehouses, offices, roads, wharves, furniture and fixtures related to employee housing and recreational facilities and other tangible property incidental to construction.
- (d) Successful development drilling - all tangible expenditures incurred in connection with drilling development wells such as casing, tubing, surface and

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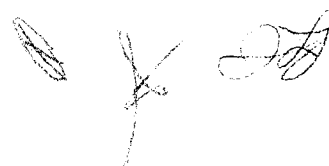
sub-surface production equipment, flow lines and instruments.

- (e) Material inventory - cost of materials purchased and maintained as inventory items solely for Petroleum Operations subject to the following provisions:
  - (i) CONTRACTOR shall supply or purchase any materials required for the Petroleum Operations, including those required in the foreseeable future. Inventory stock levels shall take account of the time necessary to provide the replacement, emergency needs and similar considerations.
  - (ii) Materials purchased by CONTRACTOR for use in the Petroleum Operations shall be valued so as to include invoice price (less prepayment discounts, cash discounts, and other discounts if any) plus freight and forwarding charges between point of supply and point of destination but not included in the invoice price, inspection costs, insurance, custom fees and taxes, on imported materials required for this Contract.
  - (iii) Materials not available in either Nigeria or São Tomé e Príncipe shall be valued at the current competitive cost in the international market.
  - (iv) CONTRACTOR shall maintain physical and accounting controls of materials in stock in accordance with general practice in the international petroleum industry. CONTRACTOR shall make a total inventory at least once a year to be observed by JDA's International Auditors. JDA may however have its International Auditors carry out partial or total inventories at its own expenses, whenever it considers necessary; provided such exercise does not disrupt Petroleum Operations.
- (f) Pre-production Development Area Capital Costs - all recoverable Development Area Capital Costs incurred before first production from the Development Area are accumulated and treated as if they had been incurred on the first day of production from the Development Area.

#### 2.04 Contract Area Non-Drilling Exploration Costs

Contract Area Non-Drilling Exploration Costs mean those Operating Costs incurred anywhere in the Contract Area on exploration or related activity not directly connected with the drilling of an Exploration Well. Contract Area Non-Drilling Exploration Costs are chargeable to the current year's operations and may be added to the Operating Costs of any Development Area, without restriction. Contract Area Non-Drilling Exploration Costs include, but are not limited to, the following:

- (a) Geological and geophysical surveys - labour, materials and services used in aerial, geological, topographical, geophysical and seismic surveys incurred in connection with exploration excluding however the purchase of data from JDA.
- (b) Pre-production Concession Rentals - all Concession Rental incurred before



first production from the Contract Area are accumulated and recoverable. Concession Rentals payable after first production are included in the Royalty Oil allocated to JDA..

- (c) Annual training and scholarship payments as described in CLAUSE 14 of the body of the Contract..
- (d) Duties and taxes - Subject to Clause 16.02 in the main body of the Contract, all duties and taxes, fees and any government assessments, including but not limited to, Gas fiare charges, license fees, custom duties, and any other assessments or levies except Royalty, Income Tax.

#### 2.05 Contract Area Unsuccessful Exploration and Appraisal Costs.

Contract Area Unsuccessful Exploration and Appraisal Costs mean those Operating Costs incurred anywhere in the Contract Area in connection with the drilling of any Exploration Wellll or Appraisal Welll in the Contract Area which does not result in a Commercial Discovery. Contract Area Unsuccessful Exploration and Appraisal Costs incurred before first commercial production are subject to recovery over a tive (5) year period in equal installments of twenty percent (20%) per annum or the remaining life of the Development Area(s), whichever is less, commencing with production. Unsuccessful Exploration and Appraisal costs in any period shall be allocated to the Operating Costs of any Development Area, subject to the following restrictions:

- (a) to the extent that the Development Area has available Cost Oil after recovering the Operating Costs (other than Unsuccessful Exploration and Appraisal Costs) related to that Development Area;
- (b) in the event that there is more than one producing Development Area within the Contract Area, Contract Area Unsuccessful Exploration and Appraisal Costs shall be allocated to the Development Area that started production most recently;
- (c) if, in any period, there is insufficient available Cost Oil in the most recent Development Area to recover the Unsuccessful Exploration and Appraisal Costs, such costs may be allocated to the Development Area with the next most recent production start date and so on until they are fully recovered; and
- (d) if there is insufficient available Cost Oil in any Development Area In any period to fully recover Unsuccessful Exploration and Appraisal costs, the amount not recovered may be carried forward and included in the next period's Unsuccessful Exploration and Appraisal costs account..

#### 2.06 Non-Recoverable Costs

The following costs are explicitly not recoverable as Operating Costs:

- (a) Bonuses and expenditures incurred by CONTRACTOR in carrying out any obligation to fund social projects as defined in CLAUSE 2 of the body of the Contract; and
- (b) Interest incurred under loans taken to finance Petroleum Operations from inter-Affiliate loans;

### ARTICLE 3. COMPUTATION OF ROYALTY, CONCESSION RENTALS & TAX

#### 3.01 Computation

- (a) CONTRACTOR shall compute the amount of Royalty and Tax payable by JDA pursuant to CLAUSE 16 of the body of the Contract.. Such amounts shall be computed as provided in the Petroleum Regulations, the Petroleum Tax Regulations, Non Petroleum Tax Regulations and the provisions in Article 4 of this Annex 2.
- (b) CONTRACTOR shall compute the Royalty and Tax to be delivered, in cash or in kind, as applicable, to JDA in a given month based on the Value.

#### 3.02 Annual Concession Rental

Annual Concession Rental, commencing in the first period of Production from the Contract Area, shall be delivered when Royalty Oil is delivered in cash or in kind.

### ARTICLE 4. ACCOUNTING ANAL YSES

#### 4.01 Procedure

- (a) CONTRACTOR and JDA shall agree within six (6) months prior to production on a format for monthly accounting analysis reflecting the volumes lifted in terms of Royalty Oil, Cost Oil, Tax Oil, Profit Oil and Proceeds received by each Party.
- (b) The Value and the quantities actually lifted by the Parties shall be used to compute the Proceeds as reflected in the agreed monthly accounting analysis format agreed to pursuant to paragraph (a) above and the allocation of such Proceeds in the categories described under CLAUSE 10 of the body of the Contract shall also be reflected.
- (c) The allocation of the quantity of Available Crude Oil to each Party pursuant to CLAUSE 10 of the body of the Contract shall be done in accordance with the Allocation and Lifting Procedure Principles (Annex 3).

#### 4.02 Priority Allocation

The priority of allocation of the total Proceeds for each period shall be as follows:



- (a) Royalty Oil
- (b) Cost Oil
- (c) Tax Oil
- (d) Profit Oil

#### 4.03 Chargeable Amount

The amount chargeable to and recoverable from Royalty Oil, Tax Oil and Cost Oil shall be determined as follows:

- (a) Royalty Oil - The sum of Royalties to be delivered or payable during such month, and, the annual amount of Concession Rentals as provided under Clause 9.02(f) of this Contract..
- (b) Cost Oil - The Operating Costs applicable to such month for purposes of Cost Oil as follows:
  - (i) Development Area Non-Capital Costs shall be the amount recorded in the books and accounts of CONTRACTOR for such month in accordance with this Accounting Procedure and shall be recoverable in full in the period incurred;
  - (ii) Development Area Capital Costs shall be the amount recorded in the books and accounts of CONTRACTOR for such month in accordance with this Accounting Procedure and will be recovered either in the month in which the expenditure was incurred and paid (if incurred after first commercial production) or the month in which first commercial production occurs (if incurred prior to first commercial production);
  - (iii) Contract Area Non-Drilling Exploration Costs shall be the amount recorded in the books and accounts of CONTRACTOR for such month in accordance with this Accounting Procedure and shall be recoverable in full in the period incurred; and
  - (iv) Contract Area Unsuccessful Exploration and Appraisal Costs incurred before first commercial production shall be the amount recorded in the books and accounts of CONTRACTOR for such month in accordance with this Accounting Procedure and shall be recoverable over a five year period in equal installments of twenty percent (20%) per annum or the remaining life of the Development Area(s), whichever is less, commencing with production commencing with the Development Area production that the costs are allocated to the Development Area(s), in accordance with Article 2.05 of this Annex 2.
- (c) Tax Oil - The sum of the Tax to be delivered or payable for such month as

provided under Article 3 of this Annex 2 for purposes of Tax Oil.

- (d) Any carryover from previous months as provided under Article 4.04 of this Annex 2.

#### 4.04 Carryover

Any amounts chargeable and recoverable in excess of the allocation of Proceeds for the month to Royalty Oil, Tax Oil and Cost Oil shall be carried forward to subsequent months. Carryovers shall be determined as follows:

- (a) A Royalty Oil carryover results when the Proceeds for such month are insufficient for allocation of the Royalty Oil due for the month, as described in CLAUSE 10 in the main body of the Contract;
- (b) A Cost Oil carryover results when the Proceeds remaining after allocating a portion of the proceeds to Royalty Oil is insufficient for allocation of Cost Oil due for the month, as described in CLAUSE 10 in the main body of the Contract; and
- (c) A Tax Oil carryover results when the Proceeds remaining after allocating a portion of the Proceeds to Royalty Oil and Cost Oil are insufficient for allocation of the Tax Oil due for the month, as described in CLAUSE 10 in the main body of the Contract..

Profit Oil results where Proceeds remain after allocations to Royalty Oil, Cost Oil, and Tax Oil pursuant to Articles 4.03 and 4.04 of this Annex 2, and shall be allocated as described in CLAUSE 10 in the main body of the Contract..

### ARTICLE 5. OTHER PROVISIONS

CONTRACTOR shall open and keep bank accounts in Dollars where all funds remitted from abroad shall be deposited for the purpose of meeting local expenditures.

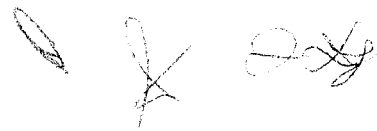


### ANNEX 3: ALLOCATION AND LIFTING PROCEDURE PRINCIPLES

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the body of the Contract.

If Petroleum is to be produced from the Contract Area, the Parties shall in good faith, and not less than one (1) year prior to first delivery of Petroleum, negotiate and conclude the terms of an agreement to cover the allocation and lifting of each Party's "Entitlement" of Available Petroleum. For the purposes of this Annex 3, "Entitlement" means each Party's share of Available Petroleum pursuant to the terms of this Contract. The Allocation and Lifting Procedures shall make provision for:

1. The delivery point, at which title and risk of loss of the Party's Entitlement shall pass to the relevant Party (which unless the Parties otherwise agree shall be the fiscalization point) determined for the purposes of Clause 10.02 of the body of the Contract;
2. Regular periodic advice by CONTRACTOR to the Parties of estimates of total Available Petroleum and each Party's Entitlement for succeeding periods for each grade of Crude Oil, for as far ahead as is necessary for Operator and the Parties to plan lifting arrangements. Such advice shall also cover actual deliveries for the preceding period, inventory and overlifts and underlifts for all Petroleum, and each grade of Crude Oil, as applicable;
3. Nomination by the Parties to CONTRACTOR of acceptance of their respective Entitlements for the succeeding period. Such nomination shall, in any one period, be for each Party's entire Entitlement arising during that period, subject to operational tolerances and agreed minimum economic cargo sizes, or as the Parties may otherwise agree;
4. Elimination of overlifts and underlifts with respect to Entitlements over certain period of time;
5. If offshore loading, or a shore terminal for vessel loading is involved, risks regarding acceptability of tankers, demurrage and (if applicable) availability of berths;
6. Distribution to the Parties of Entitlements by grades, gravities and qualities of Petroleum produced;
7. A method of making periodic adjustments to the extent that distribution of Entitlements on such basis as described item 6 is impracticable due to availability of facilities and minimum cargo sizes;
8. The option and the right of the other Parties to sell an Entitlement which a Party fails to nominate for acceptance pursuant to item 3 above or of which a Party fails to take delivery, in accordance with the applicable agreed procedures; CONTRACTOR shall give all Parties as much notice as is practicable of such



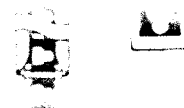
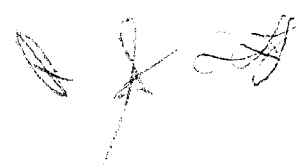
situation and that a sale option has arisen. Any sale of un-nominated or undelivered Entitlement shall be made by CONTRACTOR on behalf of the other Parties, unless any of the other Parties opts to exercise its right on its own behalf, in which case such other Party shall be entitled to sell that proportion of the un-nominated or undelivered Entitlement as its Participating Interest bears to the total Participating Interests of the CONTRACTOR Parties (excluding the Participating Interest of the Party which has failed to nominate or take delivery (the "Non-lifting Party").

9. Timely preparation of a lifting schedule by the Operator, which lifting schedule shall:

- a. minimize the possibility of any reduction or shut-in of production;
- b. accommodate, to the extent possible, the nominations and scheduling requests of the Parties;
- c. provide for the lifting of a standard cargo (unless a nominated different sized cargo does not adversely affect production or other lifters) and not in any event provide for less than the minimum cargo nor more than the maximum cargo; and,
- d. in the event of insufficient production to supply all cargo nominations, give priority to the Party with the largest lifting Entitlement.

10. Every Party shall have both the right and obligation to lift in accordance with the final lifting schedule. The final lifting schedule shall not be revised except in the event of Force Majeure, a material change in production, a material change in the storage and offtake facilities' operating conditions, or a material deviation in a Party's lifting from the final lifting schedule.

If the Allocation and Lifting Procedures have not been concluded by the date of the first delivery of Crude Oil, lifting procedures consistent with the principles set forth above shall apply until the Allocation and Lifting Procedures are concluded.



## ANNEX 4 - MANAGEMENT COMMITTEE MEETING PROCEDURES

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the body of the Contract.

### Article 1. Application

- 1.01 These Management Committee meeting procedures attached to and forming part of the Contract are to be followed for the deliberations and decisions of the meetings of the Management Committee.
- 1.02 In the event of a conflict between the terms of this Annex 4 and the terms contained in the body of the Contract, the terms contained in the body of the Contract shall apply.
- 1.03 The procedure set herein may be amended from time to time by the mutual agreement of the Parties.

### Article 2. Powers and Duties of the Management Committee

- 2.01 The powers and duties of the Management Committee shall be limited to the following:
  - (a) The revision and approval of all proposed Work Programs and Budgets in accordance with Clause 7.01 in the main body of the Contract provided that no approval will be required for a revision in the Work Programs and Budget of less than ten percent (10%) in aggregate;
  - (b) The revision, and approval of any proposed recommendations made by either CONTRACTOR or JDA or by any sub-committee pursuant to Article 6 of this Annex 4;
  - (c) Ensuring that CONTRACTOR carries out the decisions of the Management Committee and conducts Petroleum Operations pursuant to the Contract;
  - (d) The consideration and decision on matters relating to the relinquishment of areas in the Contract Area pursuant to CLAUSE 6 in the main body of the Contract and in accordance with the Petroleum Regulations;
  - (e) Settlement of claims and litigation in excess of five hundred thousand Dollars (\$500,000.00), or such other amount as may be approved by the Management Committee in so far as such claims are not covered by policies of insurance maintained under this Contract;
  - (f) Consideration and approval of the sale or disposal of any items or movable property relating to Petroleum Operations in accordance with the provisions hereof, except for items of historic costs of less than five hundred thousand Dollars (\$500,000.00) (or such other amount as may be approved by the

Management Committee) provided that any intention to sell or dispose of fixed assets shall be referred to JDA;

- (g) Settlement of unresolved audit exceptions arising from audits as provided for in CLAUSE 15 in the main body of the Contract;
- (h) Ensuring that CONTRACTOR implements the provisions of the Accounting Procedure (Annex 2), the Allocation and Lifting Procedure Principles (Annex 3), the Contract Approval Procedure (Annex 5A) and all amendments and revisions thereto as agreed by the Parties; and
- (i) Consideration and approval of the sale or disposal and exchange of information to third parties other than routine exchange of seismic data and other such data commonly exchanged within the industry; and
- U) Any other matters relating to Petroleum Operations which are expressly made subject to Management Committee approval as per the terms of the Contract.

**Article 3. Constitution of the Management Committee and Meetings**

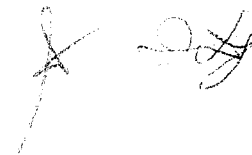
3.01 The Management Committee shall consist of eight (8) persons appointed by the Parties as follows:

JDA:	4
CONTRACTOR Parties:	4

3.02 Each Party shall designate by notice in writing to the other Parties, the names of its representatives to serve as members of Management Committee as provided in Article 3.01 of this Annex 4 and their respective alternates, which members or alternates shall be authorized to represent that Party with respect to the decisions of the Management Committee. Such notice shall give the names, titles and addresses of the designated members and alternates.

3.03 At least fourteen (14) days prior to each scheduled Management Committee meeting, the secretary shall provide an agenda of matters, with briefs, to be considered during such meeting. Any Party desiring to have other matters placed on the agenda shall give notice to the other Party not less than seven (7) days prior to the scheduled meeting. No other matter may be introduced into the agenda thereafter for deliberation at the meeting unless mutually agreed by the Parties. No agenda shall be required in the event of an emergency meeting called pursuant to Article 3.07 of this Annex 4.

3.04 JDA and each CONTRACTOR Party may change any of their respective members or alternates from time to time by notifying the other Parties in writing not less than



ten (10) days in advance of the effective date of such change.

- 3.05 JDA shall appoint one (1) of its four (4) members as the chairman of the Management Committee and the CONTRACTOR Parties shall appoint one of their four members as the secretary. The secretary shall keep minutes of all meetings and records of all decisions of the Management Committee. The minutes of each meeting shall be approved by the Management Committee at the next meeting and copies thereof shall be supplied to the Parties alongside the agenda for same. In addition, the secretary shall at each meeting, prepare a written summary of any decision made by the Management Committee for approval and signature by the Parties.
- 3.06 Not later than the twenty-eighth (28th) day of February of each Calendar Year, the Chairman shall prepare and forward to the Parties, a calendar of meetings to be agreed to by the Management Committee for that Year..
- 3.07 The Management Committee shall meet at least once every four (4) calendar months, or at such other intervals or venue as may be agreed by the Management Committee and, in addition, whenever requested by JDA or by a CONTRACTOR Party by giving at least twenty-one (21) days' notice in writing to the other Parties which notice shall specify the matter or matters to be considered at the meeting. Notwithstanding the foregoing, the Chairman or any CONTRACTOR Party may call an emergency meeting as and when needed for which no specified notice period shall be required.

#### Article 4. Quorum and Procedures

- 4.01 The quorum for any meeting of the Management Committee shall consist of a minimum of three (3) representatives of JDA and three (3) representatives of the CONTRACTOR Parties. The Chairman or his alternate and each of the CONTRACTOR Party's designated lead representative or his alternate must be present at every Management Committee meetings for a quorum to be formed. If no such quorum is present, the Chairman shall call another meeting of the Management Committee giving at least fourteen (14) days' written notice of such meeting.
- 4.02 The secretary shall, in consultation with the Chairman, convene all meetings of the Management Committee other than emergency meetings.
- 4.03 Except as may be expressly provided for in this Contract, the Management Committee may determine and adopt additional rules to govern its procedures.
- 4.04 Representatives attending a meeting of the Management Committee may, on prior notice to the other Management Committee representative, be accompanied by *two* (2) advisers and/or experts to the extent reasonably necessary to assist with the conduct of such meeting. Such advisers and experts shall not vote or in any way participate in decisions, but may contribute in a non-binding way to discussions or debates of the Management Committee. Any Management Committee representative may object to the identity of an adviser and/or expert, on the basis



that such person or entity, has a conflict of interest in the matters under discussion.

#### Article 5. Decisions of the Management Committee

- 5.01 Except as otherwise expressly provided in this Annex 4, all decisions of the Management Committee shall be made by the unanimous vote of the CONTRACTOR Parties and JDA.. If unanimity is not obtained on any matter (including any matter pertaining to a Work Program or Budget proposed by CONTRACTOR) to the Management Committee, then the Management Committee shall meet again to attempt to resolve such matter not later than fourteen (14) days after the meeting in which the proposed matter failed to be resolved.
- 5.02 Any portion of such proposal that is resolved by the Management Committee at the first meeting shall in so far as possible be carried out. At least seven (7) days prior to such second meeting, the Party casting the dissenting vote shall provide to the other Party in writing in reasonable detail the reasons for such dissenting vote. If such reasons are not provided at least seven (7) days prior to such second meeting, then the proposal shall be deemed approved. In such second meeting the agenda shall be comprised of the written reasons as provided by the dissenting Party. If unanimity is still not obtained in the second meeting, then the Management Committee shall meet a third time within fourteen (14) days after the second meeting.
- 5.03 If unanimity is not obtained in the third meeting then the Parties may agree to appoint an independent qualified expert (pursuant to Clause 25.05 contained in the body of the Contract) to advise on the matter, and the expert's advice shall be binding on the Parties. In the event of failure of the Parties to agree to the appointment of the said expert the other provisions of CLAUSE 25 contained in the body of the Contract shall apply.
- 5.04 The Parties shall be bound by, and abide by, each decision of the Management Committee duly made in accordance with the provisions of this Annex 4 (including, for certainty, those referred to Dispute Resolution in accordance with Article 5.03 of this Annex 4).
- 5.05 Any matter which is within the powers and duties of the Management Committee may be determined by the Management Committee without a Management Committee meeting if such matter is submitted in writing by either JDA or a CONTRACTOR Party with due notice and with sufficient information regarding the matter to be determined so as to enable the Parties to make an informed decision with respect to such matter.. Except for urgent matters referred to in Article 5.06 of this Annex 4, each CONTRACTOR Party and JDA shall cast its vote with respect to such matters within twenty one (21) days of receipt of such notice and such manner of determination shall be followed unless a Party objects within fourteen (14) days of receipt of such notice, to having the matter determined in such manner. If any Party fails to vote by the expiry of the twenty one (21) days period for voting, it shall be deemed to have voted in the affirmative. The secretary shall promptly advise the

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Parties of the results of such vote and the Secretary shall draft a resolution to be signed by the Parties as soon as possible.

- 5.06 For emergency matters only, JOA and each CONTRACTOR Party shall nominate one of its representative as the contact from whom the other Parties may seek binding decisions on urgent matters and shall keep the other Parties apprised of the persons so nominated and any changes thereto.
- 5.07 The decisions made pursuant to this Article 5 of Annex 4 shall be recorded in the minutes of the next scheduled meeting of the Management Committee. and shall be binding upon the Parties to the same extent as if the matter had been determined at a meeting of the Management Committee.

#### Article 6. Sub-Committees of the Management Committee

- 6.01 The Management Committee may establish exploration and technical sub-committees and any other advisory subcommittees as it considers necessary from time to time such as finance and budget, and /egal/services sub-committees.
- 6.02 Each sub-committee established pursuant to Article 6.01 of this Annex 4 shall be given terms of reference and shall be subject to such direction and procedures as the Management Committee may give or determine.
- 6.03 The Management Committee shall appoint the members of the sub-committee, which shall comprise of equal representation from the Parties. The Management Committee shall appoint the Chairman and the secretaries of the sub-committees.
- 6.04 The deliberations and recommendations of any subcommittee shall be advisory only and shall become binding and effective only upon approval by the Management Committee.

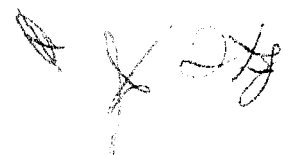
#### Article 7. Consideration of Work Programs and Budget

- 7.01 Within eight (8) weeks after the submission of a Work Program and Budget by CONTRACTOR, the Management Committee shall meet to consider and approve such submissions. Should JDA wish to propose a revision as to certain specific features of the said Work Program, and Budget, it shall within the eight (8) weeks after the receipt of such Work Program and Budget so notify the CONTRACTOR Parties in writing specifying in reasonable detail the changes requested and its reasons thereof. Any portion of the Work Program and Budget for which JDA has not proposed a revision shall insofar as possible be carried out as prescribed therein. Failure to obtain Management Committee approval for a Work Program and Budget shall be managed in accordance with Articles 5.02, 5.03 and 5.04 of this Annex 4 in any event.

## ANNEX 5A - PROCUREMENT AND PROJECT IMPLEMENTATION PROCEDURES

### Article 1. Application

- 1.01 These procurement procedures attached to and forming part of the Contract shall be followed and observed in the performance of all Party's obligations under the Contract.
- 1.02 These procedures shall be applicable to all contracts and purchase orders whose values exceed the respective limits set forth in Article 1.05 of this Annex 5A and which, pursuant thereto, require the prior concurrence of JDA.
- 1.03 In the event of a conflict between the terms of this procedure and the terms contained in the body of the Contract, the terms contained in the body of the Contract shall apply.
- 1.04 The procedure set herein may be amended from time to time by the mutual agreement of the Parties.
- 1.05 CONTRACTOR shall have the authority, subject to any limitations or restrictions established by the Management Committee, to enter into any contract or place any purchase order for the performance of services or the procurement of facilities, equipment, materials or supplies as are required for Petroleum Operations, provided that:
- (a) Prior approval of the Management Committee shall be obtained for all foreign contracts and foreign purchase orders awarded to third Parties where the cost exceeds one million Dollars (\$1,000,000.00) during the Exploration Period and five million Dollars (\$5,000,000.00) during the Exploitation Period;
  - (b) Prior approval of the Management Committee shall be obtained for all local contracts and purchase orders where the cost exceeds two hundred fifty thousand Dollars (\$250,000.00) in utilization at the location of the contract or purchase;
  - (c) The amount set forth in paragraphs (a), (b) and (e) of this Article 1.05 of Annex 5A will be reviewed by the Management Committee whenever it becomes apparent to either Party that such limits create unreasonable constraints on the Petroleum Operations. In the event of a significant change in the exchange rate of local currencies to the Dollar compared to that which existed on the Effective Date, the Management Committee shall review the limits set forth in paragraphs (a), (b) and (e) of this Article 1.05 of Annex 5A;
  - (d) Such contracts shall be entered into, and such purchase orders shall be placed with third Parties, which in CONTRACTOR's opinion are technically and



financially required to properly perform its obligations under the Contract.

- (e) The above limits and these procedures shall neither apply to purchases made for warehouse replenishment stock not exceeding two hundred fifty thousand Dollars (\$250,000.00) nor shall they apply to the purchase of tubulars not exceeding two hundred fifty thousand Dollars (\$250,000.00) made in furtherance of planned drilling programs. Where there are both Dollar and other currency components of such purchases, the total shall not exceed the equivalent of two hundred fifty thousand Dollars (\$250,000.00).

## Article 2. Project Implementation Procedure

- 2.01 CONTRACTOR, realizing the need for a contract or group of related contracts to which these Procedures apply pursuant to Article 1.05 of this Annex 5A (each, a "Project"), shall introduce it as part of the proposed Work Program and Budget to be developed and submitted by CONTRACTOR to the Management Committee pursuant to CLAUSE 7 in the body of the Contract.
- 2.02 CONTRACTOR shall provide adequate information with respect to the Project including, without limitation, the following:
  - (a) A clear definition of the necessity and objectives of the Project;
  - (b) Scope of the work to be carried out pursuant to the Project; and
  - (c) Cost estimate thereof.
- 2.03 CONTRACTOR shall transmit the Project proposal along with all related documentation to the other Parties for their consideration.
- 2.04 The other Parties may make recommendations in writing to CONTRACTOR regarding the selection, scope and timing of the Project. The Management Committee shall consider the proposal and the recommendations of the other Parties. Any disputed issues shall be resolved in accordance with Articles 5.02, 5.03 and 5.04 of Annex 4. If none of the Parties submit any recommendations in writing to CONTRACTOR within thirty (30) working days of the submission of the Project, the Project as proposed by CONTRACTOR shall be so noted in the minutes of the next meeting.
- 2.05 Projects which have been approved by the Management Committee shall form part of the Work Program and Budget and shall constitute authorizations by the Management Committee to CONTRACTOR to initiate contracts and purchase orders relevant to same.

## Article 3. Contract Tender Procedure

- 3.01 The following tender procedure shall apply to any of the work or services which comprise part of the Petroleum Operations not directly undertaken by

CONTRACTOR or its Affiliates for any work or services estimated in excess of one hundred thousand Dollars (\$100,000) for Exploration Period and two hundred thousand Dollars (\$200,000) for the Exploitation Period:

- (a) CONTRACTOR shall maintain a list of approved subcontractors for the purpose of providing work and/or services for the Petroleum Operations, (the "**Approved Subcontractors** List"). All Parties shall have the right to nominate subcontractors to be included/deleted in the list; provided that JDA and CONTRACTOR shall be responsible for pre-qualifying any subcontractor to be included in the Approved Subcontractors List.
- (b) Subcontractors included in the Approved Subcontractors List may be from Nigeria or São Tomé e Príncipe or foreign-based. Where regulations require, they shall be registered with JDA.
- (c) When any of the thresholds set forth in Article 1.05 of this Annex 5A for a proposed contract, CONTRACTOR shall present a list of proposed bidders to JDA for concurrence not less than fifteen (15) working days before the issuance of invitations to bid to prospective subcontractors. JDA may propose additional names to be included in the list of proposed bidders or the deletion of any one thereof. If JDA has not responded within fifteen (15) working days from the date of the official receipt following the presentation of the list of prospective subcontractors as aforesaid, the list shall be deemed to have been approved.
- (d) CONTRACTOR shall send analysis and recommendations of bids received to JDA for approval before a contract is awarded. Approval of CONTRACTOR's recommendations shall be deemed to have been given by JDA if JDA has not responded to CONTRACTOR's analysis and recommendations within thirty (30) days of its receipt of same.

3.02 CONTRACTOR shall disclose to JDA if it has had any prior contractual relationships with any proposed subcontractors.

3.03 The procedure set forth in Article 3.01 of this Annex 5A shall be waived in:

- (a) emergency circumstances;
- (b) in work requiring specialized skills, or when special circumstances warrant, upon the approval of JOA; or
- (c) in respect of services provided by CONTRACTOR's Affiliates at costs and which are included as a separate line item in an approved Work Program and Budget or are otherwise approved by JDA

provided that CONTRACTOR shall forthwith notify the other CONTRACTOR

Parties *af same*.

#### **Article 4. General Conditions of Contracts**

4.01 CONTRACTOR shall use reasonable commercial *efforts* to ensure that the terms of each of the contracts and purchase orders it enters into provides, without limitation:

- (a) A minimum of ten percent (10%) of the contract or purchase order shall be held as a holdback fee until after the end of the completion of the work (the term of which can vary, depending on the project); provided that:
  - (i) such requirement shall not apply to contracts or purchase orders for drilling or seismic data acquisition, well surveys and other such similar services; and
  - (ii) subcontractors may be given the option to provide other guarantee equivalent to the 10% holdback such as letter of credit or performance bond
- (b) Provision shall be made for appropriate withholding tax as may be applicable.
- (c) All contracts and purchase orders shall be written in English.
- (d) The governing law of all agreements signed with sub-contractors shall be, to the extent feasible, Nigerian law or Sao-Tomean law.
- (e) Nigerian law shall apply to subcontractors performing in Nigeria. São-Tomean law shall apply to subcontractors performing work in São Tomé e Príncipe. In as far as practicable, they shall use local Nigerian/São-Tomean resources for their work and services.
- (f) Early termination where necessary and CONTRACTOR shall use all reasonable endeavors to obtain a termination provision with minimal penalty.
- (g) In the event that a foreign subcontractor is retained, the local part of the work shall be performed by the subcontractor's local subsidiary, wherever reasonably possible.

#### **Article 5. Materials and Equipment Procurement**

5.01 CONTRACTOR may procure materials and equipment subject to conditions set forth in this Article 5 of Annex 5A; provided this Article 5 of Annex 5A shall not apply to:

- (a) lump sum or turnkey contracts;
- (b) emergency situations, provided that CONTRACTOR shall promptly inform the

other Parties of the main materials and equipment procured: and

- (c) material or equipment which can only be obtained from a single source or when special circumstances warrant, upon the approval of the other Parties, which approval shall not be unreasonably withheld, conditioned or delayed.
- 5.02 In procuring any equipment and/or materials, CONTRACTOR shall obtain ensure all rebates, discounts, warranties and guarantees obtained for same shall be for the benefit of the Petroleum Operations.
- 5.03 CONTRACTOR shall:
- (a) By means of established policies and procedures ensure that its procurement efforts provide the best total value, with proper consideration of quality, services, price, delivery and Operating Costs for the benefit of the Petroleum Operations;
  - (b) Maintain appropriate records, which shall be kept up to date, clearly documenting procurement activities;
  - (c) Provide quarterly and annual inventory of materials in stock;
  - (d) Provide a quarterly listing of excess materials in its stock list to JOA.
- 5.04 CONTRACTOR shall initiate and maintain policies and practices, which promotes competition amongst local and overseas suppliers. Competitive quotation processes shall be employed for all local procurement where the estimated value exceeds the equivalent of one million Oollars (\$1,000,000.00) as follows:
- (a) Fabrication, wherever practicable and cost-effective shall be done locally.
  - (b) CONTRACTOR shall give preferences to Nigerian or Sao-Tomean indigenous subcontractors in accordance with Clause 9.02(n) in the body of the Contract.
- 5.05 Analysis and recommendation of competitive quotations of avalue exceeding the limits established in Article 1.05 in this Annex 5A shall be transmitted to JOA for approval before a contract or purchase order is issued to the selected vendor or manufacturer. Approval shall be deemed to have been given if a response has not been received from JOA within thirty (30) working days of receipt by JDA of the said analysis and recommendations.

#### Article 6. Project Monitoring

- 6.01 CONTRACTOR shall provide an overall progress report with respect ta all Petroleum Operations being carried out and/or completed to all Parties.
- 6.02 For Projects exceeding one million Oollars (\$1,000,000) during the Exploration Period or five million Oollars (\$5,000,000) during the Exploitation Period, as



applicable, CONTRACTOR shall provide to the other Parties a detailed quarterly report which shall include:

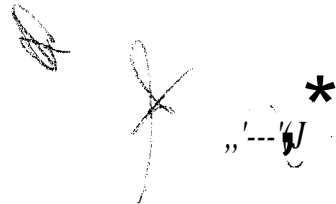
- (a) The approved budget total for each Project;
- (b) expenditures on each Project;
- (c) variances and explanations;
- (d) Number and value of construction change orders, if any;
- (e) Bar chart of schedule showing work progress and work already completed and schedule of mile-stones and significant events; and
- (f) Summary of progress during the reporting period, summary of existing material problems, if any, and proposed remedial action, anticipated problems, and percentage of completion;

provided that other Parties shall have the right to send its own representatives to assess the Project(s) based on the report.

6.03 In the case of an increase in cost in excess of ten per cent (10%) on a Project, CONTRACTOR shall promptly notify the other Parties and obtain further Management Committee approval for same.

6.04 Not later than six (6) months following the physical completion of any Project whose cost exceeds one million Dollars (\$1,000,000) during the Exploration Period or five million Dollars (\$5,000,000) during the Exploitation Period, as applicable, CONTRACTOR shall prepare and deliver to the other Parties a Project completion report which shall include the following:

- (a) Cost performance of the Project in accordance with the work breakdown at the commencement of the Project;
- (b) Significant variation in any item or sub-item;
- (c) Summary of material problems and expected events encountered during the Project; and
- (d) List of excess materials, if any.

Handwritten signatures and a star symbol.

## ANNEX5B

### SALE OF ASSETS PROCEDURE

The following procedure shall apply for the sale of assets used by CONTRACTOR in carrying out any of the Petroleum Operations:

1. CONTRACTOR may dispose of any assets with a book value of less than two hundred fifty thousand Dollars (\$250,000.00) in any manner which nets the highest amount of consideration.
2. All assets with book values between two hundred fifty thousand Dollars (\$250,000.00) and more shall be sold with proof of highest bid from the top three (3) bidders; provided that if less than three (3) bidders bid, proof of bids from all bidders shall be provided.
3. CONTRACTOR shall call for a bid duly advertised in a minimum of two national newspapers, each in Nigeria and São Tomé e Príncipe for all assets whose book values are two hundred fifty thousand Dollars (\$250,000.00) and over, irrespective of length of ownership of such assets.
4. A proposed sale of assets with an aggregate book value of more than two hundred fifty thousand Dollars (\$250,000.00) to any one of CONTRACTOR, another CONTRACTOR Party or one of their respective Affiliates shall require the prior written consent of JDA; such consent not to be unreasonably withheld, conditioned or delayed.

