

Month [●], 2026

**PRODUCTION SHARING CONTRACT FOR  
DEEP OFFSHORE**

**BETWEEN**

**NIGERIAN NATIONAL PETROLEUM  
COMPANY LIMITED**

**AND**

1. [XYZ] EXPLORATION AND PRODUCTION LTD
2. [ABC] EXPLORATION NIG LTD

**COVERING PPL [●] OFFSHORE NIGERIA**

## Contents

<b><u>CLAUSE 1: DEFINITIONS</u></b>	2
<b><u>CLAUSE 2: BONUSES</u></b>	8
<b><u>CLAUSE 3: AREA AND SCOPE</u></b>	8
<b><u>CLAUSE 4: TERM</u></b>	10
<b><u>CLAUSE 5: WORK PROGRAMME AND BUDGET</u></b>	10
<b><u>CLAUSE 6: MANAGEMENT COMMITTEE</u></b>	15
<b><u>CLAUSE 7: RIGHTS AND OBLIGATIONS OF THE PARTIES</u></b>	20
<b><u>CLAUSE 8: ALLOCATION OF AVAILABLE OIL</u></b>	24
<b><u>CLAUSE 9: SEGREGATION OF CRUDE OIL OF DIFFERENT QUALITIES</u></b>	25
<b><u>CLAUSE 10: PAYMENTS</u></b>	25
<b><u>CLAUSE 11: TITLE TO ASSETS</u></b>	26
<b><u>CLAUSE 12: EMPLOYMENT AND TRAINING OF PERSONNEL</u></b>	27
<b><u>CLAUSE 13: NIGERIAN CONTENT</u></b>	28
<b><u>CLAUSE 14: BOOKS, ACCOUNTS AND AUDIT</u></b>	28
<b><u>CLAUSE 15: OPERATOR AND JOINT OPERATING AGREEMENT</u></b>	31
<b><u>CLAUSE 16: TAXATION AND OTHER PAYMENTS TO GOVERNMENT</u></b>	32
<b><u>CLAUSE 17: INSURANCE</u></b>	32
<b><u>CLAUSE 18: CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS</u></b>	33
<b><u>CLAUSE 19: ASSIGNMENT AND NOVATION</u></b>	34
<b><u>CLAUSE 20: TERMINATION</u></b>	35
<b><u>CLAUSE 21: FORCE MAJEURE</u></b>	37
<b><u>CLAUSE 22: LAWS AND LANGUAGE</u></b>	38
<b><u>CLAUSE 23: NATURAL GAS</u></b>	38
<b><u>CLAUSE 24: REPRESENTATIONS AND WARRANTIES</u></b>	41
<b><u>CLAUSE 25: CONCILIATION AND ARBITRATION</u></b>	44
<b><u>CLAUSE 26: EFFECTIVE DATE OF THE CONTRACT</u></b>	45
<b><u>CLAUSE 27: CHANGES IN LEGISLATION</u></b>	46
<b><u>CLAUSE 28: NON-GRATIFICATION</u></b>	46
<b><u>CLAUSE 29: ENTIRE AGREEMENT/SURVIVAL</u></b>	47
<b><u>CLAUSE 30: NOTICES</u></b>	47
<b><u>ANNEX A: CONTRACT AREA</u></b>	51
<b><u>ANNEX B: ACCOUNTING PROCEDURE</u></b>	52

<b><u>ANNEX C: PERFORMANCE BOND</u></b> .....	79
<b><u>ANNEX D: PARTICIPATING INTEREST</u></b> .....	84
<b><u>ANNEX E: [ACCEPTABLE] GUARANTEE</u></b> .....	85
<b><u>ANNEX F: ALLOCATION PROCEDURE</u></b> .....	90
<b><u>ANNEX G: LIFTING PROCEDURE</u></b> .....	95
<b><u>ANNEX H: INFORMATION TO BE SUBMITTED BY CONTRACTOR</u></b> .....	105

DRAFT

THIS CONTRACT is made this       day of       202[●] BETWEEN the NIGERIAN NATIONAL PETROLEUM COMPANY Limited, a company incorporated and established under the laws of the Federal Republic of Nigeria, having its registered office at NNPC Towers, Herbert Macaulay Way, Central Business District, Abuja, Nigeria (hereinafter called “CONCESSIONAIRE” which expression shall, where the context permits include its successors-in-title and assigns) of the one part,

and

XYZ EXPLORATION AND PRODUCTION LIMITED, a company incorporated under the laws of the Federal Republic of Nigeria having its registered office at ....., Nigeria (hereinafter referred to as “XYZ” which expression shall, where the context so admits, include its successors-in-title and assigns) and ABC EXPLORATION NIGERIA LIMITED, a company incorporated under the laws of the Federal Republic of Nigeria, having its registered office at ..... , Nigeria (hereinafter referred to as “ABC” which expression shall, where the context so admits, include its successors-in-title and assigns) of the other part.

[XYZ and ABC are hereinafter collectively referred to as “CONTRACTOR” or “Contractor Parties” and individually as “Contractor Party”].

CONCESSIONAIRE and CONTRACTOR are herein collectively referred to as “Parties” and each as a “Party”.

WHEREAS, by virtue of Section 1 of the Petroleum Industry Act 2021, the Government of the Federation of Nigeria is vested with the entire property and sovereign ownership of petroleum within Nigeria, its territorial waters, the continental shelf and Exclusive Economic Zone; and

WHEREAS, by virtue of Section 64(b) of the Petroleum Industry Act 2021, CONCESSIONAIRE is vested as concessionaire of all Production Sharing Contracts as the National oil company on behalf of the Federation in line with its competencies; and

WHEREAS, by virtue of Section 64(f) of the Petroleum Industry Act 2021, CONCESSIONAIRE carries out the management of production sharing contracts;

WHEREAS, pursuant to the 2025 Nigeria Licensing Round, the CONTRACTOR has been selected by the Nigerian Upstream Petroleum Regulatory Commission to be the CONTRACTOR of the CONCESSIONAIRE for PPL No [●] subject to terms contained herein; and

WHEREAS the CONTRACTOR represents that it has the technical competence and professional skills necessary to conduct Upstream Petroleum Operations and has the funds in local and / or foreign currencies for carrying on the said operations and has agreed to conduct the said operations;

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

## **CLAUSE 1: DEFINITIONS**

1.1 Except where expressly provided to the contrary or defined below, defined terms and expressions shall bear the meaning ascribed or given to them in **Section 318 of the Petroleum Industry Act, 2021**:

- (a) **"Acceptable Guarantee "** means a guarantee issued by a parent company of the bidder or an international bank either of which has one of the following three financial ratings:
  - (i) long term issuer default rating of not less than **"AA-"** or better from Fitch Ratings Ltd;
  - (ii) a foreign long term issuer credit rating of **"AA"**, or better from Standard & Poor's Financial Services LLC; and
  - (iii) a long term issuer rating of **"Aa2"**, or better by Moody's Investors Service, Inc.
- (b) **"Accounting Procedure"** means, the rules and procedures as set forth in Annex B and attached to and forming part of this Contract.
- (c) **"Act"** or **"the Act"** means Petroleum Industry Act 2021.
- (d) **"Affiliate"** means any business entity controlled by, controlling or under common control with a Party to this Contract. For this purpose, "control" shall mean the direct or indirect beneficial ownership of more than 50% (fifty percent) of the voting power of the outstanding voting securities of a company, or in the absence of ownership of more than 50% (fifty percent) of the voting power of the outstanding voting securities of that company, the power, directly or indirectly, to direct or cause the direction of the management and policies of such company. For the sake of clarity, holding, parent, sister, and subsidiary companies are considered Affiliates.
- (e) **"Agreed Rate"** means the secured overnight financing rate for overnight borrowing published for the period closest in duration to the late payment period, as published by the Federal Reserve Bank of New York or if the Federal Reserve Bank of New York ceases to publish a period average, such alternative index from such source as the Parties may agree (acting reasonably) that closely replicates so far as possible the previous index.

- (f) **“Allocation Procedure”** is the procedure described in Annex F.
- (g) **“Anti-Bribery Laws and Obligations”** means: (i) for all Parties, the Laws relating to combating bribery and corruption of the Federal Republic of Nigeria, United Kingdom Bribery Act of 2010 and the United States Foreign Corrupt Practices Act of 1977 and the principles of the Organization for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and (ii) for each of the Parties, the laws relating to combating bribery and corruption in the countries of such Party’s place of incorporation, principal place of business, and/or place of registration as an issuer of securities, and/or in the countries of such Party’s ultimate parent company’s place of incorporation, principal place of business, and/or place of registration as an issuer of securities.
- (h) **“Applicable Law” or “Applicable Laws”** shall mean any Nigerian statute, constitution, decree, rule, regulation, byelaw, ordinance, policy directive, circular or guideline of Government, in each case, applicable to the Parties now or hereafter in effect and in each case as may be amended, modified or enacted.
- (i) **“Appraisal”** means any work carried out for the purpose of evaluating the commerciality of the development of Petroleum discovered in a geological structure or feature.
- (j) **“Available Associated Gas”** means the Associated Gas won and sold from the Contract Area.
- (k) **“Available Non-Associated Gas”** means the Non-Associated Gas won and sold from the Contract Area.
- (l) **“Available Oil”** means, the volume of Crude Oil, and where applicable Condensates and Natural Gas Liquids spiked in Crude Oil, determined at the Measurement Point, less the applicable Royalty.
- (m) **“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.
- (n) **“Budget”** means, the cost estimate of activities relating to Upstream Petroleum Operations included in a Work Programme.
- (o) **“Calendar Year”** means, a period of twelve (12) months commencing from January 1 and ending the following December 31, according to the Gregorian Calendar.

- (p) **“Capital Cost”** means the expenditures that are capital in nature under International Financial Reporting Standards made in accordance with the Accounting Procedures.
- (q) **“Carbon Capture and Storage”** means the capture of CO<sub>2</sub> from flue gases or produced Natural Gas and storing such CO<sub>2</sub> permanently in underground reservoirs.
- (r) **“Commission”** means the Nigerian Upstream Petroleum Regulatory Commission
- (s) **“Companies Income Tax” or “CIT”** means the tax pursuant to the Companies Income Tax Act Cap C21 Laws of the Federation of Nigeria 2004.
- (t) **“Concession”** means this concession granted to the CONCESSIONAIRE by virtue of Section 64(b) of the Act and incorporating Petroleum Prospecting Licence No \_\_\_\_.
- (u) **“Concession Rentals”** means, the rents payable annually on the PPL and/or PML derived therefrom in accordance with the Act.
- (v) **“Consequential Loss”** means any damages, costs or liabilities or any losses or deferments of revenue, profit, opportunity or use, regardless of cause or arising, which are not immediately and directly caused by the relevant act or omission, including:
- (i) any indirect damage, cost or liability arising out of any delay, reduction or loss of ability to produce, store, transport, process or dispose of petroleum or any product derived from petroleum;
  - (ii) any indirect damage, cost or liability associated with business interruption or increased cost of working during business interruptions, including the incremental cost of overhead expenses incurred;
  - (iii) any direct, special or punitive damage and penalties of any kind; and
  - (iv) any loss or deferment of production, revenue, profit, opportunity, use, bargain, contract expectation or opportunity.
- (w) **“Contract”** means, this Contract, together with the Annexes attached to this Contract, or amendment hereof agreed to in writing by the Parties, and any extension of the Contract as a result of the renewal of any PML or PMLs derived from PPL No \_\_\_\_ pursuant to the Act.

- (x) **“Contract Area”** means the area described in Annex A as reduced from time to time in accordance with the provisions of this Contract and the Act.
- (y) **“Contractor Party”** means, any one of XYZ and ABC and any of their permitted successors or assignees and **“Contractor Parties”** means, all of XYZ and ABC.
- (z) **“Cost Oil Limit”** means the cost limit prescribed in paragraph 14(4) of Part IV of the Seventh Schedule of the Act.
- (aa) **“Cost Oil”** means, the quantum of Available Oil allocated to the CONTRACTOR for recovery of Petroleum Costs incurred in respect of Upstream Petroleum Operations (after the allocation of Royalty Oil to the CONCESSIONAIRE), excluding any costs that are non-recoverable subject to the Cost Oil Limit.
- (bb) **“Effective Date of the Contract”** shall be the date the Petroleum Prospecting Licence is granted.
- (cc) **“Fiscal Oil Price”** means the oil price as established in the PIA.
- (dd) **“Fixed Assets”** means assets utilized in the Contract Area which are intended for long-term use, including without limitation, exploration, development, production, storage, delivery and export facilities and associated assets including but not limited to buildings, pipelines liquefaction plants, offices and accommodation facilities.
- (ee) **“Foreign Currency”** means, currency other than that of Nigeria.
- (ff) **“Gas Proceeds”** means the amount in U.S. Dollars determined by multiplying Gas sale invoice price by the volume of Gas that the Parties monetise.
- (gg) **“Government”** means Federal Government of Nigeria
- (hh) **“Gross Negligence”** shall mean any act or omission which constitutes a reckless disregard or wanton indifference to the consequences of such act or omission, where such conduct is substantially beyond the standard of care that would reasonably be expected of a prudent and competent operator/contractor engaged in upstream petroleum operations under similar circumstances.
- (ii) **“Good International Petroleum Industry Practice”** has the meaning stipulated under section 308 of the Act.
- (jj) **“Initial Exploration Period”** means the initial exploration period pursuant to Section 77 (2) of the Act.

- (kk) **“Joint Operating Agreement”** or **“JOA”** means the Agreement among the Contractor Parties in relation to operating the Contract Area, as described in Clause 15.1.
- (ll) **“Lifting Procedure”** is the procedure described in Annex G.
- (mm) **“Minimum Work Program”** means the work program stipulated in Clause 5.3 and 5.4.
- (nn) **“Ministry”** means, the Ministry charged with the responsibility for Petroleum Resources in Nigeria.
- (oo) **“Month”** means a calendar month of a Calendar Year.
- (pp) **“Nigerian Content”** means the Nigerian content as defined in Section 106 of the Nigerian Oil and Gas Industry Content Development Act, 2010.
- (qq) **“Nigerian Content Plan”** means a plan in accordance with Section 7 of the Nigerian Oil and Gas Industry Content Development Act, 2010.
- (rr) **“Operator”** means, the Company or the Contractor Party designated as Operator in accordance with Clause 15.1.
- (ss) **“Optional Extension Period”** means the optional extension period pursuant to Section 73(2) of the Act.
- (tt) **“Party”** means, either the CONCESSIONAIRE or the CONTRACTOR and **“Parties”** means, the CONCESSIONAIRE and the CONTRACTOR.
- (uu) **“Petroleum Costs”** means, expenditures incurred by the CONTRACTOR in carrying out Upstream Petroleum Operations under this Contract and which are recoverable under the Accounting Procedure pursuant to the production sharing provisions for Crude Oil under this Contract.
- (vv) **“PML”** means Petroleum Mining Lease under the Act.
- (ww) **“PPL”** means Petroleum Prospecting License under the Act.
- (xx) **“Proceeds”** means, the amount in U.S. Dollars determined by multiplying the Realizable Price by the number of Barrels of Available Crude Oil lifted by either Party.
- (yy) **“Profit Oil”** means, the balance of Available Oil after the allocation of Cost Oil.

- (zz) **“Public Official”** means (i) any officer, employee, director, principal, consultant, agent or representative, whether appointed or elected, of any government (whether central, federal, state or provincial), ministry, body, department, agency, instrumentality or part of any of them, or any public international organization, or any state or government owned or controlled entity, agency, enterprise, joint venture, or partnership (including a partner or shareholder of such an enterprise); (ii) any person acting in an official capacity for or on behalf of (a) any government, ministry, body, department, agency, instrumentality or part of any of them, or (b) any public international organization, or (c) any political party or political party official or candidate for office. For the avoidance of doubt, CONCESSIONAIRE employees are not public officials.
- (aaa) **“Royalty”** means, the amount of Royalty payable to the Government in Nigeria as defined under Applicable Law.
- (bbb) **“Royalty Oil”** means, the quantum of Crude Oil and Condensates produced from the Petroleum Prospecting License or Petroleum Mining Lease(s) that will generate an amount of revenues equal to the actual payment of Royalties for each Month.
- (ccc) **“Scope 1 Emissions”** means greenhouse gas emissions from Upstream Petroleum Operations directly controlled by the CONTRACTOR and emitted from the Contract Area.
- (ddd) **“US \$”** means United States Dollar.
- (eee) **“Well”** means a hole drilling into the earth for the purpose of locating, evaluating, producing or enhancing production of Petroleum or injection of any fluid or green house gases into a subterraneous Reservoir.
- (fff) **“Work Programme”** means activities relating to Upstream Petroleum Operations defined in Clause 5.1, which shall be carried out by the Contractor in the Contract Area for the applicable period.
- (ggg) **“Year”** means, a period of twelve (12) consecutive months according to the Gregorian Calendar.

1.2 All defined terms in the Act and in this Contract shall be capitalized.

1.3 Reference to the singular includes a reference to the plural and vice versa.

1.4 The headings used in this Contract are for convenience only and shall not be used to construe or interpret the Contract.

- 1.5 Any law, statute or regulation referred to in this Contract shall mean the law, statute or regulation as it exists on the date of execution of this Contract and any amendment(s) and modification(s) thereto.

## **CLAUSE 2: BONUSES**

- 2.1 The CONCESSIONAIRE shall, not later than seven (7) days after the execution of this Agreement, confirm to the CONTRACTOR based on the evidence of payments of the Bonus submitted to the Commission if the Commission has received the Signature Bonus.
- 2.2 Notwithstanding the provisions of Clause 8.1, the Allocation Procedure under Annex F and the Lifting Procedure under Annex G; CONTRACTOR shall pay to the Commission a Production Bonus upon the attainment of the production level stated in this Clause 2.2 as follows:

**[PRODUCTION BONUSES TO BE IN LINE WITH BID]**

- 2.3 The Production Bonus provided for in Clause 2.2 hereof shall be payable within 30 days of such production level being first attained.
- 2.4 The Bonuses provided for in this Clause **Error! Reference source not found.** shall not be recoverable as Cost Oil.
- 2.5 The Bonuses referred to in Clause 2.1 and 2.2 above shall be paid in accordance with the procedures determined by the Commission.

## **CLAUSE 3: AREA AND SCOPE**

- 3.1 The CONCESSIONAIRE has been granted a Concession containing Petroleum Prospecting Licence No \_\_\_\_ for the Contract Area specified in Annex A, subject to the relinquishment provisions provided for in Section 88 of the Act.
- 3.2 Subject to the consent of the Commission, the CONTRACTOR may voluntarily relinquish at any time its rights under this Contract to, and over areas from the Contract Area, provided the CONTRACTOR has complied with all obligations under this Contract and the Act.
- 3.3 CONTRACTOR acknowledges that any relinquishment of its rights under this Contract to, and over areas of the Contract Area under Clause 3.2, shall be irrevocable, and the CONTRACTOR shall cease to have any further rights to the relinquished areas. The Parties understand and agree that where the CONTRACTOR

voluntarily relinquishes its rights under this Contract to, and over one hundred percent (100%) of the area making up the Contract Area, PPL [●] or any PML derived therefrom automatically be surrendered to the Commission.

- 3.4 Each of the Parties acknowledge the appointment and constitution of the CONTRACTOR by the Commission as the exclusive company to conduct Upstream Petroleum Operations in the Contract Area. The CONCESSIONAIRE and CONTRACTOR shall comply with the Act, all Applicable Laws, as well as the provisions of this Contract which contains Production Sharing provisions applicable to Hydrocarbons. Where there is any conflict between this Contract, the Act and all Applicable Laws, the Act and all Applicable Laws shall prevail.
- 3.5 The Contract, is governed in accordance with the terms and provisions hereof. CONTRACTOR shall carry out at his sole risk and expense the Upstream Petroleum Operations required under this Contract. CONTRACTOR shall provide all technical, human and financial resources necessary for the Upstream Petroleum Operations. Such operations shall be carried out with the prior written approval of the CONCESSIONAIRE as required under this Contract.
- 3.6 Subject to Clause 4.2 and 23.1 the CONTRACTOR is only permitted to produce Crude Oil, where applicable spiked with Condensates and Natural Gas Liquids produced prior to the Measurement Point.
- 3.7 During the term of this Contract the total Available Oil shall be allocated to the Parties in accordance with the provisions of Clause 8.1 and the Accounting Procedure (Annex B) and the Allocation Procedure (Annex F).
- 3.8 The CONTRACTOR shall provide funds and bear the risk of Petroleum Costs and the risk required to carry out Upstream Petroleum Operations and shall therefore have an economic interest in the development of Crude Oil and Natural Gas discovered subject to the provisions of Clause 23.1 of the Contract.
- 3.9 Except with respect to liability for taxes as specified in Clause 16.1 the Contractor Parties shall be jointly and severally liable for all obligations under this Contract.
- 3.10 Pursuant to this Clause 3.1, CONTRACTOR undertakes to perform and be liable for all the obligations of CONCESSIONAIRE in the PPL's minimum work commitment and the associated Performance Bond thereto.
- 3.11 The CONCESSIONAIRE shall manage this Contract on behalf of the Commission pursuant to Section 7 of the Act.

#### **CLAUSE 4: TERM**

- 4.1 The term of this Contract shall be from the Effective Date of the Contract until the termination or expiration of the Petroleum Prospecting Licence and where one or more Commercial Discoveries of Crude Oil have been declared, until the latest termination or expiration of a Petroleum Mining Lease producing Crude Oil granted under the Petroleum Prospecting Licence.
- 4.2 Where only Commercial Discoveries or Significant Discoveries of Natural Gas are being made, this Contract shall terminate at the termination of the Petroleum Prospecting Licence, provided, however, that prior to such termination, the NNPC may enter with the CONTRACTOR into a gas development agreement pursuant to Applicable Laws.

#### **CLAUSE 5: WORK PROGRAMME AND BUDGET**

- 5.1 Within one (1) month after the Effective Date and thereafter at least Four (4) months prior to the beginning of each Calendar Year the CONTRACTOR shall prepare and submit for review and consideration by the Management Committee, established pursuant to Clause 6, a Work Programme and Budget for the Contract Area. For the Exploration Period, such Work Programme and Budget shall not be less than the Work Programme and Budget in this Clause 5.1 setting forth the Upstream Petroleum Operations which CONTRACTOR proposes to carry out during the ensuing Calendar Year, or in case of first Work Programme and Budget, during the remainder of the current Calendar Year. The Management Committee shall review and agree on such Work Programme and Budget in accordance with Clause 6.2(a) prior to presentation of the Work Programme and Budget by the CONTRACTOR to the Commission
- 5.2 The annual work program and status report pursuant to Section 78(17) of the Act, shall include a Budget, setting out the estimated costs of the work program to be undertaken for approval by the CONCESSIONAIRE as follows:
- (a) A Work Program shall not be approved where it does not contain the Minimum Work Program.
  - (b) A Work Program shall only be approved where it represents Good International Petroleum Industry Practices; and
  - (c) The CONCESSIONAIRE shall submit each approved Work Program to the Commission pursuant to the provisions of its PPL or PML as applicable.
- 5.3 The Minimum Work Programme to be executed by the CONTRACTOR during the Initial Exploration Period, shall be as follows:

- (a) Committed initial 3D seismic acquisition costs other seismic costs as a minimum of US \$ \_\_\_\_\_ (*as per the winning bid*) per square kilometre of the size of the Contract Area.
- (b) Committed expenses for geological and geophysical studies as a minimum of US \$ \_\_\_\_\_ (*as per the winning bid*) per square kilometre of the size of the Contract Area.
- (c) \_\_\_\_\_ Exploration Well(s) (*as per the winning bid*) to a minimum depth of \_\_\_\_\_ meters along the well bore at a minimum threshold of US \$ 80 million; and
- (d) Appraisal Well(s) (*as per the winning bid*), where such Appraisal Well are drilled in:
  - (i) a discovery that has been made in the Contract Area prior to the Effective Date of the Contract that was not appraised or was insufficiently appraised; or
  - (ii) a discovery has been made in an adjacent Contract Area that may extend in the Contract Area; or
  - (iii) a commercial discovery has been made or a field is producing in an adjacent Contract Area that may extend in the Contract Area.

5.4 The Minimum Work Programme to be executed by the CONTRACTOR during the Optional Extension Period, shall be as follows:

- (a) \_\_\_\_\_ Exploration Well(s) to a minimum depth of \_\_\_\_\_ meters along the well bore at a minimum threshold of US \$ 80 million.

5.5 Where the CONTRACTOR makes a discovery that merits Appraisal:

- (a) the appraisal program and appraisal area shall be proposed pursuant to Section 78(4) of the Act, and such Wells shall be additional to the Appraisal Wells committed to pursuant to Clause 5.3(d) if Appraisal Wells were committed in this paragraph.
- (b) where the duration of the appraisal program requires an extension of the term of the PPL, the CONCESSIONAIRE shall request the Commission that such extension to be granted pursuant to Section 79(7) of the Act,, and
- (c) any Appraisal Wells shall be at the minimum threshold of US \$ 80 million, provided, however, that where the discovery is made in shallow formations or

under other low-cost conditions, the CONCESSIONAIRE may request the Commission may approve a lower threshold.

- (d) Upon the completion of the Appraisal Program, the CONTRACTOR shall follow the procedures contained in Sections 78 and 79 and other provisions of the Act, with respect to the declaration of a possible Commercial Discovery and a Field Development Plan.

5.6 The following provisions shall apply to the minimum work commitment:

- (a) The total value of the Minimum Work Programme shall be US \$ \_\_\_\_\_, determined as the sum of the values under Clauses 5.3(a), (b), (c) and (d).
- (b) Where the CONTRACTOR carries out work in excess of the Minimum Work Programme during the Initial Period, such excess shall be credited to any Optional Extension Period.
- (c) If during the Initial Period, the Optional Extension Period or during an Appraisal program, CONTRACTOR fails to fulfil the Minimum Work Programme, CONTRACTOR shall forfeit and pay to the Commission the deemed value of the amount of the work that was not completed and the Commission, after consultation with the CONCESSIONAIRE, may recommend to the Minister the revocation of the PPL.
- (d) In the event that CONTRACTOR carries out Upstream Petroleum Operations without the approval of the CONCESSIONAIRE or, not in accordance with the provisions of this Contract, or incur budgetary overruns in excess of 10% of an approved budget, and such operation or budgetary overrun is not incurred as a result of an emergency or safety operation in accordance with Clause 6.1(n) of the Contract, then all costs arising from any or all of the above, shall not form part of the Minimum Work Program and shall not be recoverable as Cost Oil.

5.7 Subject to Clause 7.1(d) the CONTRACTOR shall inform CONCESSIONAIRE in writing (including a cost estimate) and other supporting documentations of any activity which the CONTRACTOR, in its reasonable judgement:

- (a) deems imperative to enable the CONTRACTOR to perform its obligations with respect to an ongoing work activity as agreed by the Management Committee and anticipates will result in overruns in excess of ten percent (10%) of approved budget for that work activity; or
- (b) is required to avoid health, safety, security and environmental damage.

5.8 In the event of any notification by the CONTRACTOR pursuant to Clause 5.7, CONCESSIONAIRE shall respond in writing no later than fifteen (15) working days from the date of receipt of such notification, either:

- (a) to request for additional information; or
- (b) to convey its approval or rejection failing which CONCESSIONAIRE shall be deemed to have given its approval to the request.

5.9 Any expenditure associated with such activity which is disputed by MACOM and rejected in accordance with the shall be disqualified as Operating Costs.

5.10 If CONTRACTOR fulfils the minimum Work program set forth in this Clause 5.1 for the Initial Exploration Period and Optional Exploration Period, then CONTRACTOR shall be deemed to have satisfied the minimum financial commitment for each such period.

5.11 An Exploratory Well or an Appraisal Well shall be considered to have satisfied the minimum Work Programme if any one of the following events occurs:

- (a) A discovery is made, and further drilling may cause irreparable damage to such a discovery.
- (b) Basement is encountered; or
- (c) CONCESSIONAIRE and CONTRACTOR agree that the well is drilled for the purpose of fulfilling the obligation to complete the minimum Work Programme; or
- (d) Technical difficulties are encountered which, in the judgment of CONTRACTOR and to the satisfaction of the CONCESSIONAIRE, in accordance with Good International Petroleum Industry Practices, makes further drilling impracticable, uneconomic, unsafe or a danger to the environment.

#### 5.12 **Work Program for each PML.**

Where the Minister has granted more than one PML, the Work Programme shall contain separate descriptions of the operations to be undertaken for each PML, and during the development phase of each Field, shall contain as a minimum the committed Field Development Plan.

#### 5.13 **Decommissioning and Abandonment**

Upon the completion of the Upstream Petroleum Operations the CONTRACTOR shall carry out the Decommissioning and Abandonment operations provided for in Sections 232 and 233 and other provisions of the Act and the relevant provisions of any other Applicable Law.

#### **5.14 Performance Bond**

- (a) Prior to the execution of this Contract, CONTRACTOR shall have submitted to the Commission a performance bond from a reputable international financial institution acceptable to the Commission in the sum of US \$ \_\_\_\_\_ to cover the Minimum Work Programme for the Initial Period. The Performance Bond to be submitted to the Commission shall be in the format depicted in Annex C.
- (b) Should the CONTRACTOR satisfy the conditions for continuing exploration in the Optional Extension Period, CONTRACTOR shall submit to the Commission a new performance bond in the sum of US \$ \_\_\_\_\_ prior to entering in the Optional Extension Period in order to cover the required minimum Work Programme. The amount of such bond shall be adjusted where the CONTRACTOR has carried out work in excess of the Minimum Work Program that has been credited to the Optional Extension Period.
- (c) The performance bond to guarantee the Field Development Plan for each Commercial Discovery for each PML shall be a sum equal to \_\_\_\_\_ percent of the proposed investment under the Field Development Plan and such bond shall be provided at the request of the Commission, prior to the final approval of the Field Development Plan by the Commission.
- (d) The Performance Bond that CONTRACTOR shall submit herein shall be provided by the Operator.

5.15 The value of the performance bonds shall be reduced based on the completion of the work by deducting from the performance bond the value of the completed work pursuant to Clause 5.6 by the CONTRACTOR. The performance bond shall terminate at the end of the Initial Period, Renewal Period, Appraisal program or Development program, as the case may be, if the work has been completed.

#### **5.16 Guarantee**

- (a) Prior to the execution of this Contract, each Contractor Party shall have submitted to the Commission an Acceptable Guarantee.

*OR* Each Contractor Party has submitted to the Commission, prior to the execution of this Contract, an Acceptable Guarantee.

- (b) [The CONCESSIONAIRE acknowledges on behalf of the Commission, that the Commission has received the Acceptable Guarantee referred to in this Clause 5.16]

OR

[The CONCESSIONAIRE shall, not later than [ ] days after the execution of this Agreement, confirm to the CONTRACTOR, if the Commission has received the Acceptable Guarantee.]

- (c) The Acceptable Guarantee to be submitted shall be in the format specified in Annex E. Such guarantee shall survive the term of this Contract for a period of five (5) years.

#### **CLAUSE 6: MANAGEMENT COMMITTEE**

- 6.1 The Management Committee shall be established within thirty (30) days from the Effective Date in accordance with this Contract for the purpose of providing orderly direction of all matters pertaining to the Upstream Petroleum Operations and Work Programme related to the Contract Area.
- 6.2 The powers and duties of the Management Committee shall include but not be limited to the following:
- (a) The review, of all Work Programmes and Budgets prepared by the CONTRACTOR, in accordance with Clauses 5.1 and 6.8(d) and all Field Development Plans and to propose recommendations thereto prior to submission to the Commission for its approval.
  - (b) Ensure that the Contractor procures the approval of the Field Development Plans in a timely manner.
  - (c) Any other matters relating to Upstream Petroleum Operations except:
    - (i) those matters exclusively within the regulatory purview of the Commission or any other relevant or designated Regulator.
    - (ii) those matters reserved to the Parties in their respective rights; or
    - (iii) those matters elsewhere provided for in this Contract.
  - (d) Consideration and approval of the sale, disposal or exchange of information to third parties other than routine exchange of seismic data and such other data commonly exchanged within the industry.

- (e) Giving effect to Clause 12.7 ensuring that the CONTRACTOR shall provide an annual budget for capacity building of CONCESSIONAIRE's personnel; and
  - (f) Consideration and determination of any other matter relating to Upstream Petroleum Operations which may be referred to it by any Party (other than any proposal to amend this Contract) or which is otherwise designated under this Contract for reference to it.
- 6.3 The overriding objective of the Management Committee shall always be the optimization of operational efficiency. The Parties by this Contract agree that subject to the rights of the parties under Clause 25.1, any impasse at the MACOM which may defeat this objective of optimizing operational efficiency, shall be resolved by the Commission.
- 6.4 The Management Committee shall consist of six (6) persons appointed by the Parties as follows, each of whom is authorised to represent its appointing Party with respect to the decisions of the Management Committee:
- |                  |     |
|------------------|-----|
| CONCESSIONAIRE - | 3   |
| CONTRACTOR       | - 3 |
- 6.5 Each Party shall provide at least ten (10) days' written notice to the other Party, of any changes to its representatives (or the positions held by the representatives of CONCESSIONAIRE ) and their respective alternates. Such notice shall give the names, titles or positions, and addresses of the designated members and alternates.
- 6.6 CONCESSIONAIRE shall appoint one of its three (3) members as the chairman of the Management Committee and the CONTRACTOR shall appoint the secretary. The secretary shall not be a member of the Management Committee but 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. 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.
- 6.7 At least fourteen (14) working 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) working 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 Clause 6.8(a).

6.8 No later than the twenty-eighth (28th) day of February of each Contract Year, the secretary shall prepare and forward to the Parties a calendar of meetings as agreed by the Management Committee for that Year.

- (a) 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 a 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; or, when summoned by the chairman or by the CONTRACTOR as an emergency meeting for which no specified notice period shall be required.
- (b) The quorum for any meeting of the Management Committee shall consist of a minimum of two (2) representatives of CONCESSIONAIRE and two (2) representatives of the CONTRACTOR. The chairman or his alternate and the CONTRACTOR's designated lead representative or his alternate must be present at every Management Committee meeting 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.
- (c) The secretary shall in consultation with the chairman convene all meetings of the Management Committee other than emergency meetings. Notwithstanding the foregoing, the secretary may convene an emergency meeting requested by the CONTRACTOR.
- (d) Within four weeks after the submission of a Work Programme and Budget by the CONTRACTOR, the Management Committee shall meet to review and consider it. If CONCESSIONAIRE wishes to propose revisions, it shall notify the CONTRACTOR in writing within three weeks, detailing the requested changes and reasons. The Management Committee shall consider the revisions and agree on the final form of the Work Programme and Budget to be submitted to the Commission for its approval. If no revisions are proposed within three weeks, the Work Programme and Budget shall be submitted to the Commission for its approval.
- (e) In the event that any revision proposed by the CONCESSIONAIRE to the Work Programme and Budget is not agreed to by the Management Committee, the CONTRACTOR shall proceed to submit the Work Programme and Budget to the Commission for its approval indicating the revisions of the CONCESSIONAIRE which have not been agreed to by the Management Committee.

- 6.9 Except as may be expressly provided for in this Contract, the Management Committee shall determine and adopt rules to govern its procedures. All documents required for its meetings shall be made available to the members seven (7) days prior to the meeting.
- (a) Members attending a meeting of the Management Committee may be accompanied by advisers and 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.
  - (b) Except as otherwise expressly provided in this Contract, all decisions of the Management Committee shall be made by the unanimous vote of the Parties. If unanimity is not obtained on any matter (including any matter pertaining to a Work Programme or Budget) proposed 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. Any portion of such proposal that is not rejected, shall insofar as possible be carried out. If unanimity is not obtained in the second meeting, then the Management Committee shall meet a third time within twenty-one (21) days after the second meeting.
  - (c) At least seven (7) days after the second meeting, the Party casting the dissenting vote shall provide to the other Parties in writing in reasonable detail, the reasons for such dissenting vote. If such written reasons are not provided at least seven (7) days prior to the third meeting, then the proposal shall be deemed approved by all the Parties. In such third meeting, the agenda shall include such written reasons as provided by the dissenting Party.
  - (d) If unanimity is not obtained at the third meeting, where the matter relates to Work Programmes and Budgets, Field Development Plans, or any other matter relating to Upstream Petroleum Operations, which is subject to the approval of the Commission under Applicable Law, then such matter shall be referred to the Commission for resolution accordingly. For all other matters, the CONCESSIONAIRE and the CONTRACTOR may agree to appoint an independent qualified expert to advise on the matter, which 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 expert shall be selected in accordance with a reference procedure agreed to be adopted by the parties.
  - (e) Subject to Clause 6.2(c) (i), (ii) and (iii), the Parties shall be bound and abide by each decision of the Management Committee duly made in accordance with the provisions of this Contract.

- 6.10 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 Party to the other Party with due notice and sufficient information regarding the matter to be determined so as to enable the Parties to make an informed decision with respect to such matter. The other Party to whom the information is submitted shall agree in writing with the proposed request for the said decision to be carried out subject further to the provisions herein:
- (a) Except for urgent matters referred to in Clause 6.8(c), each Party shall cast its vote with respect to such matter within twenty-one (21) days of receipt of such notice and such manner of determination shall be followed unless a Party objects, within twenty-one (21) 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) day period for voting, it shall be deemed to have voted in the affirmative. The Secretary shall promptly advise the Parties of the results of such vote and the Secretary shall draft a resolution to be signed as soon as practicable by the Parties.
  - (b) The decisions made pursuant to this Clause 6.10 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.
  - (c) Each Party shall nominate one of its officers as its representative from whom the other Party may seek binding decisions on urgent matters, including, but not limited to ongoing drilling operations, by e-mail, registered or hand delivered letter, or in person. The Parties shall advise each other in writing of the persons so nominated and any changes thereof.
- 6.11 An exploration and technical sub-committees, a finance and budget, and legal services (sub-committees) shall be established to function hereunder from the Effective Date in accordance with the terms of reference provided by the Management Committee except as otherwise decided by the Parties. The Management Committee may establish such other subcommittees as it deems necessary from time to time.
- (a) Each sub-committee established pursuant to this Clause 6.11 shall be given terms of reference and shall be subject to such direction and procedures as the Management Committee may give or determine.
  - (b) The Management Committee shall appoint the members of the sub-committees, which shall comprise representatives from the Parties. The Management Committee shall appoint the chairmen and secretaries of the sub-committees.

- 6.12 The deliberations and recommendations of any subcommittee shall be advisory only and shall become binding and effective upon acceptance by the Management Committee.

## **CLAUSE 7: RIGHTS AND OBLIGATIONS OF THE PARTIES**

- 7.1 In accordance with this Contract, the CONTRACTOR shall in addition to the rights and obligations under the Licence and Leases granted pursuant to the Licence:
- (a) Provide all necessary funds for payment of Petroleum Cost including, but not limited to, funds required to provide all materials, equipment, supplies, and technical requirements (including personnel).
  - (b) Provide such other funds for the performance of Work Programmes including payments to third parties who perform services in accordance with terms contained therein as sub-contractors.
  - (c) Have the right to finance Upstream Petroleum Operations from external funding sources under terms and conditions which shall include commercially reasonable rates provided such financing, including its terms and conditions, was obtained with the prior written approval of the CONCESSIONAIRE. Interest accrued from such financing shall constitute Operating Costs.
  - (d) Prepare Work Programmes and Budgets and carry out approved Work Programmes in accordance with the Act and Good International Petroleum Industry Practices and Applicable Laws with the objective of avoiding waste and obtaining maximum ultimate recovery of Crude Oil at minimum costs.
  - (e) Prepare the proposed Field Development Plan for each Commercial Discovery.
  - (f) Ensure that all leased equipment is treated in accordance with the terms of the applicable leases and the provisions of the Act.
  - (g) Have the right of ingress to and egress from the Contract Area and to and from facilities therein located, at all times during the term of this Contract.
  - (h) Submit to the CONCESSIONAIRE for permanent custody, copies of all geological, geophysical, drilling, well production, operating and other technical and economic data and reports or other relevant information generated by the CONTRACTOR relating to the Contract Area, during the term hereof; and, at the end of the Contract surrender all original data and reports to the Government. Provided however that the CONTRACTOR is not required to submit its internal proprietary information.

- (i) Pay to Government in a timely manner all applicable taxes accruing out of Upstream Petroleum Operations related to this Contract. [For the avoidance of doubt the CONTRACTOR's obligations to pay tax shall be several and not joint.
- (j) Have the right to lift and freely export and to retain abroad the Cost Oil and the CONTRACTOR share of the Profit Oil allocated to it here under.
- (k) Employ only such personnel as required to conduct the Upstream Petroleum Operations in a prudent and cost-effective manner giving preference to Nigerian citizens as provided for in the Nigerian Content Plan.
- (l) Prepare and carry out plans and programmes for industry training and education of Nigerians for all job classifications with respect to Petroleum Operations in accordance with applicable Law.
- (m) Have the right to carry out Carbon Capture and Storage operations in the Contract Area for its own purposes or as service to third parties pursuant to the approved Field Development Plan and shall not emit any Scope 1 Emissions beyond 2060 in case the Contract is in force at that time.
- (n) Carry out the Upstream Petroleum Operations in a manner which ensures the eligibility of the Contract Area and the Upstream Petroleum Operations conducted therein, for any fiscal, economic, commercial and operational incentives which may be available to deep offshore developments in Nigeria.
- (o) Carry out all procurement and project implementation in relation to Upstream Petroleum Operations in accordance with Presidential Directive on Reduction of Petroleum Sector Contracting Costs and Timelines, 2024 or any amendment, modification or replacement thereto, and Applicable Laws.
- (p) Indemnify and hold the CONCESSIONAIRE and Commission harmless against all losses, damages, injuries, expenses, actions of whatever kind and nature including but not limited to legal fees and expenses suffered by any third party where such loss, damage, injury is as the result of Gross Negligence of the CONTRACTOR or its sub-contractors.
- (q) Promptly notify the CONCESSIONAIRE of any claims or suits whether brought by a third party or a Party, that relate to the Contract Area and or the conduct of Upstream Petroleum Operations on the Contract Area. CONTRACTOR shall represent the Parties and shall defend or oppose the claim or suit for and on behalf of the Parties. CONTRACTOR may compromise or settle any such claim or suit or any related series of claims of suits for an amount not to exceed the equivalent of [US\$500,000] (Five Hundred Thousand United States Dollars) including the legal fees. Provided

that where the settlement of such claim or suit or any related series of claims or suits exceeds [US\$500,000] (Five Hundred Thousand United States Dollars), CONTRACTOR shall obtain the written approval of the CONCESSIONAIRE prior to the settlement of such claim, suit or any related series of claims or suits.

- (r) In the event of any emergency requiring immediate action:
  - (i) take all actions it deems proper or advisable to protect the interests of the Parties.
  - (ii) Promptly notify the CONCESSIONAIRE within forty-eight (48) hours of when the CONTRACTOR became aware of the event and follow the established applicable emergency procedures, and
  - (iii) Provide the CONCESSIONAIRE with an estimate of the related costs within seven (7) days and updates of such estimates as may be required.
- (s) Not to commence the execution of any major project until the project including the local components thereof are properly scoped out and agreed by the Commission.
- (t) Ensure that it and its sub-contractors shall, pay all customs duties and like charges as are imposed by law in Nigeria; provided that, subject to the provisions of this Contract, the CONTRACTOR and its sub-contractors shall not be treated differently from any other companies and their sub-contractors engaged in similar Upstream Petroleum Operations in Nigeria.
- (u) Present to the CONCESSIONAIRE the technical and economic data or other relevant information generated by the CONTRACTOR relating to the Contract Area when required including technical and cost aspects of any field development under this Contract and thereafter agree with CONCESSIONAIRE on the development decision prior to the development of a field in the Contract Area.
- (v) shall be liable to perform the obligations of CONTRACTOR under the Performance Bond and shall indemnify CONCESSIONAIRE fully for any failure to perform such obligations, provided that the failure of the CONTRACTOR to performs such obligations is not attributable to CONCESSIONAIRE.
- (w) Not to exercise all or any rights or authority over the Contract Area in derogation of the rights of the CONCESSIONAIRE; and

- (x) Take all prudent and necessary steps in accordance with Good International Petroleum Industry Practices and this Contract to:
  - (i) prevent pollution and protect the environment and living resources.
  - (ii) ensure that any Petroleum discovered or produced in the Contract Area are handled in a manner that is safe for the environment.
  - (iii) avoid causing damage to overlying, adjacent and underlying formations trapping Petroleum reserves.
  - (iv) prevent the ingress of water via Wells into strata containing Reservoirs.
  - (v) avoid causing damage to overlying, adjacent and underlying aquifers.
  - (vi) drill and exploit each Field or carry out Carbon Capture and Storage in the Field in such a manner that the interests of the Government are protected; and
  - (vii) Provide all information to the Commission as specified in Annex H.

7.2 In accordance with this Contract, the CONCESSIONAIRE shall in addition to the rights and obligations under the Licence and Leases granted pursuant to the Licence:

- (a) Lift and sell all Royalty Oil pursuant to Section 64(c) of the Act and ensure that the determination of the amount of Royalties by price is based on the Fiscal Oil Price.
- (b) With its professional staff assigned to the CONTRACTOR jointly work with the CONTRACTOR's professional staff in the various areas of the Upstream Petroleum Operations.
- (c) Assist and expedite the CONTRACTOR's execution of Upstream Petroleum Operations and Work Programmes 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 the CONTRACTOR. Any payments made by the CONTRACTOR as a result of the assistance of the CONCESSIONAIRE shall be dealt with in accordance with the Accounting Procedure.
- (d) The CONCESSIONAIRE shall at all times have access to all original data resulting from the Petroleum Operations including but not limited to geological, geophysical, engineering, well logs, completion, production, operations, status reports and any other data as the CONTRACTOR may

compile during the term hereof, provided however, that the CONTRACTOR shall keep and use such original data during the term of this Contract; and

- (e) At the request of the CONTRACTOR take all necessary measures to ensure the granting of each PML to the CONCESSIONAIRE in accordance with the Act as well as their renewals.

## **CLAUSE 8: ALLOCATION OF AVAILABLE OIL**

- 8.1 The allocation of Available Crude Oil shall be in accordance with the Accounting Procedure (Annex B) the Allocation Procedure (Annex F) and this Clause 8.1.
- 8.2 Out of the total available Crude Oil (including where applicable Condensates and Natural Gas Liquids spiked in Crude Oil) produced, Royalty Oil shall be lifted and sold by the CONCESSIONAIRE and the revenues obtained shall be paid into the Federation Account and be verified by the Commission pursuant to paragraph 6 of Part III of the Seventh Schedule of the Act.
- 8.3 After the lifting of the Royalty Oil, under this PPL No. .[●] or related to each PML, the remaining Crude Oil from the Contract Area shall constitute Available Oil. The allocation of Available Oil shall be in accordance with the Accounting Procedure (Annex B), the Allocation Procedure (Annex F), the Lifting Procedure (Annex G) and this Clause 8.1.
- 8.4 Cost Oil shall be allocated to the CONTRACTOR in order to recover Petroleum Costs, subject to a Cost Oil Limit of 70% of the total oil production and for the conversion of expenditures into Cost Oil the Fiscal Oil Price shall be used. Cost Oil shall be recovered on an expensed basis and depreciation expenses shall not apply. The recoverable and non-recoverable costs shall be determined in the Accounting Procedure (Annex B).
- 8.5 The Profit Oil, being the balance of Available Oil after deducting Cost Oil, shall be allocated to each Party, with the following percentages being allocated to the CONCESSIONAIRE:
  - (a) up to and including 350 million barrels – 20%;
  - (b) over 350 million barrels and up to and including 750 million barrels – 35%;
  - (c) over 750 million barrels and up to and including 1000 million barrels – 45%;

- (d) over 1000 million barrels and up to and including 1500 million barrels – 50%;  
and
  - (e) over 1500 million barrels – 60%.
- 8.6 The CONTRACTOR shall take in kind, lift and dispose of the Cost Oil. Each Party shall take in kind, lift and dispose of its allocation of Profit Oil.
- 8.7 Either Party may at the request of the other, lift the other Party's Crude Oil entitlement pursuant to this Clause 8.1 and the lifting Party within sixty (60) days shall transfer to the account of the non-lifting Party the revenues of the sale to which the non-lifting Party is entitled. Overdue payments shall bear interest at the Agreed Rate plus ten (10%) per cent per annum.
- 8.8 The Parties shall meet every Quarter to reconcile all Crude Oil produced, allocated and lifted during the period and where required shall negotiate a lifting procedure.

#### **CLAUSE 9: SEGREGATION OF CRUDE OIL OF DIFFERENT QUALITIES**

- 9.1 Segregation of Crude Oil of different quality and/or grade shall be by agreement of the Parties taking into consideration, among other things, the operational practicality of segregation and the cost benefit analysis thereof. If the Parties agree on such segregation the following provisions shall apply:
- (a) Any and all provisions of the Contract concerning valuation of Crude Oil shall separately apply to each segregated Crude Oil;
  - (b) Each grade or quality of Crude Oil produced and segregated in a given Calendar Year shall contribute its proportionate share to the total quantity designated in such Calendar Year as Royalty Oil, Cost Oil and Profit Oil.

#### **CLAUSE 10: PAYMENTS**

- 10.1 The method of payment of any sum due from the CONTRACTOR to the Commission and vice versa shall be in accordance with the prevailing guidelines of the Federal Ministry of Finance and of the Central Bank of Nigeria and in accordance with the Accounting Procedure.
- 10.2 Unless otherwise provided herein, any payment which the Concessionaire is required to make to the CONTRACTOR or which the CONTRACTOR is required to make to the Concessionaire pursuant to this Contract shall be made within thirty (30) days following the end of the Month in which the payment is due. Overdue payments shall attract interest at the annual rate of ten (10 %) per cent in addition to the Agreed Rate .

- 10.3 Unless otherwise provided herein, any payment which the CONCESSIONAIRE is required to make to the CONTRACTOR or which the CONTRACTOR is required to make to the CONCESSIONAIRE pursuant to this Contract shall be made within thirty (30) days following the end of the Month in which the payment is due. Overdue payments shall attract interest at the annual rate of ten (10%) per cent in addition to the Agreed Rate.
- 10.4 Where the CONTRACTOR fails to make any required payments to the Commission, and where such outstanding payments are not the subject of ongoing proceedings before a court or in arbitration, the Commission may recommend to the Minister the revocation of the PPL.

#### **CLAUSE 11: TITLE TO ASSETS**

- 11.1 The CONTRACTOR shall finance the cost of purchasing all assets to be used in Upstream Petroleum Operations related to the Contract Area pursuant to the Work Programme and such assets shall remain the property of the CONTRACTOR upon arrival in Nigeria or purchase by the CONTRACTOR where assets are acquired in Nigeria and the Contractor Parties shall be owners of the assets for the purpose of Companies Income Tax. The CONTRACTOR shall have the right to use such assets exclusively for Upstream Petroleum Operations during the term of this Contract. Should the CONCESSIONAIRE or any of Contractor Parties desire to use such assets for other purposes, such use shall be subject to terms and conditions agreed by the Parties, provided that it is understood that Upstream Petroleum Operations hereunder shall take precedence over such other purposes. The CONTRACTOR shall only lease assets with the approval of the CONCESSIONAIRE, such approval not to be unreasonably withheld if such lease is in the best interest of the Upstream Petroleum Operations.
- 11.2 Subject to decommissioning and abandonment requirements under the Act, upon full recovery of the cost of the asset or upon the termination of this Contract pursuant to Clause 20.1 or the expiration thereof (whichever is earlier), title to such asset shall pass to the CONCESSIONAIRE free of charge.
- 11.3 The provisions of Clause 11.2 with respect to the title of property passing to the CONCESSIONAIRE shall not apply to leased equipment belonging to local or foreign third parties, and such equipment may be exported from Nigeria in accordance with the terms of the applicable lease.
- 11.4 During the term of this Contract, any sales of assets acquired for the purpose of the Upstream Petroleum Operations hereunder shall be with prior approval of the CONCESSIONAIRE, provided that such sale shall not include land and buildings for which title has been fully transferred to the CONCESSIONAIRE. Such sales shall be conducted by the CONTRACTOR on the basis of the highest price obtainable and the

proceeds of such sale shall be credited against Cost Oil under the provisions of the Accounting Procedure.

## **CLAUSE 12: EMPLOYMENT AND TRAINING OF PERSONNEL**

- 12.1 Each Calendar Year, the CONTRACTOR shall submit a detailed programme for recruitment and training of Nigerian personnel for the following Calendar Year pursuant to the Nigerian Oil and Gas Industry Content Development Act, 2010 and the Act as well as a detailed account of the attainment of the percentages of the Nigerian employees.
- 12.2 Qualified Nigerians shall be employed in all non-specialized positions.
- 12.3 Qualified Nigerians shall also be employed in specialized positions such as those in exploration, drilling, engineering, production, environmental, safety, finance etc. The CONTRACTOR shall have the right, subject to applicable laws, rules and regulations, to employ non-Nigerians in such specialized positions where qualified Nigerians are not available provided that the CONTRACTOR shall recruit and train Nigerians for such specialized positions, such that the number of non-Nigerian staff shall be kept to a minimum.
- 12.4 The CONTRACTOR shall ensure that from the effective date of this Contract, the number of Nigerian citizens employed by the CONTRACTOR in connection with the Petroleum Operations in managerial, supervisory and other professional positions shall be in accordance with Applicable Law.
- 12.5 Pursuant to Clause 7.2(b) competent professionals of the CONCESSIONAIRE shall be assigned to work with the CONTRACTOR and such personnel and the CONTRACTOR's personnel shall not be treated differently with regard to salaries and other benefits for personnel with comparable qualifications and experience. CONTRACTOR and CONCESSIONAIRE shall mutually agree on the number of CONCESSIONAIRE's staff to be assigned to the Upstream Petroleum Operations. The costs and expenses of such CONCESSIONAIRE personnel shall be included in Petroleum Costs, where the activities relate to the production of Crude Oil. CONCESSIONAIRE's staff on such assignment shall remain under the employment and control of CONCESSIONAIRE subject to worksite protocols and any costs or expenses that may be incurred through the course of the assignment shall be included in Operating Costs.
- 12.6 The CONCESSIONAIRE shall agree on the organization chart of the Operator which shall include Nigerian staff in key positions.
- 12.7 The CONTRACTOR by itself or through the Operator shall train on an annual basis, an agreed number of CONCESSIONAIRE's personnel in all facets of Upstream

Petroleum Operations and the cost of such training shall be included as Petroleum Costs.

- 12.8 No Nigerian managerial positions under this Contract shall be disengaged without the prior written approval by the Ministry or other designated government agency; in accordance with applicable laws and regulations. Request for such approval shall be made through the Commission.

### **CLAUSE 13: NIGERIAN CONTENT**

- 13.1 The CONTRACTOR undertakes to comply with the provisions of the NOGICD Act in the performance of the Upstream Petroleum Operations.
- 13.2 CONTRACTOR shall give preference to goods, which are available in Nigeria, or services that can be rendered by Nigerian nationals, provided they meet the specifications and the standards of the goods and services, in accordance with the NOGICD Act.
- 13.3 CONTRACTOR shall carry out the approved Nigerian Content Plan provided for in the Field Development Plan for each PML.
- 13.4 In evidence of its compliance to Nigerian Content requirements, the CONTRACTOR undertakes to provide CONCESSIONAIRE with all data and documentation as agreed with and approved by the Nigerian Content Development and Monitoring Board (NCDMB) (or other relevant agency).
- 13.5 CONTRACTOR shall indemnify and hold the CONCESSIONAIRE harmless for CONTRACTOR's failure, refusal, or neglect to comply with approved local content requirements or carry out the approved Nigerian Content Plan provided for in the Field Development Plan for each PML; provided that where CONTRACTOR has complied with the approved Nigerian Content Plan provided for in the Field Development Plan for each PML, it shall not be considered to have failed to comply with the NOGICD Act and shall have no liability to indemnify or hold the CONCESSIONAIRE harmless with respect to any non-compliance with the NOGICD Act in such circumstances.

### **CLAUSE 14: BOOKS, ACCOUNTS AND AUDIT**

#### **14.1 Books and Accounts**

- (a) The CONTRACTOR shall keep complete books of accounts consistent with modern petroleum industry and accounting practices and procedures in accordance with the Accounting Procedures.

- (b) Every Contractor Party shall maintain all statutory books of account at its registered address.

#### **14.2 Audits by the Commission**

- (a) Each of the Parties acknowledge the power of the Commission to inspect and audit the accounting records relating to this Contract pursuant to the provisions of the Accounting Procedure for the purpose of ascertaining royalties, fees, rents, production or profit shares or other required payment to the Government and other responsibilities of the Commission under the Act.
- (b) Each of the Parties undertake not to act in a manner that will impede the right of the Commission to inspect and audit the accounting records relating to this Contract.
- (c) The Commission may undertake the inspection and audit in Clause 14.2(a) above either through its own personnel or through a qualified firm of chartered accountants registered in Nigeria appointed for the purpose by the Commission; provided, however, that the transportation and per diem for lodging costs of the Commission's own personnel shall be borne by the CONTRACTOR as general administrative costs and shall be cost recoverable. For the qualified firm of chartered accountants, the costs shall be borne by the Commission.

#### **14.3 Audits by the CONCESSIONAIRE**

- (a) The CONCESSIONAIRE shall have the right to inspect and audit the accounting records relating to this Contract pursuant to the provisions of the Accounting Procedure.
- (b) The provisions of Clause 14.2(b) shall apply *mutatis mutandis* to the CONCESSIONAIRE.
- (c) The CONTRACTOR shall be responsible for keeping complete books of accounts consistent with modern petroleum industry and accounting practices and procedures. The statutory books and accounts of this Contract shall be kept in Naira and U.S. Dollars. All other books of accounts as the CONTRACTOR may consider necessary shall be kept in columnar form in both Naira and U.S. Dollars. Officials of the CONCESSIONAIRE shall access to such books and accounts.
- (d) All statutory books of accounts shall be kept at the registered address of the CONTRACTOR in Nigeria. The CONTRACTOR shall keep the books on

behalf of the CONCESSIONAIRE and shall allow the CONCESSIONAIRE access to all such books and accounts.

- (e) The CONCESSIONAIRE shall have the right to inspect and audit the accounting records relating to this Contract for any Calendar Year by giving thirty (30) days written notice to the CONTRACTOR and the CONTRACTOR shall facilitate the work of 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, and if not, the books and accounts relating to such Calendar Year shall be deemed to be accepted by the Parties as satisfactory. 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, excluding any fraudulent or unlawful transactions.
- (f) The CONCESSIONAIRE may undertake the inspection and audit in Clause 14.3(a) above either through its own personnel or through a qualified firm of chartered accountants registered in Nigeria appointed for the purpose by the CONCESSIONAIRE; provided, however, that the transportation and per diem costs of the CONCESSIONAIRE'S own personnel shall be borne by the CONTRACTOR as general administrative costs and shall be cost recoverable. For the qualified firm of chartered accountants, the costs shall be borne by the CONCESSIONAIRE.
- (g) Should there be a difference or dispute between the Parties concerning the outcome of the audit as provided in Clause 14.3(e), such that the dispute cannot be resolved by mutual consent, then either Party may refer the matter to an independent auditor in accordance with the provisions of Clause 14.3(h) of this Contract shall apply.
- (h) The Parties shall jointly appoint a mutually acceptable independent auditor to conduct a cost audit for the relevant Calendar Year(s). The auditor's decision shall be final and binding on the Parties except in the case of fraud or manifest error.
- (i) Notwithstanding that the said period of two (2) Calendar Years may have expired, if the CONTRACTOR has been found guilty of Gross Negligence under this Contract, the CONCESSIONAIRE shall have the right to conduct a further audit to the extent required to investigate such Gross Negligence in respect of any earlier periods; provided, however, that the costs of such investigations shall be charged to Petroleum Costs.
- (j) The CONCESSIONAIRE shall have the right to inspect and audit the accounting records relating to this Contract pursuant to the provisions of the Accounting Procedure.

- (k) The CONCESSIONAIRE shall receive a copy of all audit reports carried out by a Contractor Party on Petroleum Operations or any activities of the Operator that may affect the conduct of the work programme. Such reports shall be forwarded to the CONCESSIONAIRE by the Contractor Party responsible for the audit(s) within three (3) calendar months of conclusion of the said audit(s).

#### **14.4 Materials**

The CONTRACTOR shall maintain physical and accounting controls of materials in stock in accordance with Good International Petroleum Industry Practices. The CONCESSIONAIRE shall carry out total audit of such materials in stock at least once in a Calendar Year and shall give the CONCESSIONAIRE a four (4) week written notice prior to such inventory. The CONCESSIONAIRE and or its external auditors shall be entitled to audit such inventory. The CONCESSIONAIRE may however carry out partial or total check of such inventories at its own expense, whenever it considers necessary, provided such exercise does not unreasonably disrupt Upstream Petroleum Operations.

### **CLAUSE 15: OPERATOR AND JOINT OPERATING AGREEMENT**

- 15.1 XYZ is designated the Operator under the Contract to execute the Upstream Petroleum Operations in the Contract Area pursuant to the JOA concluded among the Contractor Parties and the text of which has been submitted to the CONCESSIONAIRE for review and approval.
- 15.2 The Operator designated under Clause 15.1 or any subsequent replacement or substitute operator appointed, shall at all times during the period of this Contract, act as a reasonable and prudent Operator.
- 15.3 The Operator shall have the exclusive control and administration of the Upstream Petroleum Operations pursuant to the JOA. The Operator, within the limits defined by this Contract, shall execute contracts, incur expenses, make commitments, and implement other actions in connection with the Upstream Petroleum Operations.
- 15.4 Any change of Operator shall be approved by the Commission and shall be in accordance with the guidelines of the Commission under the Act.
- 15.5 A copy of the executed JOA and approved by the CONCESSIONAIRE shall be submitted to the Commission within six (6) months after the Effective Date of the Contract. A copy of all revisions, amendments and side-letters thereto shall be submitted to the Commission within thirty (30) days of their execution. The JOA or any of the revisions, or amendments or side-letters cannot contain any clauses

contrary to this Contract. The JOA shall specify the joint venture bank accounts and authorized representatives of the Commission shall have at all times the right to audit and verify the transactions on these accounts.

#### **CLAUSE 16: TAXATION AND OTHER PAYMENTS TO GOVERNMENT**

- 16.1 The Contractor Parties and the Concessionaire shall be responsible for and pay their own Companies Income Tax and other applicable taxes, levies and duties pursuant to the laws of the Federation of Nigeria.
- 16.2 Royalty rates are as contained in the PIA and other applicable fiscal Laws and regulations.
- 16.3 CONCESSIONAIRE shall pay to Government all Royalty, and Concession Rentals that may be applicable according to Law, on behalf of the Contract Area out of Available Crude Oil allocated to it for such payments under Clause 8.1.
- 16.4 The Fiscal Oil Price established under the Act shall be used in determining the amount payable on Royalties in respect of Crude Oil produced and lifted pursuant to this Contract.
- 16.5 CONTRACTOR shall prepare the Parties' entitlement under this Contract and their joint statutory obligations, such as royalties, rents, levies, and other charges on the Contract Area.
- 16.6 CONTRACTOR shall pay all fees, rents, levies, charges and other impositions as may be required by the Act in the course of the conduct of Upstream Petroleum Operations

#### **CLAUSE 17: INSURANCE**

- 17.1 All property acquired under the provisions of this Contract shall be adequately insured with an insurance company of good repute by the CONTRACTOR in consultation with the CONCESSIONAIRE, in the names of the Parties. The CONTRACTOR shall assume this responsibility. Every insurance policy entered by the CONTRACTOR shall be approved by the CONCESSIONAIRE. The premium for such policies shall be included in the Operating Costs and will be recovered in accordance with the Accounting Procedure. All policies shall name CONCESSIONAIRE as a co-insured with a waiver of subrogation rights in favour of CONCESSIONAIRE.
- 17.2 In case of loss or damage to property, indemnifications paid by the insurance companies shall be entirely received by the CONTRACTOR for Upstream Petroleum Operations. The CONTRACTOR shall propose for approval to the CONCESSIONAIRE the repair, replacement or abandonment of the damaged property. On the approval of the CONCESSIONAIRE, the CONTRACTOR shall

immediately replace, repair or abandon such property. If the decision is to repair or replace, CONTRACTOR shall 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 considered Operating Costs. If the decision is to neither repair nor replace, then the proceeds of any coverage shall be credited to Upstream Petroleum Operations. In the event that the loss or damage is attributable to the CONTRACTOR's Gross Negligence the cost of replacement, repair or abandonment shall not be recoverable as Cost Oil.

- 17.3 The CONTRACTOR shall take out and maintain an insurance policy covering any and all damages caused to third parties as a direct or indirect result of Upstream Petroleum Operations.
- 17.4 All insurance policies under this Clause 16.1 shall be based on Good International Petroleum Industry Practice and shall be taken out in the Nigerian insurance market except for those concerning risks for which the CONTRACTOR cannot obtain coverage in Nigeria which shall be taken out abroad to the extent permitted by law.
- 17.5 In entering contracts with any sub-contractor for the performance of Upstream Petroleum Operations, the CONTRACTOR shall require such sub-contractor to take out adequate insurance in accordance with Clauses 17.1 and 17.3 above and to properly indemnify the CONCESSIONAIRE and the CONTRACTOR for any damage done and to properly indemnify and hold the CONCESSIONAIRE and the CONTRACTOR harmless against claims from third parties.
- 17.6 The CONTRACTOR shall maintain other insurance policies required under Nigerian law.

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

- 18.1 The CONTRACTOR shall keep information furnished to it by the CONCESSIONAIRE and all plans, data, programmes, records, pictures, sketches, maps, drawings, writings, correspondences, designs, data, scientific, technical and financial reports, electronically transmitted information and other data and information of any kind or nature relating to Upstream Petroleum Operations including any discovery of Petroleum as strictly confidential, for all times, shall not be used for any purpose other than the work and services required for the performance of the Contract and shall ensure that their entire or partial contents shall under no circumstances be disclosed by the CONTRACTOR in any announcement to the public or to any third party without the prior written consent of the CONCESSIONAIRE.
- 18.2 The CONTRACTOR shall ensure the observance of this provision by its employees, personnel representative, agents and assigns and the permitted recipients and shall

ensure that terms similar to those contained in this Clause 18.1 are binding on each of them respectively

18.3 The provisions of this Clause 18.1 shall not apply to disclosure to:

- (a) Subcontractors, affiliates, assignees, auditors, legal advisers, provided that such disclosures are required for the effective performance of the aforementioned recipients' Upstream Petroleum Operations.
- (b) Comply with statutory obligation or the requirements of any governmental agency in which case the CONTRACTOR will notify the CONCESSIONAIRE of any information so disclosed.
- (c) Financial institutions involved in the provision of finance for the 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.
- (d) A third party for the purpose of negotiating an assignment of interest hereunder provided such third party executes an undertaking to keep the information disclosed confidential.

18.4 The CONTRACTOR shall take necessary measures to make its employees, agents, representatives, proxies and subcontractors comply with the same obligation of confidentiality provided in this Clause 18.1.

18.5 The provisions of this Clause 18.1 shall not be voided by the expiry or termination of this Contract on any grounds whatsoever and these provisions constitute a continuing obligation, and accordingly the restrictions arising therefrom shall be in force at all times.

18.6 The CONTRACTOR shall use its best endeavours to ensure that the CONTRACTOR's servants, employees, agents and subcontractors shall not make any reference in public or publish any notes in newspapers, periodicals or books nor divulge, by any other means whatsoever, any information on the activities under the CONTRACTOR's responsibility, or any reports, data or any facts and documents that may come to their knowledge by virtue of this Contract, without the prior written consent of the CONCESSIONAIRE.

18.7 The CONTRACTOR shall submit to the CONCESSIONAIRE all statutory reports and information for submission to the Government and other statutory bodies.

18.8 The Parties shall coordinate and agree on the nature of any public announcements.

## **CLAUSE 19: ASSIGNMENT AND NOVATION**

- 19.1 Subject to all requirements under Applicable Law , each Contractor Party shall have the right to dispose of, assign, transfer, novate, convey or otherwise dispose of any part or all of its rights and interests or enter into any such arrangement with a similar effect (hereinafter collectively referred to as a “**Transfer**”)under this Contract to other parties, including to an Affiliate, with the prior written consent of the CONCESSIONAIRE, which consent shall not be unreasonably withheld.
- 19.2 If the written consent of the CONCESSIONAIRE is granted, in respect of the Transfer to a non-affiliate of the Contractor Party, the Contractor Party shall be relieved of its liability to the extent of the Transfer of its rights and obligations under this Contract. Where the consent of the CONCESSIONAIRE is granted for the Transfer to an Affiliate of the Contractor Party, the Contractor Party shall continue to be jointly liable with the assignee Affiliate for the performance of the obligations under this Contract.
- 19.3 Any request for consent to Transfer as aforesaid, made by a Contractor Party to the CONCESSIONAIRE, shall include the proposed deed of assignment or novation and other relevant information relating to financial, technical and corporate standing of the assignee or transferee, and its capability to contribute to the Upstream Petroleum Operations under this Contract.
- 19.4 Any Transfer by CONCESSIONAIRE of its rights and interests under this Contract shall be accompanied by a corresponding transfer of the obligations of the CONCESSIONAIRE under this Contract and any agreements related to this Contract pursuant to which the CONCESSIONAIRE has committed its interests hereunder whether with respect to Profit Oil allocation or otherwise, to the CONTRACTOR.

## **CLAUSE 20: TERMINATION**

### **20.1 Termination by the CONCESSIONAIRE:**

- (a) Subject to any prior revocation of the PPL or all PMLs by the Minister, in which case the Contract terminates, the CONCESSIONAIRE shall be entitled to terminate this Contract with the CONTRACTOR or a Contractor Party if any of the following events occur:
- (i) CONTRACTOR or a Contractor Party commits a material breach or defaults in a significant manner in the performance of any of its obligations under this Contract.
  - (ii) CONTRACTOR or a Contractor Party has failed to fully execute the Minimum Work Programme or fails to pay the bonuses specified in Clauses 2.1 and 2.2 at the time such payments are due.

- (iii) Warranties made by a Contractor Party under Clause 24.1 herein are found to be untrue when made.
  - (iv) CONTRACTOR has undertaken any actions that results in the revocation of the PPL or PMLs pursuant to the Acts.
  - (v) CONTRACTOR are, or a Contractor Party is, adjudged insolvent or bankrupt by any court of competent jurisdiction; or
  - (vi) CONTRACTOR or a Contractor Party assigns the Contract without the prior written approval of the CONCESSIONAIRE.
- (b) If there is a cause for termination the CONCESSIONAIRE shall give written notice thereof to CONTRACTOR to remedy such default within a period not more than thirty (30) days of receipt of CONCESSIONAIRE's notice or such additional days as the CONCESSIONAIRE deems appropriate in the circumstances. If upon the expiration of the said period such default has not been remedied or removed, the CONCESSIONAIRE may by written notice to the CONTRACTOR declare the Contract terminated.
- (c) Except for such rights of the CONTRACTOR that may have accrued prior to the date of termination, CONTRACTOR's rights shall cease upon the termination of this Contract. Such termination shall take place without prejudice to any other rights or remedies, which may be available to either Party.
- (d) Without prejudice to all other rights of the CONCESSIONAIRE herein contained, CONTRACTOR shall upon the termination of this Contract permit inspection, copying and auditing of its accounts and records for the Upstream Petroleum Operations.

## **20.2 Termination by the CONTRACTOR:**

Upon ninety (90) days' notice, CONTRACTOR shall have the right, at its sole discretion to relinquish its rights and to terminate this Contract without further obligations or liabilities, provided the CONTRACTOR has complied with all obligations under the Contract and complies with surviving obligations.

## **20.3 Termination by Effluxion of Time**

Subject to a renewal of the PPL or PMLs covering the Contract Area, this Contract shall be terminated at the end of the Contract term provided in Clauses 4.1 and 4.2.

## **20.4 Termination by Operation of Law**

- (a) Where the PPL is not converted to a PML and/or PPL pursuant to the PIA within the duration of this Contract, this Contract shall automatically terminate when the PPL expires.
- (b) Upon conversion, where a PML and/or PPL is terminated by operation of law during the term of this Contract, the PML and/or PPL shall be excised from the Contract Area and this Contract shall no longer apply to such PML and/or PPL; however, this Contract shall continue in full force and effect in relation to the remaining PMLs and/or PPL.

#### **20.5 Termination for lack of Commercial Discoveries or Exhaustion of the Resource:**

This Contract shall terminate if the PPL has not resulted in the granting of one or more PMLs or all PMLs producing Crude Oil have terminated due to exhaustion of the resource.

#### **CLAUSE 21: FORCE MAJEURE**

- 21.1 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. A Force Majeure event includes delays, defaults or inability to perform any obligations under this Contract (other than a payment obligation), due to any event beyond the reasonable control of a Party, and the event 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), blockade, labour disturbances, strikes, riots, insurrection, cyberattacks, civil commotion, quarantine restrictions, epidemics, storms, floods, earthquakes, accidents, blowouts or lightning, and, acts or orders of Government.
- 21.2 If Upstream Petroleum Operation is delayed, curtailed or prevented by force majeure, then the time for carrying out the obligation and duties thereby affected, and rights and obligations hereunder, shall be extended for a period equal to the period of such delay, provided, however, that the Parties during such period shall take all such measures as may be reasonably required to mitigate the effects of the force majeure condition.
- 21.3 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. At the cessation of the force majeure situation the Party who declared the force majeure, shall promptly notify the other Party and shall resume performance of its obligations under this Contract as soon as practicable after the force majeure no longer exists.

- 21.4 From time to time thereafter, the Party affected by the force majeure shall give further notice of the manner in which and the extent to which the performance of its obligations is affected.
- 21.5 The Party claiming force majeure shall use reasonable efforts to mitigate the effects of such majeure event.
- 21.6 An event shall not be considered force majeure if the notice in clause 21.3 is not given.
- 21.7 The following events or circumstances shall not be treated as being Force Majeure or caused thereby:
- (a) Failure by either Party to pay money when due or fulfill any financial obligation under this Contract.
  - (b) The insolvency of Contractor or Contractor Party.
  - (c) CONTRACTOR's failure or inability to make a declaration of a Commercial Discovery for reasons other than as specified in Clause 21.1 hereof shall not be deemed Force Majeure.
  - (d) Changes in the laws of Nigeria or any political subdivision thereof or any acts or orders of Government, any minister, ministry, department, subdivision, agency, authority, council, committee, or other constituent element thereof, or any corporation owned or controlled by any of the foregoing.
- 21.8 Subject to the revocation by the Minister of the respective licence or lease for reasons of Force Majeure, where the condition of force majeure continues for a period of more than three (3) years cumulatively, either Party, at its option, may terminate this Contract.

## **CLAUSE 22: LAWS AND LANGUAGE**

- 22.1 This Contract shall be governed by and construed in accordance with the Laws of the Federation of Nigeria and any such dispute arising therefrom shall be determined in accordance with such Laws.
- 22.2 All affairs related to this Contract shall be conducted in the English language.

## **CLAUSE 23: NATURAL GAS**

23.1 The ownership of Natural Gas discovered within the Contract Area shall be vested in CONCESSIONAIRE, provided always that the economic interest of the CONTRACTOR as specified herein is preserved.

23.2 If the CONTRACTOR discovers sufficient volumes of Natural Gas whether or not associated with Crude Oil that could justify commercial development, the CONCESSIONAIRE shall report the volume of potentially recoverable Natural Gas to the CONCESSIONAIRE and shall upon CONCESSIONAIRE'S request, investigate and submit proposals to the CONCESSIONAIRE for the commercial development of said Natural Gas taking into consideration local strategic needs as may be identified by the CONCESSIONAIRE. Any cost in respect of such proposals or investigation after the final investment decision has been achieved presented by the CONTRACTOR to the CONCESSIONAIRE shall be included in operating costs for the commercialisation of the Natural Gas.

**23.3 Associated Gas**

- (a) The CONTRACTOR shall adopt all those measures which are necessary, appropriate and consistent with technology generally in use in the international petroleum industry to prevent loss or waste of Associated Gas. For the purpose of enhancing the recovery of Crude Oil, the CONTRACTOR shall give priority to the use of other Enhanced Oil Recovery mechanisms, if technically and economically justified.
- (b) The CONTRACTOR shall have the right to use in the Petroleum Operations, Associated Gas produced from the Contract Area.
- (c) The CONTRACTOR may utilize, at no cost requisite proportion of the produced Associated Gas required as fuel for Upstream Petroleum Operations; gas recycling, gas injection, gas lift, or any other Crude Oil enhancing recovery schemes, stimulation of Wells necessary for maximum Crude Oil recovery in the Field discovered and developed by the CONTRACTOR and such usage shall be with prior written consent of the CONCESSIONAIRE, which consent shall not be unreasonably withheld.
- (d) The attainment of recovery of Crude Oil through an efficient, economic and technically acceptable method shall always be paramount in all decisions regarding Associated Gas. However, with respect to Associated Gas that remains unutilised after the attainment of the primary objective of recovery of Crude, CONCESSIONAIRE shall be entitled to enter gas development contract with the CONTRACTOR or third party for the use of the Associated Gas, subject to the provisions of existing laws.

- (e) Associated Gas surplus to the requirements of the CONTRACTOR as provided in Clause 23.3(b) shall be disposed of in accordance with the provisions of this Clause.
- (f) All expenditure incurred by the CONTRACTOR in connection with the production of Associated Gas, shall be considered Operating Costs and shall be recovered by the CONTRACTOR in accordance with the provisions of this Contract.
- (g) The construction and operation of required facilities as well as the offtake of any Associated Gas shall occur in accordance with Good International Petroleum Industry Practices and shall not interfere with the production, lifting and transportation of Crude Oil by the CONTRACTOR.
- (h) CONCESSIONAIRE shall enter into a gas sales agreement (GSA) for the sale of all Associated Gas in excess of the requisite proportion specified in Clause 23.3(b) on behalf of itself and the CONTRACTOR, with an off-taker which meets criteria approved by the Parties.
- (i) The GSA which shall be administered by the CONTRACTOR as the Contract Administrator, shall include provisions for the direct distribution of proceeds derived thereunder ('**Gas Proceeds**') to the Parties in accordance with the allocations specified in Clause 23.3(j) below.
- (j) The CONTRACTOR shall be entitled to fifteen percent (15%) economic interest in the proceeds received from the sale of Associated Gas net of Royalty and Tax (Gas Proceeds). The said Gas Proceeds shall be distributed as follows:
  - (i) CONCESSIONAIRE shall be allocated proceeds equal to the Royalty payable on the sale of Gas.
  - (ii) Net Gas Proceeds shall be equal to the Gas Proceeds less the allocations specified in Clause 23.3(j)(i) above.
  - (iii) CONCESSIONAIRE shall be allocated 85% of the Net Gas Proceeds.
  - (iv) CONTRACTOR shall be allocated 15% of the Net Gas Proceeds.
- (k) CONCESSIONAIRE shall be responsible for the payment of all Royalty due on the sale of Associated Gas and shall indemnify the CONTRACTOR in respect of any tax liability arising as the result of the payment to CONCESSIONAIRE of CONTRACTOR's share of the Net Gas Proceeds.

#### **23.4 Non-Associated Gas**

- (a) This Contract does not apply to Non-associated Gas.
- (a) In case of a Commercial Discovery of Non-associated Gas, CONCESSIONAIRE shall require the CONTRACTOR to investigate and submit proposals, with terms, for the commercial development of the gas for the consideration of CONCESSIONAIRE. Any costs in respect of such proposals or investigations shall be included as Petroleum Costs.
- (b) CONCESSIONAIRE shall be entitled to enter gas development contract with the CONTRACTOR or third party for the development, production and sale of the Non-associated Gas, subject to the provisions of existing laws.
- (c) The Parties shall in good faith negotiate the proposal with terms submitted by the CONTRACTOR and if accepted by the CONCESSIONAIRE or alternative terms are agreed by the Parties, the Parties shall execute an agreement for the development of Non-Associated Gas and the CONTRACTOR shall commence the development of the gas within a period of six (6) years (exclusive of any delays in approvals which exceed three (3) months).
- (d) If the CONTRACTOR fails to commence development of the gas within the six (6) year period or the CONTRACTOR has declined, for any reason whatsoever, to participate in the development of the Non- Associated Gas, CONCESSIONAIRE shall develop the gas, in a manner that such development shall not interfere with or have any negative impact on CONTRACTOR's Petroleum Operations.

### **23.5 Gas Flaring**

In the course of conducting Upstream Petroleum Operations, the Contractor shall comply with Section 104 of the Act and any other provision of Applicable Law on the flaring of Natural Gas.

## **CLAUSE 24: REPRESENTATIONS AND WARRANTIES**

### **24.1 Each Contractor Party warrants as follows:**

- (a) The Contractor Party 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 CONTRACTOR has the technical competence and professional skills necessary to conduct Petroleum Operations and has the funds, both local and foreign, for carrying on the said operations
- (c) The execution and delivery of this Contract by the Contractor Party will not contravene in any respect, any of the provisions of:
  - (i) any Applicable Law or regulations or order of any governmental authority, agency or court applicable to or by which the Contractor Party may be bound; and
  - (ii) any applicable mortgage, contract or other undertaking or instrument to which the Contractor Party is a party or which is binding upon it or any of its respective revenues or assets.
- (d) Full disclosure has been made to the Commission and CONCESSIONAIRE prior to the Effective Date of the Contract of all facts in relation to the Contractor Party and its financial condition and affairs as are material and should be made known to the Commission and CONCESSIONAIRE. With the exception of the warranty contained in Clause 24.1(c)(i) the representations and warranties set out above shall remain for the duration of this Contract..
- (e) That the Contractor Party together with its Affiliates have the technical competence and professional skills necessary to conduct Upstream Petroleum Operations and the funds both in foreign and local currencies to carry out Upstream Petroleum Operations under this Contract.
- (f) The representations and warranties set out above shall remain for the duration of this Contract.

24.2 The CONTRACTOR shall indemnify and hold the CONCESSIONAIRE harmless (and such obligations shall continue for three (3) years following the termination of this Contract) against all losses, damages, injuries, expenses, actions of whatever kind and nature including but not limited to legal fees and expenses arising from or associated with any of the following as long as they are attributable to the wilful misconduct of the CONTRACTOR in the conduct of Upstream Petroleum Operations including but not limited to:

- (a) Any injury to any third party or damage to any third-party property arising from its conduct of Upstream Petroleum Operations except where such losses are shown to result from any action or failure to act on the part of the CONCESSIONAIRE.
- (b) Any personal injury to the officers, employees or agents of the CONTRACTOR or subcontractors; and

- (c) Any violation of any patent, licence, registered trademark or other protected rights used by the CONTRACTOR with regard to or for the execution of Upstream Petroleum Operations.

Provided however, that under no circumstances shall the CONTRACTOR be liable to the CONCESSIONAIRE for any Consequential Loss hereunder.

#### **24.3 Foreign Enforcement Indemnity**

- (a) The following definitions shall apply in this Clause 24.3:
  - (i) “Activity” means :  
the arbitration award enforcement proceedings, foreign judgement enforcement proceedings or any proceedings in respect of disputes between the CONCESSIONAIRE and the CONTRACTOR that have been referred to arbitration pursuant to the terms of this Contract, instituted by the CONTRACTOR and or on behalf of the CONTRACTOR against any Indemnatee in the United Kingdom, the United States of America and other overseas jurisdictions as this Contract may permit, under the New York Convention, State Immunity Act 1978, Civil Jurisdiction and Judgement Act 1982 in the United Kingdom, other similar provisions or rules applicable in any other State or country than Nigeria.
  - (ii) “Expenses” means all costs incurred by Indemnitees including attorney’s fees in the defense of the Activity, any claim or action brought against the Indemnatee, arising from a breach by the Indemnifier of this Clause 24.3,
  - (iii) “Indemnitees” means the Government,, parastatals and departments of the Government, and corporations which are established by acts of the National Assembly as separate legal entities of the Government, including the Commission but with the exception of the CONCESSIONAIRE (or any successor entity thereto) who shall not be considered an Indemnatee hereunder and in respect of whom no indemnity shall be provided.
- (b) Subject to the terms and provisions of this Clause 24.3, the Parties have agreed that an indemnity is required from CONTRACTOR (hereinafter referred to as the “Indemnifier” within the context of this ‘Foreign Enforcement Indemnity’ provision) for the benefit of the Indemnitees.
- (c) The CONCESSIONAIRE hereby agrees to satisfy all arbitral awards made against the CONCESSIONAIRE by an arbitral tribunal constituted pursuant to

Clause 25.1 of this Contract, by way of an adjustment to the allocation of its Profit Oil entitlement or any other means agreed by the Parties (the “Primary Compensation Source”).

- (d) Subject always to the other provisions of this Clause 24.3, the Indemnifier has agreed not to engage in the Activity and the Indemnifier shall hold harmless and indemnify the Indemnitees against any and all claims and actions arising from the Activity; including, without limitation, Expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any liability, suit, action, loss, or damage arising or resulting from the Indemnitees’ participation in the Activity (herein, the ‘Indemnity’). The above indemnification shall not include indemnification of the Indemnitee against a claim caused by the gross negligence or fault of the Indemnitees, their agents or employees, or any other third party under the control or supervision of the Indemnitees, other than the Indemnifier or its agents, employees or subcontractors.
- (e) In the event of any claim or action in connection with any Activity, the Indemnitees shall promptly provide the Indemnifier with written notice of the claim or action and the Indemnifier (i) undertakes irrevocably to, within a reasonable time, make appropriate disclosures on the Activity; and (ii) agrees that it shall be the duty of the Indemnifier to assert in the Activity, any immunity of the Indemnitees from proceedings in respect of the Activity.
- (f) Where the Indemnifier fails, to comply with its responsibilities under Clause 24.3(e), the Expenses incurred by the Indemnitees shall be for the account of the Indemnifier. For the limited purpose of asserting the Indemnity, the Indemnitees shall have the right to assert and claim the application of the relevant provisions of this Contract.
- (g) The Indemnity shall last for the duration of the Contract and shall not be waived, varied, or cancelled by the Indemnifier or any of its successors-in-title without the prior written consent of a representative of the FGN provided with the appropriate authority. The Indemnity may only be voided during the Contract where it is unenforceable under the Governing Law of this Contract, or its enforcement has become illegal.

## **CLAUSE 25: CONCILIATION AND ARBITRATION**

25.1 Any difference, disagreement, claim or dispute (Dispute) between the CONCESSIONAIRE and the CONTRACTOR, arising out of, in connection with, or in relation to this Contract, including any question regarding the existence or validity of the Contract or concerning the interpretation or performance of this Contract, and

which the Parties fail to settle by amicable agreement within fourteen 14 days from the date that either Party sends a Notification of Dispute to the other Party (which given period may be extended by mutual consent of the Parties) shall be finally settled by arbitration in accordance with the provisions of the Nigerian Arbitration and Mediation Act 2023 and the Rules of Arbitration of the International Chamber of Commerce.

- 25.2 The arbitral tribunal shall comprise 3 arbitrators who shall be appointed in writing on the agreement of the Parties.
- 25.3 Within thirty (30) days of such demand being served, each Party shall appoint an arbitrator and the two arbitrators thus appointed shall within a further thirty (30) days of the appointment of the second arbitrator, appoint a third arbitrator, who shall be presiding arbitrator. The presiding arbitrator shall be of a nationality which is different from that of Parties involved in the dispute and of the other arbitrators (the nationality of a company shall be deemed to be that of the country under the laws of which it and/or its owners are incorporated). The presiding arbitrator shall also possess requisite experience in the oil and gas industry or the resolution of oil and gas disputes.
- 25.4 If the two party-appointed arbitrators do not agree on the appointment of the presiding arbitrator, or if either Party fails to appoint the arbitrator to be appointed by it, such arbitrator or presiding arbitrator shall be appointed by the, President, for the time being, of the International Chamber of Commerce, on the application of the other Party (notice of the intention to apply having been duly given in writing by the applicant Party to the other Party).
- 25.5 The seat of the arbitration shall be Nigeria and the language of the arbitration shall be the English Language. The arbitration agreement shall be governed by the Laws of the Federal Republic of Nigeria. The Arbitration and Mediation Act 2023 shall apply to this Contract and the judgment upon the award rendered by the arbitrators may be entered in a court having jurisdiction thereof. Each Party shall pay its own attorney's fees and costs associated with the arbitration.
- 25.6 The arbitration award shall be binding upon the Parties. The venue of the arbitration shall be anywhere in Nigeria as may be agreed by the Parties. The proceedings shall be conducted in English Language.

#### **CLAUSE 26: EFFECTIVE DATE OF THE CONTRACT**

26.1 This Contract shall come into force and effect on the Effective Date of the Contract.

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

## **CLAUSE 27: CHANGES IN LEGISLATION**

- 27.1 The Parties agree that the commercial terms and conditions of this Contract are subject to fiscal stabilization provision of Section 305 of the Act.

## **CLAUSE 28: NON-GRATIFICATION**

- 28.1 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 favour or disfavour to any person in relation thereto.

- 28.2 Each Party further represents that it shall not either directly or indirectly give to any person, director, employee, representative or agent of the other 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 a similar nature, for the purposes of influencing or inducing positively or adversely the award of the Contract or doing any act in connection with the Contract.

- 28.3 Regarding operations and/or activities under this Contract each Party:

- (a) warrants that such Party and its Affiliates and their respective directors, officers, employees and personnel have not made, offered, or authorized; and
- (b) covenants that such Party and its Affiliates and their respective directors, officers, employees, and personnel will not make, offer, or authorize:

any payment, gift, promise or other advantage, whether directly or through any other person or entity, to or for the use or benefit of any Public Official or any other individual or entity, where such payment, gift, promise or advantage would violate the Anti-Bribery Laws and Obligations.

- 28.4 Regarding operations and/or activities under this Contract each Party further:

- (a) warrants that such Party and its Affiliates and their respective directors, officers, employees and personnel have complied with; and

- (b) covenants that such Party and its Affiliates and their respective directors, officers, employees, and personnel will comply with:
  - (i) the Anti-Bribery Laws and Obligations.

#### **CLAUSE 29: ENTIRE AGREEMENT/SURVIVAL**

- 29.1 This Contract contains the entire agreement of the Parties with respect to the subject matter and shall not be amended or modified in any respect except by mutual consent, in writing, of the Parties.
- 29.2 The Parties hereby agree that this Contract shall not govern any PPLs and PMLs outside the Contract Area.

#### **CLAUSE 30: NOTICES**

- 30.1 Any notice or other communication required to be given by any Party to the other Parties shall be in writing, duly signed by an authorised officer of the notifying Party and same shall be deemed to have been duly delivered and received if sent via email to the official email addresses of other Parties' authorised recipients or through any other electronic means as agreed by the Parties and duly acknowledged; or if sent by registered post to, or hand delivered at, the registered offices of each Party indicated below, provided that the notifying Party obtains an acknowledgement copy of the delivered post. Without prejudice to the foregoing, where the notice being issued by email (or other electronic means as may be agreed by the Parties) is time bound, such notice will not be deemed as delivered until the email has been acknowledged by the receiving Party or Parties:

THE CONCESSIONAIRE:

THE GROUP CHIEF EXECUTIVE OFFICER  
NIGERIAN NATIONAL PETROLEUM COMPANY LIMITED  
NNPC TOWERS  
HERBERT MACAULAY WAY, CENTRAL BUSINESS DISTRICT, ABUJA.

THE CONTRACTOR:

THE MANAGING DIRECTOR  
XYZ COMPANY LIMITED



30.2 Each Party shall notify the other promptly of any change in the above address.

THIS PART HAS BEEN INTENTIONALLY LEFT BLANK

DRAFT

IN WITNESS WHEREOF THE PARTIES herein have caused this Agreement to be executed the day and year first above written.

SIGNED AND DELIVERED for and on behalf of  
**THE CONCESSIONAIRE**

By: .....

Name: .....

Designation:

In the presence of:

Name: .....

Signature: .....

Designation: .....

Address: .....

SIGNED AND DELIVERED for and on behalf of  
**XYZ**

By: .....

Name: .....

Designation: MANAGING DIRECTOR / CHIEF EXECUTIVE

In the presence of:

Name: .....

Signature: .....

Designation: .....

Address: .....

SIGNED AND DELIVERED for and on behalf of  
**ABC**

By: .....

Name: .....

Designation: MANAGING DIRECTOR / CHIEF EXECUTIVE

In the presence of:

Name: .....

Signature: .....

Designation: .....

Address: .....

DRAFT

## **ANNEX A: CONTRACT AREA**

## ANNEX B: ACCOUNTING PROCEDURE

### ARTICLE 1 GENERAL PROVISIONS

#### 1.1 Definitions

This Accounting Procedure attached to and forming a part of the Contract is to be followed and observed in the performance of either Party's obligations thereunder. The definitions contained in Article 1.1 of the Contract to which this Accounting Procedure is annexed shall apply to this procedure and have the same meaning except that references herein to Article refer to Articles hereof, unless otherwise indicated. Furthermore, the following definitions shall apply:

- 1.1.1 **“Arm's Length”** means the relationship that exists between two or more Persons, where none of such Persons exerts or is in a position to exert significant influence on any of the other Persons having regard to all relevant factors.
- 1.1.2 **“Capital Expenditures”** means Capital Costs.
- 1.1.3 **“Exploration Costs”** means the total of exploration expenditures less exploration receipts as defined in Article 3.4 hereof.
- 1.1.4 **“Exploitation Costs”** means the total of exploitation expenditures less exploitation receipts as defined in Article 3.4 hereof.
- 1.1.5 **“Fair Market Value”** means the price at which comparable materials or services of similar quality could be supplied on similar terms at similar times by parties under no compulsion to buy or sell and trading on an Arm's Length basis.
- 1.1.6 **“Operating Expenditures”** means the expenditures that are operating in nature under International Accounting Standards.
- 1.1.7 **“Overhead”** means managerial and operational services that cannot reasonably be directly allocated to Field activities and that are provided by CONTRACTOR in relation to Upstream Petroleum Operations, including but not limited to costs of: management and administrative salaries and related costs; CONTRACTOR offices; legal; human resources and employee relations; training; treasury; procurement; accounting and financial management; risk management; advertising and public relations; financial audit; entertainment, travel and transportation; and rentals of services and property.

## 1.2 Precedence of Documents

In the event of any inconsistency or conflict between the provisions of this Accounting Procedure and the provisions of the main text of the Contract, the provisions of main text of the Contract shall prevail.

## 1.3 Books of Account

CONTRACTOR's books for Upstream Petroleum Operations shall be kept on the accrual basis in US\$. Such books of account shall be kept in Nigeria, in the English Language and in accordance with the provisions of the Contract and this Accounting Procedure. All transactions in other currency shall be converted into US\$, using the exchange rate published by the Central Bank of Nigeria (CBN) or another mutually agreed rate at the time of the transaction. Contractor shall maintain a record and documentation of the date, exchange rates used and source of the exchange rate.

## 1.4 Detailed Outline of Accounting System

Within ninety (90) days after the Effective Date of the Contract, CONTRACTOR shall present to the CONCESSIONAIRE for approval a proposed accounting system setting forth the following elements:

- (i) an accounting system with a comprehensive chart of accounts (including detailed classification of costs and detailed nature of cost centers, as specified in Section 3 and 4 of this Accounting Procedure).
- (ii) an organization chart showing recording and reporting functions.
- (iii) policies and manuals to be used in implementing this Accounting Procedure.
- (iv) a detailed definition and implementation plan describing the proposed accounting elements of the overall electronic management information system, as well as the security key system under which the CONCESSIONAIRE or authorized Government entities shall have access at all times to this system; and
- (v) a draft Monthly reporting package.

Following discussion of such drafts with the CONCESSIONAIRE, CONTRACTOR shall within hundred eighty days (180) from the Effective Date of the Contract prepare and provide the CONCESSIONAIRE with the final versions of the above documents.

## 1.5 Procurement Procedure

Within ninety (90) days after the Effective Date of the Contract Contractor shall furnish to the CONCESSIONAIRE the procurement procedures to be followed thereafter by Contractor for obtaining materials, equipment and services.

## 1.6 Record keeping

All accounts, books, records and statements, together with supporting documents shall be kept in Nigeria.

## 1.7 Basis for all Charges and Revenues.

Transactions shall be recorded to include without limitation such costs as broker's fees, transportation charges, loading and unloading fees, demurrage, import duties, surcharges and license fees associated with the procurement of materials and equipment, and applicable taxes. Notwithstanding any provision to the contrary in the Accounting Procedure, it is the intention that there shall be no duplication of charges or credits to the accounts under the Contract.

This Accounting Procedures is based on the concept that all charges and revenues will be based on Fair Market Value. The CONTRACTOR shall keep such records as may be appropriate to substantiate the determination of Fair Market Value for equipment, materials and services purchased or sold. The CONTRACTOR has the obligation to document at the date of the transaction the basis for concluding that the recorded price was determined in accordance with this Section 1.9. Only the portion of such purchase price that represents Fair Market Value shall be eligible for Petroleum Costs and any amount of such purchase price in excess of Fair Market Value shall be not recoverable pursuant to the provisions of this Accounting Procedure.

# ARTICLE 2 COSTS AND EXPENDITURES

## 1.1 Classification of Costs and Expenditures

Costs and expenditures shall be accounted for in accordance with the following classifications:

### 2.1.1 **Non-capital Costs**

#### (a) Surface Use Rights

All direct costs attributable to the acquisition, renewal or relinquishment of surface use rights for areas required by CONTRACTOR for installations and operations forming part of Upstream Petroleum Operations.

(b) Labour and related costs

- (i) salaries and wages, including bonuses of employees of the 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 the CONTRACTOR's personnel practice and policy, and amounts imposed by applicable Governmental authorities which are applicable to such employees. These costs and expenses shall include:
  - (i) Cost of established plans for employee group life insurance, hospitalization, pension, retirement, savings and other benefit plan.
  - (ii) Cost of holidays or vacations.
  - (iii) Cost of sickness and disability benefits.
  - (iv) Cost of living, housing and other customary allowances.
  - (v) Reasonable personal expenses that are reimbursable under the CONTRACTOR's standard personnel policies.
  - (vi) Obligations imposed by governmental authorities.
  - (vii) Cost of transportation of employees, other than as provided in paragraph (vii) below, as required in the conduct of Petroleum Operations; and
  - (viii) 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.
- (ii) Actual salaries and wages of CONTRACTOR's employees directly engaged in Nigeria in the various activities under the Contract, including salaries and wages paid to geologists, engineers and other employees temporarily assigned to and employed in such activities.
- (iii) Actual salaries and wages of employees of CONTRACTOR's affiliates, whose services are not covered by paragraph (f)(i)(ii) or (l) hereof, attributable to time worked within or outside of Nigeria Upstream

Petroleum Operations under the Contract and documented by time sheets.

- (iv) Cost of overseas service premiums, living and housing allowances, and other customary allowances applicable to salaries and wages of expatriate employees chargeable under paragraph (b)(i) hereof.
- (v) Paid bonuses, overtime and other customary allowances applicable to salaries and wages of national employees chargeable under paragraph (b)(i) hereof.
- (vi) Expenditures or contributions made pursuant to law or assessments imposed by Government which are applicable to labour costs chargeable under paragraph (b)(i) hereof.
- (vii) 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:
  - 1. employees of the CONTRACTOR within Nigeria including expatriate employees, engaged in Petroleum Operations.
  - 2. transfer to Nigeria for engagement in Petroleum Operations.
  - 3. relocation costs and other expenses incurred in the final repatriation or transfer of the CONTRACTOR's expatriate employees and families in the case of such employees' retirement, or separation from the CONTRACTOR, or in case of such employees' relocation to their 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 Nigeria, shall not be recoverable as Operating Costs and provided that no charge shall be made to the Petroleum Operations with respect to the expenses incurred in the final repatriation or transfer of the expatriate employees and families to other areas outside of the Contract Area.
  - 4. Nigerian employees on training assignments outside the Contract Area.

For the avoidance of doubt, all costs which are incurred by or in connection with CONCESSIONAIRE personnel engaged pursuant to Clause 12.5 of the Contract shall be deemed Operating Costs.

(c) Employee Benefits

- (i) Cost of Contractor's established plans and policies for employee group life insurance, social security, hospitalization, pension, retirement, stock purchase, thrift, expatriate tax equalization, dependent education and other benefits of a like nature attributable to salaries and wages chargeable under paragraphs (b)(i) or (b)(ii) hereof.
- (ii) Severance pay to national employees charged at a fixed rate applied to the national payroll, which will equal an amount equivalent to the maximum liability for such severance payment under applicable law of the Federation of Nigeria.

(d) Materials, Equipment and Supplies

- (i) Material, equipment and supplies purchased or furnished by CONTRACTOR valued in accordance with the provisions of Article 4.1 hereof.
- (ii) Material and equipment rented charged at actual cost.

(e) Transportation

- (i) Transportation of equipment, materials, and supplies necessary for the conduct of CONTRACTOR's activities under the Contract.
- (ii) Business travel and transportation expenses to the extent covered by established policies of CONTRACTOR incurred and paid by, or for expatriate and national employees in the conduct of CONTRACTOR's business.

(f) Services

- (i) Third-Party Services – cost of professional, technical, consultation, contract services, utilities and other services procured from third-party sources pursuant to any contract or other arrangement between such third parties and the Contractor for the purpose of Petroleum Operations.

- (ii) Affiliated Services

Cost of services, including but not limited to professional, administrative, scientific, technical services, laboratory analysis, drafting, geophysical treatment and interpretation, geological interpretation, engineering and data processing performed by CONTRACTOR's Affiliates for the direct benefit of Upstream

Petroleum Operations in facilities inside or outside Nigeria that are not covered by paragraph (b)(ii) or (k) hereof. Use of an Affiliates' wholly owned equipment shall be charged at a rental rate commensurate with the cost of ownership and operation, but not in excess of competitive rates prevailing in West Africa at the time of usage. Other services performed by an Affiliate shall be charged at actual cost only and must be consistent with Transfer Pricing rules under Applicable Law and international market prices.

(g) Damages and Losses

All costs or expenses necessary to replace or repair damages or losses incurred -by fire, flood, storm, theft, accident or any other cause not controllable by CONTRACTOR through the exercise of reasonable diligence and not resulting through CONTRACTOR's failure to file timely claims and to diligently pursue such against the insurers. CONTRACTOR shall furnish THE CONCESSIONAIRE written notice of damages or losses incurred in excess of ten thousand US dollars (\$ 10,000) per occurrence,- as soon as practicable after report of the same has been received by CONTRACTOR.

(h) Insurance, and Claims

The cost of insurance premiums and settlements, including public liability, property damage and other insurances including the coverage against liability of CONTRACTOR to its employees and/or be carried by Contractor, or required by the laws, rules and regulations of Nigeria or as the CONCESSIONAIRE and CONTRACTOR may agree upon for the Upstream Petroleum Operations. This shall include all expenditures incurred and paid in settlement of any and all losses, claims, damages, judgements and other expenses, including fees and deductibles. Contractor shall not provide such insurance through Affiliates or self-insure for a premium without prior specific written approval of the CONCESSIONAIRE. The proceeds of any such insurance or claim collected shall be credited against the appropriate expenditure account and reduce particular risk, all related actual expenditures incurred and paid by CONTRACTOR in settlement of any and all losses, claims, damages, judgements and any other expenses, including legal services, shall be charged to the appropriate expenditure account, provided such loss, claim or damage did not result from CONTRACTOR's failure to operate in accordance with the standards required by the Contract.

(i) Field Offices, Camps, Warehouses, Miscellaneous Facilities

Field offices, camps and other facilities such as shore bases, warehouse, water systems and road or other transportation systems.

(j) 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 on behalf of the Parties including, but not limited to, outside legal fees and expenses, together with all judgements obtained against the Parties or any of them on account of the operations under the Contract court costs, arbitration costs, cost of investigation or procuring evidence and amount paid in settlement or satisfaction of any such litigation, arbitration or claims, or in connection with the operations or the subject matter of the Contract in accordance with the provisions of this Contract. In the event actions or claims affecting the interests hereunder shall be handled by the legal staff of CONTRACTOR or its Affiliate the cost of such personnel shall be chargeable under paragraph (b)(i) hereof.

(k) Overhead inside Nigeria

Cost of staffing and maintaining CONTRACTOR's head office in Nigeria and other offices established in Nigeria, excepting salaries of employees of CONTRACTOR or an Affiliate who are assigned to the various activities under the Contract which will be charged as provided in Article 2.1.1(b) hereof.

(l) Overhead outside Nigeria

(i) CONTRACTOR's Overhead outside Nigeria applicable to the Upstream Petroleum Operations under the Contract shall be charged in accordance with one percent (1.0%) of the Petroleum Costs, other than Overhead outside Nigeria, incurred during the Calendar Year.

(ii) Contractor shall make provisional charges each Month to the accounts based on the above rate.

(iii) Such overhead charges shall be considered full compensation to Contractor's Affiliate wherever located for the following type of assistance provided:

(1) Executive

Time of executive officers above the rank of regional exploration manager or regional production manager or equivalent functions

(2) Treasury

Financial and exchange problems and payment of invoices

- (3) Purchasing & Forwarding  
Procuring and forwarding materials, equipment and supplies
- (4) Exploration & Production  
Directing, advising, and controlling the entire project
- (5) All indirect services of CONTRACTOR's Affiliate not chargeable as direct charges under Articles 2.1.1(b) or 2.1.1(f) hereof, provided by other departments such as legal, engineering, employee relations and personnel recruiting, administrative, accounting and audit which contribute time, knowledge and experience to the operation.
- (m) Taxes  
  
Duties and taxes - all duties and taxes, fees and any Government assessments, including but not limited to any allowable gas flare charges, license fees, custom duties, and any other duties or payment to the Government other than Royalties and Companies Income Tax.
- (n) Bank Charges  
  
Bank charges for guarantees required under the Contract and routine bank charges for transfers of funds and currency exchange.
- (o) Interest  
  
Interest incurred on any loan by the CONTRACTOR, or any entity comprising the Contractor, to finance any Petroleum Operation.
- (p) General Office Expenses  
  
Office, services and general administration services pertaining to Petroleum Operations including but not limited to, services of legal, financial, purchasing, insurance, accounting, computer and personnel department's communications, transportation, rental of specialized equipment, scholarships, charitable contributions, and educational awards.
- (q) Audit costs – the costs to audit the books and accounts in accordance with Clauses 14.2(c), 14.3(f) and (h) of the Contract.
- (r) Intangible drilling costs - expenditure for labour, 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 completing 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.
- (iv) erection of rigs and tankage assembly and installation of pipelines and other plants and equipment required in the preparation or drilling of wells producing Crude Oil.
- (s) 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 the CONCESSIONAIRE .
- (t) Operating expenses - labour, materials and services used in day to day oil well operations, oil field production facilities operations, secondary recovery operations, storage, transportation, delivery and marketing operations; and other operating activities, including repairs, well workovers, maintenance and related leasing or rental of all materials, equipment and supplies.
- (u) Exploration, appraisal and development drilling - all expenditures incurred in connection with exploration drilling, and the drilling of Appraisal Wells in a particular field, and drilling of development wells which are dry, including costs incurred in respect of casing, well cement and well fixtures.
- (v) Abandonment and Decommissioning - a provision for all expenditures (including all expenditure related to any mid-life Abandonment and Decommissioning) incurred in connection with the plugging of wells, the removal and disposal of equipment and facilities including well heads, processing and storage facilities, platforms, pipelines, transport and export facilities, roads, buildings, wharves, plants, machinery, fixture, the restoration of sites and structures including the payment of damages to property lessors and all payments made and expenses incurred pursuant to Clause 5.13 of the Contract, and any statutory contribution for abandonment and decommissioning in accordance with the law.
- (w) Environmental remediation – all costs incurred as statutory contributions to the environmental remediation fund, rehabilitative activities, and general environmental management
- (x) Feasibility costs - all expenditure incurred in relation to feasibility studies and/or activities.

- (y) Host communities development trust fund – any costs associated with the creation, funding and maintenance of the host communities development trust fund in accordance with the Petroleum Industry Act.
- (z) Other expenses

Any justified costs, expenses or expenditures, other than those which are covered, dealt with or excluded by this Article 1.1, incurred by CONTRACTOR for the proper conduct of the Upstream Petroleum Operations under approved work programmes and budgets.

### 2.1.2 Capital costs

Capital Costs means, without limitations, expenditures, which are subject to a Capital Allowance under the Companies Income Tax Act and the Petroleum Industry Act. Such expenditures normally have a useful life beyond the year incurred and include but 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 Crude Oil (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 buildings, 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 cost incidental to construction.
- (d) Drilling expenditures - expenditures for tangible goods in connection with drilling wells such as casing, tubing, surface and sub-surface production equipment, flowlines, instruments and costs incurred in connection with acquisition of rights over the Contract Area.

- (e) Material inventory - cost of materials purchased and maintained as inventory items solely for Petroleum Operations subject to the following provisions:
- (i) The CONTRACTOR shall procure 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 the 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 Nigeria supplied by the CONTRACTOR or from its Affiliates' stocks shall be valued at the current competitive cost in the international market.
  - (iv) The CONTRACTOR shall maintain physical and accounting controls of materials in stock in accordance with general practice in the international petroleum industry. The CONTRACTOR shall make a total inventory at least once a year to be observed by the CONCESSIONAIRE and its external auditors. The CONCESSIONAIRE may however carry out partial or total inventories at its own expense, whenever it considers necessary, provided such exercise does not unreasonably disrupt Petroleum Operations.
  - (v) The Contractor shall prepare and submit monthly and annual reports which shall indicate that cost of Long Lead Items (LLIs) and spare parts purchased, and the value of Long Lead Items (LLIs) and spare parts used per month/ annum and the balance at month/year end. Hence, the CONTRACTOR shall always maintain accounting records to show the value of materials in stock purchased in each period and the value of materials in stock used in each period and the balance at every period end.
- (f) All capital allowance accruable on qualifying capital expenditure shall be treated in line with the provisions of the Fifth Schedule of the Petroleum Industry Act, and other applicable laws, including the applicable rate, manner and process of claiming such capital allowances: The CONTRACTOR shall be entitled to make deductions of qualifying capital expenditure in accordance with applicable laws including the provisions of Paragraph 14(6) of the Seventh Schedule of the Petroleum Industry Act.

## **ARTICLE 3**

### **ACCOUNTING SYSTEM**

#### **3.1 Accounting System**

An element of the electronic management information and reporting system established by the CONTRACTOR shall be a modern oil and gas accounting system. The accounting system hardware and software shall accommodate current technology and evolving functional requirements. The accounting system and subsystems thereof shall be designed and structured in a manner that facilitates comparative analysis and data retrieval, including without limitation:

- 3.1.1 year-by-year comparisons;
- 3.1.2 actual-to-budget comparisons;
- 3.1.3 effective and flexible report writing capability;
- 3.1.4 effective roll-up by cost category;
- 3.1.5 categorization of expenditures by location, project or authorization for expenditure grouping;
- 3.1.6 currency conversion, exchange gains and losses, and revaluation of liabilities;
- 3.1.7 multiple data entry categories, including accounts payable invoices, cash disbursement, accounts receivable invoices, cash receipts, journal entries, material transfers, invoice offsets, check cancellation, standard entries, adjusting entries, various system processes including accruals, and overhead allocation;
- 3.1.8 cash management capabilities and aging analysis;
- 3.1.9 time writing capabilities;
- 3.1.10 accounts payable management capabilities; and
- 3.1.11 effective transactional audit trails, including the ability to access all of the charges that are used as the basis for an allocation of costs, in particular recoverable and non-recoverable costs are defined in Article 6.1 hereof.

The accounting system, while primarily designed to capture cost and credit information, as well as the production and valuation of production of Crude Oil and Natural Gas, should also

have the capability to record other non-financial, quantitative information, where this is required for the proper administration of the Contract.

### **3.2 Chart of Accounts Principles and Standards**

The chart of accounts and expenditure coding shall as a minimum contain the classification contained in Article 1.1 hereof, and the structure shall be built using the following principles and minimum standards:

- 3.2.1 data shall be captured in individual cost centers, being the lowest possible point of data capture, typically, a Well, facility, or individual office;
- 3.2.2 individual cost centers shall be grouped in a logical hierarchical roll-up structure, by field and by area;
- 3.2.3 the chart of accounts and coding of transactions shall be organized so that equipment, materials and services that have been procured from suppliers in Nigeria can be identified;
- 3.2.4 the chart of accounts structure shall permit and facilitate all analysis and reporting required and contemplated in the Contract;
- 3.2.5 the chart of accounts structure shall, where applicable, permit the analysis and categorization of receipts and capital and operating expenditures for the purpose of permitting Government officials to verify any applicable taxation; and
- 3.2.6 the chart of accounts and coding structure shall permit the categorization of costs and revenues by activity, including, but not limited to:
  - (i) aerial, geological, geochemical, geophysical and other surveys including seismic survey costs;
  - (ii) drilling costs;
  - (iii) gathering costs;
  - (iv) lifting costs;
  - (v) transportation and processing costs;
  - (vi) water handling, including seawater treatment costs;
  - (vii) gas handling and transmission costs;
  - (viii) workover costs;

- (ix) maintenance and repair costs;
- (x) infrastructure development costs (roads, airstrips, etc);
- (xi) support facilities (including utilities) costs;
- (xii) Overhead costs;
- (xiii) abandonment and suspension costs;
- (xiv) third party Processing costs;
- (xv) environmental, health and safety costs;
- (xvi) training costs;
- (xvii) research and development costs;
- (xviii) technology transfer costs; and
- (xix) transportation and processing fees, where incurred prior to the Measurement Point.

### **3.3 Classification to Crude Oil and Natural Gas**

3.3.1 Where the CONTRACTOR is party to a gas development contract with CONCESSIONAIRE related to all or part of the Upstream Petroleum Operations in the Contract Area, the expenditures and receipts shall be allocated to:

- (i) Crude Oil, where the expenditures or receipts relate exclusively to Crude Oil operations.
- (ii) Natural Gas, where the expenditures or receipts related exclusively to Natural Gas operations.
- (iii) Jointly to Crude Oil and Natural Gas, where expenditures or receipt relates to operations that relate to both Crude Oil and Natural Gas.
- (iv) Expenditures and receipts that cannot be allocated to either Crude Oil, Natural Gas or jointly to Crude Oil and Natural Gas.

3.3.2 The receipts and expenditures under Article 3.3.1(iii) and (iv), earned and incurred prior to the start of Production shall be allocated in the Month of the start of Production to Crude Oil and Natural Gas, based on the proved reserves in barrel of oil equivalent of Crude Oil and Natural Gas, converting 6Mcf of Natural Gas for one

barrel of oil. In subsequent Months, the receipts and expenditures shall be allocated on the basis of the proved reserves in barrels of oil equivalent as these estimates may be adjusted from time to time. The Parties may voluntarily agree in writing to another allocation method, where this seems justified by the circumstances.

3.3.3 All receipts and expenditures allocated pursuant to this Article to Crude Oil shall be used to determine the amount of Cost Oil.

3.3.4 Where the CONCESSIONAIRE or the Government takes Natural Gas free of charge at the Measurement Point pursuant to Clause 23.1 of the Contract, any such volumes shall not be considered for the purpose of determining barrel of oil equivalent volumes under Article 3.3.2 hereof and any Petroleum Costs associated with such volumes shall be allocated to Cost Oil.

### **3.4 Classification to Exploration and Exploitation Costs**

3.4.1 All expenditures and receipts of the Upstream Petroleum Operations shall be classified as either Exploration Costs or Exploitation Costs.

3.4.2 Exploration Costs shall be all expenditures incurred less any receipts earned as a result of Upstream Petroleum Operations attributable to:

- (i) the area outside any Fields.
- (ii) the development of an Appraisal program.
- (iii) Appraisal areas.
- (iv) The development of a Significant Discovery retention program.
- (v) Significant Discovery areas.
- (vi) The preparation of a Field Development Plan prior to the approval of the Field Development Plan.
- (vii) Any Overhead that can be reasonably allocated to the operations in this Article 3.4.2; and
- (viii) Any other expenditures which are not Exploitation Costs, during the Exploration Period and during such time as an Appraisal area or Significant Discovery area is in existence in the Contract Area.

3.4.3 Exploitation Costs shall be all expenditures incurred less any receipts earned as a result of Upstream Petroleum Operations other than under Article 3.4.2 and typically

attributable to development and production of any Field and any Overhead that can be reasonably allocated to the operations in this Article 3.4.3.

## **ARTICLE 4**

### **VALUATION OF MATERIALS**

4.1 Material either charged to the accounts pursuant to Article 1.1 and 3.1 hereof or credited to the accounts pursuant to Article 5.1 hereof shall be valued in accordance with the principles of this Article.

#### **4.2 Purchases or Sales**

4.2.1 Materials, equipment and supplies required shall be purchased by CONTRACTOR directly from the supplier whenever practicable and in such event shall be charged at the price incurred by CONTRACTOR after deduction of all discounts.

4.2.2 Materials, equipment and supplies that need to resold or removed shall be sold by the CONTRACTOR directly to the appropriate third party on an Arm's Length basis and in such event shall be charged at a price earned by the CONTRACTOR.

#### **4.3 Material furnished by or returned to the CONTRACTOR**

Materials, equipment and supplies provided by or returned to CONTRACTOR from or to CONTRACTOR's Affiliate's stocks outside Nigeria shall be priced at prices specified in (a)(1)(i) and (a)(1)(ii) below:

(i) New material, equipment or supplies (Condition "A")

New material referred from CONTRACTOR's Affiliate's warehouses or other properties shall be priced at Fair Market Value for new material.

(ii) Used material, equipment or supplies (Conditions "B" and "C")

(a) Material which is in sound and serviceable condition and is suitable for re-use without reconditioning shall be classified as Condition "B" and priced at seventy-five per cent (75 %) of Fair Market Value of new material as defined in (a) above.

(b) Material, equipment or supplies which cannot be classified as Condition "B" but which

(1) After reconditioning will be further serviceable for original function; or

- (2) is serviceable for original function but substantially not suitable for reconditioning.

shall be classified as Condition "C" and priced at fifty per cent (50%) of the Fair Market Value of new material as defined in (a) above. The cost of reconditioning material shall be included provided that the value of Condition "C" material plus the cost of reconditioning do not exceed the value of Condition "B" material.

- (iii) Material which cannot be classified as Condition "B" or "C" shall be priced at a value commensurate with its use.

## **ARTICLE 5 RECEIPTS**

5.1 Credits in favour of the CONTRACTOR as a result of the Upstream Petroleum Operations or incidental thereto shall be credited to the respective accounts and shall be included in credits in the statement of expenditures. Such credits shall include the following transactions:

i. Claims Recovery

The proceeds of any insurance or claim in connection with the Upstream Petroleum Operations or any assets charged to the accounts as well as the any legal costs claimed and subsequently recovered.

ii. Third Party Revenues

Revenues earned from and third parties for the use of property or assets, for the delivery of any services by the CONTRACTOR or for any information of data.

iii. Adjustments

Any discounts or adjustments earned by the CONTRACTOR from the suppliers/manufacturers or their agents in connection with goods purchased or defective equipment or materials, the costs of which were previously charged to the accounts.

iv. Refunds

Rentals, refunds or other credits earned by the CONTRACTOR, which apply to any charge which has been made to the accounts.

v. Disposition of assets

Earnings from the disposition of assets applying the valuation criteria established in Chapter 4.

vi. Sale or Export of Materials

In case CONTRACTOR sells or exports or transfer any material, equipment or supplies to Affiliates or other entities or persons, the value of such transfer shall be credited to the accounted costs of which were previously charged to the accounts.

**ARTICLE 6**  
**NON-RECOVERABLE COSTS**

6.1 The following costs shall be non-recoverable for purpose of Cost Recovery under Clause 8.4 of the Contract:

- (i) costs for which records do not exist or are, not correct in any material respect.
- (ii) costs incurred before the Effective Date of the Contract or after the termination date of the Contract.
- (iii) costs that were not incurred within the relevant Work Programme and budget, or that are of a category not permitted by the Contract or the Accounting Procedure.
- (iv) costs of goods and services in excess of the Fair Market Value, to the extent of such excess.
- (v) charges for goods and services which are not in accordance with the relevant agreement with the sub-contractor or supplier.
- (vi) charges for goods in excess of the amount allowed by Article 4.1 hereof and/or which the condition of the material does not tally with their prices.
- (vii) any costs not included in an approved Work Programme and Budget (unless resulting from an emergency).
- (viii) costs incurred beyond the Measurement Point.
- (ix) Companies Income Tax, capital gains tax, tertiary education trust fund tax, value added tax and any taxes incurred outside Nigeria.

- (x) amounts paid under Clause 2.1 of the Contract.
- (xi) costs of expert determination or arbitration, unless the arbitral award permits the recovery of the costs.
- (xii) fines and parties imposed by any authority.
- (xiii) donations or contributions, unless previously approved by THE CONCESSIONAIRE.
- (xiv) Overhead incurred outside Nigeria in excess of the percentage established in Article 1.1 hereof.
- (xv) Cost of finance leases to the extent such leases payments can be considered an interest expense.
- (xvi) Costs of licensing or purchasing technology from an Affiliate, unless specifically approved by THE CONCESSIONAIRE.
- (xvii) any cost resulting from any arrangement or event that (i) arises from fraud or willful misconduct or negligence on the part of the Contractor and Contractor's subcontractors, agents or representatives in the performance of their services under the Contract, or (ii) constitutes a breach of the Contract or any applicable law or regulations, including any related legal costs for defence.
- (xviii) costs incurred in organizing or managing any partnership, joint venture or other arrangement between or among the entities comprising the Contractor.
- (xix) insurance costs where such costs are earned by any entity comprising the Contractor or their Affiliates.
- (xx) costs for any loss that was insurable or for failure to claim insurance.
- (xxi) costs that are related to both the Upstream Petroleum Operations under the Contract and to any other activities of the Contractor or entities comprising the Contractor, with respect to the portion of such costs that is related to the activities other than the Upstream Petroleum Operations.

6.2 All costs not identified under Article 6.1 are recoverable, including fees, rents, contributions to environmental remediation fund, contributions to decommissioning and abandonment fund, contributions to the host communities development trust fund, contributions to the Niger Delta Development Commission, customs and excise duties and withholding taxes on foreign subcontractors.

## **ARTICLE 7**

### **INVENTORIES AND INVENTORY STATEMENT**

#### **7.1 Periodic Inventories, Notice Representation**

- 7.1.1 At reasonable intervals as agreed between the CONCESSIONAIRE and CONTRACTOR, but in any event at least once a Calendar Year and on termination of the Contract, inventories shall be taken by CONTRACTOR of the operations material, which shall include all such material, physical assets and construction projects.
- 7.1.2 Written notice of intention to take an inventory shall be given by CONTRACTOR to the CONCESSIONAIRE at least thirty (30) days before any inventory is to begin so that the CONCESSIONAIRE may be represented when any inventory is taken.
- 7.1.3 Failure of the CONCESSIONAIRE to be represented at an inventory shall bind the CONCESSIONAIRE to accept the inventory taken by Contractor who shall, in any event, furnish the CONCESSIONAIRE with a copy.

#### **7.2 Reconciliation and Adjustment of Inventories**

Reconciliation of inventory shall be made by CONTRACTOR and the CONCESSIONAIRE, with a list of shortages and averages being jointly determined, and the inventory shall be accordingly adjusted by CONTRACTOR.

#### **7.3 Inventory Statement**

- 7.3.1 CONTRACTOR shall maintain detailed records of property acquired for Upstream Petroleum Operations.
- 7.3.2 On a Monthly basis, CONTRACTOR shall provide the CONCESSIONAIRE with an Inventory Statement containing:
- (i) description and codes of all controllable assets and materials.
  - (ii) amount charged to the accounts for each asset; and
  - (iii) Month on which each asset was charged to the account.

#### **7.4 Identification**

To the extent possible and reasonable, all assets shall be identified for easy inspection with the respective codes specified in the manuals prepared by CONTRACTOR under Article 1.6 hereof.

## **ARTICLE 8**

### **PRODUCTION STATEMENT**

8.1 CONTRACTOR's Production Statement shall contain the following information and shall be prepared in accordance with the following principles and shall relate to Natural Gas in case the CONTRACTOR entered into one or more gas development contracts with the CONCESSIONAIRE:

- (i) The production sharing shall be, determined on the basis of all Crude Oil and Natural Gas produced and saved from the Contract Area and measured at the Measurement Point or Points during the respective Month, in accordance with Clause 8.1 of the Contract. Where different grades of Crude Oil are being delivered at the Delivery Point(s), the volumes of each grade shall be determined separately.
- (ii) The volumes of such grades of Crude Oil will be determined separately at the Measurement Point.
- (iii) The volumes of Crude Oil shall be corrected for water and sediments and shall be determined on the basis of standard temperatures and pressures. The gravity, sulphur content and other quality indicators of the Oil shall be determined and registered regularly.
- (iv) The volumes of Natural Gas shall be determined on the basis of standard temperatures and pressures. The energy content, sulphur content and other quality indicators of the Natural Gas shall be determined and registered regularly.

## **ARTICLE 9**

### **VALUE OF PRODUCTION STATEMENT**

9.1 The Contractor shall prepare a statement providing calculations of the value of the Crude Oil and Natural Gas produced and measured at the Measurement Point(s) in accordance with Clause 8.1 of the Contract. This value of production statement shall include:

- (i) the quantities and values realized by the Contractor as a result of production of Crude Oil.
- (ii) the quantities and values realized by the Contractor as a result of the production of Natural Gas; and

- (ii) information available to the Contractor concerning the prices of Crude Oil and Natural Gas of relevance for the determination of the value of the Crude Oil and Natural Gas, including contract prices, discounts and premiums and prices obtained in the spot market.

## **ARTICLE 10**

### **COST RECOVERY STATEMENT**

10.1 CONTRACTOR shall, pursuant to Article 1.3 hereof, render to the CONCESSIONAIRE not later than sixty (60) days after each Month a statement for the Month showing:

- (i) recoverable costs carried forward from the previous Month if any.
- (ii) recoverable costs incurred during the Month.
- (iii) total recoverable costs for the Month.
- (iv) quantity and value of Cost Oil or Cost Natural Gas taken and separately disposed of by Contractor during the Month.
- (v) amount of costs recovered for the Month; and
- (vi) amount of recoverable costs carried into succeeding Month, if any.

## **ARTICLE 11**

### **STATEMENT OF EXPENDITURE**

11.1 Contractor shall prepare each Month a statement of expenditures. This statement shall show the following:

- (i) the expenditures contemplated for the Calendar Year in the Budget, on the basis of the cost classification and cost centre's provided for in this Accounting Procedure.
- (ii) the expenditures (less credits) accrued during the Month in question.
- (iii) the cumulative expenditures less credits for the Calendar Year under consideration.

- (iv) modifications the budget agreed to in accordance with the Contract by THE CONCESSIONAIRE, without prejudice to the provisions of the Contract, which provisions shall prevail regarding emergency expenditures.
- (v) the latest forecast of cumulative expenditures for year end; and
- (vi) variations between budget forecast (as amended by sub-paragraph (iv) hereof, where applicable) and latest forecast and reasonable explanations thereof.

## **ARTICLE 12**

### **CONTROL STATEMENT AND OTHER ACCOUNTS**

#### **12.1 Control Statements**

CONTRACTOR will establish a cost recovery account and an off-setting contra account therein the amount of costs remaining to be recovered and the amount of costs recovered.

#### **12.2 Other Accounts**

Revenue accounts shall be maintained by CONTRACTOR to the extent recess for the control of recovery of costs and the treatment of Cost Oil or Natural Gas.

## **ARTICLE 13**

### **AUDITS AND ADJUSTMENTS**

#### **13.1 Audit Process**

13.1.1 The CONCESSIONAIRE shall carry out such audits as it requires at any time during the Calendar Year and during a period up to thirty-six (36) months following start of the audit ("Audit Period"). Audits initiated but not completed prior to the termination of the Audit Period will be allowed to be completed after the end of such period, provided audits shall not be of indefinite or an unreasonable length. Individual audits may examine all books and accounts and records of CONTRACTOR and the Contractor Parties for a specific period of time or may examine only a specific aspect of such records.

13.1.2 The CONCESSIONAIRE shall give at least 30 days' notice to the CONTRACTOR of its intention to conduct an audit. In carrying out such audit, the CONCESSIONAIRE shall not interfere unreasonably with the conduct of Upstream Petroleum Operations. The CONCESSIONAIRE may at its sole discretion, engage third parties to assist with or execute any or all aspects of the audit. The CONTRACTOR shall provide all necessary facilities for auditors appointed hereunder by the CONCESSIONAIRE

including working space and access to all relevant personnel, records, files and other materials.

### 13.2 Final Statements

Subject to any adjustments resulting from such audits or notification of a dispute by the CONCESSIONAIRE, reports and statements shall be considered final and not subject to further audit after the end of the period provided for under 13.1 hereof. Notwithstanding any provision herein or in the Contract to the contrary, if in a subsequent period an issue or error is identified which relates to another period or to fraud or wilful misconduct alleged to have occurred at any time, the CONCESSIONAIRE shall have the right to re-examine reports and statements otherwise considered final or not previously audited.

### 13.3 Audit Resolution Process

13.3.1 Within 90 days after the end of audit fieldwork, the CONCESSIONAIRE shall present to the CONTRACTOR a report setting out audit exceptions, claims and queries. The CONTRACTOR shall allow or deny in writing all exceptions, claims and queries set out in the report within 90 days of the presentation of the report (the "**Review Period**"). All denials shall be accompanied by a detailed statement of the CONTRACTOR's reasons and supporting evidence. All exceptions, claims or queries that are not denied within the Review Period will be deemed allowed. The CONCESSIONAIRE and the CONTRACTOR shall have up to 90 days from the end of the Review Period to reach final resolution on exceptions, claims and queries which have been denied. If outstanding exceptions, claims and queries are not resolved during this period, either Party may initiate dispute resolution procedures in accordance with the provisions of Clause 25.1 of the Contract.

13.3.2 The impact of all allowed exceptions, claims and queries on Profit Oil on a retroactive basis, reflected in the Months in which they are allowed. Any such impact shall be paid in cash by the CONTRACTOR to the CONCESSIONAIRE within thirty (30) days after the amount of such impact has been determined.

### 13.4 Affiliates and Subcontractors

The Contractor shall be required to include in the contracts with Affiliates and subcontractors audit and record retention provisions which allow the CONCESSIONAIRE or representatives or agents of the CONCESSIONAIRE to audit the books and records of the Affiliates or subcontractors to the extent that they relate to the Upstream Petroleum Operations and to retain records, all in accordance with the requirements of this Accounting Procedure.

### 13.5 Audits by entities comprising the Contractor

If any Contractor Party conducts an audit of the books and records of Operator or any other entity comprising the CONTRACTOR pertaining to the Contract, it shall provide to the

CONCESSIONAIRE a copy of the audit results, a report setting out the audit exceptions, claims and queries and the manner in which these exceptions, claims and queries were finally allowed or denied by Operator.

### 13.6 Retention

13.6.1 Subject to the delivery of books, records and documents to the CONCESSIONAIRE in accordance with the Contract upon termination of the Contract, all books, records and documents must be maintained by the CONTRACTOR, the CONTRACTOR's Affiliates and subcontractors and made available for inspection until the later of:

- (i) thirty-six months after the termination of the Contract.
- (ii) if any cost or amount is under dispute, the time at which that dispute has been resolved; and
- (iii) such longer period as may be legally required.

13.6.2 Accounting records (including without limitation all production, financial, inventory and operating data) retained by the CONTRACTOR shall be transferred to and become property of the CONCESSIONAIRE after completion of the audit, provided that the Contractor shall have the right to retain a copy of such records.

### 13.7 Auditing for tax purposes

Any audits related to taxes of general application payable under this Contract shall be dealt with in accordance with the respective legislation.

## **ARTICLE 14 COMPUTATION OF ROYALTIES AND RENTALS**

14.1 The CONTRACTOR shall compute the amount of Royalty and Rentals payable by the CONCESSIONAIRE pursuant to Clause 7.2(a) of the Contract. Such amounts shall be computed as provided under the PIA and the provisions of this Contract.

14.2 CONTRACTOR shall compute the Royalty payment for remittance to Government in a given month based on the Fiscal Oil Price.

14.3 Annual Rental payments shall be made in accordance with the relevant regulations and taken into account when such payments are remitted.

14.4 The CONCESSIONAIRE shall remit all required payments of Royalty and Concession Rentals to the Government.

- 14.5 The Royalty rates shall be as provided in the Seventh Schedule of the Act and the prevailing fiscal laws and the regulations.

DRAFT

## ANNEX C: PERFORMANCE BOND

Bond No: .....

**BY THIS BOND** (this “**Bond**”) dated ..... 2024

[●], a company incorporated in accordance with the laws of [●], whose principal office is located at [●] (the “**Bank**”) is irrevocably and unconditionally bound to the **Nigerian Upstream Petroleum Regulatory Commission** (the “**Commission**”) in respect of the Bond Amount, for the payment of which sum the Bank binds itself in accordance with the provisions of this Bond.

### WHEREAS

- (A) By the Production Sharing Contract dated ..... 2024 (the “**PSC**”) in relation to the development of [PPL/PML No. [●]] and made between the Nigerian National Petroleum Company Limited (the “**Concessionaire**”) and [●] (the “**Contractor**”), the Contractor has agreed to execute the Minimum Work Programme and perform its other obligations upon and subject to the terms and conditions contained in the PSC.
- (B) Pursuant to Clause 5.14 of the PSC, the Contractor has agreed and is obliged to deliver to the Commission a performance bond in the form of this Bond.
- (C) The Bank has agreed, at the request of the Contractor, to enter into this Bond with the Commission.

**NOW THE CONDITIONS OF THIS BOND** are as follows:

1. In this Bond, words and expressions, if not otherwise defined, shall have the meanings given to them in the PSC, and:

“**Business Day**” means a day (other than [●]) when the banks in [●] are open for business.

“**Bond Amount**” means that sum of [●], being the sum equal to – the sum of [●].

“**Expiry Date**” means [●].

All references in this Bond to the PSC shall be deemed to include any amendment, variation or supplemental agreement thereto.

2. The Bank hereby irrevocably and unconditionally undertakes to pay to the Commission, immediately upon receipt of a first written demand from the Commission in accordance with Clause 4, any amount specified in such demand.

3. The Bank's obligation to make payment under this Bond shall arise on receipt of a demand made in accordance with the provisions of this Bond. Such obligation shall arise without proof of any breach or any other condition and notwithstanding any contest or dispute by the Contractor. The Bank shall not be required or permitted to make any other investigation or enquiry. Any demand may include prospective losses (if any) which the Commission has assessed in its sole discretion as likely to arise, but have not yet been incurred, to arise from the relevant breach.
4. The Commission may make one or more demands under this Bond up to the Bond Amount. Each demand shall be substantially in the form set out in Appendix 1 and shall be delivered to the Bank on a Business Day and during normal banking hours at [Address of Bank to be inserted]. The Commission may make a demand under this Bond without first making any demand upon the Contractor or taking any action to claim under or enforce any right, security or other guarantee which it may hold from time to time in respect of the Contractor's obligations under the PSC.
5. The maximum aggregate liability of the Bank under this Bond shall not exceed the Bond Amount.
6. The obligations of the Bank under this Bond are primary and not by way of surety or guarantee. The Bank shall not be entitled as against the Commission to make any withholding or deduction on account of any set-off or counterclaim whatsoever and howsoever arising.
7. This Bond is irrevocable, and it shall take effect on the date hereof and expire on the earlier of:
  - (a) the Expiry Date; or
  - (b) the date on which all payments made under this Bond shall first equal the Bond Amount,provided always that the expiry of this Bond under this Clause (a) shall not affect or discharge the liability of the Bank to make payment of all and any demand(s) made in accordance with this Bond on or before the Expiry Date.
8. Each payment under this Bond shall be made to the account specified in the relevant demand.
9. All sums payable under this Bond shall be paid in full without deduction or withholding for or on account of any present or future taxes, penalties, duties and/or other charges. If any sums are required to be deducted or withheld on account of taxes, penalties, duties and/or other charges, the sums payable under this Bond to the Commission shall be increased to the extent necessary to ensure that, after the making

of such deduction or withholding, the Commission receives on the due date for payment thereof a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made.

10. The Commission shall be entitled to charge or assign its benefits under this Bond to any permitted chargee or assignee, without the consent of the Bank and shall notify the Bank of any such charge or assignment. The Bank shall not be entitled to assign its rights, title and interest in and to the Bond without the prior written consent of the Commission.
11. If at any time one or more of the provisions of this Bond is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, validity or unenforceability will not invalidate any other provision of this Bond.
12. All notices, requests, demands and other communications which are required or may be given under or in connection with this Bond shall be in writing and shall be (a) personally delivered, (b) sent by certified or registered mail or (c) sent via email. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at the time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time evidenced by confirmation of receipt with return receipt requested. If delivered by email, deemed receipt will be at the time of transmission. In each case, notices, requests, demands and other communications shall be sent to the physical address or email address (as applicable) and marked for the attention specified below:
13. For the purposes of Clause 12, the relevant addresses are as follows:

**To the Bank:**

Address:

Email:

Attention:

**To the Commission:**

Address:

Email:

Attention:

14. The Bank hereby declares that the Bond Amount does not exceed 20% of the total paid-up capital and reserves of the Bank.
15. This Bond may only be amended, modified, waived or supplemented by an instrument in writing signed by the Bank and acknowledged and accepted by the Commission.
16. This Bond may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this agreement.
17. The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Bond under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
18. This Bond shall be governed by and construed in accordance with the laws of the Federal Republic of Nigeria and the Bank agrees to submit to the exclusive jurisdiction of the Nigerian courts with respect to any dispute or difference arising out of or in connection with this Bond.
19. The Bank hereby declares that the undersigned has full authority to execute this Bond on behalf of the Bank.
20. The Bank hereby declares that this Bond shall be binding upon the successors of the Bank.

**IN WITNESS WHEREOF** this Bond has been executed and delivered [as a deed] by the Bank on the date first above written.

[Insert relevant signatory section]

**ACCEPTED AND ACKNOWLEDGED BY NIGERIAN UPSTREAM PETROLEUM  
REGULATORY COMMISSION**

---

By:

Title:

## APPENDIX 1

### Form of Demand

To: *[insert details of the Bank]* (the “Bank”)

Dear Sirs

**Performance Bond (the “Bond”) No [●] dated [●] issued by [●] in favour of NIGERIAN UPSTREAM PETROLEUM REGULATORY COMMISSION (the “Commission”)**

We hereby demand the amount of [●] under the Bond.

Payment of this demand shall be made to the account of the Commission at [●], sort code [●], designated account number [●], in the name of “[●]”.

Yours faithfully

---

for and on behalf of:

---

Date

**NIGERIAN UPSTREAM PETROLEUM  
REGULATORY COMMISSION**

## ANNEX D: PARTICIPATING INTEREST

DRAFT

## ANNEX E: [ACCEPTABLE] GUARANTEE

Guarantee No. \_\_\_\_\_

To: Nigerian Upstream Petroleum Regulatory Commission (the "**Commission**")

Date: \_\_\_\_\_ 2024

### [BANK] GUARANTEE

#### WHEREAS

1. By a production sharing contract dated ..... 2024 (the "**PSC**") in relation to the development of the [XYZ Field] and made between the Nigerian National Petroleum Company Limited (the "**Concessionaire**") and [●] (the "**Contractor**"), the Contractor has agreed to execute the Minimum Work Programme and perform its other obligations upon and subject to the terms and conditions contained in the PSC.
2. Pursuant to the PSC and the Petroleum Licensing Round Regulations, 2022, [●] the parent company of the Contractor, is required to provide a parent company guarantee in form of a bank guarantee which guarantees the general commitments and liabilities of the Contractor.
3. We [●] of [●] (hereinafter called the "**Guarantor**") hereby unconditionally and irrevocably undertake to pay to the Commission [the sum of [●]] [all monies and liabilities whether certain or contingent which may become due to the Commission as a result of the failure of the Contractor under the terms of the PSC] only (the "**Guaranteed Obligations**").

In this Guarantee, words and expressions, if not otherwise defined, shall have the meanings given to them in the PSC, and:

**"Banking Days"** means a day (other than a Saturday or Sunday) on which banks are open for general business in Nigeria.

**"Long Stop Date"** means the later of:

- (a) five (5) years from the date of expiry or termination of the PSC; and
- (b) the date on which any demands made by the Commission under this Guarantee are fully paid by the Guarantor.

**"Maximum Guaranteed Amount"** means [●].

Now therefore, the Guarantor hereby IRREVOCABLY, ABSOLUTELY and UNCONDITIONALLY guarantees, as the primary obligor and not merely as the surety, the due and punctual payment by the Contractor of the Guaranteed Obligations.

1. In the event that the Contractor fail to punctually pay all or any part of the Guaranteed Obligations when due, upon receipt by us of your first written demand, we shall immediately but always within seven (7) Banking Days, pay to you or your assignee the unpaid Guaranteed Obligations, without requesting you to take any or further action, procedure or step against the Contractor or with respect to any other security which you may hold provided that the amount recoverable from the Guarantor under this Guarantee shall not exceed the Maximum Guaranteed Amount.
2. Any payment payable by us under this Guarantee shall be made in United States Dollars by telegraphic transfer to [●] or through other deposit holder to be nominated by you from time to time, in favour of you or your assignee.
3. We represent that we have obtained all relevant resolutions, consents and authorizations to ensure that the obligations expressed to be assumed by us under this Guarantee are legal, valid and binding.
4. This Guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Contractor under the PSC, regardless of any intermediate payment or discharge in whole or in part provided that the amount recoverable from the Guarantor under this Guarantee shall not exceed the lesser of either (a) the Maximum Guaranteed Amount or (b) the amount of the Guaranteed Obligations then outstanding.
5. The obligations of the Guarantor under this Guarantee will not be affected by an act, omission, matter or thing which, but for this Clause 5 would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether known to it or the Commission) including:
  - a. any time, waiver or consent granted to, or composition with, any person.
  - b. any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Contractor, Guarantor or any other person.
  - c. any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the PSC.
  - d. any unenforceability, illegality or invalidity of any obligation of any person under the PSC; or

- e. any insolvency or similar proceedings.
6. The Guarantor waives any right it may have of first requiring the Commission to proceed against or enforce any other rights or claim payment from the Contractor before claiming from the Guarantor under this Guarantee. This waiver applies irrespective of any law or any provision of the PSC to the contrary.
  7. Any claim or demand shall be in writing signed by one of your officers and may be served on us either by hand or by post and if sent by post to [●] [insert name and address of the Guarantor] marked for the attention of [●], or such other address as we may notify to you in writing on 5 (five) Banking Days' notice.
  8. This Guarantee shall come into full force and effect simultaneously with the Commission and the Contractor executing the PSC and shall continue in force and effect until the Long Stop Date.
  9. All payments to be made by the Guarantor pursuant to this Guarantee shall be made free and clear of and without deduction for or on account of any taxes or other deductions, withholdings, restrictions, conditions, set-offs or counterclaims of any nature.
  10. If at any time any law requires (or is interpreted to require) the Guarantor to make any deduction or withholding from any payment, or to change the rate or manner in which any required deduction or withholding is made, the Guarantor will promptly notify the Commission and, simultaneously with making that payment, will pay whatever additional amount (after taking into account any additional taxes on, or deductions or withholdings from, or restrictions or conditions on, that additional amount) is necessary to ensure that, after making the deduction or withholding, the Commission receives a net sum equal to the sum which it would have received had no deduction or withholding been made.
  11. If at any time the Guarantor is required by law to make any deduction or withholding from any payment to be made by it pursuant to this Guarantee, the Guarantor will pay the amount required to be deducted or withheld to the relevant authority within the time allowed under the applicable law and will, no later than thirty (30) days after making that payment, deliver to the Commission an original receipt issued by the relevant authority, or other evidence acceptable to the Commission, evidencing the payment to that authority of all amounts required to be deducted or withheld.
  12. This Guarantee is assignable by the Commission, provided prior written consent of the Guarantor is sought and obtained, such consent not to be unreasonably withdrawn, delayed or conditioned.

13. This Guarantee shall expire on the Long Stop Date, after which this Guarantee shall become void whether it is returned to us for cancellation or not.
14. The Guarantor hereby irrevocably, absolutely, and unconditionally agrees that if any obligation guaranteed by it is or becomes unenforceable, it shall as a primary and independent obligation, indemnify the Commission immediately on demand against any cost, loss or liability the Commission incurs as a result of the Contractor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by the Contractor on the date when such payment would have been due provided that the amount recoverable from the Guarantor under this Guarantee shall not exceed the Maximum Guaranteed Amount.
15. All notices, requests, demands and other communications which are required or may be given under or in connection with this Guarantee shall be in writing and shall be (a) personally delivered, (b) sent by certified or registered mail or (c) sent via email. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time evidenced by confirmation of receipt with return receipt requested. If delivered by email, deemed receipt will be at the time of transmission. In each case, notices, requests, demands and other communications shall be sent to the physical address or email address (as applicable) and marked for the attention specified below:
16. For the purposes of Clause 15, the relevant addresses are as follows:
- To the Guarantor:**
- Address:
- Email:
- Attention:
- To the Commission:**
- Address:
- Email:
- Attention:
17. The Guarantor hereby declares that the Maximum Guaranteed Amount does not exceed 20% of the total paid-up capital and reserves of the Guarantor.
18. No variation of this Guarantee shall be effective unless it is in writing and signed by, or on behalf of, each party to it (or its authorised representative).

19. This Guarantee and any non-contractual obligations arising from or in connection with it shall be construed in accordance with and governed by the laws of the Federal Republic of Nigeria and the Guarantor agrees to submit to the exclusive jurisdiction of the Nigerian courts with respect to any dispute or difference arising out of or in connection with this Guarantee.
20. The Guarantor hereby declares that the undersigned has full authority to execute this Guarantee on behalf of the Guarantor.
21. The Guarantor hereby declares that this Guarantee shall be binding upon the successors of the Guarantor.

**IN WITNESS WHEREOF** this Guarantee has been executed and delivered [as a deed] by the Guarantor on the date first above written.

[Insert relevant signatory section]

## **ANNEX F: ALLOCATION PROCEDURE**

### **Article I APPLICATION**

1. This Allocation Procedure ("this Procedure") sets out the methods for the allocation of Available Crude Oil from the Contract Area and the Parties shall allocate all lifting of Available Crude Oil in accordance with this Procedure and the Contract.
2. In the event that the production of Available Crude Oil is segregated into two or more types or grades, the provisions of this Procedure shall apply separately to each such type or grade. To the extent that distribution on such a basis is impracticable, a separate method for the allocation of such Available Crude Oil shall be agreed upon by the Parties.
3. In the event of a conflict between the terms of this Procedure and the Contract, the terms of the Contract shall prevail.
4. The procedures set forth herein may be amended from time to time by mutual agreement of the Parties.

### **Article II DEFINITIONS**

1. The words and expressions defined in the Contract when used herein, shall have the meaning ascribed to them in the Contract. In addition, the following words shall have the meanings set forth below:
  - (a) "Current Quarter" means the calendar quarter within which the relevant Schedules are prepared and, submitted;
  - (b) "Forecast Quarter" means the first calendar quarter succeeding the Current Quarter;
  - (c) "Lifting Allocation" means the quantity of Available Crude Oil which each Party has the right to take in kind lift and dispose of in accordance with Clause 8.1 of the Contract;
  - (d) "Primary Nomination" means written statement issued by each Party to the other at least twenty-five (25) days prior to the commencement of each quarter declaring the volume by grade of its estimated Lifting Allocation which the Party desires to lift during the Forecast Quarter;

- (e) “Proceeds” means the amount in US Dollars determined by multiplying the Fiscal Price by the number of barrels of Available Crude Oil lifted by either Party; and
- (f) “Proceeds Imbalance” means the difference between each Party's Proceeds to which it is entitled and the Proceeds which each Party has actually received, as reflected in each quarter's Schedule C-2 of this Procedure.

### **Article III LIFTING ALLOCATION**

1. On or before September 30 of every Calendar year, the CONTRACTOR shall advise the Parties of its forecast of the Available Crude Oil to be produced by grades during each Month of the first six (6) Months of the next ensuing Calendar Year.
2. On or before March 31 of every Calendar Year, the CONTRACTOR shall advise the CORPORATION of its forecast of Available Crude Oil to be produced by grades during each Month of the six (6) Months commencing July 1, of the Calendar Year.
3. Thirty-five (35) days before commencement of production from the Contract Area and thereafter thirty-five (35) days prior to, the beginning of the Forecast Quarter, the CONTRACTOR shall notify the CONCESSIONAIRE of the estimated Lifting Allocation which can be produced and made available for disposal during the Forecast Quarter. Such estimated Lifting Allocation shall take into account any Proceeds Imbalance for the quarter first preceding the Current Quarter and any estimated Proceeds Imbalance for the Current Quarter computed in accordance with paragraph 3 of Article IV. Such notice be in the form of Schedule C-1 attached hereto indicating the estimated quantities of Royalty Oil, Cost Oil and Profit Oil, each Party's estimated Lifting Allocation and the estimated Realisable Price used to prepare such estimated Lifting Allocations.
4. Twenty-Five (25) days before the commencement of production from the Contract Area and thereafter not later than twenty-five (25) days before the beginning of Forecast Quarter, each Party shall notify the other of its Primary Nomination of Available Crude Oil which it intends to lift during the Forecast Quarter which shall not exceed its estimated Lifting Allocation. Such notice shall include the information described in Article V, paragraph 1.a.i.1.a.i.1 of Annex G - Lifting Procedure.
5. The estimated Realisable Price to be used by the CONTRACTOR to prepare Schedule C-1 (Estimated Quarterly Lifting Allocation) shall be the Realisable Price of the first Month of the Current Quarter.
6. Each Party shall be obligated to lift its own Lifting Allocation in accordance with the Nomination, Ship Scheduling and Lifting Procedure (Annex G). In the event that one

Party lifts the other Party's Lifting Allocation, pursuant to Clause 8.1 of the Contract the lifting Party shall pay to the non-lifting Party the applicable Proceeds pursuant to Clause 8.7 of the Contract. In such case, the non-lifting Party shall be treated for all other purposes under this Contract as though it had made such lifting itself.

#### **Article IV**

##### **ADJUSTMENTS OF LIFTING ALLOCATIONS**

1. On or before thirty-five (35) days prior to the last day of the Current Quarter, the Lifting Allocation for the first preceding quarter thereto shall be computed and the Proceeds Imbalance determined and agreed to by the CONCESSIONAIRE in the form of Schedule C-2 attached hereto. Section A of such Schedule C-2 shall be based on the actual liftings made by the Parties and the Proceeds therefrom. Section B of such Schedule C-2 shall be prepared from the Accounting Procedure for the Months in the quarter.
2. On or before thirty-five (35) days prior to the last day of the Current Quarter, the Proceeds Imbalance for the Current Quarter shall be estimated, taking into account the actual Proceeds Imbalance computed for the first preceding quarter under paragraph 1 of this Article IV.
3. The Proceeds Imbalance for the first preceding quarter computed under paragraph 1 above and the estimated Proceeds Imbalance for the Current Quarter computed under paragraph 2 above shall be taken into account by the Parties by debiting or crediting such Proceeds Imbalances to each Party's share of the estimated Lifting Allocation reflected in Schedule C-1 for the Forecast Quarter filed by dividing the respective Proceeds Imbalance by the Fiscal Price applicable for the period in question.
4. Notwithstanding the reports required to be kept by the CONTRACTOR pursuant to Article IV in Annex G, the CONTRACTOR shall keep complete records of all liftings. At the end of each quarter, the Parties will meet to reconcile the Lifting Allocations and the actual lifting with a view to making adjustments as appropriate. If any disagreement arises with respect to such reconciliation, the area of disagreement shall be mutually resolved by the Parties, in accordance with the official records of the Commission.
5. All Lifting Allocations and actual liftings shall be audited at the end of each Calendar Year by a mutually acceptable independent auditor.

Schedule C-1  
Estimated Quarterly Lifting Allocation  
Quarter (\_\_\_\_\_)

Section A-Estimated Total Proceeds

Crude Type	Estimated Lifting Volume Bbls	Estimated RP US\$/Bbl	Estimated Proceeds US\$
Totals			

Section B-Allocation of Estimated Proceeds-Expressed in US Dollars

Category	Prior Month Carryover	Estimated Quarter Charges	Recoverable This Quarter	Allocation of Estimated Proceeds to CONCESSIONAIRE	Allocation of Estimated Proceeds to CONTRACTOR
Royalty Oil					
Cost Oil					
CONCESSIONAIRE Profit					
CONTRACTOR Profit Oil					
	Prior Imbalance (Over)/Under	Quarter's proceeds			
	Current Proceeds Imbalance (Over)/Under	Quarter's Estimated			
	Estimated Proceeds Allocation for Quarter				

Section C-Estimated Lifting Allocation

Crude	CONCESSIONAIRE Allocation		CONTRACTOR Allocation	
Type	Proceeds	Bbls	Proceeds	Bbls

Schedule C-2  
Actual Quarterly Lifting Allocation  
\_\_\_\_\_ Quarter (\_\_\_\_) \_\_\_\_\_

Section A-Lifting Summary

				Proceeds Received By:			
Crude	Volume	RP	Proceeds	CONCESSIONAIRE		CONTRACTOR	
Type	Bbls	US\$/Bbl	US\$	Bbl	US\$	Bbl	US\$
Totals							

Section B-Allocation of Proceeds Expressed in US Dollars

				CONCESSIONAIRE	CONTRACTOR
Category	Sum of Monthly Allocation	Allocation of Proceeds	Lifting Proceeds	Allocation of Proceeds	Lifting Proceeds Received
Royalty Oil					
Cost Oil					
CONCESSIONAIRE Profit Oil					
CONTRACTOR Profit Oil					
Totals					
Quarter (Over)/Under					
Proceeds Prior Quarter (Over)/Under					
Imbalance Total (Over).Under					

## **ANNEX G: LIFTING PROCEDURE**

### **Article I APPLICATION**

1. This Annex G sets out the procedure for the nomination, ship scheduling and lifting of Available Crude Oil from the Contract Area.
2. Pursuant to Clause 8.1 of the Contract the CONCESSIAIRE and the CONTRACTOR have the right to nominate, lift and separately dispose of their agreed allocation of Available Crude Oil produced and saved from the Contract Area.
3. The procedures set herein may be amended from time to time by the mutual agreement of the Parties.
4. In the event of a conflict between the terms of this Annex G and the Contract, the terms of the Contract shall apply.

### **Article II DEFINITION AND TERMINOLOGY**

1. Words and expressions in this Annex shall have the meanings ascribed to them in the Contract. In addition, the following words shall have the following meanings:
  - (a) “Available Production” means the quantity of Petroleum which can be efficiently and economically produced and saved from the producing Wells subject to any limitations imposed by government authority or other technical limitations resulting from Operations.
  - (b) “Technical Allowable Production” means the quantity of Petroleum from time to time determined by the Ministry as being the quantity that may be produced from the Contract Area on a Well by Well basis for a particular period.
  - (c) “Commercial Production Quota” means the quantity of Petroleum from time to time fixed or advised by the Minister as the permissible quantity that may be produced from the Contract Area on a crude stream basis for a particular Month/quarter.
  - (d) “Actual Production” means the quantity of Petroleum which is produced from the Contract Area on a Monthly/quarterly basis.
  - (e) “Available Monthly Scheduling Quantity” means each Party's allocation of the Available Production for the Month plus Opening Stock.

- (f) “Combined Lifting Schedule” means the lifting programmes of the Parties for a given calendar Month/quarter as prepared by the CONTRACTOR and agreed to by the Parties.
- (g) “Opening Stock” means the quantity of Crude Oil that each Party may carry forward to the succeeding Month, recognising the difficulty in lifting precisely the Available Monthly Scheduling Quantity. This quantity which excludes unpumpable dead stock, should not be such as to cause a production shut-in through reaching maximum stock levels where of course the provisions of Article V will apply. The quantity also includes credits/debits accruing after reconciliation with Available Crude Oil.
- (h) “Primary Nomination” means a written statement issued by one Party to the other at least twenty-five (25) days prior to the commencement of each, Month of its production nominations based on its allocation of the Commercial Production Quota Crude Oil by grade, which it desires to take during the particular Month plus Opening Stock.

### **Article III**

#### **PRODUCTION /NOTICE OF AVAILABILITY**

1. The CONTRACTOR shall endeavour to produce the aggregate volume of oil nominated by the Parties as provided in this Contract.
2. In the event that Available Crude Oil is segregated into two or more grades the provisions of this Annex G shall apply separately to each such grade. To the extent that distribution on such a basis is impracticable, separate arrangement for sharing of such Available Crude Oil shall be agreed upon by the Parties.
3. On or before September 30 of every Calendar Year, the CONTRACTOR shall advise the Parties of its forecast of the Available Production to be produced by grades during each Month of the first six (6) Months of the next ensuing Calendar Year.
4. On or before March 31 of every year, the CONTRACTOR shall advise CONCESSIONAIRE of its forecast of the Available Production to be produced by grades during each Month of six Months commencing July 1, of the Calendar Year.
5. Where for operational reasons the CONTRACTOR cannot exactly produce at the anticipated Commercial Production Quota, the CONTRACTOR shall notify the CONCESSIONAIRE promptly of any required changes exceeding 2% of the quantities originally notified. In any event, when actual production for the Month/quarter is known each Party's allocation will, be re-calculated and the differences between Actual Production and Commercial Production Quota will be credited/debited to each Party, and shall form the Party's entitlement for the following

Month or quarter except in the case of production shut-ins where the provisions of Section 6 will apply.

6. Twenty-five (25) days before the commencement of production from the Contract Area and thereafter not later than twenty-five (25) days before the beginning of each Month, each Party shall notify the other of its Primary Nomination of Available Crude oil which it intend(s) to lift during the ensuing Month, which shall not exceed its Monthly allocation of Commercial Production Quota plus Opening Stock.
7. At the end of each Month or quarter, as may be agreed, Parties will meet to reconcile Available Monthly Scheduling Quantities with actual Available Crude lifted and adjustments made where necessary. All entitlements shall be audited at the end of each Calendar Year by a mutually acceptable independent auditor.
8. The CONTRACTOR shall keep complete records of all liftings and provide same to the CONCESSIONAIRE in accordance with Articles III & IV of this Annex G.

#### **Article IV THE CONTRACTOR'S REPORTS**

1. The CONTRACTOR shall, not more than fifteen (15) working days after the end of each Month, and quarter, prepare and furnish to the CONCESSIONAIRE a written statement showing in respect of the Month and quarter respectively:
  - (a) Production Quota: each Party's allocation of Commercial Production Quota;
  - (b) Lifting against Available Crude Oil;
  - (c) Each Party's allocation of Available Crude Oil;
  - (d) Quantity of Crude Oil in Stock for each Party at the end of the said Month or quarter; and
  - (e) Any production losses attributable to Crude Oil used in Petroleum Operations.
  - (f) Cumulative production.
2. In the event the CONCESSIONAIRE disagrees with any of the CONTRACTOR's reports, the area of disagreement shall be mutually resolved by the CONTRACTOR and the CORPORATION to the satisfaction of the Ministry. The CONTRACTOR shall thereafter prepare a revised report to reflect the changes agreed.
3. The CONTRACTOR must also endeavour to send consistent statistical data to the different reporting bodies and should adhere to agreed formats of reporting.

## **Article V**

### **SCHEDULING DETAILS**

1. **Scheduling Notification** - At least twenty-five (25) days prior to the beginning of a Month, the CONCESSIONAIRE shall notify the CONTRACTOR of its proposed tanker schedule for that Month specifying the following:
  - (a) A loading date range of ten (10) days for each tanker lifting;
  - (b) The desired parcel size for each lifting in Barrels, subject always to change within a range of plus or minus five percent (5%) by the Party so nominating;
  - (c) The tanker's name or To Be Named (TBN) for each tanker lifting. Tanker nominations made as TBN shall be replaced at least five (5) working days prior to the accepted date range, unless a shorter time is acceptable to the CONTRACTOR; and
  - (d) Documentation instructions shall be given for each lifting not later than four (4) working days prior to the first day of the accepted date range for the tanker in question.
2. **Tanker Substitution** - Either Party may substitute another tanker to lift its nominated volume of Crude Oil, provided such substituted tanker has the same arrival date range as the originally scheduled tanker and all other provisions of this Annex G are complied with.
3. **Overlapping Date Ranges** - In the event the Combined Lifting Schedule contains overlapping accepted date ranges, the tanker which gives its Notice of Readiness (NOR) and has provided all documentation and obtained clearances first within such accepted date ranges shall be loaded first, unless urgent operational requirements dictate otherwise in which case, demurrage shall be borne by Petroleum Operations and charged to Operating Costs.
4. **Confirmation of Lifting Schedules** - At least fifteen (15) days prior to the beginning of a Month, the CONTRACTOR shall either confirm the feasibility of the proposed Monthly lifting schedules or, alternatively, advise necessary modifications to such schedules. Such confirmation which shall be in the form of combined lifting schedule, should include a loading date range of two (2) days for each lifting the first day being the earliest date of arrival and the third day being the latest date of arrival.
5. **Operational Delays** - The Parties recognise that occasionally environmental and technical problems in the Contract Area may cause delays and/or disruptions in the combined lifting schedule. The CONTRACTOR shall promptly notify the CONCESSIONAIRE of such delays and/or disruptions, and the projected termination

of each of such delays and/or disruptions and advise the CONCESSIONAIRE of the revised combined lifting schedule. In the event such notification does not allow for a revised combined lifting schedule on the part of the CONCESSIONAIRE, then any resultant costs will be charged to Operating Costs.

6. **Estimated Delayed Arrival of a Tanker** - Whenever it becomes apparent that a tanker will not be available as scheduled or will be delayed, the Party utilising such tanker shall notify the other Party of the circumstances and expected duration of the delays. Upon assessing the impact that the delay will have upon the Combined Lifting Schedule and Production during the current and/or next Month, the CONTRACTOR shall make appropriate revision(s) to the Combined Lifting Schedule to avoid disruption in production. In the event that any Party fails to lift its Nominated Share of Production in any Month/quarter due to circumstances beyond the Party's control or difficulties, in maintaining the lifting schedule, that Party shall have the right during the following quarter/Month to lift the unlifted quantities.
7. **Tanker Standards** - All tankers nominated for lifting by any Party pursuant to this Annex G shall conform to the international regulations and standards concerning size, equipment, safety, maintenance and the like adopted by the CONTRACTOR for the Terminal in question and by the appropriate government authority. Failure of a tanker to meet such standards shall not excuse the nominating Party from the applicable consequences provided in the Contract. The CONTRACTOR shall keep the CONCESSIONAIRE advised as to the current Regulations and standards in use at the terminals operated by the CONTRACTOR.
8. **Destination of Crude Oil** - The CONTRACTOR shall at all times disclose the destination of the Crude Oil lifted under this Contract.

## **Article VI**

### **PRODUCTION DECREASES/INCREASES SUBSEQUENT TO NOMINATION**

1. Production decreases occurring after lifting nominations have been scheduled and not resulting from the fault of either Party shall be shared by the Parties in proportion to their respective nominations.
2. Production increases occurring after lifting nominations have been confirmed by the CONTRACTOR shall be shared by the Parties, in proportion to their respective agreed allocation.
3. To the extent that field operations permit, a Party shall have the right to adjust its nomination during a Monthly following confirmation of lifting schedule provided that the nominations, entitlements mid lifting of the other Party are not affected thereby without their express written consent. Adjusted nomination shall always be within the

limits of the Party's allocated portion of the Commercial Production Quota, plus Opening Stock.

4. Any production decrease caused by or resulting directly from the actions of one Party shall not affect the availability or entitlement of the other Party. The CONTRACTOR will, to the greatest extent possible, endeavour not to affect the lifting of the other Party.
5. For the avoidance of doubt each Party's agreed allocations shall be based on Actual Production.

## **Article VII**

### **DELIVERY TERMS AND CONDITIONS**

1. **Tanker Notification** - The Parties shall report, or cause the tankers nominated for lifting pursuant to this Annex G to report, by radio/telex to the CONTRACTOR of each tanker's Schedule arrival date and hour as follows:
  - (a) Seven (7) days before estimated arrival, or upon clearing at last port if there is less than seven (7) days steaming time before estimated arrival;
  - (b) Seventy-two (72) hours before estimated arrival;
  - (c) Forty-eight (48) hours before estimated arrival;
  - (d) Twenty-four (24) hours before estimated arrival; and
  - (e) At any other time(s) between the seventy-two (72) hours' notice, forty-eight (48) hours' notice and twenty-four (24) hours' notice when estimated arrival is to be revised by more than twelve (12) hours from that most recently notified or after that revised by more than one-half hour.

Parties shall also cause such tanker so nominated, or their agent, to report by radio/telex to the Nigerian Government Port Head Official at the port at least seventy-two (72) hours before each tanker's scheduled arrival date giving the tanker's name, call sign, ETA at the port(s), cargo tonnage to be loaded, number of crew, health status, whether or not a doctor is on board and a request for "Free Pratique".

2. **Notice of Readiness** - Upon arrival at the designated safe anchorage at the Port or upon the time of boarding of the Mooring master, whichever is earlier, the Master of the tanker shall give the CONTRACTOR a Notice of Readiness (NOR) by radio or by letter, as appropriate, confirming that the tanker is ready to load cargo, berth or no berth. Laytime, as herein provided, shall commence upon the expiration of six (6) running hours after receipt by the Loading Terminal of such notice, or upon the

tanker's completion of mooring at the sea loading terminal, whichever first occurs. However, where delay is caused to the tanker getting into berth after giving NOR for any reason over which neither the CONTRACTOR nor the loading Terminal has control, such delay shall not count as used laytime. In addition time used by tanker while proceeding to berth or awaiting entry and Free Pratique by customs after the expiration of six (6) running hours free time, shall not count as used laytime.

3. **Early Taner Arrival** - Notwithstanding the provisions of Article VII 2 above, if the tanker arrives and tenders NOR to load prior to its agreed date range, CONTRACTOR shall endeavour to load tanker on arrival or as soon thereafter as possible and laytime shall only commence when loading commences. If, however, the CONTRACTOR is unable to accept tanker for loading prior to the agreed date range, laytime shall commence at 0600 hours, local time on the first day of the agreed date range or when loading commences, whichever occurs first.
4. **Late Tanker Arrival** - If tanker arrives and tenders NOR to load after its accepted date range and other tankers (having arrived during their accepted date range), are either loading or waiting to load the loading tanker shall be governed by the earliest availability of crude and loading slot, and laytime shall commence only when loading commences.
5. **Laytime** - The CONTRACTOR shall be allowed laytime in running hours equal to one half of the voyage laytime permitted under Worldscales, or such other freight scale that is issued in replacement thereof, for loading a full cargo and pro rata thereof for a part cargo, with a minimum of eighteen (18) hours, Sundays and Holidays included, any delay due to the fault of the tanker or its facilities to load cargo within the time allowed shall not count as used laytime. If rules of the Owner of the vessel or Regulations of Government or appropriate Government Agencies prohibit loading of the cargo at any time, the time so lost shall not count as used laytime. Time consumed loading or discharging ballast or discharging slops shall not count as used laytime. Laytime shall continue until hoses have disconnected.

Laytime allowed for loading a full cargo is "36 Running hours" with a provision for prorating the laytime in the case of vessels loading part cargo. When a vessel is loading one parcel only and operations commence ahead of the acceptance date there is no demurrage involved unless the vessel completes cargo after the permissible laytime, commencing 0001 hours more than one parcel and more than one acceptance date is awarded, then demurrage will not count unless the total loading is completed after the expiry of the permissible laytime for the last parcel, counting 0001 hours on the last acceptance date.

6. **Demurrage** - If the CONTRACTOR is unable to load within the time allowed, the CONTRACTOR shall apply demurrage per running hour (pro rata for a part thereof) for laytime exceeding the allowed laytime as specified herein. The rate of demurrage will be calculated by multiplying the time by the Average Freight Rate Assessment

(AFRA) as determined by the London Tanker Brokers Panel. In the event such determination is no longer available, a freight rate assessment shall be mutually agreed by the Parties; which rate shall be appropriate in relation to the size of the tanker and in demurrage rate according to tanker size as specified in the Worldwide Tanker Nominal Freight Scale or such other foreign scale that is issued in replacement thereof. If however, demurrage shall be incurred by reason of fire, storm, explosion, or by strike, picketing, lockout, stoppage or restraint or labour difficulties, or disturbances or by breakdown of machinery or equipment in or about the Loading Terminal, the rate of demurrage as calculated in accordance with the above shall be governed by Force Majeure and shall not attract any demurrage. Demurrage claims must be notified within ninety (90) days from Bill of Lading date.

7. **Change of Berth** - The CONTRACTOR shall have the right to shift any vessel from one berth to another. Charges of running lines on arrival at and leaving and berth, wharfage and dockage charges at that berth, and any other extra port charges or port expenses incurred by reason of such shifting at the CONTRACTOR's request shall be borne by the CONTRACTOR and shall count as used laytime. If, however, it is necessary to shift the vessel from the berth because of breakdown machinery or other deficiency of the vessel or its crew, the resulting expenses shall be borne by the Party whose Crude Oil is being lifted. The time consumed in such circumstances, shall not count as used laytime. However, the vessel shall lose its regular turn in berth. When the-vessel is ready to recommence-loading, it shall so advise the CONTRACTOR and await its turn for re-berthing and such time after notice is given shall not count as used laytime.
8. **Tanker Departure** - Tanker shall vacate the berth as soon as loading is complete. The Party that scheduled such tanker shall indemnify the CONTRACTOR for any direct loss or damage incurred as a result of tanker's failure to vacate the berth promptly including such loss or damage as may be incurred due to resulting delay in the docking of the tanker awaiting the next turn to load at such berth.
9. **Loading Hoses** - Hoses for loading shall be furnished by the CONTRACTOR and shall be connected and disconnected by the tanker's crew under the supervision of a suitable qualified Ship's Officer acting on the advise of the Operator's Mooring Master.
10. **Partial Cargo** - Should the CONTRACTOR supply less than full cargo, for any reasons the tanker shall not be required to proceed to sea until all of her tanks are filled with a combination of cargo and ballast as will place her in a seaworthy condition.

**Article VIII**  
**CRUDE OIL QUANTITY AND MEASUREMENT**

1. **Certification** - The quantity and origin of each shipment of Crude Oil shall be determined by the appropriate Government authority at the loading Terminal and set forth in standard Certificates of Quantity, Quality and Origin. Each Party shall have the right to designate a representative at its own expenses, who shall have the right to witness the determination of Quantity, Quality and Origin. All reasonable facilities shall be supplied by the CONTRACTOR as necessary, to such Party's representatives at the Port to enable such representatives to witness the measurements taken at the Loading Terminal and the taking of the sample to be used supplied to the Representative of the Party.
2. **Acceptance of Certificate** - If the Party in question does not appoint a representative, or if such representative appointed as aforesaid agrees with the Certificate of Quantity, Quality and Origin of a shipment of Crude Oil (in which event he shall so indicate by signing the Certificate of Quantity, Quality and Origin), such determinations shall be final and binding on the Parties.
3. **Refusal of Certificate** - If the determination of Quantity, Quality and Origin by the appropriate Government authority has not been approved by such a representative in accordance with Article VIII 2 above and dispute arises concerning the Quantity, Quality and Origin of Crude Oil, recourse shall be had to a mutually agreed independent expert to resolve the dispute on the basis of his expertise. Claims about Quantity and Quality of Crude Oil delivered shall be notified within forty-five (45) days from Bill of Lading date. The expert shall be selected on the basis of his special knowledge of the subject matter in this regard and shall be appointed by mutual agreement of the Parties. Such expert shall file his conclusions within thirty (30) days after his date of appointment. Any conclusions of such expert shall be binding upon Parties. Pending the determination of the dispute, the tanker may sail, unless the Parties agree otherwise.
4. **Quantity Determination** - The quantity of Crude Oil lifted shall be determined at the time of loading on the basis of gauging the terminal tanks before and after the lifting of such Crude Oil, or otherwise by meter readings installed on the loading line from the tanks, as approved by appropriate Government Authority. The quantity in Barrels of Crude Oil determined pursuant to the foregoing procedure shall be corrected to a temperature of sixty degree Fahrenheit (60°F) in accordance with the most currently published ASTM-IP Petroleum Measurement Tables. A copy of the concession calculation, if any, shall be submitted to the Lifting Party through its representative. In addition, the Basic Sediment and Water ("BS&W") content, determined in accordance with Article VIII 5 hereof, shall be deducted from the quantity loaded, for purposes of preparing the Bill of Lading for such shipment and for purposes of substantiating claims about Quantity and Quality. Any substantiated loss of Crude Oil occurring in transit between the point of such determination and delivery point shall be borne by the

Party lifting provided such losses do not result due to differences in method of determining BS&W between the loading and discharge terminals. For differences occurring where same method of determination at both points are used, provisions of Article VIII 3 above shall apply. The retained sample shall be used in determining such loss claims.

5. **Quality Determination** - The determination of API Gravity and BS&W content shall be made of each shipment of Crude Oil. BS&W content and API Gravity shall be determined according to standard international practices acceptable to the relevant Government authorities.
6. **Samples** - A sample of each shipment of Crude Oil shall be taken. The sample shall be sealed and retained by the CONTRACTOR for a maximum of ninety (90) days. The lifting party or its representative shall have the right to receive one (1) gallon sealed sample of the Crude Oil loaded which shall be placed on board the tanker, if so requested.

## **ANNEX H: INFORMATION TO BE SUBMITTED BY CONTRACTOR**

Following are particulars of data, information, studies, reports and samples required to be submitted under Clause 7.1(h) of the Contract. All information shall be submitted as soon as available or where time frames have been set in this Annex H, within such time frames. It is understood and accepted that the Commission may, after consultation with CONTRACTOR, by regulation or order, make revisions to this Annex H on future dates in view of changing technologies and new information requirements and such revisions may include further requirements for health, safety and environmental data submission.

### **1. Geophysical data**

All basic geophysical data including the following:

#### **1.1 Seismic Surveys-**

- (i) Programme maps with indications of geological plays and pre-existing seismic lines prior to the start of the survey. For seismic reprocessing work, a similar programme map is required to be submitted;
- (ii) Final shot point and composite shot point location maps;
- (iii) Seismic operation reports and quality control reports in digital format to be submitted within three (3) Months of completion of the survey;
- (iv) Daily or weekly survey progress reports;
- (v) Inventory of list of the field tapes and hard disks acquired during the survey indicating seismic line numbers and shot point ranges on tapes and 3D information; to be submitted two (2) weeks after completion of the survey;
- (vi) Final processed and reprocessed Two-Way-Time seismic sections in acceptable scales to be submitted upon the completion of processing and/or reprocessing projects;
- (vii) Final processed Depth Sections generated in other acceptable scales; to be submitted upon the completion of the project. In the case of 3D seismic data, CONTRACTOR to submit at least every tenth (10th) inlines and crosslines acquired and processed,
- (viii) Interpreted stacking velocity analyses sections;
- (ix) Velocity information on magnetic tape in the format specified by the Commission;

- (x) For 3D, picked stacking velocity functions are to be submitted on magnetic tape in format specified by the Commission;
- (xi) Processing and reprocessing reports, documenting the seismic lines numbers and shot point ranges processed or reprocessed and the type of processing being done to be submitted within two (2) Months of completion of the processing programme;
- (xii) Seismic interpretation reports;
- (xiii) Final processed seismic tapes with documentation in acceptable standard formats;
- (xiv) Final sections and full reports on any specialized seismic processing or reprocessing work are to be submitted to the Commission upon completion of each respective studies; and
- (xv) Interpreted data which is not limited to seismic section, time slice, seismic and velocity modelling upon request by the Commission.

#### 1.2 **Gravity Surveys (if available) -**

- (i) Gravity and accelerometer records/profiles or spot readings whichever applicable;
- (ii) Traverse line maps in acceptable scales;
- (iii) Details of meter calibration;
- (iv) Processed gravity anomaly maps. The method of calculation of anomalies should be explained; and
- (v) Listings of absolute measured gravity values, theoretical gravity values and corrected free-air gravity anomaly values.

#### 1.3 **Magnetic Surveys (if available) -**

- (i) Magnetometer records/profiles;
- (ii) Altimeter records, storm monitor records, navigational records;
- (iii) Traverse or flight line maps in acceptable scales;
- (iv) Magnetometer operator log or other means of relating magnetic observations to local time; and

- (v) Diurnal variation records.

#### **1.4 Other Survey and studies**

All other survey and processed data to be submitted as soon as available, including profiles, maps and reports for the following -

- (i) Well site survey;
- (ii) Soil or foundation investigation;
- (iii) Pipeline route survey (before and after installation);
- (iv) Environmental data;
- (v) Rig positioning;
- (vi) Well velocity survey and velocity seismic profiling (VSP);
- (vii) Piston and Gravity coring investigation; and
- (viii) any other surveys which include but are not limited to gravity or magnetic or SAR surveys and their interpretations.

#### **2. Geological/Petrophysical/Production Test Data**

All basic geological/petrophysical and Production test data including the following:

##### **2.1 Well Reports -**

- (i) Recommendation to Drill or Well Proposals, to be submitted at least two (2) Months before spud-date;
  - (a) Depth and time structure maps and velocity maps used of prospective horizons;
  - (b) Migrated TVS sections;
  - (c) Assessment of hydrocarbon volume-in-place and estimated Reservoir parameters and detailed by category of proved, probable and possible and expected value (EV) and assigned to each Reservoir and fault block of such Field;
  - (d) Structural or stratigraphic cross-section;

- (e) Costs and technical details relating to prospect or Field and new projects.
- (ii) Proposed drilling and formation evaluation programmes including detailed Well cost estimate; to be submitted at least two (2) weeks before spud-date;
- (iii) Daily or Weekly drilling reports;
- (iv) Abandonment Programmes;
- (v) Drilling Completion Reports; to be submitted within three (3) Months of completion of the Well;
- (vi) Geological Completion Reports; to be submitted within three (3) Months of the completion of the Well including –
  - (a) Geological and operations summaries;
  - (b) Well completion logs showing depths/results, cores or sidewall hydrocarbon shows, preliminary log stratigraphy;
  - (c) Geological Well or composite log showing detailed lithology description and percentages, penetration rates, basic drilling data, Gas readings and composition;
  - (d) Final Well log analysis and interpretation;
  - (e) Pressure analysis including pressure versus depth plot and fluid contact estimation.
- (vii) Post-drill Well Evaluation or Well Summary Reports;
- (viii) Service company reports covering mudlogging, wireline testing, Production testing, etc.
- (ix) Production testing procedures;
- (x) Detailed Production tests reports-;
- (xi) Subsurface pressure or temperature survey reports;
- (xii) Computer processed log interpretation with a summary of the net zones, porosity and water saturation and permeability cutoffs used and other assumptions used or made in deriving the results;
- (xiii) Paleontological and palynological reports;

- (xiv) Geochemical reports;
- (xv) Petrographic studies;
- (xvi) Core analysis reports inclusive of daylight or UV photographs and any other analysis carried out;
- (xvii) Fluid analysis reports;
- (xviii) Directional survey reports.

## **2.2 Well logs; to be submitted as soon as available.**

Field and final prints, sepias (in all available scales) and tapes of all wireline logs run.

## **2.3 Samples**

All samples including the following –

- (i) drill cuttings.
- (ii) drill cores;
- (iii) a representative portion of sidewall cores;
- (iv) fluid - Oil, Gas, Condensate, water; and
- (v) any other types of samples.

## **3. Interpretative Material - Reports**

All interpretative and progress reports (inclusive of any subsequent revisions thereof) in electronic format including the following -

- (i) Progress reports on geophysical and drilling operation including notification of the principal developments and discoveries;
- (ii) An annual general review of the interpretation of the subsurface structure in any area over which geological, geophysical, drilling or other operations have been conducted (including interpretation thereof) and any revised interpretation occasioned by the work or question (to be supported by up-to-date maps).

#### **4. Reports on Reserve Calculation**

4.1 All reports inclusive of any subsequent revisions with respect to the amount of Petroleum in a Petroleum Reservoir classified as -

- (i) Proven Petroleum originally-in-place;
- (ii) Expected and maximum possible Petroleum originally-in-place;
- (iii) Proven estimated ultimate recoverable Petroleum reserves; and
- (iv) Expected estimated ultimate recoverable Petroleum reserves.

4.2 In respect of the Contract Area the reports shall include -

- (i) the location, size, extent, structural and stratigraphic cross sections of the Petroleum Reservoirs.
- (ii) the amount of Petroleum estimated to be in Reservoir in Items (i), (ii), (iii) and (iv) of 4.1 above in the Field production area.
- (iii) the method and calculation of the estimates in Item (ii) above; and
- (iv) all the data upon which the above estimates were based which includes the following for each Reservoir:
  - (a) Structure depth map at top of Reservoir quality rocks;
  - (b) Reservoir facies to reflect the porosity and permeability distribution vertically or laterally;
  - (c) Net hydrocarbons; and
  - (d) Definition of the various Petroleum in place and reserves category;

CONTRACTOR shall submit by March 31st of each Calendar Year to the Commission the annual reserves report as of the Calendar Year end of the preceding Calendar Year.

#### **5. Production Operations -**

5.1 All available data, information, studies and reports inclusive of any subsequent revision thereof relating to Production Operations.

5.2 With respect to each Field production area, a report shall be submitted within ten (10) days from the end of the Month under review and shall specify:

- (i) the number of Wells –
  - (a) which produced Petroleum, including the production of water;
  - (b) which were shut-in;
  - (c) which produced intermittently;
  - (d) which produced less than an average of 20 boepd;
  - (e) into which fluids or Gas were injected into the Reservoirs;
  - (f) which were used as disposal Wells; and
  - (g) which were abandoned.
- (ii) total quantity of –
  - (a) unreconciled Oil, Condensates, Gas and water produced;
  - (b) fluids and Gas injected;
  - (c) Petroleum utilized, flared or vented, stored in and delivered from each Production station;
  - (d) reconciled Production of Oil, Condensates, Gas and water,
  - (e) the average gravity in degrees API of the total Production of Oil and Condensates, and
  - (f) the H<sub>2</sub>S, CO<sub>2</sub> and Nitrogen content of the Gas.
- (iii) Petroleum flow, pressure and temperature readings at each Measurement Point.

5.3 With respect to each producing Well the report to be prepared each Calendar Month shall indicate the –

- (i) name, location and status;
- (ii) method by which Petroleum or water is produced;

- (iii) choke size;
- (iv) results of tests;
- (v) total estimated daily wellhead Production of Petroleum and water; and
- (vi) reconciled total Production of Petroleum.

5.4 With respect to each Reservoir completed in the Oil and Gas Field, the report to be prepared each Month shall be submitted within thirty (30) days from the end of the Month under review and shall specify –

- (i) name and status;
- (ii) wellhead pressure;
- (iii) average reconciled daily water and Petroleum Production; and
- (iv) average daily reconciled Gas and fluid injection.

5.5 With respect to Development drilling –

- (i) Notice of Operation for Well drilling and workover;
- (ii) Standard drilling programme;
- (iii) Daily or weekly drilling reports inclusive of progress and evaluations and preliminary Well log results whenever available;
- (iv) Well completion reports;
- (v) Final completion reports (for workover operations);
- (vi) Well Abandonment reports;
- (vii) Plugging reports;
- (viii) Any other reports pertaining to drilling or completion and workover activities.

5.6 With respect to the planned or installed facilities –

- (i) Facility design basis or philosophy inclusive of conceptual studies, conceptual or preliminary or front-end design and amendments thereto;
- (ii) Project assessment reports, if any;

- (iii) Special engineering studies reports, if any;
- (iv) Project execution plan (preliminary copy or draft to be submitted before start of detailed design) and amendments thereto;
- (v) Detailed design reports;
  - (a) Major fabrication planning package and execution plan. With respect to equipment fabrication and installation procedures, one (1) copy of same to be extended to the Commission field representative, where applicable, as and when required;
  - (b) Transportation and installation procedures for major facilities when available;
- (vi) Factory acceptance test procedures completion reports where applicable;
- (vii) Weekly and engineering reports and CONTRACTOR progress reports and a summary each Calendar Month (where applicable);
- (viii) Project completion reports;
- (ix) CONTRACTOR performance appraisal reports;
- (x) As built drawings and vendor catalogues and updates for as built drawings whenever available;
- (xi) Operating and start-up manual;
- (xii) Overall long term maintenance programme for facilities and Pipelines;
- (xiii) Weekly operation and maintenance reports and a summary each Month;
- (xiv) Facility modification and upgrading reports, if any;
- (xv) Each Month a safety incident statistics report;
- (xvi) Risk assessment, environmental impact assessment, technical or safety audit and HSE study reports, if any; and
- (xvii) within the first ten (10) days of each Month a report of the bottom of the Reservoirs in the deepest producing formation in the Well with the deepest producing formation, separately for Oil as well as Gas.

5.7 With respect to measurement, the following data or procedures shall be submitted –

- (i) Detailed measurement procedures, design and operation of measurement systems;
- (ii) Detailed procedures and reports for validation or calibration of measurement systems;
- (iii) Detailed Petroleum accounting procedures;
- (iv) Production, stock, sales or exports and losses figures.

5.8 Three (3) Months prior to relinquishment, a status report shall be submitted and shall specify –

- (i) Complete report listings;
- (ii) Well, Reservoir and Field performance history;
- (iii) Reservoir and Well data;
- (iv) Well status;
- (v) Reserve status;
- (vi) Latest as-built drawing;
- (vii) Major maintenance, improvement and modification records;
- (viii) Inspection records.