

**PETROLEUM AGREEMENT**  
**BY AND AMONG**  
**GOVERNMENT OF THE REPUBLIC OF GHANA**

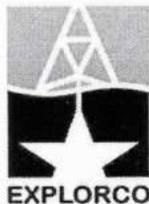


**GHANA NATIONAL PETROLEUM CORPORATION**



**AND**

**GNPC EXPLORATION AND PRODUCTION LIMITED COMPANY**



**AND**

**TRISTAR UPSTREAM OIL AND GAS LIMITED**



**IN RESPECT OF**

**Acquisition of Petroleum Exploration Rights Over the GH\_WB\_01 (Ghana Western  
Basin Block 01) of the Republic of Ghana**

.....

General

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TABLE OF CONTENT

ARTICLE		PAGE
1.	DEFINITIONS AND INTERPRETATION	2
2.	SCOPE OF THE AGREEMENT, INTERESTS OF THE PARTIES AND CONTRACT AREA	10
3.	EXPLORATION PERIOD	12
4.	MINIMUM EXPLORATION PROGRAMME	13
5.	RELINQUISHMENT	16
6.	JOINT MANAGEMENT COMMITTEE	17
7.	WORK PROGRAMME AND BUDGET	22
8	RIGHTS AND OBLIGATIONS OF CONTRACTOR AND THE CORPORATION	23
9	COMMERCIALITY	27
10	COORDINATION OF PETROLEUM ACTIVITIES AND UNITISATION	
11	SOLE RISK ACCOUNT	29
12	SHARING OF CRUDE OIL	31
13	MEASUREMENT AND PRICING OF CRUDE OIL	33
14	DOMESTIC SUPPLY REQUIREMENTS (CRUDE OIL)	34
15	OTHER FISCAL ELEMENTS AND DECOMMISSIONING	35
16	FOREIGN EXCHANGE TRANSACTIONS	38
17	SPECIAL PROVISIONS FOR NATURAL GAS	40
18	INFORMATION AND REPORTS: CONFIDENTIALITY	44
19	INSPECTION, SAFETY AND ENVIRONMENTAL PROTECTION	47
20	ACCOUNTING AND AUDITING	49
21	TITLE TO AND CONTROL OF GOODS AND EQUIPMENT	51
22	PURCHASING AND PROCUREMENT	52
23	EMPLOYMENT, CAPACITY BUILDING AND TECHNOLOGY SUPPORT	53
24	FORCE MAJEURE	54
25	TERM AND TERMINATION	56
26	CONSULTATION, ARBITRATION AND INDEPENDENT EXPERT	59
27	ASSIGNMENT	61
28	STABILISATION	63
29	MISCELLANEOUS	64
30	NOTICE	68

57

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ANNEX 1	-	CONTRACT AREA
ANNEX 2	-	ACCOUNTING GUIDE
ANNEX 3	-	CONFIDENTIALITY AGREEMENT
ANNEX 4	-	SAMPLE AOE CALCULATION
ANNEX 5	-	FORM OF BANK GUARANTEE
ANNEX 6	-	FORM OF PERFORMANCE BOND
ANNEX 7	-	FORM OF PARENT COMPANY GUARANTEE

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**THIS PETROLEUM AGREEMENT** made this .... Day of .....20..., by and among,

1. The Government of the Republic of Ghana (hereinafter referred to as the “**State**”), represented by the Minister for Energy (hereinafter referred to as the “**Minister**”);
2. The Ghana National Petroleum Corporation, a public corporation established by the Ghana National Petroleum Corporation Act, 1983 (P. N. D. C. L. 64) (hereinafter referred to as the “**Corporation**”) acting by its duly authorised representative;
3. **GNPC Exploration and Production Limited Company**, a limited liability company incorporated under the laws of the Republic of Ghana and having its registered office at GTC, 16 Mankata Avenue, Airport, Accra (hereinafter referred to as “**Explorco**”); acting by its duly authorised representative; and
4. **Tristar Upstream Oil & Gas Ltd**, a limited liability company incorporated under the laws of Ghana and having its registered office at No. 1, Tanbu Lane, Shiashe, East Legon, Accra, Ghana (hereinafter referred to as “**Tristar**”) acting by its duly authorised representative.

The State, the Corporation, Explorco and Tristar and their respective successors and assignees (if any), may individually be referred to as “**Party**” and collectively as “**Parties**”.

#### **PREAMBLE**

##### **WITNESSES THAT:**

- A. All Petroleum existing in its natural state within Ghana is the property of the Republic of Ghana and is vested in the President on behalf of and in trust for the people of Ghana.
- B. The Contract Area that is the subject matter of this Petroleum Agreement has been declared open for Petroleum Operations by the Minister and the State desires to encourage and promote Exploration, Development and Production within the Contract Area. The State assures Contractor that all the Contract Area is within the jurisdiction of Ghana.
- C. The Corporation is authorized by virtue of the Petroleum Act to enter into a petroleum agreement with a contractor for the purpose of Exploration, Development and Production of Petroleum over all blocks declared by the Minister to be open for Petroleum Activities.
- D. Contractor, having the requisite technical competence, financial capacity, and professional skills to carry out the Petroleum Operations herein described and other requirements under applicable law, desires to associate with the Corporation in the Exploration for, and Development and Production of, the Petroleum resources of the Contract Area in accordance with the Petroleum Act and applicable law.
- E. Explorco and Tristar have agreed that in accordance with Regulation 4(2) of the Local Content Regulations, an Indigenous Ghanaian Company will acquire five percent (5%) of the participating interest in this Agreement, and details on the commercial agreements thereof are yet to be finalised.

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

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## ARTICLE 1

### DEFINITIONS AND INTERPRETATION

Definitions stipulated in the Petroleum Act or other relevant legislation shall apply to terms used in this Agreement unless otherwise defined below:

- 1.1 **"Accounting Guide"** means the accounting guide which is attached hereto as Annex 2 and made a part hereof;
- 1.2 **"Additional Participating Interest"** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations and as is specifically provided in Article 2.4 of this Agreement;
- 1.3 **"Affiliate"** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.4 **"Agreement"** means this agreement between the State, the Corporation, and Contractor, and includes the Annexes attached hereto, as may be amended by mutual written agreement from time to time;
- 1.5 **"Additional Oil Entitlements (AOE)"** has the meaning given to such term in Section 89 of the Petroleum Act and Regulation 75 of the Petroleum (Exploration and Production) (General) Regulations and as specifically provided in Article 12.2 of this Agreement;
- 1.6 **"Appraisal"** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.7 **"Appraisal Programme"** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.8 **"Appraisal Report"** means a report containing the results of the Appraisal Programme as submitted to the Minister and the Commission;
- 1.9 **"Appraisal Well"** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.10 **"Arm's Length Transactions"** shall have the meaning given to such term in Regulation 77 sub regulation (12) paragraph (b) of the Petroleum (Exploration and Production) (General) Regulations;
- 1.11 **"Associated Gas"** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.12 **"Barrel"** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.13 **"Block"** has the meaning referred to in Section 95 of the Petroleum Act;
- 1.14 **"Budget"** means a statement prepared in accordance with the Accounting Guide indicating expenditures to be made in accordance with an accompanying Work Programme;

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- 1.15 “**Business Day**” means a day on which the banks in Accra, Ghana are customarily open for business (excluding Saturdays, Sundays and statutory holidays);
- 1.16 “**Calendar Year**” means a period of twelve (12) Months of the Gregorian calendar, commencing on January 1 and ending on the succeeding December 31;
- 1.17 “**Commercial Discovery**” shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.18 “**Commission**” means the body established by the Petroleum Commission Act, 2011 (Act 821) for the regulation and the management of the utilization of petroleum resources in the upstream sector;
- 1.19 “**Contract Area**” shall have the meaning given to such term in the Petroleum Act and in this Agreement, means the area of approximately 1,110 square kilometres as described in Annex 1 attached hereto and made a part of this Agreement, but excluding any portions of such area in respect of which Contractor’s rights hereunder are from time to time relinquished or surrendered pursuant to this Agreement;
- 1.20 “**Contractor**” or “**Contractor Parties**” means, collectively **Explorco, Tristar** and the **Indigenous Ghanaian Company**, and their respective permitted successors and assignees, and each of **Explorco, Tristar** and the **Indigenous Ghanaian Company** individually a “**Contractor Party**” as the context may require;
- 1.21 “**Contract Year**” means a period of twelve (12) Months, commencing on the Effective Date or any anniversary thereof;
- 1.22 “**Control**” means the direct or indirect ownership in an aggregate of fifty percent (50%) or more of voting capital or voting rights of the entitlement (directly or indirectly) to appoint a majority of the directors or equivalent management body of, or to direct the policies or operations of the other entity;
- 1.23 “**Coordinate Reference System (CRS)**” shall have the meaning given to such term in Regulation 41 of the Petroleum (Exploration and Production) (Data Management) Regulations;
- 1.24 “**Corporation**” has the meaning given to such term in the Preamble of this Agreement;
- 1.25 “**Crude Oil**” shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.26 “**Crude Oil Lifting Agreement**” means an agreement for lifting of Crude Oil to be agreed with the Corporation and Contractor;
- 1.27 “**Data**” has the meaning given to such term in Article 18.4;
- 1.28 “**Date of Commencement of Commercial Production**” means, in respect of each Development and Production Area, the date on which production of Petroleum under a programme of regular production, lifting and sale commences, as defined in a Plan of Development and Operation;
- 1.29 “**Date of Commercial Discovery**” means the date referred to in Article 9.11 of this Agreement;

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- 1.30 **“Datum”** refers to the global reference ellipsoid used to represent the earth’s surface when determining the position of locations on the earth by means of geodetic coordinates;
- 1.31 **“Decommissioning Security”** means the security referred to in Article 15 of this Agreement;
- 1.32 **“Deep Water”** means an area offshore Ghana with a water depth of between 500 metres and 1,500 metres;
- 1.33 **“Default Rate”** shall have the meaning ascribed to it in Article 29.11.2 of this Agreement;
- 1.34 **“Delivery Point”** shall have the meaning provided for the term in a Plan of Development and Operation under this Agreement;
- 1.35 **“Development”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.36 **“Development Operations”** shall have the same meaning as Development herein;
- 1.37 **“Development Costs”** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations, and shall include costs incurred in respect of lease, purchase and rental of assets;
- 1.38 **“Development and Production Area”** means that portion of the Contract Area under an approved plan of development and operation proposed by Contractor and approved by the Commission (or proposed by the Corporation if a Sole Risk Operation pursuant to Article 11) on the basis of the available seismic and well Data to cover the areal extent of an accumulation or accumulations of Petroleum constituting a Commercial Discovery as well as extending beyond the perimeter of the accumulation with additional areas as approved by the Commission;
- 1.39 **“Development Period”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.40 **“Development Well”** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.41 **“Discovery”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.42 **“Discovery Area”** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.43 **“Discovery Notice”** means a written notification of discovery to the Minister, the Commission and the Corporation pursuant to Article 9.1 of this Agreement providing information which shall include the date of Discovery, the name and location of the well from which the accumulation(s) have been found, the depth interval(s), estimates of gross and net pay thickness, stratigraphy, and type of reservoir and fluids encountered;
- 1.44 **“Effective Date”** shall have the meaning provided for in Article 29.2 of this Agreement;

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- 1.45 “**Exploration**” shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.46 “**Exploration Operations**” shall have the same meaning as “Exploration” herein;
- 1.47 “**Exploration Costs**” shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.48 “**Exploration Period**” shall have the meaning given to such term in Section 95 of the Petroleum Act, and as specified in Article 3.1 of this Agreement;
- 1.49 “**Exploration Phase**” means any one of the Initial Exploration Period, the First Extension Period or the Second Extension Period;
- 1.50 “**Exploration Well**” shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.51 “**Extension Period**” shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.52 “**First Extension Period**” shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations, and as specified in Article 3.1(a) of this Agreement;
- 1.53 “**Force Majeure**” shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.54 “**Foreign National Employee**” means an expatriate employee of Contractor, its Affiliates, or its Subcontractors who is not a citizen of Ghana; or in the alternative a Ghanaian citizen who is engaged by the Contractor, its affiliate or sub-contractor as an expatriate;
- 1.55 “**Gross Negligence/Wilful Misconduct**” means any act, failure to act, or failure to exercise such minimum degree of care and prudence (whether sole, joint, or concurrent) by a Party which was in reckless disregard of or wanton indifference to the harmful consequences that the person knew, or should reasonably have known, could have on the safety or property of another person or entity;
- 1.56 “**Gross Production**” shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.57 “**ICC**” has the meaning given to such term in Article 26.2 of this Agreement;
- 1.58 “**ICC Rules**” has the meaning given to such term in Article 26.2 of this Agreement;
- 1.59 “**Income Tax Act**” means the Income Tax Act, 2015 (Act 896) as the same may be amended from time to time;
- 1.60 “**Independent Trustee**” means the Bank of Ghana as established by the Bank of Ghana Act, 2002 (Act 612);
- 1.61 “**Indigenous Ghanaian Company**” has the meaning given to such term in Section 95 of the Petroleum Act;

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- 1.62 **"Indirect Assignment"** shall mean but not limited to, any sale, purchase, assignment, transfer or sale of stocks, capital or assets or other conveyance or any other action that would change the control of Contractor on its share in the company's capital;
- 1.63 **"Initial Exploration Period"** shall have the meaning given to such term as specified in Article 3.1(a) of this Agreement;
- 1.64 **"Initial Participating Carried Interest"** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations and also as is specifically provided in Article 2.3 of this Agreement;
- 1.65 **"International Oil Field Practice"** means those practices that are generally accepted in the international petroleum industry as good, safe, and efficient in exploring for, developing, producing, processing, and transporting Petroleum;
- 1.66 **"Joint Management Committee"** or **"JMC"** means the committee established pursuant to Article 6.1 of this Agreement;
- 1.67 **"Joint Operating Agreement"** or **"JOA"** means an agreement among all of the Contractor Parties (and the Corporation when the Corporation acquires commercial interest) with respect to the Contract Area and their respective rights and/or obligations under this Agreement, as such agreement may be amended or supplemented from time to time and made a part of this Agreement;
- 1.68 **"Local Content Regulations"** means the Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I. 2204) as same may be amended from time to time;
- 1.69 **"Market Price"** shall have the meaning given to such term in Regulation 77 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.70 **"Minister"** shall have the meaning given to such term in the Petroleum Act;
- 1.71 **"Minimum Expenditure"** means Contractor's minimum financial requirement as set forth in (a) Article 4.3(b) of this Agreement with respect to the Initial Exploration Period; (b) Article 4.3(e) of this Agreement with respect to the First Extension Period; or (c) Article 4.3(g) of this Agreement with respect to the Second Extension Period;
- 1.72 **"Minimum Work Obligation"** means Contractor's obligations set forth in: (a) Article 4.3(a) of this Agreement with respect to the Initial Exploration Period; (b) Article 4.3(b) of this Agreement with respect to the First Extension Period; or (c) Article 4.3(c) of this Agreement with respect to the Second Extension Period;
- 1.73 **"Month"** means a month of the Calendar Year;
- 1.74 **"Natural Gas"** shall have the meaning given to such term in Section 95 of the Petroleum Act, and shall include all hydrocarbons which are gaseous at fourteen and sixty-five one-hundredths pounds per square inch at atmospheric pressure (14.65 psia) and sixty (60) degrees Fahrenheit, and includes wet gas, dry gas, and residue gas remaining after the extraction of liquid hydrocarbons from wet gas;
- 1.75 **"Net Cash Flow"** or **"NCF"** means Contractor's net cash flow for the Month for which the calculation is being made, and shall be computed in accordance with Regulation 75 of the Petroleum (Exploration and Production) (General) Regulations;

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- 1.76 **“Non-Associated Gas”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.77 **“Operator”** shall have the meaning given to such term in Section 95 of the Petroleum Act and in this Agreement, shall be Tristar or such other Party as may be jointly proposed by Contractor and the Corporation and approved by the Minister to conduct Petroleum Operations hereunder on behalf of the Parties;
- 1.78 **“Participating Interest”** means the interest held by each Contractor Party (expressed as a percentage to four (4) decimal places) in accordance with the provisions of Article 2.10 of this Agreement;
- 1.79 **“Party”** or **“Parties”** shall have the meaning given to such terms in the Preamble of this Agreement;
- 1.80 **“Paying Interest”** means an interest held by the Corporation in respect of which the Corporation pays for the conduct of Petroleum Operations as expressly provided for in Articles 2.4 and 2.5 of this Agreement;
- 1.81 **“Petroleum”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.82 **“Petroleum Costs”** means all expenditure made and costs incurred in conducting Petroleum Operations hereunder determined in accordance with the Accounting Guide;
- 1.83 **“Petroleum Act”** means the Petroleum (Exploration and Production) Act, 2016 (Act 919) as same may be amended from time to time;
- 1.84 **“Petroleum Operations/Activity”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.85 **“Petroleum (Exploration and Production) (General) Regulations”** means the Petroleum (Exploration and Production) (General) Regulations, 2018 (L.I 2359) as same may be amended from time to time;
- 1.86 **“Plan of Development and Operation”** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.87 **“Pre-Award Attachment”** means any order, decree, injunction, or other decision (however designated) of any court, arbitral body, or other competent authority requested by a Party and issued prior to a final arbitral award issued pursuant to Article 26 of this Agreement that attaches, seizes, freezes, or otherwise restricts the use or alienation of any property (whether tangible or intangible) of the other Party pending issuance of the final arbitral award, whether such property is in the possession or control of a Party or of a third party;
- 1.88 **“Production”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.89 **“Production Costs”** shall have the meaning given to such term in Section 95 of the Petroleum Act;

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1.90 **“Production Operations”** shall mean activities, other than Exploration Operations or Development Operations, undertaken in order to extract, save, treat, measure, handle, store, load or transport (to the Delivery Point) Petroleum to storage and/or loading points, and to carry out any type of primary, secondary or tertiary recovery operations, including recycling, recompression, injection for maintenance of pressure, and water flooding, and all related activities such as planning and administrative work, and shall also include maintenance and repair of facilities not covered under Development Operations, abandonment or decommissioning including replacement of facilities of minor nature, and well workovers conducted after the Date of Commencement of Commercial Production of the respective Development and Production Area;

1.91 **“Protected Assets”** means:

- (a) any assets, properties or other things of particular cultural or historical significance to the people of Ghana (or any region or group of people within Ghana);
- (b) or part of Ghana's archives and not placed or intended to be placed on sale;
- (c) property used for diplomatic or consular missions by, or of, Ghana, wherever located; property of a military character and under the control of a military authority or defence agency of the State wherever located;
- (d) assets of the Ghana Petroleum Funds, as defined in the Petroleum Revenue Management Act, 2011 (Act 815) as amended by Petroleum Revenue Management (Amendment) Act, 2015 (Act 893). For the avoidance of doubt GNPC's commercial assets in relation to the block are not protected assets;
- (e) property located in the Republic of Ghana and dedicated to a public or governmental use (as distinct from property dedicated to a commercial use), to the extent such property and assets are protected under the laws of the Republic of Ghana; and
- (f) property credit balances on the following accounts of the Bank of Ghana or other, as maintained by the Bank of Ghana in its capacity as the monetary authority of Ghana, including without limitation, the General Reserve Account, the Revaluation Account and the Currency Cover Assets of the Bank of Ghana as provided under Sections 6, 7, 39 and 40 respectively of the Bank of Ghana Act, 2002 (Act 612) as amended; and
- (g) non-commercial cargo belonging to the Republic of Ghana.

1.92 **“Quarter”** means a period of three (3) consecutive Months, commencing January 1, April 1, July 1, or October 1, and ending March 31, June 30, September 30, or December 31, respectively;

1.93 **“Rate of Return”** or **“ROR”** has the meaning given to such term in Article 12.3 of this Agreement;

1.94 **“Royalty”** shall have the meaning given to such term in Section 95 of the Petroleum Act, and as specified in Article 12.1(a) of this Agreement;

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- 1.95 **“Second Extension Period”** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations, and as specified in Article 3.1(a);
- 1.96 **“Security”** means: the parent company guarantee to cover all Contractor obligations for the term of the Agreement and as shown in Annex 7;
- 1.97 **“Selling Party”** has the meaning given to such term in Article 27.4;
- 1.98 **“Senior Supervisory Personnel”** means, with respect to a Party:
- (a) any individual who functions as a senior resident manager who directs all operations and activities of such Party in the country or region in which he is resident;
  - (b) any manager who directly reports to such senior resident manager above in such country or region responsible for Exploration, Development or Production;
  - (c) any individual who functions for such Party or one of its Affiliates at a management level equivalent to or superior to the above specified senior resident manager or direct report positions and is responsible for Exploration, Development or Production; or
  - (d) any designated officer or director of such Party or one of its Affiliates;
- 1.99 **“Shallow Water”** means an area offshore Ghana with a water depth of up to 500 metres;
- 1.100 **“SOFR” means**
- (a) the one (1) Month London Inter Bank Offer Rate for Dollars as published on Bloomberg page “US0001M Index” and Refinitiv page “USD1MFSR=Q” (or on any replacement Bloomberg or Refinitiv page which displays that rate) on the first day of the relevant period in respect of which the interest is to be calculated;
  - (b) where the rate specified under (a) above, (i) is subject to methodological or other changes which could affect its value, (ii) ceases to comply with applicable laws and regulations, (iii) ceases to be a representative benchmark, and/or (iv) is permanently discontinued, the Secured Overnight Financing Rate (SOFR) for Dollars which is a compounded average over a 30 rolling calendar day period as published on the website of the New York Federal Reserve Bank on the last day of the relevant period in respect of which the interest is to be calculated;
  - (c) where the rates specified under (a) and (b) above (i) are subject to methodological or other changes which could affect their value, (ii) cease to comply with applicable laws and regulations, (iii) cease to be representative benchmarks and/or (iv) are permanently discontinued, the average effective federal funds rate published by the Federal Reserve Bank of New York for the past one (1) Month; and

provided that: (i) if the above applicable rate would otherwise be negative it shall be deemed to be zero per cent (0%); (ii) if the day on which the rate shall be determined is not a Business Day then the rate to be used is that for the most recent Business Day preceding the first day of the relevant period;

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- 1.101 **“Sole Expert”** means the person appointed to resolve a dispute pursuant to Article 26.11;
- 1.102 **“Sole Risk”** shall have the meaning given to such term in Regulation 80 of the Petroleum (Exploration and Production) (General) Regulations;
- 1.103 **“Specified Rate”** means SOFR plus a margin determined through the process indicated in Article 2.9;
- 1.104 **“State”** has the meaning given to such term in the Preamble of this Agreement;
- 1.105 **“Subcontractor”** shall have the meaning given to such term in Section 95 of the Petroleum Act;
- 1.106 **“Termination”** means termination of this Agreement pursuant to Article 25;
- 1.107 **“Ultra-Deep Water”** means an area offshore Ghana with a water depth exceeding 1,500 metres;
- 1.108 **“Work Programme”** shall have the meaning given to such term in Regulation 80 the Petroleum (Exploration and Production) (General) Regulations; and
- 1.109 **“Year”** means a continuous twelve (12) Month period.
- 1.110 Unless the context requires otherwise:

In construing this Agreement:

- (a) no consideration shall be given to the captions of the Articles or Sections which are inserted for convenience in locating the provisions of this Agreement and not as an aid in its construction;
- (b) the headings of this Agreement are for convenience of reference only and shall not be taken into account in interpreting the terms of this Agreement. A reference to the singular in this Agreement includes a reference to the plural and vice versa.
- (c) the word “includes” and its derivatives means “includes”, but is not limited to” and corresponding derivative expressions;
- (d) a defined term has its defined meaning throughout this Agreement and each annex to this Agreement, regardless of whether it appears before or after the place where it is defined;
- (e) words in the plural shall be deemed to include the singular, and vice versa;
- (f) words denoting persons include natural persons, corporations, companies, limited liability company, competent authority or entity or association;
- (g) references to “not unreasonably withheld” (and variants thereof) shall mean “not unreasonably withheld or delayed”;
- (h) each gender shall be deemed to include the other gender;

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- (i) each annex to this Agreement is a part of this Agreement, but if there is any conflict or inconsistency between the main body of this Agreement and any annex, the provisions of the main body of this Agreement shall prevail;
- (j) if any term is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included;
- (k) each reference to an Article refers to an Article of this Agreement, unless expressly otherwise provided; and
- (l) no reference herein to any law, rule, decree, or regulation, including those that contemplate that such law, rule, decree or regulation may be amended from time to time shall be construed so as to derogate from the rights of Contractor pursuant to Articles 25.2 and 25.3.

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## ARTICLE 2

### SCOPE OF THE AGREEMENT, INTERESTS OF THE PARTIES AND CONTRACT AREA

- 2.1 This Agreement provides for the Exploration, Development and Production of, Petroleum in the Contract Area by the Corporation in association with Contractor.
- 2.2 Subject to the provisions of this Agreement, Contractor shall be responsible for the execution of such Petroleum Operations as are required by the provisions of this Agreement and is hereby appointed the exclusive entity to conduct Petroleum Operations in the Contract Area. The Corporation shall at all times participate in the management of Petroleum Operations and in order to promote cooperation in the implementation of Petroleum Operations, the Corporation shall be made a party to the Joint Operating Agreement, in the event that the Corporation acquires a commercial interest in the Contract Area.
- 2.3 The Corporation shall have a fifteen percent (15%) Initial Participating Carried Interest (Initial Interest) in all Petroleum Operations under this Agreement with respect to all Exploration and Development Operations. With respect to all Production Operations, the Initial Participating Carried Interest shall be a Paying Interest in respect of costs incurred other than abandonment and decommissioning costs. For the avoidance of doubt, the Corporation shall not be liable to pay for all costs incurred in connection with abandonment and decommissioning undertaken under this Agreement.
- 2.4 In addition to the Initial Interest provided for in Article 2.3, the Corporation shall have the option, in respect of each Development and Production Area, to acquire an Additional Participating Interest of up to five percent (5%) in the Petroleum Operations in such Development and Production Area, by contributing the corresponding proportionate share to all Petroleum Costs incurred after the Date of Commercial Discovery, in respect of such Development and Production Area. With respect to all Development Operations and Production Operations, the Additional Participating Interest shall be a Paying Interest in respect of costs incurred other than abandonment and decommissioning cost. The Corporation shall notify the Contractor of its intention to acquire the Additional Participating Interest within ninety (90) days of the Date of Commercial Discovery.
- 2.5 If the Corporation elects to take an Additional Participating Interest as provided for in Article 2.4 but does not notify the Contractor to advance funding for its share of the development cost, then within twelve (12) Months of the date of its election, the Corporation shall reimburse the Contractor for all expenditure attributable to the Corporation's Additional Participating Interest incurred from the Date of Commercial Discovery to the date the Corporation notifies Contractor of its election.
- 2.6 In the event that no Commercial Discovery is declared in the Contract Area or that Gross Production achieved from the Contract Area is insufficient to fully reimburse Contractor in accordance with the terms of this Agreement, then Contractor shall bear its own loss. The Corporation and the State shall have no obligations whatsoever to Contractor in respect of such loss.
- 2.7 For the avoidance of doubt, the Corporation shall only be liable to contribute to Petroleum Costs:

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- (a) incurred in respect of Development Operations in any Development and Production Area to the extent only of any Additional Participating Interest acquired in such Development and Production Area under Article 2.4 and the expenditure described in Article 2.5; and
  - (b) incurred in respect of Production Operations (excluding costs for abandonment and decommissioning) in any Development and Production Area to the extent of:
    - (i) its Initial Participating Carried Interest; and
    - (ii) any Additional Participating Interest acquired under Article 2.4.
- 2.8 Corporation may during the Exploration Period contribute to Petroleum Operations by providing such relevant services as may be specified by the JMC from time to time. Prior to the provision of such services, and subject to JMC approval, Contractor must specify in writing whether Corporation is either to (i) be paid in cash for such services by Contractor upon receipt of invoice from Corporation, or (ii) earn credit for the costs of providing such services against Corporation's share, if any, of future Development and/or Production Costs. The amount of costs to be invoiced or credit earned by Corporation pursuant to this paragraph must be approved by the JMC prior to provision of the relevant services, and shall be at fair market rates at which such services could be obtained under freely competitive conditions at the time of such approval. If costs are to be invoiced, Contractor shall pay Corporation the invoiced amount within thirty (30) days of receipt of the invoice.
- 2.9 Upon notifying Contractor of its decision to acquire an Additional Participating Interest pursuant to Article 2.4, the Corporation may specify in the notification that notwithstanding the provisions in Article 2.5, the Corporation elects to have Contractor advance, in whole or in part, the Corporation's proportionate share of Development Costs incurred in respect of the Additional Participating Interest from the date of Commercial Discovery, and such advances shall be repaid with interest at the Specified Rate, which shall be the cost of borrowing determined through (a) Competitive lending involving a short-list of global lenders with acceptable credit rating from reputable Rating Agencies or (b) arms-length bidding process to be managed by a sub-committee appointed by the Joint Management Committee and (c) a Request for Proposal (RfP) setting out the terms mutually acceptable to all parties, including a cap for interest margin.
- 2.10 Contractor's Participating Interest in all Petroleum Operations and in all rights under this Agreement shall be eighty five percent (85)% of the total interest under this Agreement, reduced proportionately on each Contractor Party pro rata to its Participating Interest, at any given time and in any given part of the Contract Area by the exercise of the option of Additional Participating Interest of the Corporation pursuant to Article 2.5 or the exercise of the Sole Risk interest of the Corporation pursuant to Article 11.1. For the avoidance of doubt, the Contractor's Participating Interest as at the Effective Date shall be divided as follows:

<b>Company</b>	<b>Exploration</b>	<b>Development</b>	<b>Production</b>
<b>Tristar</b>	<b>76.5%</b>	<b>65%</b>	<b>65%</b>
<b>Explorco</b>	<b>17.6%</b>	<b>15%</b>	<b>15%</b>
<b>Indigenous Ghanaian Company</b>	<b>5.9%</b>	<b>5%</b>	<b>5%</b>

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**ARTICLE 3**  
**EXPLORATION PERIOD**

- 3.1 The Exploration Period shall be seven (7) Years beginning on the Effective Date (and in any event, shall not extend beyond seven (7) Years) except as provided for in accordance with Section 21(5) of the Petroleum Act.
- 3.2 The Exploration Period shall be divided into an Initial Exploration Period of three (3) Years (“**Initial Exploration Period**”); a first extension period of two (2) Years (“**First Extension Period**”), and second extension period of two (2) Years “**Second Extension Period**” and, where applicable, the further periods for which provision is made hereafter.
- 3.3 Where Contractor has fulfilled its obligations set out in Article 4.3 before the end of the Initial Exploration Period or, as the case may be, the First Extension Period, the Contractor may enter the subsequent period in accordance with Section 21(3) of the Petroleum Act.
- 3.4 Where Contractor has not fulfilled its obligations set out in Article 4 and the Contractor has applied for an extension before the end of the Initial Exploration Period or, as the case may be the First Extension Period or the Second Extension Period, the Commission may extend such period in accordance with Section 21(4) of the Petroleum Act.
- 3.5 Any application for an extension of the Exploration Period beyond Seven (7) Years, shall be subject to Sections 21(5) and (6) of the Petroleum Act.
- 3.6 Any application for the conduct of Exploration Operations outside the Exploration Period and within a Development and Production Area shall be made pursuant to Regulations 5 of the Petroleum (Exploration and Production) (General)(Amendment) Regulations, 2019 (L.I. 2390).

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2.11 As of the Effective Date, the Contract Area, as depicted in Annex 1, shall from time to time during the term of this Agreement be reduced according to the terms of this Agreement, and in accordance with Article 15.2, Contractor shall pay to the State the applicable acreage fees in respect of the Contract Area.

2.12 The Contract Area as stated in Article 2.1 above is classified by the Republic of Ghana as being in category of shallow to deep water.

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## ARTICLE 4

### MINIMUM EXPLORATION PROGRAMME

- 4.1 Exploration Operations shall begin as soon as practicable and in accordance with Regulation 40(1) of the Petroleum (Exploration and Production) (General) Regulations.
- 4.2 Subject to Regulations 40(2) and (3) of the Petroleum (Exploration and Production) (General) Regulations, Contractor shall have access to Data, records and information relating to the Contract Area.
- 4.3 Subject to the provisions of this Article 4, in discharge of its obligations to carry out Exploration Operations in the Contract Area, Contractor shall, during the phases into which the Exploration Period is divided, carry out the obligations specified hereinafter:

- (a) Initial Exploration Period: Commencing on the Effective Date and terminating Three (3) Years after the Effective Date. It shall be divided into Two (2) Sub-Periods.

**First Sub-Period:** Commencing on the Effective Date and terminating Two (2) Years after the Effective Date:

- (i) Contractor's Minimum Work Obligation shall be to:
- Acquire, process and interpret 3D seismic data covering 1,200 square kilometres of the Contract Area, and
  - Conduct Geological and Geophysical studies.
- (ii) Contractor's Minimum Expenditure for the work in the First Sub-Period shall be
- Ten Million United States Dollars (US\$10Million).

**Second Sub-Period:** Commencing at the expiry of the First Sub-Period and terminating One (1) Year after the Effective Date:

- (i) Contractor's Minimum Work Obligation shall be to:
- Drill One (1) exploratory well, and
  - Conduct Geological and Geophysical studies.
- (ii) Contractor's Minimum Expenditure for the work in the Second Sub-Period shall be
- Ten Million United States Dollars (US\$10Million).

- (b) First Extension Period: Commencing at the end of the Initial Exploration Period and terminating two (2) Years after the expiration of the Initial Exploration Period.

- (i) Contractor's Minimum Work Obligation shall be to:
- Conduct Geological and Geophysical studies, and

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- Drill One (1) Exploration Well.
- (ii) Contractor's Minimum Expenditure for the work in the First Extension Period shall be
- Fifteen Million United States Dollars (US\$15Million).
- (c) Second Extension Period: Commencing at the end of the First Extension Period and terminating two (2) Year after the expiration of the First Extension Period.
- (i) Contractor's Minimum Work Obligation shall be to:
- Conduct Geological and Geophysical studies, and
  - Drill One (1) Exploration Well.
- (ii) Contractor's Minimum Expenditure for the work in the Second Extension Period shall be:
- Fifteen Million United States Dollars (US\$15Million).
- 4.4 Work accomplished in any period in excess of the above obligations may be applied as credit in satisfaction of obligations called for in any other period. The fulfilment of any Minimum Work Obligation shall relieve Contractor of the corresponding minimum expenditure obligation.
- 4.5 In accordance with Section 23(2) of the Petroleum Act, should Contractor fail to perform any of its Minimum Work Obligations within the relevant period, Contractor shall pay to GNPC the amount agreed at JMC as required to complete the unfulfilled portion of the Work Programme for the relevant working period.
- 4.6 Contractor shall provide to the Minister, within ninety (90) days after the Effective Date, the Security and also provide Three (3) Years audited financial statements of Contractor.
- 4.7 The Security shall be: (a) reduced proportionately by the work performed; and (b) released upon completion of the Minimum Work Obligation for each period.
- 4.8 No Appraisal Wells drilled or seismic surveys carried out by Contractor as part of an Appraisal Programme undertaken pursuant to Article 9 and no expenditure incurred by Contractor in carrying out such Appraisal Programme shall be treated as discharging the Minimum Work Obligations under Article 4.3 above. For the avoidance of doubt the submission and undertaking of Appraisal Programme shall be independent of the Minimum Work Obligations under each period.
- 4.9 Contractor shall ensure that the seismic programme in any of the phases listed in Article 4.3 shall be undertaken in accordance with the requirements of Regulation 40(4) of the Petroleum (Exploration and Production) (General) Regulations:
- 4.10 Each Exploration Well shall be drilled at a location and to an objective depth determined by Contractor and the Corporation in consultation with the Commission and in accordance with a drilling permit pursuant to Regulation 40(5). Except as otherwise provided in such drilling permit or under Regulations 40(6), (7) and (8), the minimum depth of each

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Exploration Well listed in Article 4.3 shall be whichever of the following that is first encountered:

- (a) the depth of four thousand five hundred metres (4500m) True Vertical Depth (TVD) measured below sea floor;
- (b) one hundred metres (100m) below the depth at which the primary target is first encountered; or
- (c) the depth at which Contractor encounters geological basement; or conditions are encountered which render further commercial hydrocarbon potential highly unlikely, unless the Commission consents otherwise, which consent shall not be unreasonably withheld or delayed upon a written application by the Contractor.

4.11 The minimum depth of one (1) of the obligatory Exploration Wells in Article 4.3 shall be whichever of the following that is first encountered:

- (a) the depth of four thousand five hundred metres (4,500m) TVD measured from below sea floor;
- (b) the depth sufficient to penetrate three hundred and fifty metres (350m) below the primary target; or
- (c) the depth at which Contractor encounters geological basement; unless the Commission consents otherwise, which consent shall not be unreasonably withheld or delayed upon a written application by the Contractor.

4.12 If, in the course of drilling an obligatory Exploration Well, the JMC and the Commission determine, based on the justification from the Operator, that continuous drilling of the Exploration Well in any of the phases in Article 4.3 above is technically impossible, impracticable or imprudent in accordance with International Oil Field Practice, then the Commission shall have the option of

- (a) waiving the well obligation in that phase, in which case Contractor will be deemed to have satisfied the obligation to drill such Exploration Well, or
- (b) requiring the Contractor to drill a substitute Exploration Well at a location determined by Contractor in consultation with the Corporation.

4.13 During the Exploration Period, Contractor shall have the right to perform additional Exploration Operations subject to the terms of this Agreement and applicable law, including performing gravity and magnetic surveys, drilling stratigraphic wells, and performing additional geological and geophysical studies, provided the Minimum Work Obligations are completed within the applicable period; provided further that such additional Exploration Operations shall be subject to Regulations 40(9) and (10) of the Petroleum (Exploration and Production) (General) Regulations.

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**ARTICLE 5**

**RELINQUISHMENT**

Subject to, and except as provided in Regulation 42 of the Petroleum (Exploration and Production) (General) Regulations, Contractor shall relinquish portions of the Contract Area in the manner provided in Section 22 of the Petroleum Act.

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## ARTICLE 6

### JOINT MANAGEMENT COMMITTEE / JOINT OPERATING AGREEMENT

- 6.1 In order that the Corporation and Contractor may cooperate in the implementation of Petroleum Operations, the Corporation and Contractor shall not later than thirty (30) days after the Effective Date establish a Joint Management Committee (JMC). Without prejudice to the rights and obligations of Contractor for day-to-day management of Petroleum Operations and subject to Article 7, the JMC shall oversee and approve the Petroleum Operations and ensure that all approved Work Programmes and Development Plans are executed and also that accounting for costs and expenses and the maintenance of records and reports concerning the Petroleum Operations are carried out in accordance with this Agreement, applicable laws and International Oil Field Practice.
- 6.2 The composition and distribution of functions within the JMC shall be as provided hereinafter:
- (a) The JMC shall consist of two (2) representatives of the Corporation and two (2) representatives of the Contractor. Any Contractor Party not represented on the JMC may appoint an observer to attend all JMC meetings and shall receive copies of all notices and materials distributed to the members of the JMC concurrently with the distribution of such notices and materials to the JMC members. The Corporation and Contractor shall also designate an alternate for each of their representatives. In the case of absence or incapacity of a member of the JMC, such alternate shall automatically assume the rights and obligations of the absent or incapacitated member;
  - (b) The chairperson of the JMC shall be designated by the Corporation from amongst the members of the JMC;
  - (c) Contractor shall be responsible, in consultation with the Corporation, for the preparation of an agenda and supporting documents for each meeting of the JMC and for keeping records of the meetings and decisions of the JMC. The Corporation shall have the right, upon reasonable notice, to inspect all records and related documentation of the JMC during business hours. At least fourteen (14) days before the date of the meeting, Operator shall circulate the agenda and supporting documents for each meeting to all representatives designated pursuant to Article 6.2(a) of this Agreement; and
  - (d) At any meeting of the JMC, three (3) representatives (including alternates, if applicable) shall form a quorum.
- 6.3 Meetings of the JMC shall be held and decisions taken as follows:
- (a) All meetings of the JMC shall be held in Accra, Ghana; Dubai, United Arab Emirates; or such other place as may be agreed upon by members of the JMC;
  - (b) The JMC shall meet at least twice per Year and at such times as the members may agree;
  - (c) A meeting of the JMC may be convened by either the Corporation or the Contractor giving not less than twenty (20) days notice to the other or, in a case requiring urgent action, notice of such lesser duration as the members may agree upon;

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- (d) All decisions of the JMC, shall require unanimity. Any member of the JMC may vote by written and signed proxy held by another member, so long as such member is a representative of the same Party as the other member;
- (e) Decisions of the JMC may be made without holding a meeting if all representatives of the Corporation and Contractor notify their consent thereto in the manner provided in Article 30 of this Agreement;
- (f) The Corporation and Contractor shall have the right to bring expert advisors to any JMC meetings to assist in the discussions of technical and other matters requiring expert advice;
- (g) The JMC may also establish such subcommittees as it deems appropriate for carrying out its functions including:
  - (i) a technical subcommittee;
  - (ii) an audit subcommittee;
  - (iii) an accounting subcommittee;
  - (iv) a contract/procurement subcommittee; and
  - (v) any other subcommittee as may be determined by the JMC.

and each subcommittee shall function in an advisory capacity to the JMC or as otherwise determined unanimously by the JMC; and

- (h) Costs and expenses, as evidenced by invoices and/or receipts related to attendance by the Corporation in or outside Accra (e.g., travel, transportation, lodging, per diem, and insurance), in accordance with applicable laws, regulations, and the Corporation's policies and procedures shall: (i) be borne by Contractor and treated as Petroleum Costs; and (ii) not include any costs and expenses related to attendance for any of the Corporation's expert advisors pursuant to Article 6.3(f) unless otherwise agreed by the Corporation and Contractor.

6.4 The JMC shall oversee Exploration Operations as follows:

- (a) Not later than sixty (60) days after the Effective Date and thereafter at least ninety (90) days before the commencement of each subsequent Calendar Year, Contractor shall prior to submission to the Commission for final approval, prepare and submit to the JMC for review and approval of a Work Programme and Budget covering all Exploration Operations which Contractor proposes to carry out in that Calendar Year and shall also give an indication of Contractor's tentative preliminary exploration plans for the succeeding Calendar Year. Where the Effective Date occurs later than June 30 in any Calendar Year, Contractor shall within thirty (30) days of the effective date submit ,
  - (i) a detailed Work Programme and Budget covering the remaining Months of the Calendar Year in which the Effective Date occurs; and
  - (ii) a detailed Work Programme and Budget for the succeeding Calendar Year sixty (60) days prior.
- (b) The JMC shall approve the Work Programme and Budget within thirty (30) days after submission.

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- (c) If the Work Programme and Budget is not approved by the JMC within thirty (30) days, the Contractor shall notify the Commission in writing stating reasons for the delay within 10 days after the expiration of the initial thirty (30) day period.
- (d) The Commission may grant the JMC up to fourteen (14) days to approve the Work Programme and Budget, failing which, the JMC shall be deemed to have approved the Work Programme and Budget for that Calendar Year submitted by Contractor.
- (e) Any amendments to the Work Programme and Budget approved by the Commission shall be submitted by Contractor to JMC for initial approval and then to the Commission for final approval.
- (f) Every Work Programme and Budget submitted to the JMC pursuant to this Article 6.4, and every amendment thereof, shall be consistent with the requirements set out in Article 4.4 relating to the Minimum Work Obligation for the period of the Exploration Phase in which such Work Programme and Budget falls;
- (g) Notwithstanding Article 9.1, Contractor shall notify the Corporation as soon as possible after Contractor determines there has been a Discovery, but in any event not later than two (2) days after Contractor's determination that there has been a Discovery. Pursuant to Article 9.4, Contractor may place before the JMC for review its Proposed Appraisal Programme. Within thirty (30) days of completion of the Appraisal Programme, a JMC meeting to discuss the results of the Appraisal Programme shall be convened before submission of the detailed Appraisal report provided for in Article 9.7;
- (h) The JMC will review and approve Work Programmes and Budgets (and any amendments or revisions thereto) and also review the Proposed Appraisal Programme(s) (and any amendments or revisions thereto), submitted to it by Contractor pursuant to this Article 6.4, and in a timely manner, give such advice as it deems appropriate; which advice Contractor shall consider before submitting such Work Programmes and Budgets or Proposed Appraisal Programmes (and any amendments or revisions thereto) for approvals required by law or this Agreement;
- (i) After a Commercial Discovery, Contractor shall seek the approval of the Corporation, which approval shall not be unreasonably withheld or delayed, on any proposal for the drilling of any further Exploration Well(s) not associated with the Commercial Discovery and not otherwise required to be drilled under Article 4.3. If approval is not secured by Contractor, Contractor may nevertheless elect to drill the Exploration Well(s) at its sole risk, and the costs of such Exploration Operations shall not be considered Petroleum Costs. However, such costs shall be Petroleum Costs for purposes of AOE if there arises a subsequent Commercial Discovery associated with such additional Exploration Operations. Any such subsequent Commercial Discovery shall be treated hereinunder in the same manner as if such Commercial Discovery had been made in connection with operations that were not performed as sole risk operations, including participation by the Corporation in such Commercial Discovery; and
- (j) Contractor shall, not later than one hundred and fifty (150) days after informing the Minister that a Discovery is a Commercial Discovery, submit a Plan of Development and Operation for approval by the JMC. If the JMC does not approve a Plan of Development and Operation within thirty (30) days of Contractor's submission, then Contractor shall submit the Plan of Development and Operation proposed by Contractor to the Minister pursuant to Article 9.9.

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When the Minister approves the Plan of Development and Operation pursuant to Article 9, such Plan of Development and Operation shall be deemed approved by the JMC.

- 6.5 From the Date of Commercial Discovery, the JMC shall conduct Petroleum Operations as follows:
- (a) Within sixty (60) days after the Date of Commercial Discovery, Contractor shall prepare and submit to the JMC:
    - (i) for approval, any revisions to its annual Work Programme and Budget that may be necessary in order to implement the Development Plan for the remainder of that Calendar Year; and
    - (ii) with respect to the Contract Area (excluding the Discovery Area) an indication of Contractor's tentative plans for the rest of the Exploration Period;
  - (b) At least ninety (90) days before the commencement of each subsequent Calendar Year, Contractor shall submit to the JMC for review and approval a Work Programme and Budget setting forth all Development and Production Operations which Contractor proposes to carry out in that Calendar Year and the estimated cost thereof, and shall also give an indication of Contractor's tentative plans for the succeeding Calendar Year.
  - (c) Within sixty (60) days of the Date of Commencement of Commercial Production and thereafter not later than one hundred and twenty (120) days before the commencement of each subsequent Calendar Year, Contractor shall submit to the JMC for its approval an annual production schedule which shall be in accordance with International Oil Field Practice, and shall be designed to provide for the efficient, beneficial, and timely production of the petroleum resources. Thereafter the annual production schedule shall be submitted to the Commission for approval. If the annual production schedule for the subsequent Calendar Year is not approved by the JMC by October 31, then Contractor shall submit Contractor's annual production schedule for the subsequent Calendar Year to the Commission.
- 6.6 For purposes of Articles 6.4 and 6.5, commitments and expenditures with respect to any line item of an approved Work Programme and Budget, Contractor shall be entitled to incur in connection with the corresponding Petroleum Operation, without further approval of the Joint Management Committee, a combined over-commitment and over-expenditure for such line item up to ten percent (10%) of the authorized amount for such line item; provided that the cumulative total of all over-commitments and over-expenditures for a Calendar Year shall not exceed ten percent (10%) of the total annual Work Programme and Budget covering Exploration Operations and five percent (5%) of the total annual Work Programme and Budget covering Development Operations.
- 6.7 Supplementary agreements provided for under Article 12.9, which shall include lifting procedures for Development and Production Areas, shall be subject to JMC approval.
- 6.8 The JMC shall review all reports submitted by Contractor pursuant to this Article 6 on the conduct of Petroleum Operations.
- 6.9 All insurance cover or arrangements by the Contractor for the conduct of petroleum operations and the programmes for training and technology transfer shall be subject to JMC review.

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- 6.10 Any contract to be entered into or awarded by Contractor for the provision of goods and services for Petroleum Operations shall be subject to provisions of Article 21 of this Agreement and: (a) JMC approved relevant contracting and tendering procedures, (which shall be approved by the JMC within thirty (30) days of the Effective Date); and (b) approval by the JMC. At the first JMC meeting, the JMC shall approve the applicable contract monetary value above which the award of contracts shall be subject to JMC approval. The applicable contract monetary value shall be such as would allow the Operator to conduct Petroleum Operations in a timely and efficient manner. The Corporation shall treat such contracts as confidential pursuant to Article 18.4, except as required by applicable law; provided that the Corporation shall not disclose such contracts under Article 18.5(a) (ii). The JMC shall use reasonable endeavours to approve such contracting and tendering procedures proposed by Contractor within thirty (30) days. However, if JMC does not approve within the thirty (30) days, then such contracting and tendering procedures shall be deemed approved by the JMC.
- 6.11 If during any meeting of the JMC, the JMC members are unable to reach agreement concerning any of the matters requiring approval pursuant to Article 6.3(d), the matter shall be deferred for reconsideration at a further meeting to be held not later than fifteen (15) days following the original meeting; provided that between the original meeting and the further meeting, senior personnel authorised by Contractor and the Corporation shall seek to resolve any such matter. If at such further meeting, the Corporation and Contractor are still unable to reach agreement, the matter in dispute shall, at the request of either the Corporation or Contractor, be referred for resolution by a Sole Expert under Article 26 unless the Corporation and Contractor agree that such dispute should be submitted to arbitration pursuant to Article 26.
- 6.12 In order that the Corporation and Contractor may cooperate in the implementation of Petroleum Operations; the Corporation and Contractor shall enter into a Joint Operating Agreement (JOA) in the event that the Corporation takes up commercial interest in the contract area.
- 6.13 The provisions of this Article 6 are without prejudice to the regulatory functions of the Commission as established by applicable law.

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## ARTICLE 7

### WORK PROGRAMME AND BUDGET

- 7.1 Without prejudice to the rights and obligations of Contractor for the day-to-day management of Petroleum Operations under this Petroleum Agreement, Contractor shall submit Work Programmes and Budgets to the Commission for final approval in accordance with Regulations 40A(1) and (2) of the Petroleum (Exploration and Production) (General) Regulations as amended.
- 7.2 The Commission shall within sixty (60) days of the submission of the Contractor's proposed Work Programme and Budget give notice to the Contractor in writing stating:
- (a) whether the proposed Work Programme and Budget has been approved, conditionally approved or not approved;
  - (b) if conditionally approved, the conditions to the approval and the reasons for such conditions;
  - (c) if not approved, any revisions required to be made and the reasons for such revisions.
- 7.3 Where the Contractor is not satisfied with a decision of the Commission on the Work Programme and Budget, it may lodge a complaint with the Minister in accordance with Section 20 of the Petroleum Commission Act.

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## ARTICLE 8

### RIGHTS AND OBLIGATIONS OF CONTRACTOR AND THE CORPORATION

- 8.1 Subject to the provisions of this Agreement, Contractor shall be responsible for the conduct of Petroleum Operations and shall perform its obligations in accordance with the Petroleum Act and all other applicable laws, International Best Oil Field Practice, including without prejudice to the generality of the foregoing:
- (a) Pursuant to Section 70 of the Petroleum Act, establish offices in Ghana;
  - (b) Pursuant to Sections 49, 50 and 73 of the Petroleum Act, conduct Petroleum Operations diligently, observing sound and safe technical and engineering practices using appropriate advanced technology and effective equipment, machinery, materials, and methods;
  - (c) ensure compliance with Section 50 of the Petroleum Act, including the recovery, optimisation and prevention of waste of Petroleum in the Contract Area in accordance with International Best Oil Field Practice;
  - (d) prepare and maintain in Ghana full and accurate records of all Petroleum Operations performed under this Agreement;
  - (e) prepare and maintain accounts of all Petroleum Operations under this Agreement in such a manner as to present a full and accurate record of the costs of such Petroleum Operations, in accordance with the Accounting Guide;
  - (f) provide quarterly reports on Petroleum Operations to the Minister, the Commission and the Corporation in addition to keeping the Commission and the Corporation regularly and fully informed of Petroleum Operations in accordance with Sections 54 and 55 of the Petroleum Act and Regulations 67 and 68 of the Petroleum (Exploration and Production) (General) Regulations;
  - (g) disclose to the Minister, the Commission and the Corporation all agreements among the Contractor Parties relating to the Petroleum Operations, which agreements shall not be inconsistent with the provisions of this Agreement;
  - (h) give first consideration to Ghanaians with the requisite qualifications, training, and experience before engaging Foreign National Employees as may be necessary for its operations, including employees assigned on permanent or resident status, with or without families, as well as those assigned on temporary basis, such as rotational employees, in accordance with the Local Content Regulations;
  - (i) implement a secondment programme to enhance the human resource capacity of the Corporation and the Commission in accordance with Article 23.4;
  - (j) subject to Article 2.7, provide and be solely responsible for the payment of all costs related or incidental to all services, equipment, and supplies necessary for the execution of the activities to be conducted by Contractor under this Agreement except as otherwise provided hereunder;
  - (k) prepare and submit in accordance with this Agreement such matters as are specified in applicable law or this Agreement as subject to approval by the Minister or the Commission;
  - (l) subject to applicable law, take all measures consistent with International Best oil Field practice to: (i) control the flow and prevent loss or waste of Petroleum; (ii)

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- prevent any injurious ingress of water and damage to Petroleum bearing strata; and  
(iii) manage reservoir pressure;
- (m) not flare or vent any Petroleum except in accordance with applicable law and International Best Oil Field practice;
  - (n) keep the Minister, the Commission, and the Corporation promptly advised in writing of all material developments that occur, or the occurrence of which is reasonably foreseeable, affecting, or highly likely to affect Petroleum Operations;
  - (o) take such steps in cases of emergency, and make such immediate expenditures as are necessary in accordance with International Best Oil Field Practice, environmental, industrial hygiene, and safety legislation, and/or this Agreement for the protection of health, life, the environment, and property(ies), and report all such steps taken and expenditures made promptly to the Minister and the Commission;
  - (p) notify promptly the Minister, the Commission, and the Corporation if Contractor becomes aware of any unusual event or circumstance occurring in the Contract Area or such other areas where Contractor is undertaking activities contemplated under this Agreement that Contractor believes could reasonably be expected to adversely affect the environment;
  - (q) comply with the provisions of applicable law when entering into or awarding contracts for the procurement of goods or the provision of services for / related to Petroleum Operations;
  - (r) Execute and administer contracts related to Petroleum Operations entered into by Contractor with its Affiliates on an arm's-length basis;
  - (s) maintain or decommission, as appropriate, all existing facilities and assets, and all other assets used or held for use in connection with Petroleum Operations in accordance with International Best Oil Field Practice, applicable law, and this Agreement.
  - (t) subject to Section 71 of the Petroleum Act and Regulation 32 of the Petroleum (Exploration and Production) (General) Regulations, comply with the domestic supply requirements in force.
  - (u) comply with applicable laws in respect of confidentiality on all existing information and data released by the Commission as well as information and data acquired during Petroleum Operations.
  - (v) ensure compliance with Regulation 76 of the Petroleum (Exploration and Production) (General) Regulations and Petroleum (Exploration and Production) (Measurement) Regulations, 2016 (L.I. 2246) with respect to each lifting of Petroleum.
  - (w) submit all data and information generated from petroleum activities in relation to the Contract Area to the Commission in accordance with the Petroleum (Exploration and Production) (Data Management) Regulations, 2017 (L.I. 2257) and all other applicable laws.

8.2 In connection with its performance of Petroleum Operations, Contractor shall have the right within the terms of and pursuant to applicable law to:

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- (a) use public lands for installation and operation of shore bases, terminals, harbours, and related facilities, petroleum storage and processing, pipelines from fields to terminals and delivery facilities, and camps and other housing;
- (b) receive licences and permission to install and operate such communications, petroleum production, processing, storage facilities, transportation facilities (to the Delivery Point), and other facilities as may be necessary for the efficiency of its operations;
- (c) provide or arrange for reasonable housing, schooling, and other amenities, permanent and temporary, for its employees and provide personal and household effects, furniture, and vehicles, for the use of its personnel in Ghana;
- (d) be solely responsible for provision of health, accident, pension, and life insurance benefit plans of its Foreign National Employees and their families; and such employees shall not be required to participate in any insurance, compensation, or other employee or social benefit programmes established in Ghana;
- (e) have, together with its personnel, at all times the right of ingress to and egress from its offices in Ghana, the Contract Area, and the facilities associated with Petroleum Operations hereunder in Ghana including the offshore waters, using its owned or chartered means of land, sea, and air transportation; and
- (f) subject to Regulations 17, 18 and 19 of the Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I. 2204), engage such Subcontractors, expatriate and nationals, including also consultants, and bring such Subcontractors and their personnel to Ghana as are necessary in order to carry out the Petroleum Operations in accordance with International Best oil Field practices; and said Subcontractors shall have the same rights as Contractor specified in this Article 8.2 to the extent they are engaged by Contractor for the Petroleum Operations hereunder.

8.3 The Corporation or the Commission as the case may be, shall assist Contractor in carrying out Contractor's obligations expeditiously and efficiently, as stipulated in this Agreement, and assist Contractor and its Subcontractors, as long as Contractor and its Subcontractors use their best efforts to appropriately complete procedures and requirements under applicable law to:

- (a) establish supply bases and obtain necessary communications facilities, equipment, and supplies;
- (b) obtain necessary approvals to open bank accounts in Ghana;
- (c) obtain entry visas and work permits, or any other documentation that may be required, for such number of Foreign National Employees of Contractor and its Subcontractors engaged in Petroleum Operations and members of their families who will be resident in Ghana, and make arrangements for their travel, arrival, medical services, and other necessary amenities;
- (d) comply with Ghana customs procedures and obtain permits for the importation of necessary materials;
- (e) obtain the necessary permits to transport documents, samples or other forms of Data to foreign countries for the purpose of analysis or processing if such is deemed necessary by Contractor for the purposes of Petroleum Operations;
- (f) acquire any approvals or waivers required from any State agencies or other ministerial or regulatory bodies under the direct or indirect control of the State,

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- including those State agencies or other ministerial or regulatory bodies dealing with fishing, meteorology, navigation, environment, and communications, as required;
- (g) prioritise the use of Ghanaian personnel as candidates for employment by Contractor in Petroleum Operations; and
  - (h) procure access, on competitive commercial terms to infrastructure owned by the State, the Corporation (or its Affiliates), or any third party, including facilities owned or used by contractors on oil and gas blocks adjacent to the Contract Area.
- 8.4 All reasonable and documented expenses incurred by the Corporation or the Commission in connection with any of the matters set out in Article 8.3 shall be borne by Contractor in accordance with this Agreement and/or applicable laws.
- 8.5 The Corporation or the Commission shall use their best efforts to render assistance to Contractor in emergencies and major accidents, and such other assistance as may be requested by Contractor, provided that any reasonable expenses involved in such assistance shall be borne by Contractor in accordance with this Agreement.
- 8.6 Subject to the Petroleum Act, other applicable laws and the provisions of this Agreement (and save for Petroleum Operations undertaken by the Corporation pursuant to Article 11), Contractor shall, during the term of this Agreement obtain and maintain insurance coverage for and in relation to Petroleum Operations for such amounts and against such risks as are customarily or prudently insured in the international petroleum industry in accordance with International Best Oil Field Practice, and shall within two (2) Months of the date of policy or renewal furnish to the Minister and the Commission evidence that such coverage is in effect. Such insurance policies shall cover the interest of the Corporation, the Commission and other persons as additional insured and shall waive subrogation against the Corporation. The said insurance shall, without prejudice to the generality of the foregoing, cover:
- (a) loss or damage to petroleum facilities, including all installations, equipment and other assets for so long as they are used in or in connection with Petroleum Operations; provided, however, that if for any reason the Contractor fails to insure any such installation, equipment or assets, it shall replace any loss thereof or repair any damage caused thereto;
  - (b) pollution damage liability and other liability towards third parties in the form of loss, damage or injury caused by pollution in the course of or as a result of Petroleum Operations;
  - (c) loss of property or damage or bodily injury suffered by any third party in the course of or as a result of Petroleum Operations for which the Contractor may be liable;
  - (d) any claim for which the State may be liable relating to the loss of property or damage or bodily injury suffered by any third party in the course of or as a result of Petroleum Operations for which the Contractor is liable to indemnify the State;
  - (e) with respect to Petroleum Operations, the cost of removing wrecks and cleaning up operations following any accident in the course of or as a result of Petroleum Operations; and
  - (f) the Contractor's and/or the Operator's liability to its employees engaged in Petroleum Operations.
- 8.7 Contractor shall require its Subcontractors to obtain and maintain insurance pursuant to Article 8.6 relating mutatis mutandis to such Subcontractors.

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8.8 Contractor shall indemnify and hold harmless the State and the Corporation against all third-party claims, losses, and damages of any nature whatsoever, including, without limitation, claims for loss or damage to property or injury or death to persons caused by or resulting from any Petroleum Operations conducted by or on behalf of Contractor due to gross Negligence/Wilful Misconduct.

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## ARTICLE 9

### COMMERCIALITY

- 9.1 Contractor shall submit a Discovery Notice in accordance with Section 25 (2) of the Petroleum Act and provide information as required thereunder.
- 9.2 Where Contractor pursuant to the notification submitted under Section 25(2) (b) of the Petroleum Act indicates that the Discovery does not merit Appraisal, Contractor shall, subject to Section 25(4), (5) and (6) of the Petroleum Act relinquish the Discovery Area associated with the Discovery.
- 9.3 Where Contractor indicates that the Discovery merits Appraisal pursuant to the notification submitted under Section 25(2) (b) of the Petroleum Act, Contractor shall submit an Appraisal Programme within the timelines stipulated under Regulation 41 sub regulation (2) of the Petroleum (Exploration and Production) (General) Regulations, 2018 and in accordance with the requirements of Section 25(7) and (8) of the Petroleum Act.
- 9.4 The review and approval process of the Appraisal Programme submitted by Contractor shall be subject to Section 25(11) of the Petroleum Act and Regulation 41(4) and (5) of the Petroleum (Exploration and Production) (General) Regulations.
- 9.5 Subject to Section 25(9) of the Petroleum Act, Contractor shall have a period of two (2) Years from the date of Discovery to complete the Appraisal Programme.
- 9.6 Where Contractor is unable to commence or otherwise fails to commence Appraisal in accordance with Regulation 41(7) of the Petroleum (Exploration and Production) (General) Regulations, the Corporation shall be entitled to exercise its Sole Risk right in accordance with Article 11.1 to enable prompt Appraisal unless: (a) the delay is due to Force Majeure; or (b) Contractor has commenced Appraisal or obtained an extension of time for such Appraisal, provided that if Contractor obtains an extension of time for such Appraisal and has not commenced Appraisal prior to the end of such extension, the Corporation shall be entitled to exercise the option provided for in Article 11.1 to enable prompt Appraisal.
- 9.7 Contractor shall submit an Appraisal Report in accordance with Section 25(13) of the Petroleum Act. Such report shall include information as required under Regulation 41(8) of the Petroleum (Exploration and Production) (General) Regulations.
- 9.8 The provisions of Section 25(14), (15) and (16) of the Petroleum Act shall apply, if Contractor in the Appraisal Report indicates that the Discovery is not a Commercial Discovery.
- 9.9 If Contractor pursuant to Section 27(1) of the Petroleum Act informs the Minister that the Discovery is a Commercial Discovery, Contractor shall, within the timeline stipulated by the Minister pursuant to Section 27(2) of the Petroleum Act, thereafter, prepare and submit a Plan of Development and Operation.
- 9.10 The details of the Plan of Development and Operation shall comply with the requirements of Section 27(3), (4), and (6) of the Petroleum Act and Regulation 43 of the Petroleum (Exploration and Production) (General) Regulations.
- 9.11 In delineating the proposed Development and Production Area under the Contractor's submission of a Plan of Development and Operation, the Contractor may in accordance

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with Regulation 5 of the Petroleum (Exploration and Production)(General) Regulations (L.I 2390) propose for the consideration of the Commission the inclusion of additional areas covering existing prospect(s) and/or accumulation(s) outlying a Commercial Discovery which may be considered marginal for Exploration and/or Appraisal and/or Development on a standalone basis.

- 9.12 The date of the Minister's approval of the Plan of Development and Operation shall be the Date of Commercial Discovery.
- 9.13 The review and approval process by the Minister of the Plan of Development and Operation shall be subject to Sections 28 and 29 of the Petroleum Act.

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## ARTICLE 10

### COORDINATION OF PETROLEUM ACTIVITIES AND UNITISATION

- 10.1 The Minister, in consultation with the Commission may establish that an accumulation of petroleum extends beyond the boundaries of one contract area into one or more contract areas; and may order the unitisation of such an accumulation as provided for in Section 34 of the Petroleum Act and Regulation 50 of the Petroleum (Exploration and Production) (General) Regulations.
- 10.2 In the event where an accumulation of petroleum extends beyond the boundaries of one or more Contract Area(s), and the relevant contractors, have on their own volition made such a determination, Contractor shall inform the Minister in writing and work together with the relevant contractors and/or the Corporation to agree on a programme on how to develop the accumulation of hydrocarbon(s) as a single unit within a time frame proposed by them and approved by the Minister or in the alternative within a time frame directed by the Minister and submit the programme for the development and production of the accumulation as a single unit to the Minister in writing for approval.
- 10.3 Where the Contractor concludes that the accumulation of petroleum extends beyond the boundary(ies) of the Contract Area into one or more contract areas, the Contractor shall act expeditiously and in any event within a Month of it coming to that conclusion; by informing the Minister and contractor(s) of the contract area(s) where the accumulation extends to in its estimation, in writing of its determination and the geotechnical basis for it.
- 10.4 The Minister, on receipt of the notification contemplated in Article 10.3 shall request the Contractor and the relevant contractors to jointly establish whether the accumulation of petroleum in the Contract Area granted by this Petroleum Agreement extends beyond the boundary(ies) of this Contract Area into one or more contract area(s) in the manner claimed or contemplated by the Contractor within a time frame set by the Minister.
- 10.5 In the event that the Contractor and the other contractor(s) are unable to conclude the joint studies that will confirm whether or not the accumulation extends into the other contract area(s), the Contractor, acting for itself or in concert with the other contractor(s) shall expeditiously and in any event not later than one (1) Month of realizing that the joint studies cannot be concluded within the time frame set by the Minister ; notify the Minister in writing of the inability to meet the deadline set by the Minister, whereupon the Minister may extend the deadline for the Contractor and the relevant contractor(s) to complete the joint studies and submit the outcome(s) to the Minister for his further action, if any.
- 10.6 Where the Contractor and the other relevant contractor(s), after expiry of all the deadlines given by the Minister under Articles 10.4 and 10.5, are unable to agree on whether the accumulation of petroleum extends beyond the boundary(ies) of this Contract Area into one or more contract areas, the Contractor, acting for itself or in concert with the other contractor(s) shall expeditiously notify the Minister in writing of their inability to agree; which notification shall not be more than a Month from the lapse of the deadline set by the Minister.
- 10.7 In the event that the Contractor and any contractor(s) of another or other contract area(s) are unable to agree within a time frame directed by the Minister that the accumulation of

petroleum in the contract area granted by this Petroleum Agreement extends beyond the boundary(ies) of this contract area into one or more contract areas operated by the other contractor(s), the Minister shall, pursuant to Section 34 of the Petroleum Act and Regulation 50 of the Petroleum (Exploration and Production) (General) Regulations and other applicable laws direct the relevant contractors to take the necessary actions in respect of the accumulation.

- 10.8 Where the Contractor, and the relevant contractors or the Corporation, are required to develop the accumulation as a single unit, the Contractor shall ensure that the exploitation and production of the petroleum accumulation is carried out pursuant to unitisation and best geological, geophysical and engineering principles and in accordance with International Best Oil Field Practices.
- 10.9 Where two or more accumulations are in proximity to one another but are in different contract areas or in one contract area and an area not covered by a petroleum agreement, the Minister may direct Contractor, and the relevant contractors or the Corporation to develop and produce the accumulation of petroleum in a coordinated manner to ensure efficient petroleum activities.

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## ARTICLE 11

### SOLE RISK ACCOUNT

- 11.1 Subject to this Agreement and applicable law, unless and until Contractor has notified the Corporation that it does not wish to drill a well or appraise a Discovery, the Corporation may notify Contractor that it will, at its Sole Risk, drill a well or commence to appraise a Discovery, provided that within thirty (30) days of such notification from the Corporation, Contractor may elect to drill that well or commence to appraise that Discovery within the Contractor's approved Work Programme.
- 11.2 Where an Appraisal undertaken under Article 11.1 at the Sole Risk of the Corporation results in a determination by the Corporation that a Discovery is a Commercial Discovery, Contractor may develop the Commercial Discovery upon reimbursement to the Corporation of all expenses incurred in undertaking the Appraisal and after arranging with the Corporation satisfactory terms for the payment of a premium equivalent to Five hundred percent (500%) of such expenses. Such premium shall not be counted as Petroleum Costs. In the event that Contractor declines to develop said Discovery, Contractor shall, relinquish the Sole Risk Development and Production Area established by the Appraisal Programme conducted by the Corporation under Article 11.1.
- 11.3 During the Exploration Period, the Corporation may, at its Sole Risk, request Contractor to continue drilling to penetrate and test horizons deeper than those contained in the Work Programme of Contractor or required under Article 4. The Corporation may also at its Sole Risk, request Contractor to test a zone or zones which Contractor has not included in Contractor's test programme. Notice of this request shall be given to Contractor in writing as early as possible prior to or during the drilling of the well, but in any case, not after Contractor has begun work to complete or abandon the well. The exercise by the Corporation of this right shall be in an agreed manner (such agreement not to be unreasonably withheld or delayed by Contractor) which does not prevent Contractor from complying with its work obligations under Article 4.3. and is subject to health, safety and environmental considerations in accordance with International Oil Field Practices and Section 73 (1) of the Petroleum Act.
- 11.4 Upon receipt of a request from the Corporation under Article 11.3, Contractor shall promptly notify the Corporation of the estimated financial requirements to conduct the Sole Risk drilling on the Corporation's behalf and shall provide the Corporation a copy of such estimate. The Corporation shall provide satisfactory financial arrangements for financing the Sole Risk Operations. Contractor shall not be obligated to commence the Sole Risk drilling on the Corporation's behalf until the Corporation has met its financial commitment for funding the Sole Risk Operations. Stand by costs incurred for the drilling rig and other services, equipment, and Subcontractors for the sole purpose of the Sole Risk drilling, pending satisfactory financial arrangements, shall be borne and paid by the Corporation.
- 11.5 At any time before commencing such deeper drilling or testing pursuant to Article 11.3 above, Contractor may elect to incorporate the required deeper drilling or testing in its own Exploration Operation, in which case any resulting Discovery shall not be affected by the provisions of this Article 11.

- 11.6 Where any Sole Risk deeper drilling pursuant to Article 11.3 results in a Discovery, the Corporation shall have the right, at its Sole Risk, to appraise, develop, produce, and dispose of all Petroleum resulting from such Sole Risk deeper drilling and shall conduct such Sole Risk unless the Corporation proposes otherwise and Contractor agrees; provided, however, that if at the time such Petroleum is tested from the producing horizon in a well:
- (a) Contractor's Work Programme includes a well or wells to be drilled to the same producing horizon, and provided that the well or wells drilled by Contractor result(s) in a Petroleum producing well producing from the same horizon, Contractor shall, after reimbursing the Corporation for all costs associated with its Sole Risk deeper drilling and testing in said well plus a premium of three hundred percent (300%), have the right to include production from that well in its total production for the purposes of establishing a Commercial Discovery, and, if a Commercial Discovery is subsequently established, to develop, produce, and dispose of the Petroleum in accordance with the provisions of this Agreement; or
  - (b) Contractor's Work Programme does not include a well to be drilled to the same producing horizon, Contractor has the option to appraise and /or develop, as the case may be, the Discovery for its account under the terms of this Agreement if it so elects within a period of sixty (60) days after such Discovery. In such case, Contractor shall reimburse the Corporation for all expenses incurred by the Corporation in connection with such Sole Risk, and shall make satisfactory arrangements with the Corporation for the payment of a premium equivalent to five hundred percent (500%) of such expenses. Such premium shall not be considered as Petroleum Costs.
- 11.7 During the term of this Agreement, the Corporation shall have the right to submit to the JMC a Work Programme to drill, at its Sole Risk, a reasonable number of wells in the Contract Area provided that the work intended to be done by the Corporation had not been scheduled for a Work Programme to be performed by Contractor and the exercise of such right by the Corporation and the arrangements made by the Corporation for undertaking such drilling do not prevent Contractor from carrying out Petroleum Operations. Within thirty (30) days after receipt of such notice, Contractor may elect to drill the proposed well(s) as part of Contractor's Exploration Operations or may elect to participate in the well to be drilled by or on behalf of the Corporation.
- 11.8 In the event that a well drilled at the Sole Risk of the Corporation in accordance with Article 11.6 above results in a Discovery, the Corporation shall notify Contractor in writing, and the Corporation shall have the right to appraise and develop such Discovery or request Contractor to develop such Discovery, after the Corporation declares a Commercial Discovery for a mutually agreed reasonable service fee. The Corporation shall have the right to all Petroleum produced from the Commercial Discovery; provided, however, that Contractor has the option to appraise and/or develop, as the case may be, the Discovery for its account under the terms of this Agreement if it so elects within a period of sixty (60) days after receipt of the Corporation's written notice of such Discovery.
- 11.9 In the event that Contractor elects to appraise and/or develop, as the case may be, the Discovery for its own account, Contractor shall reimburse the Corporation for all expenses incurred by the Corporation in connection with such Sole Risk, and shall make

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satisfactory arrangements with the Corporation for the payment of a premium equivalent to five hundred percent (500%) of such expenses before exercising the option under this Article 11.9. Such premium shall not be considered as Petroleum Costs.

- 11.10 In the event that Contractor declines to exercise its option in Article 11.9, Contractor shall, subject to the terms of this Agreement, relinquish the Sole Risk Development and Production Area associated with such Commercial Discovery.
- 11.11 Sole Risk under this Article 11 shall not extend the Exploration Period or the term of this Agreement, and unless completion of such work would be impossible, impracticable, or imprudent in accordance with International Best Oil Field Practice, Contractor shall complete any agreed programme of work commenced by it under this Article 11 at the Corporation's Sole Risk, and subject to such provisions hereof as the Parties shall then agree, even though the Exploration Period as defined in Article 3 or the term of this Agreement may have expired.
- 11.12 Notwithstanding anything to the contrary in this Agreement, the Corporation shall indemnify and hold the Contractor harmless against all actions, claims, demands, and proceedings whatsoever brought by any third party or the State, arising out of or in connection with Sole Risk under this Article 11, to the extent that such actions are caused in whole or in part by Gross Negligence / Wilful Misconduct of the Corporation.

## ARTICLE 12

### SHARING OF CRUDE OIL

- 12.1 Gross Production of Crude Oil from each Development and Production Area shall subject to a Calendar Year adjustment developed under the provisions of Article 12.7 be distributed amongst the Parties in the following sequence and proportions:
- (a) [Ten percent (10%)] of the Gross Production of Crude Oil shall be delivered to the State as Royalty, pursuant to Section 85 of the Petroleum Act and Regulation 71 of the Petroleum (Exploration and Production) (General) Regulations,
  - (b) Where pursuant to Section 85 (3) of the Petroleum Act the Minister by notice elects to receive its Royalty share of such Crude Oil in cash, determination of the appropriate amount due to the State shall be made in accordance with the Royalty rates stated in Article 12.1 (a) and pursuant to Regulations 71(4) and (6) of the Petroleum (Exploration and Production) (General) Regulations. The State's notice shall be given to Contractor at least ninety (90) days in advance of each lifting period as established. In such case, said share of Crude Oil shall be delivered to Contractor, and Contractor shall pay the State the cash equivalent of the Royalty at the percentages stated in Article 12.1(a) and in accordance with Regulation 71(5) of the Petroleum (Exploration and Production) (General) Regulations;
  - (c) After distribution of such amount of Crude Oil pursuant to Article 12.1(a), the amount of Crude Oil, if any, shall be delivered to the Corporation, to the extent it is entitled for Sole Risk operations under Article 11;
  - (d) After distribution of such amount of Crude Oil pursuant to Articles 12.1(a) and 12.1(c), the remaining Crude Oil produced from each Development and Production Area shall be distributed to Contractor and, to the Corporation on the basis of their respective interests pursuant to Article 2;
- 12.2 Pursuant to Section 89 of the Petroleum Act, the State's AOE, if any, shall be distributed to the State out of Contractor's share of Crude Oil determined under Regulation 75 of the Petroleum (Exploration and Production) (General) Regulations. Where the State elects to receive cash in lieu of the AOE share of Crude Oil accorded to it pursuant to Article 12.1(a), notification of said election shall be given in the same notice in which the State notifies Contractor of its election to receive cash in lieu of Crude Oil under Article 12.1(a). In such case Regulation 71(4) and (6) of the Petroleum (Exploration and Production) (General) Regulations, shall apply mutatis mutandis for the determination of the appropriate amount due the State and paid in accordance with Section 3 of the Petroleum Revenue Management Act, 2011 (Act 815) as amended from time to time.
- 12.3 For the purposes of this Article 12, the portion of Contractor's share of Crude Oil being produced from each separate Development and Production Area on the basis of the after-tax post-inflation-adjusted rate of return ("ROR") which Contractor has achieved with respect to such Development and Production Area as of that time shall be referred to as Additional Oil Entitlement ("AOE"). Contractor's ROR shall be calculated on its NCF and shall be determined separately for each Development and Production Area at the end of each Quarter in accordance with Regulation 75 of the Petroleum (Exploration and Production) (General) Regulations.

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- 12.4 To assist in the making of the AOE calculation in accordance with Article 12.1, there is attached as Annex 4 to this Agreement a worked example of the calculation using hypothetical figures, rates, and thresholds, for the purpose of illustration only.
- 12.5 The Corporation shall act as agent for the State in the collection of all Petroleum accruing to the State under this Article 12, and delivery to the Corporation by Contractor shall discharge Contractor's obligation to deliver the State's share. All Crude Oil delivered or distributed under this Article 12 shall be at the Delivery Point.
- 12.6 Pursuant to Section 71 of the Act and Regulation 32 of Petroleum (Exploration and Production) (General) Regulations, the State or the Corporation, may elect, in accordance with terms and conditions to be mutually agreed by the Parties, that all or part of the Crude Oil to be distributed to the State or to the Corporation pursuant to this Article shall be sold and delivered by the State or the Corporation to Contractor or its Affiliate for use and disposal and in such case Contractor or its Affiliate shall pay to the State or to the Corporation, as the case may be, the Market Price for any Crude Oil so sold and delivered.
- 12.7 Ownership and risk of loss of all Crude Oil produced from the Contract Area which is purchased by Contractor, and all of Contractor's Participating Interest share of Crude Oil, or other Crude Oil lifted by Contractor, shall pass to Contractor at the outlet flange (the Delivery Point) of the marine terminal or other storage facility for loading into tankers or transportation equipment referred to in Article 12.1.
- 12.8 Subject to the provisions of Article 14 hereof, Contractor shall have the right to freely export and dispose of all the Crude Oil allocated and/or delivered to it pursuant to this Article 12.
- 12.9 The Parties entitled to lift shall enter into supplementary agreements concerning Crude Oil offtake procedures not later than one hundred and eighty (180) days prior to the estimated Date of Commencement of Commercial Production for each Development and Production Area. Such offtake procedures shall be consistent with the Petroleum (Exploration and Production) (Measurement) Regulations, 2016, (L.I. 2246), International Best Oil Field Practice and shall provide, among other matters, detailed terms and procedures governing:
- (a) short term production forecasts;
  - (b) nomination and calculation of entitlements;
  - (c) delivery and lifting schedules, which lifting schedules shall minimize the possibility of any reduction or shut-in of production;
  - (d) lifting procedures;
  - (e) right and obligation of each Party to lift;
  - (f) steps to be taken in the event a Party becomes a defaulting lifter;
  - (g) point of custody transfer;
  - (h) lifting tolerances;

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- (i) loading conditions;
- (j) metering; and
- (k) underlifting and overlifting, and the settlement of lifting imbalances, if any, at the end of each Calendar Year.

12.10 To assist in the distribution of Crude Oil in accordance with Article 12.1, there is attached as Annex 4 to this Agreement a worked example of the calculation using hypothetical figures, rates, and thresholds, for the purpose of illustration only.

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## ARTICLE 13

### MEASUREMENT AND PRICING OF CRUDE OIL

- 13.1 Crude Oil shall be delivered by Contractor to storage tanks or other suitable holding facilities constructed, maintained, and operated in accordance with applicable laws and International Best Oil Field Practice.
- 13.2 Pursuant to Section 37 of the Petroleum Act, the Contractor shall measure the quantity and determine the quality of the Petroleum produced, stored, transported or sold.
- 13.3 The measurement system used for determining the quality and quantity of Petroleum produced, stored, transported or sold shall be designed, tested, installed, operated and maintained in accordance with the Petroleum (Exploration and Production) (Measurement) Regulations (L.I. 2246), guidelines, applicable standards and International Best Oil Field Practice.
- 13.4 Any party may request that measurements and tests be done by an internationally recognised inspection company. Contractor shall arrange and pay for the conduct of any measurement or test so requested; provided however that in the case (i) the test requested for quality purposes and/or (ii) a test requested on metering (or measurement) devices; where the test results demonstrated that such devices are accurate within acceptable tolerances as prescribed by the Petroleum (Exploration and Production)(Measurement) Regulations (L.I. 2246), the Party requesting the test shall reimburse Contractor for the costs associated with the tests.
- 13.5 The Market Price for Crude Oil produced and lifted under this Agreement by Contractor shall be determined in accordance with applicable law, including Regulation 77 of the Petroleum (Exploration and Production) (General) Regulations, 2018.

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**ARTICLE 15**

**OTHER FISCAL ELEMENTS AND DECOMMISSIONING**

- 15.1. Contractor, its Subcontractors, Affiliates and Shareholders shall be subject to applicable law as same may be amended from time to time with respect to taxes, duties, fees and other imposts that shall be imposed by the State or any entity or any political subdivision of the State in respect of activities related to Petroleum Operations and the sale and export of Petroleum.
- 15.2. As of the Effective Date, Contractor shall pay an annual acreage fee over the Contract Area, in accordance with Section 86 of the Petroleum Act within sixty (60) days from the date of ratification of this Agreement. Thereafter and during the term of this Agreement, Contractor shall pay an annual acreage fee per kilometre of the portion of the Contract Area remaining at the beginning of each Contract Year as part of the contract area on the 28<sup>th</sup> day of February of each Year, pursuant to Regulation 5(1)(b) of the Petroleum Revenue Management Regulations, 2019 (L.I. 2381).

<b>Phase of Operation</b>	<b>Acreage Fee Per Annum</b>
Initial Exploration Period	US\$150 per sq. km.
First Extension Period	US\$300 per sq. km.
Second Extension Period	US\$300 per sq. km.
Development & Production Area	US\$600 per sq. km.

This annual acreage fee shall be pro-rated where the beginning of a period and the end of a period, or the creation of a Development and Production Area occurs during the course of a Calendar Year.

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## ARTICLE 14

### DOMESTIC SUPPLY REQUIREMENTS (CRUDE OIL)

- 14.1. Subject to Section 71 of the Petroleum Act and Regulation 32 of the Petroleum (Exploration and Production) (General) Regulations, 2018, Crude Oil for Consumption in Ghana called the "Domestic Supply Requirement" shall be supplied, to the extent possible, to the Corporation on behalf of the State from each Contractor Party's respective entitlements under this Agreement and under any other contract for the production of Crude Oil in Ghana.
- 14.2. Contractor shall be obliged, on at least three (3) Months' prior notice from the State, to supply a volume of Crude Oil to be used for such Domestic Supply Requirements, calculated on the basis of the ratio of Contractor's entitlement to Crude Oil under Article 12(1)(d) to the sum of the similar entitlements of all such third parties and provided that Contractor's obligation to supply Crude Oil for purposes of meeting the Domestic Supply Requirement shall not exceed the total of Contractor's said entitlement of Gross Production of Crude Oil after deduction of the State's Royalty under this Agreement.
- 14.3. The State shall purchase any Crude Oil supplied by Contractor pursuant to this Article 14 at the Market Price determined under Article 13.3 for the Month of delivery, and the State shall pay such prices in accordance with Article 13.3 within fifteen (15) days after receipt of invoice, failing which Contractor's obligations in respect of the Domestic Supply Requirement under this Article 14 shall be suspended until payment is made good, at which time deliveries shall be resumed subject to any alternative commitments that may have been reasonably entered into by Contractor to dispose of the Domestic Supply Requirement during the period of default in payment.
- 14.4. The calculation of the Domestic Supply Requirement shall be done on a Calendar Year basis, broken down by Month. The calculation shall begin with the determination of the quantities of Crude Oil required for Consumption in Ghana in each relevant Month during the applicable Calendar Year. "Consumption" shall, for purposes of this Article 14, consist of the total Crude Oil consumed in Ghana, Crude Oil processed in Ghana and LPG, kerosene, gas oil, gasoline, and fuel oil imported into Ghana.

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- 15.3. Contractor shall pay to the State (into the Petroleum Holding Fund) a signature bonus in the amount of Fifty Thousand United States Dollars (US\$50,000), payable within ninety (90) days of the Effective Date in accordance with Regulation 74 (1)(a) and (3) of the Petroleum (Exploration and Production) (General) Regulations, 2018, L.I 2359.
- 15.4. Contractor shall pay a production bonus as determined by the Minister in accordance with Regulation 74 (1) (b) and (3) of the Petroleum (Exploration and Production) (General) Regulations, payable on the first anniversary of the commencement of Petroleum Production.
- 15.5. Contractor and its Affiliates (Affiliates acting on behalf of Contractor in respect of this Agreement) shall not be liable for any export tax on Petroleum exported from Ghana, and no duty or other charge shall be levied on such exports. Vessels or other means of transport used in the export of Contractor's Petroleum from Ghana shall be liable for the payment of any levies, fees and charges in accordance with the Petroleum Commission (Fees and Charges) Regulations 2015(L.I. 2221).
- 15.6. Subject to the local purchase obligations hereunder, Contractor and Subcontractors may import into Ghana all plant, equipment and materials to be used solely and exclusively in the conduct of Petroleum Operations without payment of customs and other duties and taxes on imports save administrative charges representing normal charges payable in respect of services actually rendered by agencies of the State with respect to the import into Ghana of such plant, equipment and materials pursuant to Section 22(3) of PNDCL 64. The plant materials, machinery and equipment in respect of which an exemption is granted shall not be sold in the Republic of Ghana unless, prior to the sale, the Corporation does not exercise its right under Section 19 of the Petroleum Act and the seller has paid to the Commissioner General of the Ghana Revenue Authority the import duty that he would otherwise have paid in respect of those items if the exemption had not been granted. Unless the items are sold and exported from Ghana and such export qualifies for drawback/refund in accordance with Section 106 of the Customs Act, 2015 (Act 891).
- 15.7. Contractor shall not be liable to pay VAT and related levies in respect of plant, equipment and materials, and related services supplied in Ghana, to be used solely and exclusively in the conduct of Petroleum Operations. Subcontractors shall be subject to VAT and related levies on local supply of works and services and the Contractor shall be required to pay the tax and shall be entitled to apply for refund in accordance with Section 50(9) of the Value Added Tax Act, 2013 (Act 870) and Regulation 40 of the Value Added Tax Regulations 2016, L.I. 2243.
- 15.8. Foreign National Employees of Contractor or its Affiliates, and of its Subcontractors, shall be permitted to import into Ghana free of import duty, their personal and household effects in accordance with Section 22(7) of the Ghana National Petroleum Corporation Law 1983 (PNDCL 64); or Section 2 of Customs Act, 2015 (Act 891) provided, however, that no property imported by such employee shall be resold by such employee in Ghana except in accordance with Article 15.3.

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- 15.9. Subject to the Corporation's rights under Section 19 of the Petroleum Act, Contractor, Subcontractors, and Foreign National Employees shall have the right to re-export from Ghana all items imported duty free.
- 15.10. Subject to guidelines to be issued by the Minister, the Contractor shall make annual contributions estimated on a present value basis, to a decommissioning fund based on the estimated costs of abandonment in proportion to its Participating Interest. Such contribution shall be allowed as deduction from assessable income from the year of assessment in which the contributions commenced. In the year of assessment in respect of which decommissioning has been completed in accordance with an approved decommissioning plan, the surplus fund shall be treated as chargeable income and subject to tax. The amount left after tax shall be subject to AOE at the highest rate at which the Contractor paid AOE during the period of contributions to the relevant decommissioning fund. Any surplus after payment of the tax and AOE shall revert to the Contractor.
- 15.11. Decommissioning costs will be estimated on a Development and Production Area basis and the Contractor shall set up a Decommissioning Fund. Subject to Section 45 of the Petroleum Act, the following shall apply:
- (a) Upon the earlier of:
    - (i) fifteen (15) Years prior to the projected cessation of commercial production from a Development and Production Area; or
    - (ii) reasonable belief that fifty percent (50%) of the recoverable reserves have been produced from a Development and Production Area;
    - (iii) at least five (5) Years prior to the expiration of this Agreement
  - (b) Each Contractor Party shall, subject to approval of the Commission, contribute to the Decommissioning Fund by:
    - (i) depositing a cash amount into: (1) a designated account in a bank that has a long term debt rating from at least two (2) of the following agencies: by Standard & Poor's (A+), by Fitch Ratings (A+) and or by Moody's Investors Services (A1) or their successor entities; or (2) an agency which has a net worth of at least five (5) times the secured amount; or
    - (ii) where any of the Contractor Parties are unable to deposit one hundred percent (100%) of the their respective amounts in cash, such Contractor Party may provide a security in the form of a letter of credit ("**Decommissioning Security**"). The relevant Contractor Party shall issue the Decommissioning Security for its share of the decommissioning costs as determined in accordance with the approved plan for decommissioning and abandonment and the following formula:

$$DS = TDC \times \frac{CP}{VR}$$

Where:

- (1) "**DS**" means Decommissioning Security;

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- (2) *"TDC" is the Party's share of total decommissioning costs established in accordance with the approved plan for decommissioning and abandonment to be submitted together with the Plan of Development and Operations pursuant to Article 9.9*
- (3) *"CP" is the cumulative production of Petroleum from the start of the Calendar Year in which the Decommissioning Security was first provided; and*
- (4) *"VR" is the estimated remaining volume of ultimately recoverable Petroleum reserves from the Development and Production Area at the start of the Calendar Year in which the Decommissioning Security was first provided.*

15.12. The Decommissioning Security must be issued for a minimum of one (1) Calendar Year and must be renewed or replaced at least thirty (30) days prior to the expiration date of such Decommissioning Security.

15.13. If the Contract Area has more than one (1) Development and Production Area, the amount of the provision in Article 15.8 will be subsequently increased to reflect the costs of the Development and Production assets of all Development and Production Areas. The total amount shall be adjusted periodically by Contractor to reflect new estimates of the decommissioning costs.

15.14. The deposit of cash under Article 15.9(b) above by the Contractor for its share of the decommissioning costs shall be made in an escrow account opened with an international first tier banking institution, designated by the Independent Trustee, that has a long term debt rating from at least two (2) of the following agencies; by Standard & Poor's (A+), by Fitch Ratings (A+) and or by Moody's Investors Services (A1) or their successor entities. This escrow account, intended to cover the decommissioning costs, shall be managed by the Independent Trustee on the instructions of the Contractor, and withdrawals shall be made only and exclusively to finance the decommissioning activities approved by the Government.

15.15. If the Corporation elects to keep the facilities and equipment in order to continue Petroleum Operations i) after the expiration of the Petroleum Agreement or ii) after the termination of the Petroleum Agreement by any of the Parties, the contributions deposited into the escrow account by the Contractor shall be put at the Corporation's disposal to cover the later decommissioning. If the Contractor had been issuing Decommissioning Security, the Contractor shall deposit equivalent funds in the escrow account in lieu of Decommissioning Security. The Contractor shall be released from any further decommissioning liability in respect of such facilities and equipment.

15.16. All tax returns prepared, and payments made by Contractor and its Affiliates or Subcontractors, and Foreign National Employees thereof, shall be in United States Dollars.

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## ARTICLE 16

### FOREIGN EXCHANGE TRANSACTIONS

- 16.1. The provisions of this Article 16 shall be subject to applicable laws governing foreign exchange transactions in Ghana and in force from time to time.
- 16.2. Contractor shall, for the purpose of this Agreement repatriate to Ghana all the foreign currency obtained from the sales of the Petroleum assigned to it by this Agreement or purchased hereunder. Upon repatriation, a Contractor shall have to transfer funds out of Ghana through a universal bank save that a minimum of five percent (5%) of revenues obtained from the export of petroleum shall be retained in indigenous Ghanaian banks for operational purposes.
- 16.3. Contractor shall open and maintain in Ghana a Foreign Currency Account with a universal bank into which total export proceeds are paid by direct transfer through an external bank and a Ghana Cedi account for the funding of its local payment obligations, including payments to Ghanaian Sub-contractors.
- 16.4. Contractor shall be entitled to convert in an authorised manner into foreign currencies of its choice funds brought in from offshore by Contractor for the Petroleum Operations and held in a Foreign Currency Account in Ghana.
- 16.5. In the event of resale by Contractor or its Affiliate of Crude Oil purchased from the State or the Corporation, the State or the Corporation shall have the right to request payment for such sales of its share of production to Contractor or its Affiliate to be held in the foreign currency in which the resale transaction took place or in United States Dollars.
- 16.6. The Contractor shall have the right to use any funds transferred out of Ghana under 16.2(b), to make direct payments to its employees, and to those of its Subcontractors and suppliers for wages, salaries, purchases of goods, and performance of services, whether imported into Ghana or supplied or performed therein for Petroleum Operations carried out hereunder, in accordance with the provisions of this Agreement.
- 16.7. All payments which this Agreement obligates Contractor to make to the Corporation or the State, including income taxes, shall be made in United States Dollars, except as requested otherwise pursuant to Article 16.5. All payments shall be made by electronic transfer in immediately available funds to a bank to be designated by the Corporation or the State, and reasonably accessible to Contractor by way of its being able to receive payments made by Contractor and give confirmation of receipt thereof.
- 16.8. All payments which this Agreement obligates the Corporation or the State to make to Contractor shall be made in United States Dollars. All payments shall be made by electronic transfer in immediately available funds to a bank to be designated by Contractor, and reasonably accessible to the Corporation or the State by way of its being able to receive payments made by the Corporation or the State and give confirmation of receipt thereof.

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## ARTICLE 17

### SPECIAL PROVISIONS FOR NATURAL GAS

#### PART I - GENERAL

- 17.1. Natural Gas produced by Contractor in association with the Corporation under this Agreement shall be subject to applicable law and the terms of this Article 17.
- 17.2. Contractor shall not flare or vent Natural Gas except as authorised under Regulation 49 of the Petroleum (Exploration and Production) (General) Regulations and other applicable law.
- 17.3. Contractor shall have the right to:
- (a) use Natural Gas produced from any Development and Production Area for Petroleum Operations within the Contract Area, such as reinjection for pressure maintenance and/or power generation at no cost subject to applicable law.
  - (b) dispose of its share of production of Natural Gas, in accordance with this Agreement; provided that priority is given to the demand for Natural Gas in the domestic market without adversely affecting an export project.
  - (c) extract and dispose of liquid hydrocarbons from its share of Natural Gas pursuant to the provisions of this Agreement relating to Crude Oil. Residual Natural Gas remaining after the extraction of liquid hydrocarbons is subject to the provisions of this Article 17.

#### PART II - ASSOCIATED GAS

- 17.4. Subject to Articles 17.1 and 17.9 all Natural Gas produced in association with Crude Oil is the property of the State unless otherwise agreed among the State, the Corporation and Contractor. The Plan of Development and Operation of each Development and Production Area shall include a plan of utilisation for Associated Gas as provided for in Section 32 of the Petroleum Act.
- 17.5. If Contractor considers that production, processing, and utilisation of Associated Gas from any Development and Production Area is non-economic, the Corporation shall have the option to offtake such Associated Gas (not used for Petroleum Operations or flared pursuant to Article 17.1) at the outlet flange of the gas-oil separator on the Crude Oil production facility, at its Sole Risk for its own use. The Corporation and Contractor shall work together to develop the appropriate interface between Natural Gas infrastructure owned by the State and/or the Corporation and the Contractor's Plan of Development and Operation. To that end, Contractor's Plan of Development and Operation shall include:
- (a) an assessment of the facilities necessary for the delivery to the Corporation of such Associated Gas;
  - (b) a plan for the reinjection of Associated Gas into the reservoir if needed for pressure support; and
  - (c) the Corporation's plan for any other utilisation.

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- 17.6. The decision of the Corporation as to whether or not to exercise the option provided for in Article 17.5 shall be made in a timely manner. In making such decision and in its subsequent conduct, the Corporation shall avoid the prevention of, or delay to:
- (a) the submission of the proposed Plan of Development and Operation by Contractor pursuant to Article 17.4; and Article 17(5)(b)
  - (b) orderly start up or continuation of the production of Crude Oil as envisaged in the approved Plan of Development and Operation.
- 17.7. If the Corporation or any State appointed agency, body or third-party elects to offtake Associated Gas under Article 17.5 above, the Corporation or the State appointed agency or third party shall be solely responsible for any additional facilities needed for the delivery of such Associated Gas to the Corporation or any State appointed agency, body or third party, provided that:
- (a) if Contractor subsequently wishes to participate in the Corporation's gas utilization programme, it shall reimburse the Corporation for the costs of such facilities, plus a premium of three hundred percent (300%) of costs; or
  - (b) subject to Section 42(6) of the Petroleum Act, if Contractor subsequently develops a gas utilisation programme and requires the use of the Corporation's or third party's gas facilities, Contractor shall pay the Corporation or the third party an agreed fee for such use.
- 17.8. If Contractor considers that it may be economic to produce Associated Gas for sale, Contractor shall conduct a commercial assessment of such Associated Gas prior to the submission of the Plan of Development and Operation and Part IV below shall apply as to such Associated Gas. The purpose of the commercial assessment shall be to study the uses to which production of Natural Gas from the Discovery Area can be devoted, specifically whether involving exports or domestic utilization. As part of the assessment, the Parties shall also pursue discussions on the required contractual arrangements for disposition of the Natural Gas to potential purchasers, consumers, infrastructure owners, and the Corporation.

### **PART III - NON-ASSOCIATED GAS**

- 17.9. Contractor shall have the right to commercialise a Discovery of Non-Associated Gas in the Contract Area in accordance with the provisions of this Agreement. Except as otherwise provided in this Agreement, the terms applicable to a Discovery as provided under Article 9 of this Agreement shall apply to a Discovery of Non-Associated Gas.

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17.14. Except with respect to specific provisions in this Agreement concerning Natural Gas and different or additional provisions concerning Natural Gas which may be agreed by the Parties in the future, in the event of a Discovery of Natural Gas in the Contract Area which is to be developed and commercially produced, the provisions of this Agreement with respect to interests, rights, and obligations of the Parties regarding Crude Oil shall apply to Natural Gas, with the following necessary changes in points of details:

- (a) The system for the allocation of Natural Gas among the Parties shall follow the same general format as Article 12.1 provides for Crude Oil, with the exception that the royalty to be delivered to the State on Natural Gas shall be at the rate of five percent (5%). If the State elects to take its royalty on Natural Gas in cash, the value of such Natural Gas shall be the Natural Gas market price, less transportation, processing, compression, and marketing costs, as set forth in Article 17.14(c).
- (b) To facilitate gas sales and stable lifting continuity for Contractor, no later than sixty (60) days following Contractor's submittal of the gas plan of development and operation, the State shall make its elections under Article 17.14(a) whether to receive its entitlement of Natural Gas in kind or in cash. In the event that the State either elects to receive its entitlement of Natural Gas in cash or does not provide said election to Contractor, the State's share of Natural Gas shall be delivered to Contractor, and Contractor shall pay to the State in cash within fifteen (15) days of the end of the Month of such delivery.
- (c) The Natural Gas market price for any sales or marketing of Natural Gas under this Agreement shall be as follows:
  - (i) With respect to Natural Gas, export sales in arm's length transactions, the price shall be equal to the price obtained by Contractor.
  - (ii) With respect to Natural Gas domestic sales or sales that are not arm's length transactions, the price shall be consistent with the following principles:
    - A. pricing shall assume sound marketing practices; and
    - B. pricing shall assume efficient operations, taking into account among other things, the cost of finding and developing the Natural Gas, a reasonable return for Contractor on exploration and development investment, and the uses which will be made of the Natural Gas.
- (d) In the event Contractor's Plan of Development and Operation includes construction of gas facilities to convert Natural Gas into one or more commercially marketable products, and Contractor requires additional Natural Gas from the Corporation system as feedstock for those facilities, Contractor and the Corporation shall discuss mutually agreeable terms for the Contractor to purchase such Natural Gas from the Corporation.
- (e) The Parties will consider collaboration in obtaining any common external financing available for Natural Gas production possibilities, including project financing; however, each Party shall remain free to finance externally its share of such facilities to the extent it prefers to do so.

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- 17.10. An Appraisal Report submitted in accordance with the provisions of this Agreement may conclude that the Discovery merits commercial assessment. If the Appraisal Report concludes that the Discovery merits commercial assessment, Contractor shall submit to the Minister and the Commission within thirty (30) days from the date of submission of the Appraisal Report, a programme incorporating a specific timetable for conducting such commercial assessment for approval by the Minister. If the Minister approves the programme such commercial assessment shall be conducted within the Exploration Period, or such other period as may be approved by the Minister. Notwithstanding the above, the Minister may approve the conduct of other studies or evaluation, in accordance with a specific timetable, which may be warranted before a commercial assessment is undertaken if Contractor notifies the Minister that commercial assessment of the Discovery is not warranted at that time but the Discovery may merit such assessment at a later date.
- 17.11. The purpose of the commercial assessment shall be to study the uses to which production of Non-Associated Gas from the Discovery Area can be devoted, specifically whether involving exports or domestic utilization. As part of the assessment, the Parties shall also pursue discussions on the required contractual arrangements for disposition of the Natural Gas to potential purchasers, consumers, infrastructure owners and the Corporation. Contractor may undertake a Non-Associated Gas commercialisation project at a level that will facilitate the achievement of a reasonable rate of return for Contractor and shall use the State's gas infrastructure if available.

#### **PART IV-NATURAL GAS PROJECTS**

- 17.12. If at any time during the commercial assessment Contractor informs the Minister in writing that the Discovery can be produced commercially, Section 27 (1) and (2) of the Petroleum Act shall apply.
- 17.13. If at any time during the commercial assessment Contractor has identified:
- (a) a market in Ghana for the reserves of Associated Gas and/or Non-Associated Gas, or any part thereof that can be served without prejudice to an export project, the Parties shall proceed in good faith to negotiate the appropriate contractual arrangements for the disposition of the Natural Gas. In the event of such a domestic market for such Natural Gas, the Corporation and Contractor shall receive for delivery at the Delivery Point their share of the Natural Gas at a price to be agreed between the Corporation and Contractor in accordance with Article 17.14(c); or
  - (b) an export market for the reserves of Associated and/or Non-Associated Gas, the Parties shall proceed in good faith to negotiate the appropriate contractual arrangements with export customers for the disposition of their respective entitlements of such Natural Gas. Contractor shall dispose of and market its share of the Natural Gas, and the Corporation or the State may request Contractor to market their entitlement of such Natural Gas, subject to separate agreement between the Parties.

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**ARTICLE 18**  
**INFORMATION AND REPORTS**

18.1 Contractor shall keep the Commission and the Corporation regularly and fully informed of Petroleum Operations being carried out by Contractor and, subject to Article 18.2, provide the Commission and the Corporation with all information, Data, samples, interpretations, and reports (including progress and completion reports) including:

- (a) Raw seismic data, processed seismic data and interpretations thereof;
- (b) well data, including electric logs and other wireline surveys, and mud logging reports and logs, oil or hydrocarbon samples, samples of cuttings, and cores and analyses made therefrom;
- (c) any reports prepared from drilling data or geological or geophysical data, including maps or illustrations derived therefrom;
- (d) well testing and well completion reports;
- (e) reports dealing with location surveys, seabed conditions, and seafloor hazards, and any other reports dealing with well, platform, or pipeline locations, metering reports after each offtake and bill of lading
- (f) reservoir investigations and estimates regarding reserves, field limits, and economic evaluations relating to future operations; provided that each Party retains full responsibility for making its own assessment of reserves for internal and reporting purposes;
- (g) daily, weekly, monthly, and other regular reports on Petroleum Operations;
- (h) comprehensive final reports upon the completion of each specific project or operation;
- (i) contingency programmes and reports on safety and accidents;
- (j) a statement showing the values, executing companies, award, and completion dates.
- (k) Subject to Article 18.3 below or any other specific provision in this Agreement regarding the provision of information and data stated under Article 18 (1), all other information or data should be provided not later than 30 days after availability.
- (l) a statement of all planned procurement for petroleum operations for the year should be submitted not later than 30 days from the beginning of the year.
- (m) Data shall be provided on film, paper, or in digital format to the Commission and the Corporation. In respect of reports, including text and graphics, paper or digital copies shall be submitted.

18.2 Contractor shall have the right to retain, for its own use in connection with the conduct of Petroleum Operations under this Agreement, copies of data, well logs, maps, magnetic tapes, other geological and geophysical information, portions of core samples or cuttings and copies of reports, studies, and analyses referred to in Article 18.1. Notwithstanding

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anything to the contrary in this Agreement, Contractor Parties shall not be obligated to provide management communications to the Commission and the Corporation.

18.3 Not later than ninety (90) days following the end of each Calendar Year, Contractor shall submit to the Commission and the Corporation a report covering Petroleum Operations performed in the Contract Area during such Calendar Year. Such report shall include:

- (a) a statement of the number of Exploration Wells, Appraisal Wells, and Development Wells drilled, the depth of each such well, and a map on which drilling locations are indicated;
- (b) a statement of any Petroleum encountered during Petroleum Operations, as well as a statement of any fresh water layers encountered and of any other minerals discovered;
- (c) a statement of the quantity of Petroleum produced and of all other minerals produced therewith from the same reservoir or deposit;
- (d) a summary of the nature and extent of all Exploration activities in the Contract Area;
- (e) a general summary of all Petroleum Operations in the Contract Area;
- (f) a statement of the number of employees, both Ghanaians and non-Ghanaians engaged in Ghana's Petroleum Operations; and (g) a statement of all subcontracts awarded and purchase orders issued worth \$100,000 or more

18.4 All data, information, and reports that are commercially sensitive, including interpretation and analysis supplied by Contractor pursuant to this Agreement ("Data") shall be treated as confidential by the Parties and shall not be disclosed by: (a) any Contractor Party to any other person without the express written consent of the Corporation and the Commission; or (b) the Corporation or the Commission to any other person without the express written consent of Contractor. Such consent shall not be unreasonably delayed or withheld.

18.5 Article 18.4 shall not prevent disclosure of Data by:

- (a) The Corporation, Commission or the State:
  - i. to any agency of the State or to any advisor or consultant to the Corporation, the Commission or the State; or
  - ii. to applicants seeking to obtain a petroleum agreement in respect of any open acreage adjacent to the Contract Area; provided that such disclosure of Data: (1) within two (2) Years of the acquisition of such data shall require Contractor consent, which consent shall not be unreasonably withheld; and (2) after two (2) Years of the acquisition of such data shall require prior notice to Contractor;

or

- (b) Contractor subject to Regulation 68 of the Petroleum (Exploration and Production) (General) Regulations:
  - (i) to its Affiliates, advisers, or consultants;

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- (i) to a bona fide potential assignee of all or part of Contractor's interest, provided that with respect to a bona fide assignee of Contractor's interest, the Corporation is given prior notice of such potential assignee;
- (ii) to banks or other financial institutions for the purpose of seeking external financing of costs of the Petroleum Operations;
- (iv) to non-Affiliates who shall provide services for the Petroleum Operations, including Subcontractors, vendors, and other service contractors, where this is essential for their provision of such services; or
- (v) to governmental agencies for obtaining necessary rulings, permits, licenses, and approvals, or as may be required by applicable law or stock exchange, accounting, or reporting practices, and provided, where possible, the Corporation is given prior notice of such disclosure;

or

(c) any Party:

- (i) to the extent necessary in any arbitration proceedings or proceedings before a Sole Expert pursuant to Article 26, or in proceedings before any court; or
- (ii) with respect to Data, which already through no fault of the disclosing Party is in the public domain.

- 18.6 Any Party disclosing information or providing Data to any third party under Article 18.5 shall require such persons to observe the confidentiality of such data, which shall, at a minimum, require these persons to utilize the same degree of care with respect to this obligation as such persons utilize with respect to their own proprietary information and other proprietary information of third parties, and the right to disclose to the aforementioned persons under Article 18.5 also constitutes the prior written approval of the Corporation, which shall procure all necessary approvals from the Commission to export such data for these disclosures pursuant to Section 53(2) of the Petroleum Act.
- 18.7 Disclosures of Data to any third-party other than those specified in Article 18.5, with the exception of bona fide potential assignees under Article 18.5(b)(ii), shall require the execution of a confidentiality agreement.
- 18.8 Public statements and/or press releases regarding the Petroleum Operations undertaken under this Agreement shall be issued jointly by Contractor and the Corporation, and Contractor and the Corporation shall agree on the timing and wording of such statements and releases to the public. Such public statements and/or press releases shall be submitted to the Commission prior to release or publication. Where, however, Contractor or the Corporation is required to make a public statement and/or press release under the applicable laws, rules, or regulations of any government, legal proceedings, or a stock exchange having jurisdiction over such Party or any of its Affiliates, to the extent permitted by law, that Party shall inform the other Party of such requirement and submit the text of the proposed statement or release for comment and/or approval. Should a Party fail to respond within three (3) Business Days of the submission (or such shorter period as may be reasonable in the event of an emergency or disaster, or reasonably required or necessary to enable the disclosing Party to comply with applicable laws, rules, or

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regulations of any government, legal proceedings, or a stock exchange having jurisdiction over such disclosing Party) to a request for the approval of a public statement or press release for such purposes, such failure to respond shall be deemed approval of the request.

18.9 Subject to any applicable pre-existing obligations under any agreement, all intellectual property rights to any and all inventions, discoveries, or improvements made or conceived directly in connection with conducting Petroleum Operations shall be jointly owned by Contractor and the Corporation if jointly made or conceived by: (1) a Contractor Party's employees, contractors (including the Contractor Parties), Subcontractors, or secondees; and (2) the Corporation's employees, contractors, Subcontractors, or secondees. Each Contractor Party and the Corporation may freely use all such inventions, discoveries, or improvements in its normal operations (including joint operations or a production sharing arrangement in which the Party or its Affiliates has an ownership or equity interest or a contractual right to produce or operate hydrocarbon interests) without the approval of any other Party. However, no Contractor Party or the Corporation may grant permission to any other person or entity to use any such joint property without the consent of Contractor Parties and the Corporation. Subject to obtaining such consent, each Contractor Party and the Corporation is authorized to execute the appropriate grant of usage rights to any such joint property. Any revenues realised from such grant shall be distributed proportionately to Contractor and the Corporation in accordance with their interest under this Agreement.

18.10 Notwithstanding any provision to the contrary in this Agreement, if a Contractor Party has used proprietary technology owned or controlled by such Contractor Party or its Affiliates in Petroleum Operations then such Contractor Party or its Affiliate may, in its sole discretion, make such proprietary technology available to the Corporation on terms to be agreed between the Corporation and such Contractor Party or its relevant Affiliates.

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## ARTICLE 19

### INSPECTION, SAFETY, AND ENVIRONMENTAL PROTECTION

- 19.1 In accordance with Section 3(e) of the Petroleum Commission Act, 2011 (Act 821), Section 51 of the Petroleum Act and Regulation 16 of the Petroleum Commission (Fees and Charges) Regulations, 2015 (L.I. 2221), the Commission shall have the right of access to all sites and offices of the Contractor and the Corporation and the right to inspect all buildings and installations used by Contractor and the Corporation relating to Petroleum Operations.
- 19.2 Contractor shall take all necessary steps, in accordance with Best Oil Field Practice and best available technique, to perform activities pursuant to the Agreement in a safe manner and shall comply with the Petroleum (Exploration and Production) (Health, Safety and Environment) Regulations, 2017 (L.I. 2258), as well as all other applicable health, safety, and environmental laws and regulations issued by the Environmental Protection Agency of Ghana and other relevant State agencies.
- 19.3 The Contractor shall undertake risk reduction principles when carrying out petroleum operations and shall eliminate or reduce risks or hazards to people, the environment or assets in accordance with applicable laws and regulations.
- 19.4 In the event of pollution or damage to fresh water, marine, plant, animal life, or land that is caused by Contractor as a result of Petroleum Operations, Contractor shall, in accordance with applicable laws and Best Oil Field Practice and best available technique, promptly take all necessary measures to control the pollution, to clean up Petroleum or other released material, or to repair, to the maximum extent feasible, damage resulting from any such circumstances.
- 19.5 If such release or pollution does not result directly or indirectly from the Gross Negligence or Wilful Misconduct of Contractor, the cost of clean-up and repair activities shall be included as Petroleum Costs under this Agreement.
- 19.6 If such release or pollution results directly or indirectly from the Gross Negligence or Wilful Misconduct of Contractor, the cost of subcontract clean-up and repair activities shall be borne by Contractor and shall not be included as Petroleum Costs under this Agreement. Contractor shall be responsible for direct, actual (documented) costs, consequential, special, punitive, or exemplary damages in relation to pollution damage caused by Contractor.
- 19.7 Contractor shall entirely and solely be responsible in law toward third parties for any damage caused by Contractor's petroleum operations and shall indemnify the State and/or the Corporation against all damages for which they may be held liable on account of any such operations.
- 19.8 In the event of any emergency or major accident or major release of materials into the environment, Contractor shall: (a) notify the Corporation and the Commission immediately, but in any event within forty-eight (48) hours after Contractor is aware of such event; and (b) take such action as may be prescribed by Best Oil Field Practice and best available technique.

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- 19.9 If Contractor does not act promptly so as to control, clean up, or repair any pollution or damage, the Commission and the Corporation may, after giving Contractor reasonable notice in the circumstances, take any actions which are necessary, in accordance with applicable laws of Ghana and Best Oil Field Practice and best available technique, and the reasonable costs and expenses of such actions shall be borne by Contractor.
- 19.10 Prior to commencing any petroleum operation, Contractor shall conduct a baseline environmental study of the degree of pollution in the relevant portion of the Contract Area to determine the environmental conditions existing therein pursuant to applicable law. The terms, timing, and procedure of such baseline environmental study shall be set forth in an approved Work Programme and Budget.

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## ARTICLE 20

### ACCOUNTING AND AUDITING

- 20.1. Each Contractor Party shall maintain, at its office in Ghana, books of account and supporting records in the manner required by applicable law, accepted accounting principles generally used in the international petroleum industry, file reports, tax returns, and any other documents and financial returns which are required by applicable law and as provided for in the Accounting Guide annexed hereto (Annex 2).
- 20.2. In addition to the books and reports required by Article 20.1, Operator (on behalf of Contractor) shall maintain, at its office in Ghana, a set of accounts and records relating to Petroleum Operations under this Agreement. Such accounts shall be kept in accordance with the requirements of the applicable law and accepted accounting principles generally used in international petroleum industry. For the avoidance of doubt, such accounts shall include all costs and transactions chargeable to Petroleum Costs, irrespective of whether carried out within or outside Ghana.
- 20.3. The accounts required by Articles 20.1 and 20.2 shall be kept in United States Dollars save for accounts for which payments are required to be made in Ghana Cedis by applicable law.
- 20.4. Contractor shall provide the Corporation, Commission and the Minister with quarterly and annual financial statements and summaries of Petroleum Costs incurred under this Agreement. The Contractor shall provide the details necessary for understanding the nature or cost of operations and any other supporting documents upon request. The Corporation shall review all financial statements and summaries of Petroleum Costs submitted by Contractor as required by this Agreement, and shall signify its provisional approval or disapproval of such statements in writing within ninety (90) days of receipt, failing which the financial statements as submitted by Contractor shall subject to Article 20.5 be deemed approved by the Corporation; in the event that the Corporation indicates its disapproval of any such statement, Contractor and the Corporation shall meet, within fifteen (15) days of Contractor's receipt of the notice of disapproval, to review the matter.
- 20.5. Notwithstanding any provisional approval pursuant to Article 20.4, the Corporation shall have the right, upon giving reasonable notice in writing to Contractor, to audit, at the Corporation's sole expense, the books and accounts of Contractor relating to Petroleum Operations within two (2) Calendar Years after the end of the Calendar Year in which any report of financial statement is submitted by Contractor to the Corporation. The Corporation shall not, in carrying out such audit, interfere unreasonably or unduly with the conduct of Petroleum Operations. Any such audit shall be undertaken by the Corporation or an independent auditing firm and shall be completed within nine (9) Months after commencement. Subject to compliance with Contractor's safety and security requirements, Contractor shall provide access to all necessary facilities for auditors appointed hereunder by the Corporation and timely access to all relevant personnel, records, files, and other materials.
- 20.6. If the Corporation desires verification of charges from an Affiliate, Contractor shall, at the Corporation's sole expense, obtain for the Corporation or its representatives an audit certificate for this purpose from the statutory auditors of the Affiliate concerned. Copies of audit reports shall be provided to Contractor and the Corporation. Any unresolved

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audit claim resulting from such audit, upon which Contractor and the Corporation are unable to agree, shall be submitted to the JMC for decision, which must be unanimous. In the event that a unanimous decision is not reached in respect of any audit claim, then such unresolved audit claim shall be submitted for resolution in accordance with Article 26. Subject to any adjustments resulting from such audits, Contractor's accounts and financial statements shall be considered to be correct on expiry of a period of two (2) Calendar Years from the end of the Calendar Year in which they are submitted to the Corporation unless before the expiry of such two (2) Calendar Year period the Corporation has notified Contractor of any exceptions to such accounts and statements.

- 20.7. Article 20.4 above shall not limit the Commission's right of audit under Section 51(2)(b) of the Petroleum Act.
- 20.8. Nothing in this Article shall be read or construed as placing a limit on the Commission's access to Contractor's books and accounts in respect of matters arising under Article 25.3(a).
- 20.9. In the event of any changes in location of Operator's office in Ghana, Operator shall so notify the Minister, the Corporation and the Commission within thirty (30) days.
- 20.10. Petroleum Costs incurred with respect to the Contract Area shall have no bearing on allowable or non-allowable costs under any other contract area Similarly, petroleum costs incurred in any other contract area shall have no bearing on allowable or non-allowable costs in respect of the Contract Area.

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**ARTICLE 21**

**TITLE TO AND CONTROL OF GOODS AND EQUIPMENT AND OF PETROLEUM**

- 21.1. Title to and control of physical assets used in Petroleum Operations by Contractor shall be subject to Section 19 of the Petroleum Act and Regulation 33 of the Petroleum (Exploration and Production) (General) Regulations.
- 21.2. The State shall be the owner of all Petroleum produced and recovered as a result of Petroleum Operations, except for such Petroleum as is distributed to the Corporation and to Contractor pursuant to Article 12 or Article 17 of this Agreement;

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## ARTICLE 22

### PURCHASING AND PROCUREMENT

- 22.1. Contractor and its Subcontractors shall not enter into a petroleum subcontract in the conduct of petroleum operations under this Agreement either within the Republic of Ghana or outside the Republic without the approval of the Commission pursuant to Section 17 of the Petroleum Act.
- 22.2. In the purchase of goods and services for the conduct of petroleum activities, Contractor and its Subcontractors shall establish and implement a bidding process to give preference to Indigenous Ghanaian companies pursuant to Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I. 2204).
- 22.3. Contractor shall submit an annual local content plan which includes the engagement and utilisation of local Ghanaian Subcontractors for the provision of goods and services, and the employment and development of qualified Ghanaian citizens ("**Local Content Plan**") to the Commission for approval. In approving the Local Content Plan, the Commission in consultation with the Contractor shall establish Contractor's obligations with respect to the local content threshold requirements of the First Schedule of the Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I 2204).
- 22.4. All contracts to be entered into or awarded by Contractor for the provision of services for Petroleum Operations shall be subject to the Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I 2204). GA  
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## ARTICLE 23

### EMPLOYMENT, CAPACITY BUILDING AND TECHNOLOGY SUPPORT

- 23.1. Contractor, its Subcontractors or other entities which cooperate with them shall implement all local content measures required by Sections 60, 61, and 63 and 66 of the Petroleum Act and the Local Content Regulations and other applicable laws.
- 23.2. In order to establish programmes to train Ghanaian personnel for work in Petroleum Operations and for the transfer of management and technical skills required for the efficient conduct of Petroleum Operations, Contractor shall;
- (a) pay to the Commission a technical skills transfer allowance in the amount of Two Hundred and Fifty Thousand United States Dollars (US\$250,000) payable yearly. The amounts shall be payable within thirty (30) days after the beginning of each Contract Year, provided that the amount payable shall be pro rata for any period less than a full Calendar Year;
  - (b) pay to the Commission a technology support payment totalling Six Hundred Thousand United States Dollars (US\$600,000), spread over 3 years by instalments of US\$200,000, with the first one due within thirty (30) days of the Effective Date and the second and third payments due on the first and second anniversaries; and
  - (c) contribute to the Local Content Fund an amount of Fifty Thousand United States Dollars (US\$50,000) payable annually in accordance with Section 64 of the Petroleum Act.
- 23.3. All payments shall be made by Contractor as follows:
- (a) to the Commission pursuant to Article 23.2(a) by electronic transfer to an account designated by the Commission and verified by Contractor.
  - (b) to the State pursuant to Article 23.2(b) and 23(c), into the Petroleum Holding Fund, an account designated by the Minister responsible for Finance.
  - (c) to the Local Content Fund pursuant to Article 23.2 (e) into the Local Content Fund Account, an account designated by the Commission.
- 23.4. For the purposes of securing employment, skills transfer and capacity building and localisation of job roles of Ghanaians Contractor, its Subcontractors or other entities shall:
- (a) give first consideration to Ghanaians with the requisite qualifications, training, and experience in accordance with Local Content and Localisation Policies.
  - (b) implement a secondment programme to enhance the human resource capacity of the Corporation and the Commission
  - (c) apply and acquire through the Commission work permits for all expatriates engaged in petroleum operations in Ghana in accordance with the Guidelines on Employment, Work Permit, Training and Capacity, and Succession issued by the Commission.

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## ARTICLE 24

### FORCE MAJEURE

- 24.1. The failure, non-performance or delay in performance, default or omission of the Corporation or a Contractor Party to fulfil any term or condition of this Agreement, except for the payment of monies, shall be excused if and to the extent that such failure, non-performance or delay in performance arises from Force Majeure, provided that, if the event is reasonably foreseeable, such Party shall have prior thereto taken all reasonably appropriate precautions and all reasonable alternative measures with the objective of carrying out the terms and conditions of this Agreement. Such Party affected by an event of Force Majeure shall promptly give the other Parties notice of such event and also of the restoration of normal conditions.
- 24.2. In the event that the Corporation or a Contractor Party is unable, wholly or in part, to perform its obligations provided for in the Agreement as a result of such event of Force Majeure, the Party whose performance of obligations are prevented by the event of Force Majeure shall immediately, but not later than fourteen (14) days from when such an occurrence becomes evident, give written notice to the other Parties, and the Commission including details of such event of Force Majeure and such Party's estimate of the duration of the event of Force Majeure.
- 24.3. Throughout the duration of the event of Force Majeure, the affected Party shall report to the other Parties and the Commission any changes to its estimate of the duration of the delay, and any significant developments with respect to the event of Force Majeure.
- 24.4. A Party unable by an event of Force Majeure to perform any obligation hereunder shall take all reasonable measures to remove its inability to fulfil the terms and conditions of this Agreement with the minimum of delay, and the Parties shall take all reasonable measures to minimise the consequences of any event of Force Majeure.
- 24.5. During the duration of an event of Force Majeure, each Party shall bear its own costs arising from the delay in performance under the Agreement, except costs reasonably incurred to maintain safe and necessary Petroleum Operations.
- 24.6. Should the event of Force Majeure be reasonably expected to last longer than six (6) Months from the date of notification pursuant to Article 24.2, the Parties agree to enter into discussion to review and assess the situation with the aim to identify a proper recovery plan for the future implementation of this Agreement, including an extension in accordance with Article 24.11 or a modification of the applicable contractual terms. When a recovery plan is identified and agreed, any affected Party's commitment schedule will be considered revised accordingly.
- 24.7. Should the event of Force Majeure continue for a period of one (1) Year from the date of notification pursuant to Article 24.2, Contractor shall have the option upon at least sixty (60) days written notice to the other Parties to terminate this Agreement without further liability of any kind.
- 24.8. Notwithstanding Article 24.6, if the Force Majeure event occurs during the Initial Exploration Period or any extension thereof for a continuous period of six (6) Months,

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Contractor shall have the option, upon ninety (90) days prior written notice to the Parties, to terminate its obligations hereunder without further obligation and liability of any kind.

- 24.9. The affected Party shall notify the other Parties of the termination of an event of Force Majeure in writing within seven (7) days of such termination.
- 24.10. Without prejudice to the above and except as may be otherwise provided herein, the State shall incur no responsibility whatsoever to the Corporation and Contractor, or either of them for any damages, restrictions or loss arising in consequence of such case of Force Majeure herein referred to in this Article 24.
- 24.11. Any period set herein for the completion by a Party of any act required or permitted to be done or rights or benefits to be enjoyed under the terms of this Agreement, shall be extended for a period of time equal to that during which such Party was unable to perform such actions or enjoy such rights or benefits as a result of Force Majeure, together with such time as may be required for the resumption of Petroleum Operations.
- 24.12. Unless otherwise specified herein, the Corporation may not claim Force Majeure in respect of any action or provision of the State or any agency of the State, other than a law or similar act either of a general application or made to address a specific emergency. In the case that Contractor declares Force Majeure in respect of an action, omission or provision of the State, the Corporation shall be entitled to elect for the duration of such declaration by Contractor to also be relieved of substantially the same obligations that Contractor has been relieved of by its declaration of Force Majeure in respect of such State action, omission or provision (but only to the extent that the Corporation is unable to perform such obligations as a result of such Force Majeure in respect of such State action, omission or provision).

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## ARTICLE 25

### TERM AND TERMINATION

- 25.1. Subject to Section 14 of the Petroleum Act, the term of this Agreement shall be twenty-five (25) Years commencing from the Effective Date.
- 25.2. Subject to Article 24 and Regulation 31 of the Petroleum (Exploration and Production) (General) Regulations, the Termination of this Agreement shall result upon the occurrence of any of the following:
- (a) Contractor's relinquishment or surrender of the entire Contract Area;
  - (b) subject to Section 21 of the Petroleum Act and Regulation 5 of L.I. 2390, the termination of the Exploration Period; or
  - (c) pursuant to the procedures described in Article 25.3(e), the failure of Contractor through any cause other than Force Majeure, to commence preparations with respect to Development Operations pursuant to Article 9.9 within six (6) Months after the Minister's approval of the Plan of Development and Operations
- 25.3. Subject to Article 24 and pursuant to procedures described in Article 25.3(e) below, the State may terminate this Agreement upon the uncorrected occurrence (or failure to act) of any of the events listed below:
- (a) the submission by Operator or a Contractor Party, to the Corporation of a written statement which Operator or such Contractor Party knows or reasonably should have known to be false in a material particular, or the release by Operator or a Contractor Party to any print or electronic media or to a stock exchange of a written statement regarding the Petroleum Operations in Ghana in breach of Article 18.6 and in a form which Operator or a Contractor Party knows or should reasonably have known to be false in a material particular; provided that:
    - (i) in the event of intent on the part of Operator or such Contractor Party to cause serious damage to the Corporation or the State, a period for remedy of such false statement shall not be given; and
    - (ii) the submission of such a written statement or release in violation of Article 18.6 that is false in a material particular by less than all of the Contractor Parties shall result in the withdrawal of the Contractor Party that makes such a written statement or release, and shall not lead to a termination of the Agreement if the other Contractor Parties assume all of the rights and obligations of the withdrawing Contractor Party;
  - (b) the assignment by Contractor of this Agreement contrary to the provisions of Article 27 hereof; provided that an assignment by less than all of the Contractor Parties shall result in the withdrawal of the assigning Party and its assignee, and shall not lead to a termination of the Agreement if, with the approval of the Minister, the other Contractor Parties assume all of the rights and obligations of the withdrawing Contractor Party;
  - (c) the insolvency or bankruptcy of a Contractor Party, the entry by a Contractor Party into any agreements or composition with its creditors, taking advantage of any law

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for the benefit of debtors or a Contractor Party's entry into liquidation, or receivership, whether compulsory or voluntary, which in itself provides evidence that the obligations of such Contractor Party hereunder will not be performed; provided that the insolvency or bankruptcy of one Contractor Party shall not lead to a termination of the Agreement if the other Contractor Parties and/or the Corporation, as the case may be, will assume all of the rights and obligations of the defaulting Contractor Party under this Agreement. In such a case,

- (i) the Corporation shall have the right to acquire a share of the interest of the defaulting Contractor Party proportionate to the total of the Corporation's Initial Interest and Additional Participating Interest (if the Corporation elects to take an Additional Participating Interest pursuant to Article 2.5 prior to the insolvency or bankruptcy of the defaulting Contractor Party), in which case the Corporation shall assume its proportionate share of the rights and obligations of the defaulting Contractor Party under this Agreement and the Joint Operating Agreement.
- (ii) The Corporation may exercise this right by notice to all Contractor Parties within thirty (30) days following notification of the insolvency or bankruptcy of the defaulting Contractor Party.
- (iii) The Corporation's written notice shall state the percentage share of the interest of the defaulting Contractor Party which the Corporation proposes to acquire. Upon exercise by the Corporation of its rights pursuant to this Article 25.3(c)(i), the Corporation shall execute all appropriate transfers, assignments and novations. Provided further that, if the other Contractor Parties in assuming the interest of the defaulting Contractor elects to assign, the whole or part of, the assumed interest to a third party such assignment shall be subject to the Corporation's pre-emptive right pursuant to Section 18 of the Petroleum Act. For clarity, the interest so acquired by the Corporation pursuant to Article 25.3(c)(i) shall be a Paying Interest and not be subject to the rights and obligations of the Corporation's Carried Interest or Additional Participating Interest;
- (d) the intentional extraction by Contractor of any mineral(s) (as defined in the Minerals and Mining Act, 2006 (Act 703) as amended) other than as authorised under this Agreement, or any applicable laws of Ghana, except for such extraction as may be unavoidable as a result of Petroleum Operations. Where, however, in the course of Petroleum Operations conducted in accordance with international best oil field practice Contractor unavoidably extracts any mineral(s) of potential economic value, Contractor shall immediately notify the Minister and surrender such mineral(s) to the State;
- (e) failure by Contractor:
  - (iv) to provide the Minister with Security pursuant to Article 4.5;
  - (v) to fulfil the Minimum Work Obligations pursuant to Article 4.3, save where the Minister has waived the default;
  - (vi) to carry out an Appraisal Programme undertaken by Contractor pursuant to Article 11, unless Contractor notifies the Corporation and the Commission that the Appraisal Programme should be amended and submits said amendment to the Commission for its approval; or

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- (vii) to carry out the terms of an approved Plan of Development and Operation;
- (viii) to comply with any of its obligations pursuant to Articles 8.1(a) to (p);
- (ix) to make any payment of any sum due to the Corporation, the Commission or the State pursuant to this Agreement within thirty (30) days after receiving notice that such payment is due; or
- (x) to comply with any decisions reached as a result of any arbitration proceedings conducted pursuant to Article 26 hereof; provided that the failure of less than all of the Contractor Parties to comply with such decisions shall result in the withdrawal of such Parties and shall not lead to a termination of the Agreement if the other Contractor Parties assume all of the rights and obligations of the Contractor Parties that fail to comply with such decisions.
- (xi) to assign its interest hereunder contrary to the provisions of Article 27.
- (xii) to comply with any applicable law of the Republic of Ghana related to this Agreement, provided that, if such failure is attributable to a Contractor Party, then termination of this Agreement shall take place only with regard to the Contractor Party in question.

25.4. If the State believes an event or failure to act as described in Article 25.2(c) or 25.3 above has occurred, a written notice shall be given to Contractor describing the event or failure. Contractor shall have thirty (30) days from receipt of said notice to commence and pursue remedy of the event or failure cited in the notice.

25.5. If after the said thirty (30) days under Article 25.4, Contractor has failed to commence appropriate remedial action, the State may then issue a written notice of Termination to Contractor which shall become effective thirty (30) days from receipt of said notice of Termination by Contractor unless Contractor has referred the matter to arbitration in accordance with Article 26. In the event that Contractor disputes whether an event specified in Article 25.2(c) or 25.3 has occurred or been remedied, Contractor may, any time up to the effective date of any notice of Termination, refer the dispute to arbitration pursuant to Article 26. If so referred, the State may not terminate this Agreement in respect of such event, except in accordance with the terms of any resulting arbitration award as provided for in Article 26. However, if such cause, or the failure to remedy or remove such cause, results from any act or omission of one party, the rights of such party shall be extinguished under this Agreement and the said Contractor Party shall cease to be a party to this Agreement.

25.6. Subject to Regulation 31(5) of the Petroleum (Exploration and Production) (General) Regulations, and Article 8 of this Agreement, upon Termination of this Agreement, all rights and obligations of the Parties hereunder, shall cease, except for: (a) such rights and obligations as may at such time have accrued under this Agreement prior to Termination; and (b) such rights and obligations as the Parties may have under applicable law. For the avoidance of doubt, the rights referred to in this provision excludes the rights of the State as the Host Government.

25.7. Notwithstanding Termination of this Agreement, Article 1, Article 15, Article 18, Article 20, Article 25.6, Article 25.7, Article 26, Article 29.1, Article 29.5, and Article 29.9, such other provisions of this Agreement as are reasonably necessary for the full enjoyment and enforcement of accrued rights and obligations shall survive such Termination for the period necessary.

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## ARTICLE 26

### CONSULTATION, ARBITRATION, AND INDEPENDENT EXPERT

- 26.1. Subject to the prior fulfilment of any procedures specified in this Agreement to resolve dispute or claim arising out of or relating to this Agreement, the Parties shall use their best efforts to settle, any dispute or claim arising between the State and Corporation or either of them on one hand and Contractor on the other hand in relation to or in connection with or arising out of this Agreement, shall be resolved by consultation and negotiation among senior personnel authorized by each.
- 26.2. In the event that no agreement is reached within thirty (30) days after the date when the State and/or the Corporation on the one hand and the Contractor on the other hand notifies the other that a dispute exists within the meaning of this Article or such longer period specifically agreed to by the Parties or provided elsewhere in this Agreement, any Party shall have the right subject to Article 26.11 to have such dispute settled exclusively through international arbitration under the auspices of the International Chamber of Commerce (the "ICC") and adopting the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules") in force on the date on which the proceedings are instituted, which ICC Rules are deemed incorporated by reference into this Article 26, save as otherwise provided herein.
- 26.3. The failure or refusal to submit to arbitration in accordance with this Article 26 and/or the seeking of any Pre-Award Attachment by any Party shall be deemed a breach of this Agreement by such Party. In the event of a breach under this Article by a Party (the "Breaching Party"), each non-breaching Party shall, without prejudice to any other remedies, be entitled to recover from each Breaching Party all costs and expenses, including reasonable attorneys' fees, that such non-breaching Party was thereby required to incur.
- 26.4. The tribunal shall consist of three (3) arbitrators. The State and/or the Corporation on the one hand and the Contractor on the other hand shall each be entitled to appoint one (1) arbitrator and those so appointed shall designate a chairman arbitrator. If a Party's arbitrator and/or the chairman's arbitrator is/are not appointed within the periods provided in the rules referred to in Articles 26.1 and 26.2 above, such Party's arbitrator and/or the chairman arbitrator shall at the request of any Party to the dispute be appointed by the ICC International Court of Arbitration in accordance with the ICC Rules.
- 26.5. No arbitrator shall be a citizen of the home country of any Party hereto, and shall have no economic interest in or relationship with any Party hereto or any such Party's ultimate parent company.
- 26.6. The seat of the arbitration proceedings shall be in London, England, or at such other location as the Parties may agree in writing. The proceedings shall be conducted in the English language.
- 26.7. If the opinions of the arbitrators are divided on issues put before the tribunal, the decision of the majority of the arbitrators shall be determinative. The award of the tribunal shall be final and binding upon the Parties. The Parties undertake to carry out any award without delay and waive their right to any form of recourse based on grounds other than those contained in the United Nations Convention on the Recognition and Enforcement

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or Arbitral Awards of 1958 insofar as such waiver can be validly made. Judgement upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant Party or its assets.

- 26.8. The right to arbitrate disputes arising out of this Agreement shall survive Termination of this Agreement.
- 26.9. Each of the State, the Corporation and Contractor agree that, to the extent such party has any right of state sovereign or similar immunity from legal proceedings in Ghana, London or elsewhere arising from the terms and conditions of this Agreement, including immunity from service of process documents, immunity from the jurisdiction, suit, judgment or award of any arbitral tribunal, or immunity from execution of judgment, to the extent that in any jurisdiction there may be attributed to it or to any of its properties or assets such immunity (whether or not claimed), such Party hereby expressly and irrevocably waives any such immunity to the fullest extent permitted by law and agrees not to claim, assert or invoke any such rights or claims in any proceeding provided, however, that the provisions hereof shall not constitute a waiver by any Party of any right that it now or hereafter has under applicable law to claim state sovereign immunity or any other immunity over Protected Assets.
- 26.10. Notwithstanding any provision to the contrary, the Parties hereby agree that the Protected Assets shall not be subject to any proceedings in connection with this Agreement or any transaction contemplated by this Agreement.
- 26.11. The Parties to a dispute arising under this Agreement, including the Accounting Guide, may in lieu of arbitration, mutually agree in writing to refer the dispute for determination by a sole expert to be appointed by agreement of the Parties who is a recognised specialist with respect to the subject matter of the dispute (a "Sole Expert"). In such case, the Parties shall agree on the terms of reference for such proceeding, the schedule of presentation of evidence and testimony of witnesses, and other procedural matters. The decision of the Sole Expert shall be final and binding upon the Parties. The Sole Expert shall have ninety (90) days after his appointment to decide the case, subject to any extensions mutually agreed to by the Parties to the dispute. Upon failure of the Sole Expert to decide the matter within such time, any Party shall have the right to have such dispute or difference settled through arbitration under the foregoing provisions of this Article.
- 26.12. Each Party to a dispute shall pay its own counsel and other costs; however, costs of the arbitration tribunal shall be allocated in accordance with the decision of the tribunal. The costs and fees of the Sole Expert shall be borne equally by the Parties to the dispute.
- 26.13. In the event of a matter being referred for resolution under this Article, any obligations of the Parties relating specifically and directly to such matter, including a dispute relating to Termination, shall (unless otherwise provided by this Agreement) be suspended without liability to any Party, until said matter has been resolved pursuant to this Article and a final arbitration award is made by the arbitral tribunal. All time periods applicable to such obligations in the Agreement shall be extended by the period of the arbitration proceedings; provided that any Petroleum Operations not specifically and directly related to any obligations referred to above shall not be suspended unless the Parties mutually agree otherwise.

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26.14. Neither the State and/or the Corporation, on the one hand, and Contractor, on the other hand, shall be held liable to the other for any consequential, special, indirect, punitive or exemplary damages arising directly or indirectly out of or in relation or in connection to this Agreement, regardless of cause or fault. However, this Article 26.14 shall not be construed as a waiver of a Party's rights and remedies under Article 26.3.

**ARTICLE 27**  
**ASSIGNMENT**

- 27.1. Subject to Section 16 of the Petroleum Act, and Regulations 27 and 28 of the Petroleum (Exploration and Production) (General) Regulations, no interest in this Agreement shall be assigned by Contractor whether by a direct assignment or an Indirect Assignment, in whole or in part, without the prior written consent of the Corporation and the written approval of the Minister on the assignment. The Parties hereby agree that the requirement for the prior written consent of the Corporation and the written approval of the Minister applies whether or not the assignment is made between the Contractor and its Parent Company or any other third Party, is in respect of an assignment of the rights and interests of an arbitral award, municipal or international, arising out of this Petroleum Agreement, and made outside Ghana and intended to be governed by the laws of a country other than the Republic.
- 27.2. An assignment under this Article shall be subject to such terms and conditions as may be stipulated by the Minister and in all cases the Corporation shall have pre-emptive right as provided for at Section 18 of the Petroleum Act to acquire such interest intended to be assigned.
- 27.3. The Corporation's acquisition of Additional Participating Interest under Article 2.5 or a Sole Risk interest pursuant to Article 11 shall not be deemed to be an assignment within the meaning of this Agreement.
- 27.4. The transfer or disposal by a Contractor Party (the "Selling Party") of all or part of its Participating Interest, whether by direct assignment or Indirect Assignment, other than:
- (a) with or to a wholly-owned Affiliate of such Contractor Party's ultimate parent entity or upon a transfer of shares by the ultimate parent entity of a Contractor Party, including in connection with a takeover of such ultimate parent, or
  - (b) to the other Contractor Parties as a result of the insolvency or bankruptcy of the Contractor Party leading to other Contractor Parties assuming all of the rights and obligations of the insolvent or bankrupt Contractor Party as specified in Article 25.3(c) of this Agreement, shall be subject to Section 18 of the Petroleum Act and the following procedure:
    - (i) Once the Selling Party and a proposed transferee have fully negotiated the final terms and conditions of a transfer, such final terms and conditions shall be promptly disclosed in detail to the Corporation and the State in a notice from the Selling Party. The Corporation shall have the right, pursuant to Article 27.4 (b), to acquire the Participating Interest from the Selling Party on the same terms and conditions, including all obligations for Petroleum Costs with respect to Exploration Operations and Development Operations, agreed to by the proposed transferee if, within ninety (90) days of Selling Party's notice, the Corporation delivers to the Selling Party a counter-notice that the Corporation accepts the agreed terms and conditions of the transfer without reservations or conditions. If the Corporation does not deliver such counter-notice within the ninety (90) day period, the transfer to the proposed transferee shall be made, subject to the other provisions of this Agreement and applicable laws and regulations of Ghana, under terms and conditions no more favourable to the transferee than those set forth in the notice to the Corporation and the State;

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provided that the transfer shall be concluded within two hundred (200) days from the date of the notice plus any additional period as may be required to secure requisite approvals.

- (ii) the Corporation's right to acquire the Participating Interest pursuant to Article 27.4(a) is subject to each Contractor Party having consented in writing to such transfer, which consent shall be denied only if the Corporation fails to establish, to the reasonable satisfaction of each Contractor Party, the Corporation's financial capability to perform its payment obligations under this Agreement associated with such additional Participating Interests.
- (iii) In the event that a Selling Party's proposed transfer of all or part of its Participating Interest involves consideration other than cash, or involves other properties included in a wider transaction, then the Participating Interest (or part thereof) shall be allocated a reasonable and justifiable cash value by the Selling Party in any notification to the Corporation and the State. The Corporation may satisfy the requirements of this Article 27.4 by agreeing to pay such cash value in lieu of the consideration payable in the said proposed transfer.

27.5. The Corporation may only assign all of its Initial Participating Interest to an entity that is wholly owned by the State.

27.6. The Corporation may only assign all of its Additional Participating Interest to:

- (a) its wholly owned Affiliate or subsidiary;
- (b) a governmental agency or entity that is wholly owned by the State; or
- (c) a corporate entity controlled by the State that has been duly authorized by appropriate governmental directive to hold such right or perform such obligation.

27.7. Any assignment of the Corporation pursuant to this Article shall:

- (a) not affect any of the rights of Contractor under this Agreement; and
- (b) bind the assignee as a Party to this Agreement to all the terms and conditions hereof unless otherwise agreed by Contractor.

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## ARTICLE 28

### STABILISATION

- 28.1. The State confirms that it will accord to the Contractor Parties treatment consistent with the minimum standard of treatment required to be accorded to foreign investors under applicable laws and customary international law.
- 28.2. If subsequent to the Effective Date a Party/Parties considers that the passage of any enactment of or change in the laws of Ghana or any rules, procedures, guidelines, directives or policies pertaining to the Agreement introduced by the State or any Government agency has substantially and adversely affected the rights and obligations or the economic benefits of that Party/Parties, the affected Party/Parties shall submit a written notification to the other Parties regarding the specific enactment or change in laws and also the consequent effect(s) or impact on the affected Party. The Parties shall thereafter use their best efforts to agree to necessary adjustments or modifications to the Agreement as will compensate for the effect(s) of such changes.
- 28.3. Upon the request and notification under Article 28.2, the Parties shall meet within thirty (30) days to determine whether or not there has been any material adverse effect or impossibility of performance. Contractor shall, showing the material adverse effect, provide detailed analysis showing the impact of any enactment or change in the laws of Ghana or any rules, procedures, guidelines, directives or policies pertaining to the Agreement introduced by the State or any Government agency and any further proof and justification to enable parties to come to a consensus. Where the Parties agree that such material adverse effect or impossibility of performance has occurred they shall negotiate in good faith on necessary measures or negotiate, modifications to the terms of the Agreement as may be appropriate with a view to restore to the Contractor the economic, fiscal, and financial balance of this Agreement which existed on the Effective Date.
- 28.4. The Parties shall use their best efforts to agree on amendments to this Agreement within ninety (90) days from the date on which the aforesaid notice was received or such longer period as may be agreed by the Parties.
- 28.5. If for any reason the Parties are unable to agree on terms for the restoration of economic balance, or the effect on the rights, obligations and benefits of the affected Party/Parties, within a twelve (12) Month period (including through activating all dispute mechanisms under this Agreement), then any Party may refer the matter to arbitration pursuant to Article 26 of this Agreement, and the arbitration panel so appointed shall determine (a) whether the claimed change or adverse effect has occurred and (b) if so be directed to order such remedies, including damages or modifications to the Agreement, in order to restore the economic, fiscal, and financial balance of the Agreement as at the Effective Date.
- 28.6. For the avoidance of doubt, no Party to this Agreement shall, prior to the resolution of any matter arising under this Agreement and brought under this Article 28, unilaterally take any action not to respect or perform any of its obligations of the provisions of this Agreement.

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## ARTICLE 29

### MISCELLANEOUS

#### 29.1. Governing Law

This Agreement and the relationship between the State and the Corporation, on one hand, and Contractor, on the other hand shall be governed by and construed in accordance with the laws of the Republic of Ghana in effect from time to time, unless the Agreement provides otherwise.

#### 29.2. Effective Date

This Agreement shall not be valid or take effect unless and until the date on which it has been ratified by the Parliament of the Republic of Ghana (the "Effective Date"). For the avoidance of doubt, the execution only by the Parties of the Agreement does not constitute a valid, effective and enforceable Agreement.

#### 29.3. Amendment

This Agreement may not be modified, amended, altered, or supplemented except upon the execution and delivery of a written agreement executed by the Parties subject to ratification by the Parliament of the Republic of Ghana.

#### 29.4. Waiver

No waiver by any Party of any of its rights or obligations or defaults hereunder in the performance of the Agreement shall operate or be construed or implied as a waiver of any other obligations or defaults whether of a like or a different character, but shall be binding on such Party only if made specifically, expressly, and in writing.

#### 29.5. Status of Parties

Subject to the terms of this Agreement, the obligations of each Contractor Party hereunder shall be joint and several, and it is recognised that each such Party shall own and be responsible for its Participating Interest in the rights and obligations of Contractor hereunder; provided however that the following payments shall be the separate obligation of and shall be made by each Contractor Party:

- (a) Payments under the Income Tax Act pursuant to Article 15;
- (b) Payments of Royalty taken in cash under the provisions of Article 12.1(d) and Article 17.14(a); and
- (c) Payment of AOE under the provisions of Article 12.2 and pursuant to Section 89 of the Petroleum Act and Regulation 75 of the Petroleum (Exploration and Production) (General) Regulations.

For the avoidance of doubt, the rights and obligations of the State and/or the Corporation under this Agreement, on the one hand, and Contractor, on the other hand, shall be separate and proportional and not joint.

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29.6. Partnership or Joint Venture

This Agreement shall not be construed as creating a partnership or joint venture, nor an association or trust (under any law other than the Petroleum Act), or as authorising any Party to act as agent, servant, or employee for any other Party for any purpose whatsoever, except as provided in Article 12.

29.7. Entire Agreement

This Agreement comprises the full and complete agreement of the Parties hereto with respect to the subject matter hereof and supersedes, cancels and replaces any previous communications, understanding or agreement between the Parties whether oral or written, expressed or implied on the subject matter hereof, prior to the date of this Agreement.

29.8. Severability

In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, provided the invalid, illegal or unenforceable provision(s) are not fundamental to this Agreement.

29.9. Bribery and Corruption

- (a) Each Party agrees and warrants that, in relation to this Agreement and the subject matter hereof, neither:
- (i) it or any of its Affiliates and their respective directors, officers, employees, or personnel; nor
  - (ii) to the best of its knowledge or belief, any of its consultants, agents, representatives, or other persons retained or otherwise engaged by it has offered or will offer, or has caused or will cause to be offered, or has given or will give, or has caused or will cause to be given, anything of value (including money, promises, or gifts), whether directly or indirectly to, or for the use of, any government official (including any person holding a legislative, administrative, or judicial office, whether appointed or elected, and any person employed by or acting on behalf of, a public agency, public enterprise, or public international organization), political party, or political candidate, or to any member of their respective families, or any person acting on behalf of anyone listed above:
    - A. for the purpose of influencing any decision or act which affects a Party or securing an improper advantage; or
    - B. that would violate applicable laws of Ghana.
- (b) If a Party is being investigated pursuant to any relevant legislation, guidelines, or regulations of any other government having jurisdiction over a Party hereto, which are designed and implemented to deter, prevent, and combat bribery or corruption in relation to international business transactions, the other Parties agree

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in good faith to give all reasonable assistance to the Party being investigated in relation to any reasonable requests (whether general or specific) for information or documentation regarding the subject transaction(s); provided that: (a) the Party being investigated shall use reasonable efforts to keep the other Parties informed as to the progress and disposition of such investigation or proceedings; and (b) the Parties shall not be obligated to disclose to any other Parties any information that would be considered legally privileged.

- (c) Each Party shall indemnify and hold harmless the other Parties for any and all damages, losses, penalties, fines, costs, and other expenses (including reasonable legal costs and attorneys' fees) resulting from, or related to, the events underlying:
  - (i) such Party's admission of allegations made by a governmental authority concerning operations and or activities under this Agreement that such Party or its Affiliates, or their directors, officers, employees, or personnel have violated Article 29.9(a); or
  - (ii) the final adjudication concerning operations and/or activities under this Agreement that such Party or its Affiliates, or their directors, officers, employees, or personnel have violated the warranty in Article 29.9(a).
- (d) Each Party agrees that it shall incorporate terms similar to those set out in Article 29.9 into all or any contract entered into pursuant to this Agreement and the subject matter thereof.
- (e) No Party is in any way authorized to take any action on behalf of another Party that would result in an inadequate or inaccurate recording or reporting of assets, liabilities, or any other transaction, or which would put such Party in violation of any applicable laws of Ghana or elsewhere. Notwithstanding anything in this Agreement to the contrary, no provision shall be interpreted or applied so as to require any Party to do, or refrain from doing, anything that would be prohibited or penalized under any laws applicable to such Party, including export controls, economic sanctions, antitrust, anti-boycott, and securities and exchange laws and regulations.

#### 29.10. Compliance

Contractor shall, at all times comply, and ensure that its agents, Subcontractors and Affiliates carrying out activities contemplated by this Agreement and related documents comply, with the laws of the Republic of Ghana relating to this Agreement during the term of this Agreement. Nothing in this Agreement shall require Contractor or any of its agents, Subcontractors, or Affiliates to violate the laws of the Republic of Ghana.

#### 29.11. Interest

- (a) Except for payment obligations arising under the Income Tax Act, any Party failing to pay any amounts payable by it under this Agreement (including the provisions of the Accounting Guide) on the respective dates on which such amounts are payable by such Party hereunder shall be obligated to pay interest on such unpaid amounts to the Party to which such amounts are payable.

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- (b) The rate of such interest (Default Rate) with respect to each day of delay during the period of such non-payment shall be SOFR. Such interest shall accrue from the respective dates such amounts are payable until the amounts are duly paid. The Party to whom any such amount is payable may give notice of non-payment to the Party in default, and if such amount is not paid within fifteen (15) days after such notice, the Party to which the amount is owed may, in addition to the interest referred to above, seek remedies available pursuant to Article 26. For the avoidance of doubt the payment of interest shall only apply to training or technology payment and shall not apply to taxes, royalties, additional oil entitlement, and other payments to the Petroleum Holding Fund under the PRMA.

29.12. Counterparts

This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by email), each of which will be deemed an original. The form of such counterparts shall be agreed by the Parties.

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**ARTICLE 30**

**NOTICE**

30.1. Any notice, application, request, agreement, consent, approval, instruction, delegation, waiver, or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given when delivered in person to an authorized representative of the Party to whom such notice is directed or when actually received by such Party through registered mail, fax, or commercial courier at the following address or at such other address as the Party shall specify in writing fifteen (15) days in advance:

**FOR THE STATE:**

*The Honourable Minister for Energy*

*Address: Ministry of Energy, P.O. Box SD40, Stadium Post Office, Accra, Ghana*

*Telephone: +2330302683961-4*

*Facsimile: +233302668262*

**GHANA NATIONAL PETROLEUM CORPORATION**

*The Chief Executive*

*Ghana National Petroleum Corporation*

*Address: Petroleum House, Harbour Road, Private Mail Bag, Tema, Ghana*

*Telephone: +233303206020*

*Email: info@gnpcghana.com*

**CONTRACTOR:**

*GNPC Exploration and Production Limited Company*

*Address: C/o GTC, 16 Mankata Avenue, Airport Residential Area, Accra- Ghana*

*Attention: Country Representative*

*Telephone: +233 (0) 244825604/ +233 (0) 579714400*

*Email: info@explorco.gnpcghana.com*

**CONTRACTOR:**

*Tristar Upstream Oil & Gas Limited*

*Address: No. 1, Tanbu Lane, Shiashie, East Legon, Accra, Ghana*

*Attention: Chief Executive*

*Telephone: +971 55 328 4395*

*Email: dbalaji@planetone-group.com*

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IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

**FOR: THE GOVERNMENT OF THE REPUBLIC OF GHANA**

**WITNESSED:**

By MATTHEW PRAMAN  
SIGN [Signature]  
Its **MINISTER FOR ENERGY**

By WILHELMINA ASAMANT  
SIGN [Signature]  
Its **CHIEF DIRECTOR**

**FOR: GHANA NATIONAL PETROLEUM CORPORATION**

**WITNESSED:**

By JOSINA DADZIE  
SIGN [Signature]  
Its **CHIEF EXECUTIVE**

By ANGELA A.E. HOTOABU  
SIGN [Signature]  
Its **MANAGER, LEGAL**

**FOR: GNPC EXPLORATION AND PRODUCTION LIMITED COMPANY**

**WITNESSED:**

By MICHAEL ARYEETEY  
SIGN [Signature]  
Its **CHIEF OPERATING OFFICER**

By ALLIAN ANNAN ANARH  
SIGN [Signature]  
Its **SNR. LEGAL OFFICER**

**FOR: TRISTAR UPSTREAM OIL AND GAS COMPANY LTD**

**WITNESSED:**

By DEEPAK BALAJI  
SIGN [Signature]  
Its **CHIEF EXECUTIVE**



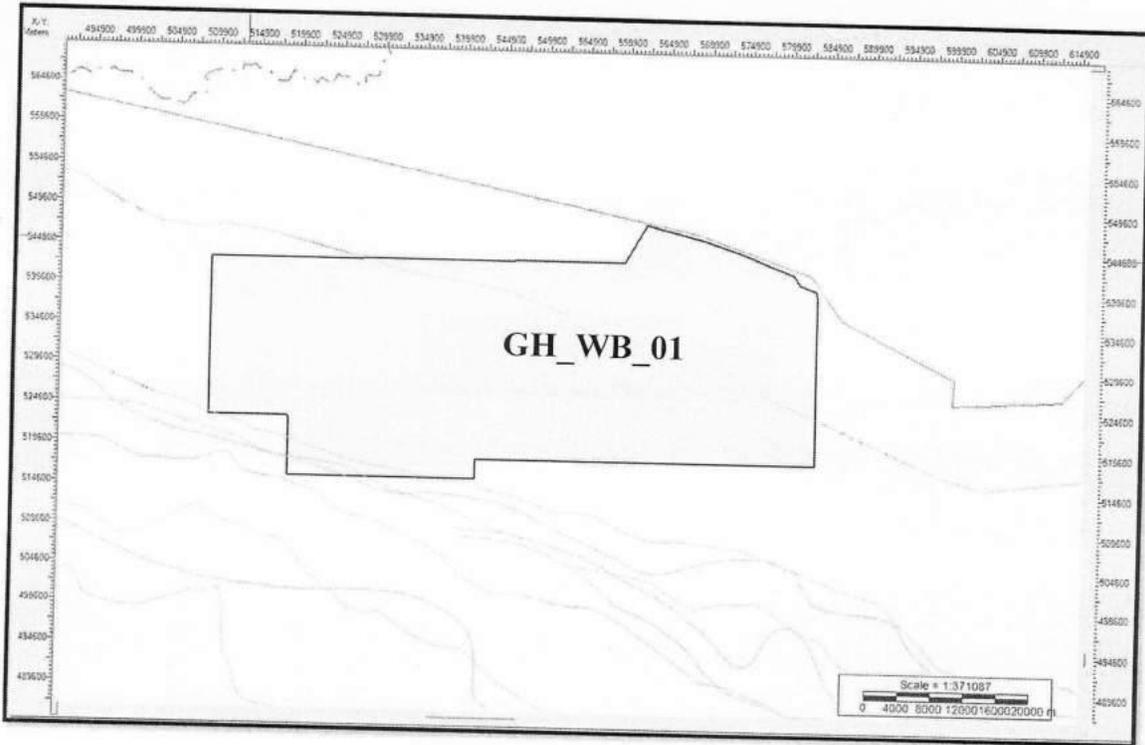
By GURISH D. VIKRY  
SIGN [Signature]  
Its **OPERATIONS HEAD**

[Handwritten mark]

ANNEX 1

CONTRACT AREA

The Contract Area covers 1,900 square kilometres and is bound to the south by Ghana's coastline and the ESWT Block Boundary and to the south by the northern boundaries of the CTP Block 4 and WCTP Block 2 which runs through the following co-ordinates:



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X coordinates	Y coordinates
509209.3	542779.5
559570.4	543090.2
562160.5	547783.2
568970.2	546025.8
571879.6	545037.7
580277.5	541806
580954.4	540657.6
582957.3	539921.7
583165.3	538752.4
583180	518109.4
541628.2	518111.4
541625.3	515619.2
518935.4	515624.5
518710.8	523114
509233.4	523114
509209.3	542779.5

All geographical references shall be in accordance with map Datum World Geodetic System (WGS) 1984, Projection CRS – WGS 1984, Zone 30N.

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## ANNEX 2

### ACCOUNTING GUIDE

The purpose of this Accounting Guide is to establish equitable methods as between the Parties for determining charges and credits applicable to operations under the Agreement and to reflect the costs of operations such that any charge by Contractor under this Agreement shall exclude profit to Contractor.

#### SECTION 1 GENERAL TERMS

##### 1.1 GENERAL PROVISIONS

- 1.1.1 Except as defined herein, words and terms appearing in this Accounting Guide shall have the same meaning as in the Agreement and to that end shall be defined in accordance with Article 1 of the Agreement.
- 1.1.2 This Annex may be amended by unanimous decision of the Contractor and the Corporation.
- 1.1.3 In the event of a conflict between the provisions of the Accounting Guide and the provisions of the main body of the Agreement, the provisions of the main body of the Agreement shall prevail.

##### 1.2 STATEMENTS REQUIRED TO BE SUBMITTED BY CONTRACTOR

- 1.2.1 Within sixty (60) days from the Effective Date, Contractor shall propose to the Corporation an outline of the chart of accounts, operating records, and reports to be prepared and maintained, which shall describe the basis of the accounting principles and procedures to be used during the term of the Agreement, and shall be consistent with applicable law and accepted accounting principles generally used in the international petroleum industry.
- 1.2.2 Within ninety (90) days of the receipt of such proposal, the Corporation shall either accept it or request such revisions as the Corporation deems necessary. Failure of the Corporation to notify Contractor of any requested revisions within the ninety (90) day period shall be deemed acceptance of such proposal.
- 1.2.3 If the Corporation does not accept Contractor's proposal or is not deemed to have accepted Contractor's proposal pursuant to Section 1.2.2, then within one hundred and eighty (180) days from the Effective Date, Contractor and the Corporation shall either agree on such outline or submit any outstanding issue for determination by a Sole Expert pursuant to the provisions of Article 26.11 of the Agreement.

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1.2.4 Following agreement over the outline, Contractor shall, within sixty (60) days thereafter, submit to the Corporation formal copies of the accounting systems and procedures manual to be followed for the Petroleum Operations. This manual shall detail the accounting, recording, and reporting functions listed in the agreed outline. The Corporation shall be permitted to propose modifications to such manual. The Corporation shall be permitted to audit on site Contractor's records that evidence any of the reports issued by Contractor under the Agreement in accordance with the procedures set forth in Article 20.5 of the Agreement.

1.2.5 Without prejudice to the generality of the foregoing, Contractor shall make separate statements relating to Petroleum Operations for each Development and Production Area as follows:

A. Before the Date of Commencement of Commercial Production:

I. Cash Call Statement (see Section 5);

II. Allowable Cost Statement (see Section 8);

III. Statement of Net Expenditure and Receipts (see Section 9);

IV. Final End-of-Year Statement (see Section 10);

V. Budget Statement (see Section 11); and

VI. Long Range Plan and Forecast (see Section 12.1).

B. After the Date of Commencement of Commercial Production, in addition to the statements specified in Section in sub-section A:

I. Production Statement (see Section 6); and

II. Value of Production Statement (see Section 7).

### 1.3 LANGUAGE, MEASUREMENT, AND UNITS OF ACCOUNT

1.3.1 The U.S. Dollar shall be the unit of currency, and English shall be the language for all accounting and reporting under the Agreement. When transactions for an asset or liability are in Ghana Cedi or currency other than the U.S. Dollar, the respective records of such transactions shall be kept in such other currency as well as the U.S. Dollar. Measurements required shall be in the metric system and Barrels. Where necessary for purposes of clarification, Contractor may also prepare financial reports in other languages, units of measurement, and currencies.

1.3.2 The rate of exchange used to record the conversion of currency shall be the rate actually realised in the conversion during payment through a bank.

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- 1.3.3 Contractor shall record any currency translations to express the amount of expenditures and receipts for which a currency conversion has not actually occurred at the arithmetic average of the rate quoted by the Bank of Ghana at the close of each Business Day for the Month in which the revenues are received and expenditures paid. Where buying and selling rates are quoted, the arithmetic average of those rates shall be used.
- 1.3.4 It is the intent of the Parties that no Party shall experience any gain or loss at the expense of or to the benefit of the other as a result of exchange of currency. Where any such gain or loss arises it shall be charged or credited, as the case may be, to the accounts under the Agreement
- 1.3.5 The treatment of foreign exchange differences and translations shall be in accordance with International Financial Reporting Standards.

## **SECTION 2 - CLASSIFICATION AND ALLOCATION OF COSTS AND EXPENDITURE**

2.1 All expenditure relating to Petroleum Operations shall be classified as follows:

- (a) Exploration Expenditure;
  - (b) Development Expenditure;
  - (c) Production Expenditure;
  - (d) Service Costs; and
  - (e) General and Administrative Expenses,
- and shall be defined and allocated as herein below provided.

### **2.2 EXPLORATION EXPENDITURE**

2.2.1 Exploration Expenditure shall consist of all direct, indirect, and allocated costs incurred in the search for Petroleum in the Contract Area, including, but not limited to, expenditure on or in relation to:

- (a) aerial, geographical, geophysical, geochemical, paleontological, geological, topographical, and seismic surveys, and studies and their interpretation, and purchased geological and geophysical information;
- (b) borehole drilling and water drilling;
- (c) labour, consumables, materials, and services used in drilling wells with the objective of finding new Petroleum reservoirs or for the purpose of appraising of Petroleum reservoirs already discovered, provided such wells are not completed as producing wells, in which case the costs of drilling such well constitutes

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Exploration Expenditure and completion costs of such producing wells would constitute Development Expenditure;

- (d) facilities used solely for Exploration Operations, including access roads, where applicable;
- (e) all Service Costs allocated to Exploration Operations on the basis of procedures proposed by Contractor on an equitable basis;
- (f) all General and Administrative Expenses directly attributable to Exploration Operations or allocated thereto on a consistent and equitable basis; and
- (g) any other expenditure incurred in the search for and appraisal of Petroleum in the Contract Area after the Effective Date and not otherwise covered under this Section 2.2.

2.2.2 Exploration Expenditure shall be tied to resultant Commercial Discoveries. Where exploration activity is undertaken after a Commercial Discovery, that exploration cost shall be regarded as capital work-in-progress. If the exploratory activity results in a Commercial Discovery, it shall be regarded as a cost of the new discovery and resulting field. Where there is no Commercial Discovery, it shall be charged to the previous field that was most recently determined by Contractor to have a Commercial Discovery, if any.

### 2.3 DEVELOPMENT EXPENDITURE

2.3.1 Development Expenditure shall consist of all direct and allocated indirect costs and expenditure incurred in Development Operations, including, but not limited to, expenditure on:

- (a) drilling wells which are completed as producing wells and drilling wells for purposes of producing a Petroleum reservoir already discovered, whether these wells are dry or producing, and drilling wells for the injection of water or gas to enhance recovery of Petroleum;
- (b) tangible drilling costs for completing wells by way of installation of casing or equipment, or otherwise, after a well has been drilled for the purpose of bringing such well into use as a producing well or as a well for the injection of water or gas to enhance recovery of Petroleum; recovery of Petroleum;
- (c) intangible drilling costs such as labour, consumable material, and services having no salvage value which are incurred in drilling and deepening of wells for producing purposes;
- (d) field facilities, such as pipelines, flow lines, production and treatment units, wellhead equipment, subsurface equipment, enhanced recovery systems, offshore platforms, Petroleum storage facilities, and access roads for production activities;

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- (e) engineering and design studies for the wells and field facilities;
- (f) all Service Costs allocated to Development Operations on an equitable basis; and
- (g) all General and Administrative Expenses directly attributable to Development Operations or allocated thereto on a consistent and equitable basis.

#### **2.4 PRODUCTION EXPENDITURE**

Production Expenditure shall consist of all direct and allocated indirect costs and expenditure incurred in Petroleum Operations, after the Date of Commencement of Commercial Production, such expenditure being other than Exploration Expenditure and Development Expenditure. The balance of General and Administrative Expenses and Service Costs not allocated to Exploration Operations or to Development Operations under Sections 2.2 and 2.3 shall be allocated to Production Expenditure.

#### **2.5 SERVICE COSTS**

- 2.5.1 Service Costs shall consist of, all direct and indirect expenditure incurred in support of Petroleum Operations, including the construction or installation of warehouses, piers, marine vessels, vehicles, motorised rolling equipment, aircraft, fire and security stations, workshops, water and sewerage plants, power plants, housing community and recreational facilities and furniture, tools, land, and equipment used in these activities.
- 2.5.2 Service Costs in any Calendar Year shall include the total costs incurred in such Calendar Year to purchase and construct or install such facilities, as well as the annual costs of maintaining and operating such facilities.
- 2.5.3 All Service Costs will be regularly allocated on an equitable basis to Exploration Expenditure, Development Expenditure, and Production Expenditure.

#### **2.6 GENERAL AND ADMINISTRATIVE EXPENSES**

General and Administrative Expenses shall consist of:

- 2.6.1 All direct main office, field, and general administrative costs benefitting Petroleum Operations under the Agreement in the Republic of Ghana including, technical, supervisory, accounting, procurement, and employee relations services;
- 2.6.2 An overhead charge for the actual cost of services rendered outside of Ghana by Contractor and its Affiliates for managing Petroleum Operations and shall be determined and capped as follows:
  - (a) For the Exploration Phase: - One point two five percent (1.25%) of Exploration Expenditure to a cap of US\$200,000.00 per annum;
  - (b) For Development Phase: - One point two five percent (1.25%) of Development Expenditure to a cap of US\$500,000.00 per annum; and

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- (c) For Production Phase: – 1 percent (1%) of Production Expenditure to a cap of US\$200,000.00 per annum.
- 2.6.3 All General and Administrative Expenses will be regularly allocated as specified in Sections 2.2.1(f), 2.3.1(g), and 2.4, to Exploration Expenditure, Development Expenditure, and Production Expenditure.

### **SECTION 3 - COSTS, EXPENSES, EXPENDITURES, AND CREDITS OF CONTRACTOR**

#### **3.1 ALLOWABLE COSTS**

Contractor, for the purpose of this Agreement, shall charge the following allowable costs to the accounts:

- (a) costs of acquiring surface rights;
- (b) labour and associated costs;
- (c) transportation costs;
- (d) charges for services;
- (e) material and equipment costs;
- (f) rentals, duties, and other assessments;
- (g) insurance and losses (including deductibles/excesses);
- (h) legal expenses;
- (i) training expenses;
- (j) general and administrative expenses;
- (k) utility costs;
- (l) office facility charges;
- (m) communication charges;
- (n) ecological and environmental charges;
- (o) abandonment and site restoration costs; and
- (p) such other costs necessary for Petroleum Operations under this Agreement

#### **3.2 COSTS OF ACQUIRING SURFACE RIGHTS AND RELINQUISHMENT**

The costs of acquiring surface rights shall consist of all direct costs attributable to the acquisition, renewal, or relinquishment of surface rights acquired and maintained in force over the Contract Area.

#### **3.3 LABOUR AND ASSOCIATED LABOUR COSTS**

Labour and associated labour costs shall include:

- (a) gross salaries and wages, including bonuses of those employees of Contractor and of its Affiliates, engaged in Petroleum Operations who are permanently or temporarily assigned to the Republic of Ghana;
- (b) costs regarding holidays, sickness, and disability payments applicable to the salaries and wages chargeable under Section 3.3(a);

- (c) expenses or contributions made pursuant to assessments or obligations imposed under the laws of the Republic of Ghana by governmental authorities which are applicable to cost of salaries and wages chargeable under Section 3.3(a);
- (d) costs of established plans for employees' life insurance, hospitalisation, pensions, and other benefits of a like nature customarily granted to employees; and
- (e) reasonable travel and personal expenses of employees and families, including those made for travel and relocation of the personnel all of which shall be in accordance with usual practice of the Contractor.
- (f) costs of technical and professional personnel of Affiliates of Contractor whose services are requested by Contractor for a specific activity in the conduct of Petroleum Operations. The costs of services shall be based on hourly rates or other allocation method for time spent performing the requested service. The charges shall exclude profit and be based on hourly rates or allocation methods consistently applied by Contractor's Affiliate to all operations served. Such charges shall be at rates commensurate with those prevailing for such services in the world market, provided all costs of technical and professional personnel of Affiliates of Contractor shall be submitted separately for approval by the Commission in a prescribed format as part of the Annual Work Programme and Budget.

#### **3.4 TRANSPORTATION COSTS**

Transportation costs and other related costs of transportation of employees or secondees of Contractor or its Affiliates, equipment, materials, and supplies for Petroleum Operations.

#### **3.5 CHARGES FOR SERVICES**

##### **3.5.1 Charges for services shall include:**

- (a) costs of third-party contracts which are the actual costs of contracts for technical and other services entered into by Contractor or its Affiliates for Petroleum Operations made with third parties other than Contractor or Affiliates of Contractor.
- (b) costs of general services including, professional consultants and others who perform services for the direct benefits of Petroleum Operations
- (c) costs associated with the use of equipment and facilities owned and furnished by the Contractor's Affiliates at rates commensurate with the cost of ownership and operation; provided, however, that such rates shall not exceed those prevailing from non-affiliated third parties for the supply of like equipment and facilities on comparable terms in the area where the Petroleum Operations are being conducted. The terms for the supply of such equipment and facilities shall be determined on an arm's length basis and be documented in a contract between Contractor's Affiliate and Contractor on behalf of all Parties to this Agreement.

**3.6 RENTALS, DUTIES, AND OTHER ASSESSMENTS**

All rentals, taxes, duties, levies, charges, fees, contributions, and any other assessments and charges levied by the State and its agencies, in connection with Petroleum Operations or paid for Petroleum Operations, with the exception of the income tax specified in Article 15 of the Agreement.

**3.7 INSURANCE AND LOSSES**

- (a) Insurance premium and costs incurred for insurance, provided that if such insurance is wholly or partly placed with an Affiliate of Contractor, such premium and costs shall be recoverable only to the extent not in excess of those generally charged for equivalent insurance by competitive insurance companies other than an Affiliate;
- (b) costs and losses incurred as a consequence of events, which are, insofar as not made good by insurance, allowable by applicable law; and
- (c) costs and expenses necessary for the repair or replacement of property resulting from damage or losses incurred.

**3.8 LEGAL EXPENSES**

All costs and expenses of litigation and legal or related services necessary or expedient for procuring, perfecting, retaining, and protecting the rights hereunder and in defending or prosecuting lawsuits involving the Contract Area or any third party claim arising out of activities under the Agreement, or sums paid in respect of legal services necessary or expedient for the protection of the joint interest of the Corporation and Contractor; provided that where legal services are rendered in such matters by salaried or regularly retained lawyers of Contractor or an Affiliate of Contractor, such compensation will be included instead under either Sections 3.3 or 3.5, as applicable. The preceding costs and expenses shall not include costs of any nature (including attorneys' fees and the fees of the ICC, arbitrators, the Sole Expert, other experts, professionals, and translators) incurred in connection with any consultation, arbitration, or Sole Expert process under Article 26 of the Agreement, which shall be borne in accordance with Article 26.11 of the Agreement.

**3.9 TRAINING COSTS**

All costs and expenses incurred by Contractor in training its employees and nominees of the Corporation to the extent that such training is attributable to Petroleum Operations under the Agreement, and including, without limitation, the amounts to be paid pursuant to Articles 23.2 of the Agreement.

**3.10 GENERAL AND ADMINISTRATIVE EXPENSES**

General and Administrative Expenses shall consist of the costs described in Section 2.6.1, and the charge described in Section 2.6.2 under this Accounting Guide

**3.11 UTILITY COSTS**

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Any water, electricity, heating, fuel, or other energy and utility costs used and consumed for Petroleum Operations.

**3.12 OFFICE FACILITY CHARGES**

The costs and expenses of constructing, establishing, maintaining, and operating offices, camps, housing, and any other facilities in Ghana for Petroleum Operations. The costs of constructing or otherwise establishing any operating facility which may be used at any time in operations of more than one field shall be charged initially to the field or fields for which the facility is first used. Costs incurred thereafter shall be allocated in a reasonable manner, consistent with international accounting practice, to the fields for which the facility is used.

**3.13 COMMUNICATION CHARGES**

The costs of acquiring, leasing, installing, operating, repairing, and maintaining communication systems, including radio and microwave facilities.

**3.14 ECOLOGICAL AND ENVIRONMENTAL CHARGES**

All charges for environmental protection and safety measures conducted in the Contract Area or area otherwise used for Petroleum Operations in accordance with Article 19 of the Agreement.

**3.15 ABANDONMENT COST**

Amounts accrued from a reasonable date in advance based on an estimate of the cost (with subsequent adjustment to actual cost) relating to the decommissioning and abandonment costs of operations and facilities, site restoration, and other associated operations in accordance with Article 15.12 of the Agreement.

**3.16 OTHER COSTS**

Any other costs not covered or dealt with in the foregoing provisions which are incurred and not mentioned in Section 3.17 for the necessary and proper conduct of Petroleum Operations.

**3.17 COSTS NOT ALLOWABLE UNDER THE AGREEMENT**

3.17.1 The following costs shall not be allowable under the Agreement:

- (a) Costs incurred by Contractor before the Effective Date of the contract should not be allowable
- (b) commission paid to intermediaries by Contractor for the procurement of goods and services.
- (c) charitable donations and contributions, except where prior approval has been obtained from the Commission;

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- (d) interest incurred on loans raised by the Contractor as well as other borrowing cost or cost to secure finance (including professional and advisory fees and expenses).
- (e) costs (including duties) arising from the marketing or processing Petroleum or transportation of Petroleum beyond the Delivery Point;
- (f) the costs of any bank guarantee under the Agreement and any other amounts spent on indemnities where Contractor fails to fulfil its contractual obligations
- (g) premium paid as a result of the Corporation exercising a Sole Risk option under Article 11 of this Agreement;
- (h) costs of any nature (including attorneys' fees and the fees of the ICC, arbitrators, the Sole Expert, other experts, professionals, and translators) incurred in connection with any consultation, arbitration, or Sole Expert process under Article 26 of the Agreement;
- (i) fines, penalties, and interest due pursuant to any applicable law or regulation and/or imposed by a final and unappealable decision of a competent administrative or judicial body;
- (j) costs, damages, and other liabilities incurred as a result of Gross Negligence / Wilful Misconduct chargeable to Contractor or Operator under the terms of the Agreement;
- (k) Cost, incurred as a result of non-compliance by the contractor with applicable laws:
- (l) (1) income taxes (including any taxes on the net income of permanent establishments in Ghana and any capital gains taxes or taxes on assignment of interest), withholding taxes and/or royalty shares or other Petroleum entitlements, in each case paid to authorities in Ghana in connection with or related to the Agreement; (2) any taxes paid to authorities outside Ghana, except any foreign value added taxes or other foreign taxes paid with respect to products or services imported into Ghana; (3) any taxes subject to reimbursement or refund; and (4) any other taxes that should be deemed non-allowable costs;
- (m) costs incurred by the Contractor under contracts or amendments thereto that were subject to approval by JMC, or the Commission and were not so approved;
- (n) costs that are not documented in accordance with Article 18.1 of the Agreement or applicable law;
- (o) cost that (1) are not incurred in accordance with a duly approved Work Programme and Budget in force at the at the time the cost was incurred, or (2) exceed by more than 10% of, any budget line item set forth in Budget in force at the time the cost was incurred, except for cost that are incurred in accordance with the Agreement in response to an emergency;
- (p) Cost incurred in acquiring or transferring/assigning any interest in the Agreement

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- (q) any bonus payments payable by Contractor under the Agreement to the State, any other governmental body in Ghana, the Corporation, or any Affiliates of the Corporation.

### **3.18 ALLOWABLE AND DEDUCTIBILITY**

The costs and expenses set forth herein shall be for the purpose of determining allowable or non-allowable costs and expenses only and shall have no bearing on Contractor's eligibility or otherwise for deductions in computing Contractor's net income from Petroleum Operations for income tax purposes under the Agreement.

### **3.19 CREDITS UNDER THE AGREEMENT**

3.19.1 The net proceeds of the following transactions will be credited to the accounts under the Agreement:

- (a) the net proceeds of any insurance or claim in connection with Petroleum Operations or any assets charged to the accounts under the Agreement when such operations or assets were insured and the premium charged to the accounts under the Agreement;
- (b) revenue received from third parties for the use of property or assets charged to the accounts under this Agreement;
- (c) any adjustment from the suppliers or manufacturers or their agents in connection with defective equipment or material, the cost of which was previously charged to the account under the Agreement;
- (d) the proceeds received for inventory materials previously charged to the account under the Agreement and subsequently exported from the Republic of Ghana or transferred or sold to third parties;
- (e) rentals, refunds, or other credits received which apply to any charge which has been made to the account under the Agreement, but excluding any award granted under arbitration or Sole Expert proceedings;
- (f) the proceeds from the sale or exchange of plant or facilities from the Development and Production Area, reduced by the cost of sale, where the acquisition costs of such plant or facilities were an allowable cost under the Accounting Guide;
- (g) the proceeds derived from the sale or issue of any intellectual property, the development costs of which were incurred pursuant to this Agreement;
- (h) the proceeds from the sale of any petroleum information derived from Petroleum Operations under this Agreement;
- (i) any General and Administrative Expenses or Service Costs that benefit any operation or activity other than Petroleum Operations;
- (j) any excess cost accrued pursuant to Section 3.15 of this Accounting Guide, above the actual costs of decommissioning or abandonment; and

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- (k) Any refunds of tax paid pursuant to the Income Tax Law which Contractor has paid on income from Petroleum Operations under this Agreement.

### 3.20 DUPLICATION OF CHARGES AND CREDITS

Notwithstanding any provision to the contrary in this Accounting Guide, it is the intention that there shall be no duplication of charges or credits in the accounts under the Agreement.

## SECTION 4 - VALUE OF MATERIAL AND EQUIPMENT CHARGED TO THE ACCOUNTS UNDER THE AGREEMENT

- 4.1 Material and equipment purchased, leased, or rented by Contractor for use in Petroleum Operations shall be valued at the actual net cost incurred by Contractor. The net cost shall include invoice price less trade and cash discounts, if any, purchase and procurement fees plus freight and forwarding charges between point of supply and point of shipment, freight to port of destination, insurance, taxes, customs duties, consular fees, other items chargeable against imported material, and any other related costs actually paid.
- 4.2 **VALUE OF MATERIAL AND EQUIPMENT PURCHASED, LEASED OR RENTED FROM AN AFFILIATE**
- 4.2.1 Contractor shall notify the Corporation of any goods supplied by an Affiliate of Contractor. Materials and Equipment purchased, leased or rented from Affiliate of Contractor shall be charged at the prices specified in Sections 4.2.2 – 4.2.4 hereunder
- 4.2.2 **New Material and Equipment (Condition "A").** New material and equipment shall be classified as Condition "A". Such material and equipment shall be valued at the prevailing market price, plus expenses incurred in procuring such new materials and equipment, and in moving such materials and equipment to the locations where the material shall be used.
- 4.2.3 **Used Material and Equipment (Condition "B").** Used material and equipment shall be classified as Condition "B" provided that it is in sound and serviceable condition and is suitable for reuse without reconditioning. Such material and equipment shall be valued at not more than seventy-five percent (75%) of the current price of new material and equipment valued according to Section 4.2.2 above.
- 4.2.4 **Used Material and Equipment (Condition "C").** Used material and equipment which is serviceable for original function as good second-hand material after reconditioning and cannot be classified as Condition "B" shall be classified as Condition "C". Such material and equipment shall be valued at not more than fifty percent (50%) of the current price of new material and equipment valued according to Section 4.2.2 above. The cost of reconditioning shall be charged to the reconditioned material and equipment, provided that the value of such Condition "C" material and equipment plus the cost of reconditioning does not exceed the value of Condition "B" material.

#### **4.3 CLASSIFICATION OF MATERIALS AND EQUIPMENT**

Material and equipment costs shall be charged to the respective Exploration Expenditure, Development Expenditure, or Production Expenditure accounts at the time the material and equipment is acquired and on the basis of the intended use of the material and equipment. Should such material and equipment subsequently be used other than as intended, the relevant charge will be transferred to the appropriate account.

#### **4.4 DISPOSAL OF MATERIALS AND EQUIPMENT**

Sales of property shall be recorded at the net amount collected by Contractor from the purchaser.

#### **4.5 WARRANTY OF MATERIALS AND EQUIPMENT**

In the case of defective material or equipment, any adjustment received by Contractor from the suppliers or manufacturers of such materials or their agents will be credited to the accounts under the Agreement.

#### **4.6 CONTROLLABLE MATERIALS AND EQUIPMENT**

4.6.1 Contractor shall control the acquisition, location, storage, and disposition of materials and equipment which, in accordance with International Oil Field Practice, are subject to accounting record control, physical inventory, and adjustment for averages and shortages (hereinafter referred to as "Controllable Material").

4.6.2 Unless additional inventories are scheduled by the Operating Committee, Contractor shall conduct one (1) physical inventory of the Controllable Material each Calendar Year, which shall be completed prior to the end of the Calendar Year. Contractor shall give the Corporation and the Commission written notice at least sixty (60) days in advance of its intention to conduct said inventory. Failure on the part of the Corporation to participate in a JOA scheduled or Contractor annual physical inventory shall be regarded as approval of the results of the physical inventory as conducted by Contractor.

4.6.3 The gain or loss resulting from the physical inventory shall be reflected in the stock records of Controllable Materials. Contractor shall compile a reconciliation of the inventory with a reasonable explanation for such gains or losses. Failure on the part of the Commission to object to Contractor's reconciliation within thirty (30) days of compilation of said reconciliation shall be regarded as approval by the Corporation.

#### **SECTION 5 - CASH CALL STATEMENT**

5.1 In respect of any Production Expenditure to which the Corporation is contributing in accordance with Article 2.4 and any Development and Production Area in which the Corporation elects to take a Paying Interest in accordance with Article 2.5, and in any case where Contractor conducts Sole Risk for the Corporation's account pursuant to

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Article 11, Contractor shall at least fifteen (15) days prior to the commencement of any Month submit a cash call statement to the Corporation. Such cash call statement shall include the following information:

- (a) Due date;
- (b) Payment instructions;
- (c) balance prior to the cash call being issued;
- (d) amount of United States Dollars or Ghana cedi due as requested by Contractor; and
- (e) estimation of the amounts of United States Dollars or Ghana cedi required from the Corporation for the following Month.

5.2 Following a cash call, the Corporation shall make payments to the appropriate bank account maintained by Operator for the joint account as specified on the cash call. All such payments shall be made in sufficient time to ensure that they will each be credited to the appropriate bank account on the due date specified in the cash call and without the deduction of any bank charges.

5.2.1 Not later than the thirtieth (30th) day of each Month, Contractor will furnish the Corporation a statement reflecting for the previous Month specifying:

- (a) payments by the Corporation;
- (b) The Corporation's share of expenditures by appropriate classifications; and
- (c) balance due to or from the Corporation.

5.3 Contractor may in the case where a large unforeseen expenditure becomes necessary issue a special cash call statement requiring the Corporation to meet such cash call within fifteen (15) days of receipt of such statement.

#### **SECTION 6 - PRODUCTION STATEMENT**

6.1 Subsequent to the Date of Commencement of Commercial Production from the Contract Area, Contractor shall submit a Monthly Production statement to the Commission and the Corporation showing the following information for each Development and Production Area, as appropriate:

- (a) the quantity of Crude Oil produced and saved;
- (b) the quantity of Natural Gas produced and saved;
- (c) the quantity of Petroleum used for the purpose of conducting drilling and Production Operations, pumping to field storage and re-injections;
- (d) the quantity of Natural Gas flared;
- (e) the amount of Petroleum stocks held at the beginning of the Month in question; and
- (f) the amount of Petroleum stocks held at the end of the Month in question;

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- (g) The number of days in the Month during which Petroleum was produced; and
  - (h) the average daily production rate calculated.
- 6.2 The Production statement of each Calendar Month shall be submitted to the Commission and the Corporation not later than ten (10) days after the end of such Month.

#### **SECTION 7 - VALUE OF PRODUCTION STATEMENT**

- 7.1 Contractor shall submit, with respect to each Quarter, a statement providing:
- (a) calculations, with relevant details, of the value of Crude Oil and or Natural Gas, if applicable, produced and saved from each Development and Production Area based on the Market Price for Crude Oil established under Article 13 of the Agreement or, for Natural Gas, the subsequent agreement for a Natural Gas project; and
  - (b) the amounts of Crude Oil and or Natural Gas, if applicable, allocated to each of the Parties during that Quarter. The statement shall be submitted to the Minister, the Commission and the Corporation not later than thirty (30) days following the end of each Quarter.

#### **SECTION 8 - ALLOWABLE COST AND CREDITS STATEMENT**

- 8.1 Contractor shall prepare with respect to each Quarter, a statement containing the following information with respect to costs and credits that are allowable under Section 3.18 of this Accounting Guide:
- (a) cumulative Petroleum Costs incurred from inception up to the end of the Quarter in question;
  - (b) cumulative credits in accordance with Section 3.19 from inception up to the end of the Quarter in question;
  - (c) cumulative Petroleum Cost net of credits from inception up to the end of the Quarter in question;
  - (d) Petroleum Costs for the Quarter in question
  - (e) Credits in accordance with Section 3.19 for Quarter in question; and
  - (f) Petroleum Costs net of credits for the Quarter in question.
- 8.2 Petroleum Costs for Exploration Operations, Development Operations, and Production Operations as detailed above shall be separately identified for each Development and Production Area. Petroleum Costs for Exploration Operations not directly attributable to a specific Development and Production Area shall be shown separately.
- 8.3 The allowable cost and credits statement of each Quarter shall be submitted to the Commission and the Corporation no later than thirty (30) days after the end of such Quarter.

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## SECTION 9 - STATEMENT OF EXPENDITURES AND RECEIPTS

- 9.1 Subsequent to the Date of Commencement of Commercial Production from the Contract Area, Contractor shall prepare, with respect to each Quarter, a statement of expenditures and receipts. The statement will distinguish between Exploration Expenditure, Development Expenditure, and Production Expenditure, with major items of expenditure and credits listed within these categories. The statement will show the following:
- (a) actual expenditures and receipts for the Quarter in question;
  - (b) cumulative expenditure and receipts for the Calendar Year in question;
  - (c) latest forecast of cumulative expenditures at the end of the Calendar Year;
  - (d) variations between budget forecast and latest forecast and explanations therefore price per Barrel of Crude Oil sold; and
  - (f) price per Barrel of oil equivalent of Natural Gas sold.
- 9.2 The statement of expenditures and receipts of each Quarter shall be submitted to the Commission and the Corporation not later than thirty (30) days after the end of such Quarter.

## SECTION 10 - FINAL END-OF-YEAR STATEMENT/AUDITED FINANCIAL STATEMENT

- 10.1 Contractor will prepare a final end-of-year statement for each Calendar Year. The statement will contain information, as appropriate, as provided in the:
- (a) Production statement;
  - (b) value of Production statements;
  - (c) allowable cost and credits statement; and
  - (d) statements of expenditures and receipts.
- 10.2 The final end-of-year statement of each Calendar Year shall be submitted to the Corporation and the Commission within ninety (90) days of the end of such Calendar Year. Any necessary subsequent adjustments shall be reported promptly to the Corporation and the Commission.
- 10.3 A copy of any audited financial statements required from a Contractor Party under the Ghana Companies Act, 1963 (Act 179) shall be submitted to the Corporation and the Commission by such Contractor Party on or before the due date specified by the Companies Act, 2019 (Act).

## SECTION 11 - BUDGET STATEMENT

- 11.1 Contractor shall prepare an annual budget statement. This will distinguish between Exploration Expenditure, Development Expenditure, and Production Expenditure, and will show the following;

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- (a) Full year forecast of expenditure and receipts for the Calendar Year under the Agreement;
  - (b) Details of key assumptions used for the forecast
  - (c) details of Exploration Expenditure, Development Expenditure, and Production Expenditure for said Calendar Year, with line items in accordance with International Oil Field Practice any cost relating to General and Administrative Expenses pursuant to Section 2.6 must be stated separately.
- 11.2 The annual budget statement may include a budget line or lines for unforeseen expenditures, which shall not exceed ten percent (10%) of the total budgetary expenditure with respect to Exploration Operations and five percent (5%) of the total budgetary expenditure with respect to Development Operations.
- 11.3 The annual budget statement shall be submitted to the Commission with respect to each Calendar Year no less than ninety (90) days before the start of such Calendar Year, except in the case of the first year of the Agreement, when the budget statement shall be submitted within sixty (60) days of the Effective Date.
- 11.4 Where Contractor foresees that during the budget period expenditures will exceed the five percent (5%) pursuant to Section 11.2 hereof, Contractor shall submit a revision of the budget to the Commission and the Corporation.

## SECTION 12 - LONG RANGE PLAN AND FORECAST

Contractor shall prepare and submit to the Commission the following:

- 12.1 During the Exploration Period, an Exploration plan for each Calendar Year, which shall contain the following information?
- (a) estimated Exploration Expenditure showing outlays for each of the Calendar Years or the number of years agreed and covered by the Exploration plan;
  - (b) details of seismic operations for each such Calendar Year;
  - (c) details of drilling activities planned for each such Calendar Year; and
  - (d) details of infrastructure utilisation and requirements.

The Exploration plan shall be revised on each anniversary of the Effective Date. Contractor shall prepare and submit to the Commission and the Corporation the first Exploration plan for the Initial Exploration Period within sixty (60) days of the Effective Date and thereafter shall prepare and submit to the Commission and the Corporation, no later than forty-five (45) days before each anniversary of the Effective Date, a revised Exploration plan.

- 12.2 In the event of a Development plan being approved, Contractor shall prepare a Development forecast for each Calendar Year of the Development Period, which shall contain the following information:
- (a) forecast of capital expenditure portions of Development Expenditure and Production Expenditure for each Calendar Year of the Development Period;

- (b) forecast of operating costs for each Calendar Year;
- (c) forecast of Petroleum production for each Calendar Year;
- (d) forecast of number and types of personnel employed in Petroleum Operations in the Republic of Ghana;
- (e) description of proposed Petroleum marketing arrangements; and
- (f) description of main technologies employed.

Contractor shall prepare and submit to the Commission the first Development forecast within one hundred and twenty (120) days of the date when the first Plan of Development and Operation is approved by the Minister, and thereafter shall prepare and submit a revised Development forecast to the Commission no later than forty-five (45) days before each Calendar Year, commencing as of the second Calendar Year after submission of the first Development forecast.

### 12.3 CHANGES OF PLAN AND FORECAST

It is recognised by Contractor and the Commission that the details of the Exploration plan and Development forecast may require changes in light of existing circumstances and nothing herein contained shall limit the flexibility to make such changes. Consistent with the foregoing, the said Exploration plan and Development forecast may be revised in accordance with relevant sections under 12.1. under this Accounting Guide.

## SECTION 13 – OTHER REPORTS

### 13.1 Report on Inventory of Physical Assets

- (a) 13.1.1 The Contractor shall maintain detailed records of physical assets in use for Petroleum Operations in accordance with normal practice in exploration and production activities.
- (b) 13.2.1 The Contractor shall notify the Commission and the Corporation annually in writing, of all assets valued in excess of One Hundred Thousand United States Dollars (US\$100,000) acquired and all such assets disposed of during the preceding twelve (12) Months. The Corporation and the Commission shall have the right to take inventory of such property in use for Petroleum Operations.

### 13.2 Decommissioning Fund Reports

Pursuant to Contractor's obligation to establish a decommissioning fund as prescribed in Section 45 of the Petroleum Act, the Contractor shall furnish the Commission with, in respect of each Development and Production Area annual Decommissioning Fund Statement after the Date of Commencement of Production. The Statement shall include:

- (a) Basis for the determination of Decommissioning Fund Trigger Date;
- (b) Total Estimated cost of decommissioning;
- (c) The amount to be deposited by each contractor party into any relevant Trust Fund in respect of the Year, setting out how the amount has been calculated;

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- (d) The amount actually paid into the Fund by each contractor party in respect of the Year;
- (e) Total amount in the Fund.

The Statement for the preceding year shall be submitted to the Commission not more than 45 days after the end of that year.

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ANNEX 3

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is entered into this ..... day of ....., (the "Effective Date") by and between [ ], a company organized and existing under the laws of [the Republic of Ghana ] (hereinafter referred to as the "Disclosing Party"); and ....., a company organized and existing under the laws of..... (hereinafter referred to as the "Receiving Party").

The companies named above may collectively be referred to as the "Parties" or individually as "Party".

WHEREAS in connection with the Possible Transaction (as defined below) by the Receiving Party, the Disclosing Party is willing, in accordance with the terms and conditions of this Agreement, to disclose certain Confidential Information (as defined below) relating to the ( ), Ghana ( the "Area") shown in Exhibits A attached hereto; and

WHEREAS the Petroleum Agreement covering the said Contract Area requires that the Disclosing Party require the execution of a confidentiality agreement by Receiving Party prior to the disclosure of Confidential Information in order to govern such disclosure and that a copy of all such signed confidentiality agreements be provided to the Corporation.

NOW THEREFORE, in consideration for the mutual undertakings of the Disclosing Party and the Receiving Party under this Agreement, the Parties agree as follows:

1. Definitions

As used in this Agreement the following words and terms shall have the meaning ascribed to them below:

- 1.1. "Affiliated Company" means any Person which:
  - (a) Controls directly or indirectly a Party, or
  - (b) Is Controlled directly or indirectly by such Party, or
  - (c) Is directly or indirectly Controlled by a Person which directly or indirectly Controls such a Party.
  
- 1.2. "Confidential Information" means individually or collectively:
  - 1.2.1. any and all Data and information obtained as a result of petroleum operations in the Area, including without limitation well Data and seismic information together with all other Data and information obtained by or on behalf of the Disclosing Party in connection with the Disclosing Party's petroleum operations in the Area, as well as geological and economic reports, studies, interpretations and analyses prepared by or on behalf of the Disclosing Party in connection with its petroleum operations in the Area. Confidential Information includes certain

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proprietary Data and information that is the property of the Corporation (hereinafter "**Corporation Information**").

Provided that the following shall not constitute Confidential Information:

- 1.2.2. information that can be reasonably demonstrated by the Receiving Party as being already lawfully known to Receiving Party as of the Effective Date;
  - 1.2.3. information that is or becomes available to the public other than through the act or omission of Receiving Party or of any other Person to whom Confidential Information is disclosed by the Receiving Party pursuant to Article 4.2 unless public disclosure was made pursuant to Article 4.1;
  - 1.2.4. information that is acquired independently from a third party that has a right to disseminate such information at the time it is acquired by the Receiving Party;  
or
  - 1.2.5. information that can be reasonably demonstrated by the Receiving Party to have been developed by Receiving Party independently of the Confidential Information received from Disclosing Party.
- 1.3. "**Control**" means the ownership directly or indirectly of 50% or more of the voting rights in a Person or the ability to direct, directly or indirectly, the management or policies of a Person, whether through the appointment of the directors, the ownership of voting shares or other voting rights, pursuant to written contract or otherwise. "**Controls**", "**Controlled by**" and other derivatives shall be construed accordingly.
  - 1.4. "**Evaluation Material**" means information derived in whole or in part from Confidential Information, and generated by or on behalf of the Receiving Party. For purposes of this Agreement, Evaluation Material may include without limitation models, technical, financial and economic reports, studies, interpretations, analyses, estimates of reserves, and evaluations and notes of documents or meetings.
  - 1.5. "**The Corporation**" means Ghana National Petroleum Corporation, a Statutory Corporation established by Provisional National Defence Council Law 64 of 1984 with its Head Office at Petroleum House, Harbour Road, Tema.
  - 1.6. "**Person**" means an individual, joint venture, corporation, company, firm, partnership, limited partnership, limited liability company, trust, estate, government agency or any other entity, including unincorporated business associations.
  - 1.7. "**Petroleum Agreement**" means the Petroleum Agreement dated [.....] between the Government of the Republic of Ghana, Ghana National Petroleum

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1.8. **“Possible Transaction”** means any possible business arrangement with the Disclosing Party under which Receiving Party would acquire directly or indirectly all or part of the rights and interests owned by Disclosing Party and/or Disclosing Party Affiliates in one or more offshore hydrocarbon exploration, development or production assets located within the Area.

2. **Disclosure**

In connection with the Possible Transaction, Disclosing Party is willing to disclose to Receiving Party [ ] which shall be Confidential Information. The Parties agree that the disclosure by the Disclosing Party and the receipt by the Receiving Party of the Confidential Information is subject to the terms of this Agreement.

3. **Undertaking of Confidentiality, Restriction on Use and Damages**

3.1. In consideration of the disclosure referred to in Article 2 above, the Receiving Party agrees that the Confidential Information and the Evaluation Material shall be held and treated strictly in confidence and may not be disclosed, licensed, traded, published or otherwise revealed in any manner whatsoever, without the prior written consent of the Disclosing Party except as provided in Article 4 below.

3.2. The Receiving Party shall (and shall procure that any Affiliated Company shall) not use or permit the use of the Confidential Information and/or the Evaluation Material other than for the purpose of evaluating the Area and determining whether to enter into negotiations in connection with the Possible Transaction with the Receiving Party.

3.3. The Receiving Party shall (and shall procure that any Person that receives Confidential Information and/or Evaluation Material pursuant to and in accordance with Article 4.2 hereof shall) keep any Confidential Information it receives and any copies thereof and any Evaluation Material secure and confidential (in a manner no less secure and confidential than Receiving Party and such Persons keep their respective confidential information) and to prevent the Confidential Information and any Evaluation Material from being disclosed in breach of this Agreement.

3.4. The Receiving Party agrees not to disclose to anyone, except as provided for by Article 4 below, the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between Disclosing Party and Receiving Party or any Party’s Affiliated Companies.

3.5. The obligations of the Receiving Party for confidentiality and non-use as set forth in this Agreement shall commence from receipt of the Confidential Information by the Receiving Party. Further, the obligation not to disclose shall not be affected by

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bankruptcy, receivership, assignment, attachment or seizure procedures, whether initiated by or against the Receiving Party, nor by a trustee of Receiving Party in bankruptcy, or by the Receiving Party as a debtor-in-possession or the equivalent of any of the foregoing.

- 3.6. The Receiving Party agrees to indemnify Disclosing Party against direct damages (including, losses, damages, claims, expenses and reasonable attorney's fees) incurred or suffered as a result of a breach of this Agreement by Receiving Party or its Affiliated Companies. Such direct damages shall be the sole exclusive remedy, and all other remedies or damages at law or in equity are waived except such equitable relief as may be granted under Article 12. In no event shall the Parties be liable to each other for any other damages, including incidental, consequential, special, or punitive damages, regardless of negligence or fault.

**4. Permitted Disclosure and Obligation of Receiving Party for Permitted Disclosures**

- 4.1. The Receiving Party may disclose Confidential Information and/or Evaluation Material without the prior written consent of the Disclosing Party to:

4.1.1. To the extent the Confidential Information and/or Evaluation Material is required to be disclosed under applicable law, order, decree, regulation or rule of any governmental entity having jurisdiction over the Receiving Party, or any regulatory entity, securities commission or stock exchange on which the securities of the Receiving Party or any of its Affiliated Companies are listed or are to be listed, provided that the Receiving Party shall make all reasonable efforts to give written notice to the Disclosing Party prior to such disclosure (including full details of the circumstances of such disclosure); or

4.1.2. To the following persons on a need to know basis and only for the purpose described in Article 3.2:

- (i) employees, officers and directors of the Receiving Party;
- (ii) employees, officers and directors of an Affiliated Company of the Receiving Party;
- (iii) any professional consultant or agent retained by the Receiving Party or its Affiliated Company; or
- (iv) any bank, financial institution or entity financing or proposing to finance the Possible Transaction, including any professional consultant retained by such bank, financial institution or entity for the purpose of evaluating the Confidential Information and/or Evaluation Material.

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- 4.2. Prior to making any such disclosure to Persons under Articles 4.1.1 and 4.1.2 above, however, the Receiving Party shall obtain an undertaking of confidentiality, on terms no less stringent than contained in this Agreement, from each such Person; provided, however, that in the case of outside legal counsel, the Receiving Party shall only be required to procure that such legal counsel is bound by an obligation of confidentiality.
- 4.3. The Receiving Party shall be responsible to the Disclosing Party for any act or omission of the entities and Persons described in Article 4.1 that would constitute breach of this Agreement as if the action or omission had been perpetrated by the Receiving Party and shall immediately notify the Disclosing Party upon becoming aware that Confidential Information has been disclosed in breach of this Agreement.

**5. Ownership of Confidential Information**

- 5.1. Receiving Party acknowledges the Confidential Information, excluding the Corporation Information, remains the property of the Disclosing Party and the Disclosing Party may use such Confidential Information for any purpose without obligation to the Receiving Party.
- 5.2. Receiving Party acknowledges that the Corporation Information is and remains the property of the Corporation and the Corporation may use such Corporation Information for any purpose without obligation to the Disclosing Party or Receiving Party. In addition, Receiving Party acknowledges that in the event that it acquires, directly or indirectly an interest in the Area, that it may be required to enter into a Data licensing agreement with Commission with respect to the CORPORATION Information on terms to be agreed among Commission, the Corporation and the Receiving Party.
- 5.3. The Receiving Party shall acquire no proprietary interest in or title or right to the Confidential Information.

**6. Return of Confidential Information**

- 6.1. Disclosing Party may demand the return of the Confidential Information at any time upon giving written notice to Receiving Party.
- 6.2. Within thirty (30) days of receipt of the notice referred to in Article 6.1 or upon completion of the Receiving Party's review and/or evaluation of the Confidential Information, the Receiving Party shall retain no copies of the Confidential Information, but shall:
- 6.2.1. Return all of the original Confidential Information to the Disclosing Party;
- 6.2.2. Destroy or delete or cause to be destroyed or deleted all copies and reproductions (both written and electronic) of Confidential Information and

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any Evaluation Material in its possession and/or in the possession of persons to whom it was disclosed by the Receiving Party. Confidential Information or Evaluation Material that is in electronic format (including all electronic back-up files ± subject to Article 6.3.1) shall also be deleted; and

6.2.3. Provide a written certification, signed by an authorized officer of the Receiving Party, that Receiving Party has fully complied with its obligations under this Clause 6.2.

6.3. The provisions of Article 6.1 and 6.2 do not apply to the following:

6.3.1. Confidential Information or Evaluation Material that is retained in the computer backup system of Receiving Party or a Person to whom it was disclosed under Article 4.1 if the Confidential Information or Evaluation Material will be destroyed in accordance with the regular on-going records retention process of Receiving Party or such Person and if the Confidential Information is not used prior to its destruction;

6.3.2. Confidential Information or Evaluation material that must be retained under applicable law or regulation, including by stock exchange regulations or by governmental order, decree, regulation or rule; and

6.3.3. any corporate documents or reports of the Receiving Party which contain Data derived from the Confidential Information or Evaluation Material which were presented to its executive board (or the equivalent thereof) and are required in accordance with applicable law or its document retention policy to be retained,

provided that any Confidential Information and/or Evaluation Material that is so retained shall remain subject to the terms of this Agreement.

## 7. Remedies

The Receiving Party understands and acknowledges that any breach of the terms of this Agreement may cause the Disclosing Party irreparable harm, and damages may not be an adequate remedy, and therefore agrees that the Disclosing Party, an Affiliated Company of Disclosing Party shall have the right to apply, ex parte without the need to post any type of bond or security, to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such breach or further disclosure and for such other relief as may be deemed appropriate. Such right is to be in addition to the remedies otherwise available to the Disclosing Party, an Affiliated Company of Disclosing Party at law or in equity.

## 8. Term

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This Agreement shall terminate on the later of five (5) Years from the Effective Date or the date on which disclosure by Disclosing Party is no longer restricted by the terms of the Petroleum Agreement(s) currently covering the Area.

**9. Representations and Warranties**

The Disclosing Party represents and warrants that it has the right and authority to disclose the Confidential Information to the Receiving Party. However, the Disclosing Party, its Affiliated Companies and their respective principals, officers, directors and employees make no representation or warranties, express or implied as to the quality, accuracy and completeness of the Confidential Information disclosed hereunder, and the Receiving Party expressly acknowledges the inherent risk of error in the acquisition, processing, and interpretation of geological and geophysical Data. The Disclosing Party, its Affiliated Companies and their respective principals, officers, directors and employees shall have no liability whatsoever with respect to the use of or reliance upon the Confidential Information by the Receiving Party or its Affiliated Companies or Persons to whom the Receiving Party discloses Confidential Information under Article 4.1.

**10. Assignment**

The rights and obligations of the Receiving Party under this Agreement shall not be assigned in whole or in part by the Receiving Party without the prior written consent of the Disclosing Party. Any attempted assignment by Receiving Party without the prior written approval of Disclosing Party shall be void. Without limiting the prior provisions of this Article 10, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

**11. Governing Law and Dispute Resolution**

- 11.1. This Agreement shall be governed by and interpreted in accordance with the laws of the Republic of Ghana.
- 11.2. Subject to Article 7 of this Agreement, any dispute arising out of, relating to, or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with said rules. The place of arbitration shall be London, England. The proceedings shall be in the English language.
- 11.3. The resulting arbitral award shall be final and binding without right of appeal, and judgment upon such award may be entered by any court having jurisdiction thereof. A dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect. Receiving Party understands and acknowledges that any breach of the terms of this Agreement may cause the Disclosing Party irreparable harm for which damages may not be an adequate remedy. Accordingly, the arbitral tribunal may award

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both monetary and equitable relief, including injunctive relief and specific performance or other such relief as may be deemed appropriate. The Disclosing Party may apply to any competent judicial authority for interim or conservatory relief; an application for such measures or an application for the enforcement of such measures ordered by the arbitral tribunal shall not be deemed an infringement or waiver of the Agreement to arbitrate and shall not affect the powers of the arbitral tribunal. Any monetary award issued by the arbitral tribunal shall be payable in U.S. dollars. Each Party waives any right to damages other than those provided in Article 3.6.

- 11.4. Unless the Parties expressly agree in writing to the contrary, the Parties undertake as a general principle to keep confidential all awards in their arbitration, together with all materials in the proceedings created for the purpose of the arbitration and all other documents produced by another party in the proceedings not otherwise in the public domain - save and to the extent that disclosure may be required of a Party by legal duty, to protect or pursue a legal right or to enforce or challenge an award in bona fide legal proceedings before a state court or other judicial authority.
- 11.5. Any Party that now or hereafter has a right to claim immunity for itself or any of its assets hereby waives such immunity and agrees not to claim such immunity, in connection with this Agreement, including any dispute hereunder. This waiver includes immunity from (A) legal process of any sort whatsoever, (B) jurisdiction or judgment, award, determination, order or decision of any court, arbitrator, tribunal or Expert, (C) inconvenient forum, and (D) any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order, attachment (including pre-judgment attachment) or other remedy that results from an expert determination, arbitration or any judicial or administrative proceedings commenced pursuant to this Agreement.

**12. Non-exclusivity**

The disclosure of Confidential Information to Receiving Party is non-exclusive, and Disclosing Party may disclose the Confidential Information to others at any time pursuant to the terms and conditions of the Petroleum Agreement.

**13. No Rights in the Area**

Unless otherwise expressly stated in writing, any prior or future proposals or offers made in the course of the discussions of the Parties are subject to all necessary management and government approvals and may be withdrawn by either Party for any reason or for no reason at any time. Nothing contained herein is intended to confer upon Receiving Party any right whatsoever to the interest of Disclosing Party in the Area.

**14. No Waiver**

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No waiver by either Party of any one or more breaches of this Agreement by the other Party shall operate or be construed as a waiver of any future breach or breaches by the same or other Party, whether of like or of different character. Except as may be expressly provided in this Agreement no Party shall be deemed to have waived, released or modified any of its rights under this Agreement unless such Party has expressly stated in writing, that it does waive, release or modify such right.

**15. Modifications**

No amendments, changes or modifications to this Agreement shall be valid except if the same are in writing and signed by a duly authorized representative of each of the Parties hereto.

**16. Severability**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

**17. Interpretation**

17.1. **Headings;** The topical headings used in this Agreement are for convenience only and shall not be construed as having any substantive significance or as indicating that all of the provisions of this Agreement relating to any topic are to be found in any particular Article.

17.2. **Singular and Plural;** Reference to the singular includes a reference to the plural and vice versa.

17.3. **Include;** The words "include" and "including" have an inclusive meaning, are used in an illustrative sense and not a limiting sense, and are not intended to limit the generality of the description preceding or following such term.

**18. Counterpart Execution**

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

**19. Entirety**

This Agreement comprises the full and complete agreement of the Parties hereto with respect to the disclosure of the Confidential Information and supersedes and cancels all

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prior communications, understandings and agreements among the Parties with respect to disclosure of the Confidential Information to the Receiving Party by the Disclosing Party, whether written or oral, expressed or implied.

**20. No Third-Party Beneficiaries**

20.1. This Agreement is made for the benefit of the Parties, any Affiliated Company of the Disclosing Party and their respective successors and permitted assigns.

20.2. It is the intention of the Parties that:

20.2.1. any person who is an Affiliated Company of the Disclosing Party; and

20.2.2. the Corporation in respect of any CORPORATION Information, has a right under the Contracts Act 1960 (Act 25) to enforce or enjoy the benefit of any term of this Agreement. Except as aforesaid, a person who is not a party to this Agreement has no right under such Act to enforce or enjoy the benefit of any term of this Agreement.

20.3. Notwithstanding any provisions of this Agreement, the Parties to this Agreement do not require the consent of any third party to vary this Agreement at any time provided that the consent of the Corporation will be required for any variation which relates to any provision as it applies to CORPORATION Information.

**21. Anti-Bribery/Anti-Corruption**

The Parties hereby agree that, in relation to this Agreement and the subject matter hereof, they shall at all times comply with all applicable law, regulations and codes relating to anti-bribery and anti-corruption, including but not limited to ensuring that each of the Parties and their respective representatives shall not engage in any activity, practice or conduct which would constitute an offence under any such laws, regulations or codes (as may be amended from time to time).

**22. Notices**

All notices authorized or required between the Parties by any of the provisions of this Agreement shall be in writing, in English and delivered in person or by courier service or by facsimile which provides written confirmation of complete transmission, and properly addressed to such Parties as shown below. Oral communication and email do not constitute notice for purposes of this Agreement and email addresses and telephone numbers for the Parties are listed below as a matter of convenience only. A notice given under any provision of this Agreement shall be deemed delivered only when received by the Party to whom such notice is directed, and the time for such Party to deliver any notice in response to such originating notice shall run from the date the originating notice is received. "Received" for purposes of this Article 22 shall mean actual delivery of the

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notice to the address or facsimile address of the Party specified hereunder. Each Party shall have the right to change its address at any time and/or designate that copies of all such notices be directed to another person, by giving written notice thereof to all other Parties.

**Disclosing Party Name**

**Receiving Party Name**

Address:

Address:

Attention:

Attention:

Facsimile:

Facsimile:

Email:

Email:

Telephone

Telephone:

**ANNEX 4**

**SAMPLE AOE CALCULATION**

(As per Article 10.8, for the purpose of illustration only)

	Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	Totals	
<b>Contractor After Tax NCF (\$)</b>		(10)	(20)	(60)	(150)	(20)	40	300	200	150	125	100	80	40	20	10	805	
<b>Cost Inflation Factor (i term)</b>		5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%		
<b>AOE Account Calculation (\$)</b>	<b>ROR tranche</b>																	
FA(n)	15%	(10)	(32)	(98)	(268)	(342)	(370)	(144)	27	150	125	100	80	40	20	10		
SA(n)	20%	(10)	(33)	(101)	(276)	(365)	(416)	(220)	(78)	38	113	90	72	36	18	9		
TA(n)	25%	(10)	(33)	(103)	(284)	(389)	(466)	(305)	(200)	(130)	(73)	(19)	36	31	15	8		
YA(n)	30%	(10)	(34)	(105)	(292)	(414)	(519)	(401)	(344)	(335)	(357)	(405)	(493)	(641)	(854)	(1146)		
<b>AOE Payment Calculation (\$)</b>	<b>AOE Tranche</b>																	
FA(n)	10%	0	0	0	0	0	0	0	3	15	13	10	8	4	2	1	55	
SA(n)	15%	0	0	0	0	0	0	0	0	6	17	14	11	5	3	1	56	
TA(n)	20%	0	0	0	0	0	0	0	0	0	0	0	7	6	3	2	18	
YA(n)	25%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
<b>Total AOE (\$)</b>		<b>0</b>	<b>3</b>	<b>21</b>	<b>29</b>	<b>24</b>	<b>26</b>	<b>16</b>	<b>8</b>	<b>4</b>	<b>130</b>							

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SAMPLE DISTRIBUTION OF CRUDE OIL  
(As per Article 11.2, for the purpose of illustration only)

SUMMARY							
Date	Production	Status	Royalty @ 12.5%	Entitlement Net of Royalty @ 90%	Parties Interest		
					IGC @ 5%	GNPC @ 20%	[ABC] @75%
1-31 Dec	3,100,000	Forecast	387,500	2,712,500	135,625	620,000	2,325,000

Date	Production	Status	Royalty	Entitlement Net of Royalty	IGC	GNPC	[ABC]
1-31 Dec			12.50%	87.50%	5.00%	20%	75.00%
01-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
02-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
03-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
04-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
05-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
06-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
07-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
08-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
09-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
10-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
11-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
12-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
13-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
14-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
15-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
16-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
17-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
18-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
19-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
20-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
21-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
22-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
23-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
24-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
25-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
26-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
27-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
28-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
29-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
30-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000
31-Dec	100,000	Forecast	12,500	87,500	4,375	20,000	75,000

Cost of inflation used 5%  
Annualized version of Monthly Calculation  
Hypothetical figures, rates and thresholds

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ANNEX 5

FORM OF BANK GUARANTEE

BANK GUARANTEE

1. WE, [ ] (HEREINAFTER CALLED **THE BANK**), HAVE BEEN INFORMED THAT THE CONTRACTOR WAS GRANTED A [ ] PERCENT (... %) PARTICIPATION INTEREST IN THE PETROLEUM CONTRACT WITH THE GOVERNMENT OF THE REPUBLIC OF GHANA (HEREINAFTER REFERRED TO AS THE "**STATE**"), REPRESENTED BY THE **MINISTER** FOR PETROLEUM (HEREINAFTER REFERRED TO AS THE "**MINISTER**"), AND THE GHANA NATIONAL PETROLEUM CORPORATION, A PUBLIC CORPORATION ESTABLISHED BY THE GHANA NATIONAL PETROLEUM CORPORATION LAW, 1983, PROVISIONAL NATIONAL DEFENCE COUNCIL LAW 64 (HEREINAFTER REFERRED TO AS "**THE CORPORATION**") REGARDING THE BLOCK [ ], OFFSHORE GHANA DATED [ ] ("**AGREEMENT**").
2. AS SECURITY FOR THE PERFORMANCE OF THE CONTRACTORS' OBLIGATIONS UNDER THE AGREEMENT, INCLUDING BUT NOT LIMITED TO PAYMENT OBLIGATIONS, [ ] SHALL BE FURNISHED.
3. THE BANK HAS AGREED TO ISSUE THIS GUARANTEE TO EXCLUSIVELY SECURE THE CONTRACTORS OBLIGATIONS INCLUDING BUT NOT LIMITED TO ITS PAYMENT OBLIGATIONS UNDER [ ].
4. ON BEHALF OF THE CONTRACTOR, THE BANK HEREBY IRREVOCABLY UNDERTAKES TO PAY YOU, ON RECEIPT BY US, EITHER THROUGH AUTHENTICATED SWIFT MESSAGE TO SWIFT ADDRESS [ ] OR AT OUR ADDRESS REFERRED TO IN PARAGRAPH 1 ABOVE, OF YOUR FIRST COMPLYING DEMAND IN WRITING ANY AMOUNT, IN AGGREGATE, OF UP TO [ ] (HEREINAFTER CALLED THE GUARANTEED AMOUNT) WITHIN FIFTEEN (15) BUSINESS DAYS AFTER THE RECEIPT OF YOUR DULY SIGNED WRITTEN REQUEST FOR PAYMENT BY TRANSFER TO YOUR ACCOUNT AT ANY BANK NOMINATED BY YOU. THE REQUEST SHOULD STATE THAT THE CONTRACTOR IS IN BREACH OF ITS OBLIGATIONS UNDER THE AGREEMENT, ACCOMPANIED BY TWO (2) COPIES OF THE ORIGINAL INVOICE SUBMITTED TO THE CONTRACTOR IN RESPECT OF WHICH DEFAULT HAS OCCURED. IF THE CLAIM RELATES TO ANY OTHER BREACH BY THE CONTRACTOR OR ANY OTHER DEFAULT(S), A COPY OF THE CORPORATION'S NOTICES SENT TO THE CONTRACTOR MUST ACCOMPANY THE REQUESTS FOR PAYMENT.

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5. ALL PAYMENTS MADE BASED ON YOUR DEMAND SHALL BE IN UNITED STATES DOLLARS AND FREE AND CLEAR OF, AND WITHOUT ANY PRESENT OR FUTURE DEDUCTION FOR PAYMENT OF, ANY TAXES, LEVIES, DUTIES, CHARGES, FEES, DEDUCTIONS OR WITHHOLDINGS OF ANY NATURE WHATSOEVER AND BY WHOMSOEVER IMPOSED.
6. THE TOTAL AMOUNT OF THIS GUARANTEE WILL BE REDUCED AUTOMATICALLY BY ANY PAYMENT EFFECTED BY THE BANK HEREUNDER AGAINST YOUR CLAIM(S). THE FULL GUARANTEE AMOUNT SHALL HOWEVER BE REINSTATED ONLY UNDER OUR WRITTEN ADVICE TO YOURSELVES.
7. OUR MAXIMUM LIABILITY UNDER THIS GUARANTEE IS LIMITED TO THE GUARANTEED AMOUNT.
8. THIS GUARANTEE IS VALID UNTIL THE [ 20 ] (HEREINAFTER CALLED THE EXPIRY DATE) AND ANY WRITTEN CLAIM MUST BE RECEIVED BY US ON OR BEFORE THE EXPIRY DATE, SUBJECT TO PARAGRAPHS 9 AND 10 BELOW.
9. THE EXPIRY DATE OF THIS GUARANTEE AND OUR LIABILITY THEREUNDER, SHALL BE EXTENDED AUTOMATICALLY FOR SUCCESSIVE PERIODS OF ONE YEAR, UNTIL THE [ ], UNLESS WE GIVE YOU [ NINETY (90) DAYS] WRITTEN NOTICE, PRIOR TO THE EXPIRY DATE OF EACH SUCCESSIVE PERIOD, OF OUR INTENTION NOT TO EXTEND THIS GUARANTEE.
10. OUR LIABILITY UNDER THIS GUARANTEE SHALL AUTOMATICALLY REDUCE BY USD [ ..... (..... UNITED STATES DOLLARS)] AT EACH ANNIVERSARY DATE OF THE COMMERCIAL OPERATION DATE.
11. THIS GUARANTEE IS SUBJECT TO THE UNIFORM RULES FOR DEMAND GUARANTEES (URDG) 2010 REVISION, ICC PUBLICATION NO. 758 AND MATTERS NOT COVERED UNDER URDG758 SHALL BE GOVERNED AND CONSTRUED UNDER THE LAWS OF ENGLAND AND WALES AND SUBJECT TO THE EXCLUSIVE JURISDICTION OF COURTS IN ENGLAND AND WALES.
12. THIS GUARANTEE IS TRANSFERABLE AND ASSIGNABLE, SUBJECT TO PRIOR WRITTEN APPROVAL OF THE BANK.
14. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN THIS GUARANTEE WILL EXPIRE, WHETHER SURRENDERED TO THE BANK FOR CANCELLATION OR NOT, ON THE EXPIRY DATE OR ON PAYMENT OF THE GUARANTEED AMOUNT IN FULL, WHICHEVER OCCURS FIRST, AT

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WHICH TIME THE BANK'S LIABILITY WILL CEASE, AND NO CLAIMS WILL BE CONSIDERED THEREAFTER.

15. IN THE EVENT OF PARTIAL PAYMENT OF THE GUARANTEED AMOUNT, AN AMENDMENT TO THIS GUARANTEE, REFLECTING THE REMAINING GUARANTEED AMOUNT SHALL BE ISSUED AND ALL OTHER TERMS OF THIS GUARANTEE WILL CONTINUE TO BE VALID AND BINDING.

ANNEX 6

Form of Performance Bond

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ANNEX 7

Form of Parent Company Guarantee

PARENT COMPANY GUARANTEE

This Guarantee is made as of \_\_\_\_ day of \_\_\_\_\_, 20by

[ ], a[ ] established by the [ ], having its registered office at [ ],(hereinafter referred to as the "Guarantor"),

Whereas:

- A. The Guarantor is the parent company of [ ] ( ) ("Contractor Party").
- B. The Contractor Party was granted a [ ] percent (%) participation interest in the Petroleum Contract with the Government of the Republic of Ghana (hereinafter referred to as the "State"), represented by the Minister for Petroleum (hereinafter referred to as the "Minister"), and the Ghana National Petroleum Corporation, a public corporation established by the Ghana National Petroleum Corporation Law, 1983, Provisional National Defence Council Law 64 (hereinafter referred to as the " Corporation") regarding the Block [ ], offshore Ghana dated [ ] ("Agreement");
- C. Article [ ] of the Agreement provides that each Contractor Party shall provide CORPORATION a parent company guarantee ("Guarantee"), for the performance of each Contractor Party's participating interest share of the Minimum Expenditure obligations pursuant to Article [ ] of the Agreement("Guaranteed Obligations");
  - 1) All capitalized terms used in this Guarantee shall have the same meanings ascribed to them in the Agreement unless otherwise defined herein.
  - 2) The Guarantor hereby absolutely and unconditionally guarantees that Contractor Party is financially sound and technically competent and shall perform the Guaranteed Obligations and irrevocably undertakes that if the Contractor Party fails to perform its Guaranteed Obligations for a particular phase into which the Exploration Period is divided under Article [ ] of the Agreement, the Guarantor shall, following receipt of a demand from either of the Guaranteed Parties, incur such expenditure to ensure that the minimum expenditure commitment is met.
  - 3) Notwithstanding anything to the contrary contained or implied herein, the Guarantor's liability under this Guarantee shall not exceed an amount equal to the Guaranteed Obligations in respect of the exploration period as applicable:

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- (a) Initial Exploration Period of [     ] years
- (b) First Extension Period of [     ] years
- (c) Second Extension Period [     ] years.

4) The GUARANTOR agrees and acknowledge that the maximum liability at any given time of the Guarantor under this Guarantee shall:

in any case be automatically reduced from time to time, by:

- (i) any amount spent by the Contractor Party under the Agreement for the Guaranteed Obligations; and
  - (ii) any amount paid by Guarantor under this Guarantee.
- 5) Notwithstanding anything herein to the contrary, for the purposes of this Guarantee, the duties and obligations of the Contractor Party pursuant to the Agreement, shall be separate from each other Party which constitutes the Contractor as provided for in the Agreement.
- 6) This Guarantee shall be effective from the date the Agreement is ratified by the Parliament of Ghana and shall remain in force to the successive limited periods and up to the last exploration period under the Agreement as may be extended from time to time in accordance with the Agreement.
- 7) This Guarantee shall be governed by, construed, interpreted and applied in accordance with the laws of the Republic of Ghana without regard to any conflicts of laws principles that could require the application of the law of another jurisdiction.
- 8) Any dispute, claim, or controversy (for the purpose of this clause, "the Dispute") arising out of or in connection with the Guarantee which is not amicably settled by the Parties within thirty (30) days of the Dispute first arising shall be settled by arbitration under the rules of the International Chamber of Commerce of London (ICC) (the "Rules"), which are incorporated into this clause by reference) before three (3) arbitrators, unless the Parties agree to appoint a single arbitrator to conduct the arbitration. The arbitration shall take place in London, England, and the language of the arbitration shall be English.
- 9) Each Party shall appoint one arbitrator within thirty (30) days of the filing of the arbitration, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators have been appointed.
- 10) If a Party fails to appoint its Party-appointed arbitrator or if the two Party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the President of the ICC shall appoint the remainder of the three arbitrators not yet appointed.

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11) A Dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect.

12) The Parties agree that the decision or award of the arbitrator will be final and binding on the Parties and will be the sole and exclusive remedy between them regarding any Disputes, claims, counter-claims, or issues of accounting presented to the arbitrator.

**SIGNED AT: ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20.**

\_\_\_\_\_

**IN THE PRESENCE OF:**

**NAME:**.....

**POSITION:**.....

**DATE:**.....

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