

THE FEDERAL REPUBLIC OF NIGERIA

CONCESSION CONTRACT

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This Concession Contract (the “**Contract**”) is made this [●] day of [●], 20____

BETWEEN

NIGERIAN UPSTREAM PETROLEUM REGULATORY COMMISSION, whose address is at No. 7 Sylvester Ugoh Crescent, Jabi, Abuja, Nigeria (hereinafter referred to as the “**Commission**”), of the one part;

AND

[**NAME OF COMPANY**] company incorporated under the laws of the Federal Republic of Nigeria with RC No. [●], whose registered address is at [*company address*]

[**NAME OF COMPANY**] a company incorporated under the laws of the Federal Republic of Nigeria with RC No. [●], whose registered address is at [*company address*]

[**NAME OF COMPANY**] a company incorporated under the laws of the Federal Republic of Nigeria with RC No. [●], whose registered address is at [*company address*]

[**NAME OF COMPANY**] a company incorporated under the laws of the Federal Republic of Nigeria with RC No. [●], whose registered address is at [*company address*]

(all hereinafter referred to as the “**Holders**” and each a “**Holder**”), of the other part.

Both the Commission and the Holder are also referred to in this Contract, each as a “**Party**” and together as the “**Parties**”.

WHEREAS:

- A. The property and ownership of Petroleum within Nigeria, its territorial waters, continental shelf and exclusive economic zone is vested in the Government of the Federation of Nigeria.
- B. Pursuant to the Petroleum Industry Act 2021 (the “**Act**”), the Minister of Petroleum Resources (the “**Minister**”) is vested with the power to grant Petroleum Prospecting Licences on behalf of the Government; the Commission is responsible for the technical and commercial regulation of the upstream petroleum industry in Nigeria, including the determination and recommendation of applicants who have fulfilled the conditions for the grant of upstream petroleum licences and leases as well as the applicable model contract for the said licences and leases.
- C. *[The Holder has emerged the winning bidder following the conclusion of an open, transparent, competitive and non-discriminatory bidding process conducted by the Commission for the right to conduct Upstream Petroleum Operations in*

respect of the Licence Area or is otherwise entitled to the grant of the Licence pursuant to the Act.]]¹

- D. Pursuant to Section 85 of the Act, as a precursor to the grant of the Licence, the Commission and the Holders have agreed to enter into this Contract to provide for the fiscal obligations relating to the Licence as well as other contractual terms and conditions relevant to the conduct of Upstream Petroleum Operations within the Licence Area.

NOW THEREFORE, the Parties hereto agree as follows:

1.0 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Contract, the following words shall have the meanings ascribed to them below, and other Capitalised words used in this Contract and not defined below shall carry the meanings and definitions given to them in the General Conditions, the Act and other Regulations made thereto, at the time of the execution of this Contract:

“Acceptable Financial Institution” means a *[commercial bank duly licensed by the Central Bank of Nigeria with a minimum credit rating of ‘BBB’ issued by, at least, two rating agencies, one of which must be a rating agency incorporated in Nigeria and registered with the Securities and Exchange Commission. Provided that where the credit rating of any bank which issues the WP Performance Security declines below the prescribed rating as provided herein, the Licensee shall within [one (1) month], provide a performance security from a bank with the prescribed rating.]*

“Act” means the Petroleum Industry Act, 2021.

“Bonus” means the *[signature] [renewal] [conversion]* bonus required to be paid to Government by the Holder in respect of the grant of this Licence.

“Back-in Interest” has the meaning ascribed to it in Clause 12.1.1.

“Back-in Notice” means the notice issued in Clause 12.1.3.

“Bopd” means barrel of crude oil per day.

¹ To be used for Contracts in respect of concession awards of Licences or Leases following a licensing bid round.

“Carried Interest” means a Participating Interest without a funding obligation i.e., an interest in which the holder (**Carried Party**) is not required like its other joint venture partners to pay for or reimburse the other joint venture partners for any expense incurred in respect of Upstream Petroleum Operations related to the Licence, provided that such costs incurred are ultimately refunded to the other joint venture partners from the Carried Party’s entitlement to Oil Production.

“Carry Amount” has the meaning ascribed to it in Clause 12.3.

“Commencement Date” has the meaning ascribed to it in Clause 2.1.

“Development Period” means the period stipulated in the Field Development Plan or as indicated in the Lease, for the Holders to initiate Regular Commercial Production.

“Environmental Remediation Fund” means the environmental remediation fund established by the Commission for the Holders in accordance with Section 103 of the Act.

“Expert” means the expert appointed pursuant to Clause 12.5.

“Extension Period Target Depth” has the meaning ascribed to it in Clause 5.1.2.

“Financial Commitment” has the meaning ascribed to it in Clause 6.1.

“First Lease Term” means the first twenty (20) year Lease Term, commencing from the Lease Commencement Date.

“Gas” means natural gas and natural gas liquids.

“General Conditions” means the General Licence Conditions and the General Lease Conditions.

“General Lease Conditions” means the general lease conditions attached as Schedule A to the Lease Instrument.

“General Licence Conditions” means the general licence conditions attached as Schedule A to the Licence Instrument.

“Initial Exploration Period Target Depth” has the meaning ascribed to it in Clause 5.1.1.

“Lease” means the Petroleum Mining Lease issued to the Holders in respect of the Lease Area.

“Lease Area” means the area in respect of which the Lease is granted as more particularly described in the document attached as Schedule B of the Lease Instrument.

“Lease Commencement Date” means the commencement date indicated in the Lease Instrument.

“Lease Instrument” means the instrument conveying the grant of the Lease to the Holders, by the Minister on behalf of the Government.

“Licence” means the Petroleum Prospecting Licence issued to the Holders in respect of the Licence Area.

“Licence Area” means the area in respect of which the Licence is granted as more particularly described in the document attached as Schedule B of the Licence Instrument.

“Licence Instrument” means the instrument conveying the grant of the Licence to the Holders.

“Longstop Date” means the date falling [...] [weeks] [months] after the date this Contract is executed, being the deadline for the prospective Holders to fulfil the Conditions or other pre-conditions to the grant of the Licence by the Minister.

“NNPC Credit” has the meaning ascribed to it in Clause 12.4.2.

“NNPC Limited” means the Nigerian National Petroleum Company Limited, a company incorporated under the Companies and Allied Matters Act.

“Oil Production” means the production of Crude Oil and Condensates.

“Operating Agreement” means the operating agreement executed by the Holders and the Operator, to govern the Operator’s role in executing Upstream Petroleum Operations on behalf of the Holders, within the Licence Area.

“Operator” means [...] or any successor operator appointed by the Holders pursuant to Clause 14.7.

“Participating Interest” means as to each Holder, the percentage share of such Holder’s interest in the Licence or Lease, provided that in the case of Upstream Petroleum Operations conducted by less than all the Holders, Participating Interest shall mean, in relation to each Holder participating in the Upstream Petroleum Operations (**“Participating Holder”**), the proportion which the Participating Interest of the Participating Holder bears to the total Participating Interest of all Participating Holders.

“Paying Quantities” means in relation to the level of production of a field, the production of volumes of Oil Production or Gas or both, of which the value exceeds the Royalty and operating costs on a regular basis, based on levels of production that are aimed at achieving maximum economic recovery of Petroleum.

“Regular Commercial Production” means the production of Gas and/or Oil Production in Paying Quantities.

“SOFR” means the secured overnight financing rate published by the Federal Reserve Bank of New York on its website at <newyorkfed.org/markets/reference-rates/sofr> every business day (New York) at 8.00am Eastern Time.

“Target Depth” means the Initial Exploration Period Target Depth and the Extension Period Target Depth (where applicable).

“Unrecovered Proven Costs” means costs expended by the Holders for development and production activities as part of Upstream Petroleum Operations in respect of the Lease and shall not include any expenditure for bonuses, penalties, interests, premiums or markups on costs, as well as any other disallowed costs enumerated in Section 264 of the Act.

“Work Programme” means the work programme containing details of the programme of activities the Holders have committed to undertake within the Licence Area, submitted by the Holders to the Commission prior to the execution of this Contract, either as part of a winning bid or otherwise, which the Commission has approved and is attached to the Licence Instrument as Annexure 2.

1.2 Interpretation

1.2.1 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted from time to time.

- 1.2.2 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under the statute or statutory provision.
- 1.2.3 Timelines regarding obligations of the Holders which are not prescribed in this Contract, or the General Conditions shall be as provided in Regulations issued by the Commission.
- 1.2.4 In the computation of periods of time from a specified day to a later specified day:
- (a) the first specified day is not included in the computation of the of period, whereas the other specified day is included in the computation of the period; and
 - (b) any requirement that an action may or shall be taken within a specified number of days means that such action may or shall be taken within the number of days so specified starting at 00:00 hours on the day on which the requirement to take such action arose;
- 1.2.5 Headings of this Contract are for convenience of reference only and not intended to define, interpret, limit, or describe the scope or intent of any of the provisions of this Licence.
- 1.2.6 A Person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.7 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.8 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.2.9 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.2.10 The terms of this Contract shall be read in tandem with the Act, the Regulations and the Licence or Lease deriving therefrom, as applicable. Where there is any ambiguity or contradiction among these documents, they shall be construed in the following order of priority to resolve the said ambiguity or contradiction:

- (a) the Act;
- (b) the Regulations;
- (c) the Licence Instrument and/or Lease Instrument;
- (d) this Contract; and
- (e) the General Licence Conditions and/or General Lease Conditions.

2.0 EFFECTIVE DATE AND TERM

2.1 This Contract shall become effective upon the satisfaction of the Conditions listed in Clause 4.0 (the “**Commencement Date**”), save for Clauses 1.0, 2.0 4.0, 15.0, 17.0, 18.0, 19.0 and 20.0, which shall become effective upon execution of the Contract. The Contract shall, except as provided in Clause 17.0, and continue in full force and effect from the Commencement Date for as long as the Holders continue to hold title to:

2.1.1 the Licence in respect of the Licence Area or any part thereof; and

2.1.2 any Lease in respect of a Lease Area subsequently derived from the Licence Area, in accordance with the terms of the Licence and the Act.

3.0 DESCRIPTION OF THE ACREAGE

3.1 The Licence Area is [*an onshore acreage*]² [*a shallow water acreage*]³ [*deep offshore acreage*]⁴ [*frontier acreage*]⁵ whose boundaries may be modified from time to time as a result of relinquishments and surrenders pursuant to the terms of the Licence, the provisions of the Act as well as the delineation of any Lease Area emerging from the said Licence Area.

4.0 CONDITIONS PRECEDENT

4.1 The following conditions (the “**Conditions**”) shall be fulfilled no later than the Longstop Date:

4.1.1 The Holders must have:

- (a) furnished the Commission with the WP Performance Security issued by an Acceptable Financial Institution, to guarantee the Holders’ Financial Commitment to implement the Work Programme;

² To be used for Contracts in respect of PPLs granted in respect of onshore acreages.

³ To be used for Contracts in respect of PPLs granted in respect of shallow water acreages.

⁴ To be used for Contracts in respect of PPLs granted in respect to deep offshore acreages.

⁵ To be used for Contracts in respect of Contracts PPLs granted in respect to deep offshore acreages.

- (b) paid the Bonus to the Government;
- (c) paid the prescribed contribution in Clause 11.1 into the environmental remediation fund;
- (d) paid the Rent for the first year of the Licence at the rate prescribed in Clause 7.0;
- (e) delivered to the Commission evidence of the Holders' appointment of the Operator; and
- (f) fulfilled such other conditions as prescribed by the Regulations.

4.1.2 The Minister has executed the Licence Instrument.

4.2 Where any Holder fails to satisfy all the Conditions listed in Clause 4.1.1 by the Longstop Date, the Contract shall stand terminated in respect of that defaulting Holder on the next date following the Longstop Date.

5.0 MINIMUM WORK OBLIGATIONS

5.1 Notwithstanding the provisions in the General Licence Conditions relating to Minimum Work Obligations the following terms shall apply to this Licence:

5.1.1 During the Initial Exploration Period, the Holder shall perform the following minimum activities as part of the Work Programme:⁶

(a) [//];

5.1.2 If the Commission opts to grant the Holders the Extension Period in accordance with the Act and Regulations, the Holder shall perform the following minimum activities as part of the Work Programme:

- (a) Acquire a minimum of [...] square kilometres [3D] seismic data;
- (b) Drill [...] Exploration Well(s) to a minimum depth of [...] metres true vertical depth or to depths sufficient to penetrate the top of the Eocene or older stratigraphic section of its stratigraphic equivalent, whichever is lesser (**Extension Period Target Depth**).

5.2 The Holders shall drill the Exploration Wells to the Target Depth, provided that before reaching the required depth:

⁶ Minimum Work Obligations will be as per Bid.

- 5.2.1 technical difficulties are encountered which, in the opinion of the Holders and in accordance with reasonable and prudent international oilfield practices, makes further drilling, impractical, uneconomic, unsafe or a danger to the environment;
- 5.2.2 impenetrable formations are encountered; or
- 5.2.3 petroleum bearing formations are encountered, which require protecting, thereby preventing further drilling to achieve the target depth.
- 5.3 Where the Commission approves the drilling of the Exploration Well to a lesser depth in the circumstances stated in Clause 5.2 above, the Holders shall be deemed to have satisfied their obligation to drill to the relevant Target Depth.
- 5.4 Where the Holders abandon the drilling of an Exploration Well before reaching the Target Depth in circumstances other than as stated in Clause 5.2 above, the Holders shall be required to drill a substitute Exploration Well in order to fulfil the Minimum Work Obligation.
- 5.5 Appraisal Wells drilled pursuant to an Appraisal Programme shall not be treated as discharging in whole or in part, the Minimum Work Obligation specified in Clause 5.1 above.

6.0 WORK PROGRAMME COMMITMENTS

- 6.1 The Holders' Work Programme shall exceed the Minimum Work Obligations stipulated in Clause 5.0, above. The Holders shall expend their Participating Interest shares of the following minimum value of financial resources to implement the Work Programme (**Financial Commitment**) during the Licence Term:
- 6.1.1 During the Initial Exploration Period, each Holder shall be obligated to expend its Participating Interest share of monetary sums equal to:
- (a) the sum of [...] ⁷; or
 - (b) such sum that the Commission subsequently anticipates will achieve the full implementation of the outstanding portion of the Work Programme in accordance with procedures set forth in the Licence and Regulations.

⁷ **Drafting Note:** This sum will be derived from the budget accompanying the work programme proposed by the Holder. The Holder is required to propose a work programme for the 3-year period that is in excess of the Minimum Work Obligations and provide a commitment to that work programme.

6.1.2 Where the Commission opts to grant the Holders the Extension Period in accordance with the Act and Regulations, each Holder shall be obligated to expend its Participating Interest share of monetary sums equal to:

- (a) the sum of [...] ⁸; or
- (b) such sum that the Commission subsequently anticipates will achieve the full implementation of the outstanding portion of the Work Programme in accordance with procedures set forth in the Licence and Regulations.

6.2 The Holders shall expend their Participating Interest shares of the minimum value of financial resources equivalent to the Appraisal Financial Commitment and the FDP Financial Commitment as provide in the General Licence Conditions. The Holders shall in accordance with the terms of the General Licence Conditions, provide:

6.2.1 the WP Performance Security issued by an Acceptable Financial Institution in favour of the Commission, before the grant of the Licence, to guarantee the Financial Commitment;

6.2.2 the Appraisal Performance Security issued by an Acceptable Financial Institution in favour of the Commission, along with its application for the approval of the Appraisal Programme, to guarantee the Appraisal Financial Commitment; and

6.2.3 the FDP Performance Security issued by an Acceptable Financial Institution in favour of the Commission, along with its application for the approval of the Field Development Plan, to guarantee the FDP Financial Commitment.

7.0 RENTS

7.1 The Holders shall pay a yearly Rent for the surface area of the Licence Area and any Lease Area deriving therefrom, in the following amounts and times or as otherwise prescribed by Regulations from time to time:

7.1.1 during the Initial Exploration Period of the Licence Term: [●];

7.1.2 during the Extension Period of the Licence Term: [●]; and

⁸ **Drafting Note:** The value of this commitment may be determined using the budgeted sum for implementing the work programme for the first 3 years as the base or using some other matrix.

7.1.3 during the Lease Term: [•]) per hectare.

7.2 Each Holder shall be liable for its Participating Interest share of Rent payable by the Holders under this Contract, provided howsoever that the Operator shall be entitled to deduct amount due as Rent from the Joint Account and remit to the Commission on the Holders' behalf.

7.3 Where any Holder fails to pay its Participating Interest share of the Rent as prescribed above and, in the Regulations, interest shall accrue on the outstanding portion of that defaulting Holder's Participating Interest share of Rent at the rate of SOFR or other successor rates, plus ten percent (10%).

8.0 ROYALTY

8.1 All production of Petroleum from any field within the Licence Area, including Petroleum produced during production tests shall be subject to Royalty in accordance with Section 306 and Schedule 7 of the Act and as further prescribed by Regulations.

8.2 *[Oil Production from any field within the Licence Area or Lease Area shall be subject to:*

8.2.1 *Royalty on volumes of Oil Production at the following rates in respect of the following monthly Chargeable Volumes:*

(a)	<i>[for the first 5,000 Bopd</i>	–	5%
(b)	<i>for the next 5,000 Bopd</i>	–	7.5%
(c)	<i>for Oil Production above 10,000 Bopd</i>	–	<i>[15%]⁹ [12.5%]¹⁰]¹¹</i>
<i>[(a)</i>	<i>for the first 50,000 Bopd</i>	–	5%
<i>(b)</i>	<i>for Oil Production above 50,000 Bopd</i>	–	7.5%] ¹²

8.2.2 *Royalty based on price at the following rates on Chargeable Volumes:*

(a)	<i>below US\$50 per barrel</i>	–	0%
(b)	<i>at US\$100 per barrel</i>	–	5%
(c)	<i>above US\$150 per barrel</i>	–	10%

⁹ 15% to be used for onshore acreages

¹⁰ 12.5% to be used for shallow water acreages

¹¹ This version of 8.2.1 to be used for onshore, shallow water or marginal field acreages.

¹² This version of 8.2.1 to be used for a deep offshore acreage.

- (d) *between US\$50 and US\$100 per barrel and between US\$100 and US\$150 per barrel, the rate shall be determined based on linear interpolation as prescribed by the Regulations.]*¹³

[8.2 *Oil Production from any field within the Licence Area or Lease Area shall be subject to Royalty on the monthly Chargeable Volumes of Oil Production at the rate of 7.5%. Price-based royalties shall not apply to Oil Production within the Licence Area or Lease Area but shall apply to Oil Production within a Lease Area that is located onshore, after the First Lease Term.]*¹⁴

8.3 Production of Gas shall be subject to royalty based on chargeable volumes of Gas produced, at the rate of five percent (5%). Notwithstanding the foregoing, the applicable rate for Chargeable Volumes of Gas produced and utilised in-country shall be two and a half percent (2.5%). For the avoidance of doubt, price-based royalties shall not apply to Gas production.

8.4 The determination of production volumes and prices for royalty purposes shall be in accordance with Paragraph 7 and Paragraph 8 of Schedule 7 to the Act and applicable Regulations.

8.5 The price benchmarks in Clause 8.2.2 shall be subject to escalation in the manner prescribed by Regulations.

8.6 Each Holder shall be liable for its Participating Interest share of Royalty payable by the Holders under this Contract.

8.7 Where the Commission elects to receive the above Royalties in kind, the Commission shall provide the Holders (or the Operator on behalf of the Holders) with prior notice and in accordance with the procedures stipulated in the Regulation and relevant guidelines.

8.8 Where the Holders fail to pay all or part of Royalties due for a period for two (2) months after the month in which the Royalty falls due, the outstanding Royalty payment shall constitute a debt owed by the Holders and attract:

8.8.1 a sum equal to ten percent (10%) of the amount of the Royalty payable which shall be added to the Royalty;

8.8.2 interest at the prevailing SOFR or any other successor rate plus ten percent (10%) point basis, where the outstanding Royalty payment is due in foreign currencies;

¹³ This version of 8.2 to be used for onshore, shallow water and deep offshore acreages.

¹⁴ This version of 8.2 to be used for frontier acreages.

- 8.8.3 interest at the prevailing NIBOR plus ten percent (10%) points basis, where the outstanding Royalty payment is due in Naira;
- 8.8.4 **ten million Naira (N10,000,000.00)** or its US Dollar equivalent on the first day the failure to pay the Royalty occurs; and
- 8.8.5 **two million (N2,000,000.00)** Naira or its US Dollar equivalent for each day in which the failure to pay continues.

9.0 PRODUCTION ALLOWANCES

- 9.1 Where the Holders achieve Regular Commercial Production during the Lease Term, the Holders shall be entitled to the following amounts of production allowance determined based on the process detailed in the Regulation:

- 9.1.1 From the commencement of Regular Commercial Production up to the production of a cumulative maximum volume of [*fifty million (50,000,000)*]¹⁵ [*one hundred million (100,000,000)*]¹⁶ [*five hundred million (500,000,000)*]¹⁷ barrels of Oil Production (the “**Adjustment Point**”), the lower of:

- (a) **US\$8.00 (eight US Dollars)** per barrel of Oil Production; and
- (b) twenty percent (20%) of the Fiscal Oil Price per barrel of Oil Production.

- 9.1.2 After the Adjustment Point, the lower of:

- (a) **US\$4.00 (four US Dollars)** per barrel of Oil Production; and
- (b) twenty percent (20%) of the Fiscal Oil Price per barrel of Oil Production.

10.0 TAXES

- 10.1 The Holders shall be responsible for paying all duties, levies and lawful impositions applicable to the Licence and Lease in accordance with applicable laws.
- 10.2 Each Holder shall be responsible for reporting and discharging its own tax measured by the profit or income of the Holder under the Licence or Lease.

¹⁵ For Onshore Acreages.

¹⁶ For Shallow Water Acreages.

¹⁷ For Deep Water and Frontier acreages.

11.0 ENVIRONMENTAL REMEDIATION FUND

- 11.1 The Holders shall pay the sum of [...] ¹⁸ as their financial contribution into the Environmental Remediation Fund.
- 11.2 The Holders shall in addition to Clause 11.1, increase their contributions into the Environmental Remediation Fund by an amount derived from the Holders' annual self-assessment of the environmental liability arising from Upstream Petroleum Operations or as otherwise determined by the Commission where an assessment is conducted by an independent assessor appointed by the Commission.
- 11.3 Each Holder shall be liable for its Participating Interest share of contributions made or to be made into the environmental remediation fund by the Holders under this Contract.

12.0 GOVERNMENT PARTICIPATION¹⁹

- 12.1 At any time from the grant of the Licence, the Government shall have a right to participate in the Licence. Where the Government exercises this right the following provisions shall apply:
- 12.1.1 The Participating Interest in the Licence shall be redistributed, such that ownership of upto sixty percent (60%) of the Participating Interest in the Licence shall upon conclusion of the process in this Clause 12.1, be vested in NNPC Limited (**Backed-in Interest**), while the remaining percentage Participating Interest in the Licence other than the Backed-in Interest, shall be allocated to the Holders in proportion of their erstwhile Participating Interests.
- 12.1.2 By virtue of the Backed-in Interest, NNPC Limited shall accede to the terms of this Contract and assume the rights and obligations of a Holder under this Contract and a Licensee or Lessee under the Licence or Lease respectively in relation to the Backed-in Interest. NNPC Limited shall also accede to any existing agreement or enter new agreements with the Holders, to provide terms to govern the conduct of Upstream Petroleum Operations within the Licence Area or Lease Area.

¹⁸ This sum needs to be stipulated as it is a condition to the Licence or Lease.

¹⁹ To be inserted in Licences where any of NNPC Limited, its subsidiaries, or an Incorporated JV with NNPC as a member, are not concessionaires. **Drafting Note:** NNPC needs to review and confirm adequacy of the back-in provisions and what other financial provisions need to be inserted.

12.1.3 Where the Government decides to exercise the right to participate in the Licence in the manner contemplated in this Clause 12.1, the Minister on behalf of the Government shall send a written notice to the Holders informing them of the said intention to participate in the Licence through NNPC Limited and indicating the percentage of Backed-in Interest NNPC Limited will hold in the Licence (**Back-in Notice**).

12.1.4 Within thirty (30) days of receipt of the Back-in Notice, the Holders shall execute a deed in favour of NNPC Limited transferring the Back-in Interest and amend or execute other agreements to formally admit NNPC Limited as a full member of the group of Holders of the Licence. Provided that the Holders shall not incur any costs to any agency of the Government as a result of the transfer of the Backed-in Interest to NNPC Limited.

12.1.5 Notwithstanding the assumption by NNPC of the obligations above,

- (a) the Backed-in Interest shall be a Carried Interest with shall vest in NNPC Limited with no requirement for NNPC Limited or the Government to pay an upfront payment or entry fee whatsoever to the other Holders for the acquisition of the Backed-in Interest.
- (b) where no Commercial Discovery is made by the Holders in the Licence Area during the Licence Term, NNPC Limited shall not be liable for any costs incurred by the Holders for any of the activities performed during the Licence Term and shall have no obligation to make any payment or reimburse the Holders for any loss or such costs whatsoever that may otherwise be attributable to the Backed-in Interest.
- (c) NNPC Limited's obligation to participate in the proportion of the Backed-in Interest, in funding Upstream Petroleum Operations as a Carried Party, will only arise after the Lease Commencement Date. For the avoidance of doubt, where a Lease is granted over any Lease Area derived from the Licence Area, none of the costs incurred by the other Holders prior to the Lease Commencement Date shall qualify as Unrecovered Proven Costs.

12.2 After the Lease Commencement Date, NNPC Limited shall bear responsibility although as a Carried Party, for a proportionate share of the expenditure equivalent to the Backed-in Interest, made in respect of implementing the Field Development Plan in the Lease Area. Provided that if the Lease is revoked at

the end of the Development Period or Regular Commercial Production is not achieved in the Lease Area, NNPC Limited shall not be liable for any costs incurred by the Holders for any of the activities undertaken to implement the Field Development and shall have no obligation to make any payment or reimburse the Holders for any loss or such costs whatsoever that may otherwise be attributable to the Backed-in Interest.

- 12.3 Upon attainment of Regular Commercial Production, the other Holders other than NNPC Limited shall be entitled to recover from NNPC Limited's entitlement to Oil Production from the Lease Area, the Backed-in Interest share of Unrecovered Proven Costs (**Carry Amount**), until the Carry Amount is fully discharged. The Carry Amount shall also be recoverable from any cash amount due to NNPC Limited as a result of its ownership of the Backed-in Interest. For the avoidance of doubt, the Parties agree that the Carry Amount shall not include any interest charge, irrespective of its delayed recovery by the Holders.
- 12.4 Notwithstanding the fact that the Backed-in Interest is a Carried Interest,
- 12.4.1 NNPC Limited shall be entitled to claim the capital allowance and other tax benefits attributable to the Back-in Interest.
- 12.4.2 NNPC Limited may elect to provide part or all of the Backed-in Interest share of funding for implementing the Field Development Plan, as they are incurred, and such funding shall constitute credits in favour of NNPC Limited (**NNPC Credits**). The NNPC Credits shall earn interest at a rate to be agreed among NNPC Limited and the other Holders at the time of the proposed funding. The NNPC Credits and the interest earned thereon shall be offset against the Carry Amount upon attainment of Regular Commercial Production.
- 12.5 Where a dispute arises after the attainment of Regular Commercial Production from the Lease Area, regarding the value of the Unrecovered Proven Costs, the Commission or the Holders may apply to the President of the Nigerian Association of Petroleum Explorationists (NAPE) who shall in consultation with the Chairman of the Society of Petroleum Engineers (SPE-Nigeria Council) appoint a suitable expert (**Expert**) to determine the value of the Unrecovered Proven Costs.
- 12.6 The Expert shall give a written decision within three (3) months from the commencement date of the Expert determination and state reasons for his decision. The decision of the Expert shall be final and binding on all parties and the cost of the Expert determination shall be borne by both parties in proportion

to their respective Participating Interests.

13.0 RENEWAL OF PETROLEUM MINING LEASES

- 13.1 The renewal of any Petroleum Mining Lease derived from the Licence shall be subject to such terms and conditions determined by the Commission and the Holders shall pay a renewal bonus in the amount specified by the Commission, which amount shall be determined in the manner prescribed by the Regulations.
- 13.2 Each Holder shall be liable for its Participating Interest share of any renewal bonus payable by the Holders under this Contract.

14.0 OPERATORSHIP

- 14.1 The Holders pursuant to an operating agreement executed or to be executed amongst themselves have conferred the Operator with the authority to act on their behalf as their agent or representative as operator of the Licence Area or Lease Area, with the responsibility to perform Petroleum Upstream Operations within the Licence Area or Lease Area, subject to the terms of the said operating agreement and in all engagements with the Commission.
- 14.2 The Operator shall conduct Upstream Petroleum Operations on behalf of the Holders and shall be responsible for:
- 14.2.1 the giving and receiving of all notices, communication and information as may be required under this Contract, the Licence, Lease, Act or Regulations;
 - 14.2.2 communication and attendance of all meetings with the Commission and any other government authority with respect to the Licence or Lease;
 - 14.2.3 making relevant assessments and payments due to the Commission from the Holders in respect of the Licence or Lease, unless as otherwise stipulated under the Act or Regulations; and
 - 14.2.4 performing all the responsibilities of the Holders as required under the Act, Regulations, this Contract and the Licence or Lease.
- 14.3 The Operator shall act as the agent for the service of court or arbitration processes for the Holders, upon whom such processes may be served in any action arising out of or based on this Contract, the Licence, Lease, Act or

Regulations and each Holder expressly accepts the jurisdiction of any such arbitral panel or court in respect of any such action.

- 14.4 The Holders jointly agree to procure from each Operator appointed by the Holders its acceptance to act as the agent for notices and service of court or arbitration processes as provided under this Contract and deliver evidence of such acceptance to the Commission.
- 14.5 Notwithstanding the appointment of, and the rights, powers and duties of the Operator under any contract or arrangement between the Holders and the Operator, the rights, duties, obligations and liabilities of the Holders under this Contract and the Licence or Lease shall be several, not joint nor joint and several.
- 14.6 Each of the Holders shall be fully bound by any and all acts, omissions and things done, made or performed or agreements made with respect to the conduct of Upstream Petroleum Operations by the Operator as though each of the Holders had severally done, omitted or performed the same.
- 14.7 In the event that an Operator retires, resigns, is removed, replaced or is otherwise unable to act as operator for the conduct of Upstream Petroleum Operations, the Holders shall promptly appoint some other Person to act as operator for the conduct of Upstream Petroleum Operations and shall promptly notify such appointment in writing to the Commission.
- 14.8 Any change in Operator shall require the prior written approval of the Commission, such approval not to be unreasonably withheld.

15.0 REPRESENTATIONS AND WARRANTIES

- 15.1 Each Holder hereby represents and warrants that on the date of execution of this Contract and on the Commencement Date:
 - 15.1.1 the Holder is duly incorporated and validly existing in accordance with Nigerian law, is a separate legal entity capable of suing and being sued and has the power, capacity and authority to own its assets and to conduct its business as currently conducted and as contemplated in this Contract;
 - 15.1.2 this Contract constitutes a valid, binding and enforceable obligation of the Holder in accordance with its terms and this Contract is in the proper legal form for enforcement against the Holder;

- 15.1.3 the Holder has not entered into any agreements or obligations which would have an adverse effect on the Holder's ability to fulfill its commitments and perform its obligations in accordance with this Contract;
- 15.1.4 it has full power and authority to perform all its obligations under this Contract;
- 15.1.5 there are no bankruptcy, insolvency, reorganization or receivership proceedings pending, being contemplated by, or to the best of its knowledge, threatened against it;
- 15.1.6 it is not party to any litigation, arbitration or other proceedings nor subject to any investigation or enquiry nor bound by any order, injunction, declaration, judgment or award of any court, arbitrator or other forum which could adversely affect the ability of the Holder to perform its covenants or obligations under this Contract.
- 15.1.7 it has access to sufficient financial resources and technical capacity to implement the work programmes and fulfil the financial obligations it has committed to under this Contract, the terms of Licence and the terms of any Lease derived therefrom;
- 15.1.8 It possesses the technical competence, capacity, skilled personnel and expertise required to exploit the Licence Area;
- 15.1.9 it has not and will not, directly or indirectly, in connection with this Contract and the business resulting therefrom, offer, pay, promise to pay, or authorize the giving of anything of value to a government official (including employees of a government oil company), to any employee of the Commission, to any officer or employee of a public international organization, to any political party or official thereof or to any candidate for political office, or to any Person, while knowing or being aware of a high probability that all or a portion of such thing of value will be offered, given or promised, directly or indirectly, to any government official, to any officer or employee of a public international organization, to any political party or official thereof, or to any candidate for political office, for the purpose of:
- (a) influencing any act or decision of such official, officer, employee, political party, party official, or candidate in his or its official

capacity, including a decision to fail to perform his or its official functions; or

- (b) inducing such official, officer, employee, political party, or candidate to use his or its influence with the government or instrumentality thereof (including a government oil company) or organization to affect or influence any act or decision of such government or instrumentality or organization to obtain or retain business related to this Agreement, to direct business related to this Agreement to any Person or to obtain any improper advantage or benefit in order to assist in obtaining or retaining business for or with, or directing business to any other Person in relation to this Agreement.

15.2 Each Holder repeats the representations and warranties in this clause 15.0 on each day of the duration of this Contract, except for those in clause 15.1.6 which is deemed repeated on the first day of each calendar quarter.

15.3 For the avoidance of doubt, any breach of the representations and warranties in this Clause (f) by any Holder, will constitute a breach, of the terms of the Licence and any Lease derived therefrom, by the relevant Holder or Holders responsible for the said breach.

16.0 FORCE MAJEURE

16.1 The occurrence of Force Majeure shall not excuse the obligations of the Holder under Clauses 7.0, 8.0, 10.0 and 9.0.

17.0 DEFAULT, TERM AND TERMINATION

17.1 Any Holder that fails to:

17.1.1 pay when due its Participating Interest share of Upstream Petroleum Operations expenses (excluding NNPC Limited); or

17.1.2 obtain and maintain any Performance Security required of such Holder under the Contract or the Licence or Lease;

shall be in default under this Contract and the Licence or Lease and the Commission may exercise any rights or remedies under this Contract, the Licence, the Lease, the Act or the Regulations against such Holder to the exclusion of other Holders.

- 17.2 This Contract shall be deemed to have been terminated if the Licence and all Leases that derive from the Licence have either expired, or have in accordance with the Act, Regulations, Licence or Lease been surrendered in full or have been lawfully revoked in accordance with the Act.
- 17.3 This Contract may be terminated only as to one or more Holders (**Leaving Holder**), without affecting the rights of the other Holder(s) (**Remaining Holders**) where the Commission exercises its rights and remedies against a Defaulting Holder pursuant to clause 17.1 or otherwise revokes the Leaving Holder's Participating Interest in the Licence. In the event of a partial termination, this Contract and the License or Lease shall continue to operate and be effective with regard to the Remaining Holders in accordance with their Participating Interest share.
- 17.4 On the termination of this Contract, the rights thereunder of the Leaving Holders shall cease but the termination shall not affect any liability incurred by or on behalf of the Leaving Holders before the termination.

18.0 GOVERNING LAW DISPUTE RESOLUTION

- 18.1 The terms of this Contract shall be subject to and governed by the Laws of the Federal Republic of Nigeria.
- 18.2 A dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect (Dispute Notice). Such notice shall contain the nature of the dispute and the relief requested.
- 18.3 Any dispute arising out of or in connection with this Contract shall be subjected to good faith negotiations between the duly nominated representatives of the Parties, towards achieving an amicable resolution.
- 18.4 In the event that the Parties are unable to reach an amicable settlement within forty-five (45) days of the Dispute Notice, either Party may then refer the dispute to be settled by a sole arbitrator pursuant to the Arbitration Rules forming part of the Arbitration and Conciliation Act then in force, by notifying the other Party of its intention to commence the arbitration process (**Arbitration Notice**). The Parties shall within thirty (30) days of the dated of the Arbitration Notice, jointly appoint the sole arbitrator. Where the Parties fail to agree on the choice of the sole arbitrator within the specified period, the President of the Chartered Institute of Arbitration (UK) Nigerian Branch shall, following a request made by either Party, appoint a sole arbitrator to determine the dispute.

- 18.5 The arbitration shall take place at the Regional Centre for International Commercial Arbitration Lagos, its successor, or at any other venue to be mutually agreed by the Parties.
- 18.6 The arbitration shall be held in English. Any decision of the arbitrators shall be final and binding upon the parties to the arbitration. The Seat of the arbitration shall be Nigeria.
- 18.7 Where any or all of the Holders are unsuccessful in any litigation or arbitration proceedings against the Commission, the Minister or the Government, instituted in relation to this Contract or the Licence or Lease, the Holders shall be liable to reimburse the legal and other associated costs incurred by the Commission, Minister or Government to participate in such proceedings.

19.0 NOTICES

- 19.1 All notices or other communication required to be given under this Contract by either party to the other, shall be in writing and delivered by hand or courier and addressed to the Chief Executive of either party at the address stated in this clause 19.1 as follows:

- 19.1.1 For the Holders at:

[ADDRESS]

[EMAIL]

- 19.1.2 For the Holders at:

[ADDRESS]

[EMAIL]

- 19.1.3 For the Holders at:

[ADDRESS]

[EMAIL]

- 19.1.4 For the Holders at:

[ADDRESS]

[EMAIL]

- 19.1.5 For the Commission at:

[ADDRESS]

[EMAIL]

- 19.1.6 A party may change its address by notifying the other party in writing from time to time.
- 19.2 Any notice or other communication that the Commission gives to the Holders or the Operator on their behalf under or in connection with this Contract, the Licence, Lease, Act or Regulations shall be deemed to have been received, at the time it is left at the address of the Holder, or the Operator on behalf of all the Holders, provided under Clause 19.1.
- 19.3 A notice or other communication given as described in clause 19.2 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.
- 19.4 Any notice or other communication given to the Commission by the Holder or the Operator on behalf of the Holders shall be deemed to have been received only on actual receipt and acknowledgement by the Commission.
- 19.5 A notice or other communication given under or in connection with the Licence or Lease is only valid if sent by email upon acknowledgement by the other party or its representative.
- 19.6 Notwithstanding the above, general notices issued by the Commission shall be deemed delivered, three (3) days after they are issued or posted by the Commission on its secured website
- 19.7 Clauses 19.1 to 19.6 (inclusive) does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 19.8 The provisions of clause 19.0 as to manner and delivery of notices or other communications shall be deemed to apply to the Operator and any notice or other communication issued under this Contract, the Licence, Lease, Act or Regulations and delivered to the Operator by the Commission or Government shall be deemed to have been delivered to all Holders.
- 19.9 The address of the Operator for the purpose of service of notices, communications and processes is as follows:

ADDRESS:

Email

or such other address notified by the Operator to the Commission.

20.0 GENERAL PROVISIONS

- 20.1 The terms of this Contract shall not be amended, modified, altered or supplemented other than by an agreement executed by both Parties or by virtue of the Regulations and the Act.
- 20.2 This Contract shall be binding on the Holders and their respective successors and permitted assigns.
- 20.3 No failure or delay on the part of either Party hereto to exercise any right or remedy under this Contract or the partial exercise thereto shall be construed or operate as a waiver thereof. The rights and remedies provided in this Contract are cumulative and are not exclusive of any rights or remedies provided under the Act, Regulations under Nigerian Law.
- 20.4 If and for so long as any provision of this Contract is found by a court or other tribunal of competent jurisdiction or is declared by applicable law to be invalid, then such invalid provision shall be deemed to be severed from this Contract to the extent of its invalidity. The remaining provisions of this Contract shall continue in full force and effect and such severance shall not (to the greatest possible extent) affect the validity or operation of any other provision of this Contract.
- 20.5 Any remedy which provides for the payment of liquidated damages by a Party represents a genuine pre-estimate of the likely or possible loss or damage which might otherwise be suffered by the Party to whom such liquidated damages are payable in consequence of the act or omission of the Party liable to pay such liquidated damages and shall not in any way be construed as a penalty.
- 20.6 This Contract 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 the Contract.

IN WITNESS WHEREOF the Parties have hereunto set their hands on the day first above written.

SIGNED and DELIVERED

For and on behalf of:

THE NIGERIAN UPSTREAM PETROLEUM REGULATORY COMMISSION

By:

.....
ENGR. GBENGA KOMOLAFE *FNSE*
COMMISSION CHIEF EXECUTIVE

Witnessed By:

.....
OLAYEMI ANYANECHI
COMMISSION SECRETARY/LEGAL ADVISER

SIGNED FOR AND ON BEHALF OF
[NAME OF THE HOLDER]
Acting by:

.....
[NAME]
DIRECTOR

.....
[NAME]
DIRECTOR/SECRETARY

SIGNED FOR AND ON BEHALF OF
[NAME OF THE HOLDER]
Acting by:

.....
[NAME]
DIRECTOR
SIGNED FOR AND ON BEHALF OF
[NAME OF THE HOLDER]
Acting by:

.....
[NAME]
DIRECTOR/SECRETARY

.....
[NAME]
DIRECTOR

.....
[NAME]
DIRECTOR/SECRETARY

SIGNED FOR AND ON BEHALF OF
[NAME OF THE HOLDER]
Acting by:

.....
[NAME]
DIRECTOR

.....
[NAME]
DIRECTOR/SECRETARY

DRAFT