

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



**GHANA NATIONAL PETROLEUM CORPORATION**



**GNPC EXPLORATION AND PRODUCTION COMPANY LIMITED**



**SPRINGFIELD EXPLORATION AND PRODUCTION LIMITED**



**IN RESPECT OF  
West Cape Three Points Block 2**

**2015**

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**THIS PETROLEUM AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_ by and among 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**"), the Ghana National Petroleum Corporation, a public corporation established by the Ghana National Petroleum Corporation Act, 1983 PNDCL 64 (hereinafter referred to as "**GNPC**"), GNPC Exploration and Production Company Limited, a company incorporated in Ghana and having its registered office at Petroleum House, Harbour Road, Tema (hereinafter referred to as "**Explorco**") and Springfield Exploration and Production Limited, a private limited liability company incorporated and existing under the laws of Ghana with its registered office and principal place of business located at F146/5, 2nd Soula Street, Labone, Accra, Ghana ("**Springfield**").

**WITNESSES THAT:**

1. All Petroleum existing in its natural state within Ghana is the property of the Republic of Ghana and held in trust by the State on behalf of the people of Ghana.
2. In accordance with the Petroleum Law, the Minister has prepared a reference map showing areas of potential petroleum fields within the jurisdiction of Ghana, divided into numbered areas and each of which is described as a "Block".
3. GNPC has, by virtue of the Petroleum Law, the right to undertake Exploration, Development and Production of Petroleum over all Blocks declared by the Minister to be open for Petroleum Operations.
4. GNPC is further authorised to enter into association by means of a petroleum agreement with a contractor for the purpose of Exploration, Development and Production of Petroleum.
5. The Contract Area that is the subject matter of this 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 of the Contract Area is within the jurisdiction of Ghana.
6. Contractor, having the financial ability, technical competence and professional skills necessary for carrying out the Petroleum Operations herein described, desires to associate with GNPC in the Exploration for, and Development and Production of, the Petroleum resources of the Contract Area.
7. Contractor shall comply with all the applicable laws of Ghana, including without limitation any regulations, policies or directives issued by or other acts of the Petroleum Commission pursuant to the Petroleum Commission Act, 2011 (Act 821), as the same may be amended from time to time.
8. The Parties are committed to providing qualified Ghanaian nationals employment at all levels in the petroleum industry, including technical,

administrative and managerial positions, and Contractor accordingly commits to providing and supporting a programme of training for Ghanaian nationals as an integral part of this Agreement.

9. GNPC has aspirations of building operatorship capacity and without prejudice to the rights of the Parties under this Agreement, Contractor is committed, pursuant to the terms of this Agreement, to supporting GNPC to develop its institutional capacity to enable GNPC to fulfill its aspirations.

10. The Parties are committed to providing an annual local content plan in line with Local Content Regulations for fulfilling the applicable Ghanaian content requirements with respect to the provision of goods and services.

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

## Article 1

### DEFINITIONS

#### In this Agreement:

- 1.1 **"Accounting Guide"** means the accounting guide which is attached hereto as Annex 2 and made a part hereof;
- 1.2 **"Additional Interest"** means the additional interest of GNPC provided in Article 2.5;
- 1.3 **"Affiliate"** means any person, whether a natural person, corporation, partnership, unincorporated association or other entity which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with a Party. For this purpose, "control" means the direct or indirect ownership of in aggregate 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;
- 1.4 **"Agreement"** means this agreement between the State, GNPC, and Contractor, and includes the Annexes attached hereto, as may be amended by mutual written agreement from time to time;
- 1.5 **"Appraisal"** means operations or activities carried out pursuant to an Appraisal Programme following a Discovery of Petroleum for the purpose of delineating the accumulations of Petroleum to which that Discovery relates in terms of thickness and lateral extent and estimating the quantity of recoverable Petroleum therein, and all operations or activities to resolve uncertainties required for determination of a Commercial Discovery;
- 1.6 **"Appraisal Programme"** means a programme approved by the Petroleum Commission pursuant to Article 8.5 for the conduct of Appraisal;
- 1.7 **"Appraisal Well"** means a well drilled pursuant to an Appraisal Programme;
- 1.8 **"Associated Gas"** means Natural Gas produced from a well in association with Crude Oil;
- 1.9 **"Barrel"** means a quantity or unit of Crude Oil equal to forty-two (42) United States gallons at a temperature of sixty (60) degrees Fahrenheit and at fourteen

and sixty-five one-hundredths pounds per square inch at atmospheric pressure (14.65 psia);

- 1.10 "**Block**" means an area of approximately 685 square kilometres depicted on the reference map prepared by the Minister in accordance with the provisions of the Petroleum Law;
- 1.11 "**Business Day**" means a day on which banks are open for business in Accra;
- 1.12 "**Calendar Year**" means a period of twelve (12) months of the Gregorian calendar, commencing on January 1 and ending on the succeeding December 31;
- 1.13 "**Carried Interest**" means an interest held by GNPC pursuant to this Agreement in respect of which Contractor pays for the conduct of Petroleum Operations, as set out in this Agreement, without any entitlement to reimbursement from GNPC;
- 1.14 "**Commercial Discovery**" means a Discovery which is determined to be commercial in accordance with the provisions of Article 8 of this Agreement;
- 1.15 "**Commercial Production Period**" means, in respect of each Development and Production Area, the period from the Date of Commencement of Commercial Production until the termination of this Agreement or earlier relinquishment of such Development and Production Area;
- 1.16 "**Contract Area**" means the area of approximately six hundred and seventy three kilometers squared (673 km<sup>2</sup>) covered by this Agreement in which Contractor is authorized, in association with GNPC, to explore for, develop and produce Petroleum, which is 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;
- 1.17 "**Contractor**" means, collectively Springfield and Explorco and their respective permitted successors and assignees and each of Springfield and Explorco individually a "Contractor Party" as the context may require;
- 1.18 "**Contract Year**" means a period of twelve (12) Months, commencing on the Effective Date or any anniversary thereof;
- 1.19 "**Crude Oil**" means hydrocarbons which are liquid at fourteen and sixty-five one-hundredths pounds per square inch at atmospheric pressure (14.65 psia) and sixty degrees Fahrenheit (600F) and includes condensates and distillates obtained from Natural Gas;

- 1.20 **"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 Development Plan;
- 1.21 **"Date of Commercial Discovery"** means the date referred to in Article 8.15;
- 1.22 **"Development" or "Development Operations"** means the following activities carried out in connection with a Development Plan: the design, engineering, building and installation of facilities for Production, including drilling of Development Wells, construction and installation of equipment, pipelines, facilities, plants and systems, in and outside the Contract Area, which are required for achieving Production, treatment, transport, storage and lifting of Petroleum, and preliminary Production and testing activities carried out prior to the Date of Commencement of Commercial Production, including all related planning and administrative work, and may also include the construction and installation of approved secondary and tertiary recovery systems;
- 1.23 **"Development Costs"** means Petroleum Costs incurred in Development Operations, including costs incurred in respect of lease, purchase, or rental of assets;
- 1.24 **"Development and Production Area"** means that portion of the Contract Area proposed by Contractor and approved by the JMC (or proposed by GNPC if a Sole Risk Operation pursuant to Article 9) 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, enlarged in area by ten percent (10%), such enlargement to extend uniformly around the perimeter of such accumulation;
- 1.25 **"Development Period"** means, in respect of each Development and Production Area, the period from the Date of Commercial Discovery until the Date of Commencement of Commercial Production;
- 1.26 **"Development Plan"** means the plan for development of a Commercial Discovery prepared by Contractor in consultation with the JMC and approved by the Minister pursuant to Article 8;
- 1.27 **"Development Well"** means a well drilled in accordance with a Development Plan for producing Petroleum including wells for pressure maintenance or increasing the Production rate;



- 1.28 **"Discovery"** means ( i) Existing Discoveries or ( ii) finding within a well at the end of drilling under Exploration Operations (an) accumulation(s) of Petroleum whose existence, until that finding, was not previously known or proven to have existed, which is or can be recovered at the surface in a flow measurable by conventional international petroleum industry testing methods (which, in the case of water depths greater than four hundred (400) metres, may include Modular Formation Dynamics Testing (also referred to as "MDT" by Schlumberger)) ( New Discovery);
- 1.29 **"Discovery Area"** means that portion of the Contract Area, reasonably proposed by Contractor and approved by the JMC (or proposed by GNPC if such area occurs as a result of a Sole Risk pursuant to Article 9) on the basis of the available seismic and well data, that covers the areal extent of the geological structure in which a Discovery is made. A modification to the Discovery Area may be proposed by Contractor at any time and approved by the JMC (or proposed by GNPC to the extent permitted by Article 9, if applicable), if justified on the basis of new information, up to the date of submission of a report under Article 8.10;
- 1.30 **"Discovery Notice"** means a written notification of Discovery to the Minister, the Petroleum Commission, and GNPC pursuant to Article 8.1 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;
- 1.31 **"Effective Date"** shall have the meaning ascribed to it in Article 26.11;
- 1.32 **"Existing Discoveries"** means Odum and Banda discoveries as described in Annex 1
- 1.33 **"Exploration" or "Exploration Operations"** means the search for Petroleum by geological, geophysical and other methods, and the drilling of Exploration Well(s) and Appraisal Wells, and includes any activity in connection therewith or in preparation thereof and any relevant processing and Appraisal work, including technical and economic feasibility studies, that may be carried out to determine whether a Discovery of Petroleum constitutes a Commercial Discovery;
- 1.34 **"Exploration Costs"** means Petroleum Costs incurred, both within and outside Ghana, in conducting Exploration Operations hereunder determined in accordance with the Accounting Guide attached hereto as Annex 2;
- 1.35 **"Exploration Period"** means the period commencing on the Effective Date and continuing during the time provided for in Article 3.1 within which Contractor is

authorised to carry out Exploration Operations, and shall include any periods of extensions provided for in this Agreement. The period shall terminate with respect to any Discovery Area on the Date of Commercial Discovery in respect of such Discovery Area;

- 1.36 **"Exploration Phase"** means any one of the Initial Exploration Period, the First Extension Period or the Second Extension Period;
- 1.37 **"Exploration Well"** means a well drilled in the course of Exploration Operations conducted hereunder during the Exploration Period, excluding Appraisal Wells;
- 1.38 **"Extension Period"** means either the First Extension Period or Second Extension Period, as applicable;
- 1.39 **"Force Majeure"** means any event beyond the reasonable control of the Party claiming to be affected by such event, which has not been brought about directly or indirectly at its own instance or which has not been brought about directly or indirectly at the instance of an Affiliate. Force Majeure events may include, but are not limited to, acts of God, accidents, fires, explosions, earthquake, storm, flood, hurricanes, tidal waves, cyclones, tornados, lightning or other adverse weather conditions or any other natural disasters, war, acts of war, acts of terrorism, embargo, blockade, epidemic, riot, civil disorder, or strikes;
- 1.40 **"Foreign National Employee"** means an expatriate employee of Contractor, its Affiliates, or its Subcontractors who is not a citizen of Ghana;
- 1.41 **"Ghana"** means the territory of the Republic of Ghana and includes rivers, streams, water courses, the territorial sea, seabed and subsoil, the contiguous zone, the exclusive economic zone, continental shelf, the airspace, and all other areas within the jurisdiction of the Republic of Ghana;
- 1.42 **"Gross Negligence or Willful Misconduct"** means any act, failure to act or failure to exercise such minimum degree of care and prudence 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 result;
- 1.43 **"Gross Production"** means the total amount of Petroleum produced and saved from a Development and Production Area during Production Operations, which is not used by Contractor in Petroleum Operations, and is available for distribution to the Parties in accordance with Article 10;
- 1.44 **"Income Tax Act"** means the Income Tax Act, 2015 (Act 896) as the same may be amended from time to time

- 1.45 **"Indigenous Ghanaian Company"** means a company incorporated under the Companies Act, 1963 (Act 179) of Ghana:
- (a) that has at least fifty-one percent (51%) of its equity owned by a citizen or citizens of Ghana; and
  - (b) that has Ghanaian citizens holding at least eighty percent (80%) of senior management positions and one hundred percent (100%) of non-managerial and other positions;
- 1.46 **"Initial Interest"** means the interest of GNPC in all Petroleum Operations provided for in Article 2.4;
- 1.47 **"International Best 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;
- 1.48 **"Joint Management Committee"** (JMC) means the committee established pursuant to Article 6.1;
- 1.49 **"Joint Operating Agreement" or "JOA"** means an agreement among all of the Contractor Parties 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;
- 1.50 **"LIBOR"** means the interest rate per annum equal to the British Bankers Association London interbank offered rate for one (1) month U.S dollar deposits, as published in the Financial Times London. In the event that the Financial Times London is not published, then as published by The Wall Street Journal.
- 1.51 **"LNG"** means Liquefied Natural Gas;
- 1.52 **"Local Content Regulations"** means the Petroleum (Local Content and Local Participation) Regulations, 2013, L.I. 2204;
- 1.53 **"Market Price"** means the market price for Crude Oil realized by Contractor under this Agreement as determined in accordance with Article 11.7;
- 1.54 **"Minister"** has the meaning given to such term in the Preamble;
- 1.55 **"Minimum Work Obligation"** means Contractor's obligations set forth in Article 4.3(a),(b),(c) and (d);

- 1.56 **"Month"** means a month of the Calendar Year;
- 1.57 **"Natural Gas"** means 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;
- 1.58 **"Non-Associated Gas"** means Natural Gas produced from a well other than in association with Crude Oil;
- 1.59 **"Operator"** means Springfield or such other Party as may be jointly proposed by Contractor and GNPC and approved by the Minister to conduct Petroleum Operations hereunder on behalf of the Parties;
- 1.60 **"Participating Interest"** means the interest held by each Contractor Party (expressed as a percentage) in accordance with the provisions of Article 2.11;
- 1.61 **"Party"** means each of the State, GNPC, Explorco, or Springfield, as the case may be;
- 1.62 **"Paying Interest"** means an interest held by GNPC in respect of which GNPC pays for the conduct of Petroleum Operations as expressly provided for in Article 2.7;
- 1.63 **"Petroleum"** means Crude Oil or Natural Gas, or a combination of both;
- 1.64 **"Petroleum Commission"** means a body established by the Petroleum Commission Act, 2011 (Act 821) for the regulation and the management of the utilisation of petroleum resources in the upstream sector;
- 1.65 **"Petroleum Costs"** means all expenditures made and costs incurred in conducting Petroleum Operations hereunder determined in accordance with the Accounting Guide attached hereto as Annex 2;
- 1.66 **"Petroleum Law"** means the Petroleum (Exploration and Production) Law, 1984 (PNDCL 84);
- 1.67 **"Petroleum Operations"** means all activities, both in and outside Ghana, relating to the Exploration for, Appraisal of, Development, Production, handling, storage, processing and transportation to the Delivery Point, of Petroleum contemplated.

under this Agreement and includes Exploration Operations, Development Operations and Production Operations and all activities in connection therewith;

- 1.68 **"Petroleum Product"** means any product derived from Petroleum by any conventional refining process;
- 1.69 **"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 24.2 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;
- 1.70 **"Production" or "Production Operations"** means activities, other than Exploration Operations or Development Operations, undertaken in order to extract, save, treat, measure, handle, store and 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, repair, abandonment or decommissioning and replacement of facilities, and well work overs, conducted after the Date of Commencement of Commercial Production of the respective Development and Production Area;
- 1.71 **"Production Costs"** means Petroleum Costs incurred in Production Operations;
- 1.72 **"Proposed Appraisal Programme"** means a draft of a programme for the conduct of an Appraisal to be presented to the Petroleum Commission for approval;
- 1.73 **"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;
- 1.74 **"Security"** means an irrevocable, unconditional guarantee issued by a bank or an insurance company; or a financial and performance guarantee from a parent company; or a standby letter of credit; or any other financial security issued in favour of GNPC by a reputable institution acceptable to GNPC and having a credit rating indicating that it has sufficient worth to pay its obligations in all reasonably foreseeable circumstances;
- 1.75 **"Sole Expert"** means the person appointed to resolve a dispute pursuant to 24.9;

- 1.76 "**Sole Risk**" means an operation conducted at the sole cost, risk, expense, and liability of GNPC referred to in Article 9;
- 1.77 "**Specified Rate**" means LIBOR plus two percent (2%);
- 1.78 "**Standard Cubic Foot**" or "**SCF**" means the quantity of gas that occupies one (1) cubic foot at 14.65 psia pressure and sixty (60) degrees Fahrenheit temperature;
- 1.79 "**State**" has the meaning given to such term in the Preamble;
- 1.80 "**Subcontractor**" means a third party with whom GNPC or Contractor has entered into a contract for provisions of goods or services for, or in connection with, Petroleum Operations;
- 1.81 "**Termination**" means termination of this Agreement pursuant to Article 24 hereof;
- 1.82 "**Work Programme**" means the annual plan for the conduct of Petroleum Operations prepared pursuant to Articles 6.4 and 6.5; and
- 1.83 "**Year**" means a continuous twelve (12) Month period. ③

## **Article 2**

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

- 2.1 This Agreement provides for the Exploration for, and Development and Production of, Petroleum in the Contract Area by GNPC 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, subject to Article 9, is hereby appointed the exclusive entity to conduct Petroleum Operations in the Contract Area. In order that the Parties may cooperate in the implementation of Petroleum Operations, GNPC, and Contractor shall establish a Joint Management Committee to conduct and manage Petroleum Operations.
- 2.3 In the event that no Commercial Discovery is made 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; GNPC and the State shall have no obligations whatsoever to Contractor in respect of such loss.
- 2.4 GNPC shall have an Initial Interest in all Petroleum Operations under this Agreement as follows: (a) eleven percent (11%) in the case of a New Discovery either developed alone or together with the Existing Discoveries and (b) eight percent (8%) for Existing Discoveries developed on a standalone basis. With respect to all Exploration Operations and Development Operations, the Initial Interest shall be a Carried Interest. With respect to all Production Operations GNPC's Initial Interest shall be a Paying Interest.
- 2.5 In addition to the Initial Interest provided for in Article 2.4, GNPC shall have the option in respect of each Development and Production Area to acquire an Additional Interest of up to (a) seventeen percent ( 17%) in the case of a New Discovery either developed alone or together with the Existing Discoveries and (b) five percent ( 5%) for Existing Discoveries developed on a standalone basis in the Petroleum Operations in such Development and Production Area, by contributing the corresponding proportionate share to all the Petroleum Costs incurred after the Date of Commercial Discovery, in respect of such Development and Production Area (or make arrangements satisfactory to the Contractor to that effect). With respect to all Development Operations and Production Operations, the Additional Interest shall be a Paying Interest. GNPC shall notify the Contractor of the exercise of its intention to acquire the Additional Interest within ninety (90) days of the Date

- of Commercial Discovery. GNPC and Contractor shall agree on the mode of financing such Additional Interest.
- 2.6 If GNPC opts to take an Additional Interest as provided for in Article 2.5 then within six (6) Months of the date of its election, GNPC shall reimburse the Contractor for all expenditures attributable to GNPC's Additional Interest incurred from the Date of Commercial Discovery to the date GNPC notifies Contractor of its election.
- 2.7 For the avoidance of doubt, GNPC shall only be liable to contribute to Petroleum Costs:
- (a) incurred in respect of Development Operations in any Development and Production Area to the extent only of any Additional Interest acquired in such Development and Production Area under Article 2.5; and
  - (b) incurred in respect of Production Operations in any Development and Production Area both to the extent of:
    - i) its eleven percent (11%) or eight percent (8%) Initial Interest (as the case may be) held pursuant to Article 2.4; and
    - ii) any Additional Interest acquired under Article 2.5.
- 2.8 In the event that GNPC, having acquired the Additional Interest subsequently wishes to dispose of it (or part of it) to a third party other than parties stipulated under Article 25.6, GNPC shall notify Contractor of such intent and shall inform Contractor of the price which is to be paid by such third party for the same, and the Contractor shall have the right for a period of thirty days from the receipt of such notice to inform GNPC that it wishes to acquire such interest at the price notified to it by GNPC, being the price at which it was to have been sold to the third party.
- 2.9 GNPC 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 GNPC is either to (i) be paid in cash for such services by Contractor upon receipt of invoice from GNPC, or (ii) earn credit for the costs of providing such services against GNPC's share, if any, of future Development and/or Production Costs. The amount of costs to be invoiced or credit earned by GNPC 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 Likewise, if the Contractor provides services, it shall earn credit for the costs of providing such services in accordance with the Accounting Guide.



- 2.10 Upon notifying Contractor of its decision to acquire an Additional Interest pursuant to Article 2.5, GNPC may specify in the notification one or more of the following:
- (a) that notwithstanding the provisions in Article 2.6 GNPC shall elect to have Contractor advance GNPC's total proportionate share of Development Costs incurred in respect of the Additional Interest. Such advances shall be reimbursed from the proceeds of the sales of GNPC's petroleum entitlement with interest at rate no higher than (i) the weighted average rate applicable to any third party debt financing pursuant to which the Contractor (or its Affiliates) has financed such Additional Interest from and including the date of the relevant expenditure to and excluding the date the Contractor is reimbursed or (ii) the Specified Rate if Contractor has no third party debt financing; and
  - (b) notify the Contractor of any arrangements for the payment of the balance of GNPC's total proportionate share of Development Costs.
- 2.11 Contractor's Participating Interest in all Petroleum Operations and in all rights under this Agreement shall be (a) eighty nine percent (89%) in the case of New Discovery either developed alone or together with the Existing Discoveries and (b) ninety two percent (92%) for Existing Discoveries developed on a standalone basis, reduced proportionately on each Contractor Party pro rata to Participating Interest, at any given time and in any given part of the Contract Area by the exercise of the option of Additional Interest of GNPC pursuant to Article 2.5 or the exercise of the Sole Risk interest of GNPC pursuant to Article 9.
- 2.12 Notwithstanding Article 1.59, Springfield shall not later than three hundred and sixty-five (365) days after the Effective Date, or such other additional period as may be approved by the Minister, assign a material portion of its Participating Interest to an entity which shall be the technical partner and joint operator of the Contract Area. The technical partner shall be an entity with the requisite technical and financial capability to undertake Petroleum Operations selected by Springfield, acceptable to GNPC and approved by the Minister; provided however that GNPC's failure to accept such proposed technical partner shall not preclude Springfield from seeking approval from the Minister. The assignment of a Participating Interest to the technical partner shall not constitute a 'farmout' within the meaning of Article 25.5
- 2.13 As of the Effective Date, the Contract Area shall cover a total of approximately six hundred and seventy-three kilometres squared ( 673 km<sup>2</sup>), as depicted by Annex 1, and shall from time to time during the term of this Agreement be reduced

according to the terms herein. During the term of this Agreement, Contractor shall pay rentals to the State for that area included within the Contract Area at the beginning of each Contract Year according to the provisions of Article 12.1(e) below

### Article 3

#### EXPLORATION PERIOD

- 3.1 The Exploration Period shall begin on the Effective Date and, subject to Article 22.8, shall not extend beyond five and one-half (5½) years unless otherwise extended by the Minister as provided for in accordance with the Petroleum Law.
- (a) The Exploration Period shall be divided into an Initial Exploration Period of two and one-half (2½) years ("Initial Exploration Period") and two (2) extension periods, the first of one and one-half (1½) years and the second of one and one-half (1½) years each (respectively, "First Extension Period" and "Second Extension Period") and where applicable the further periods for which provision is made hereafter.
  - (b) 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, and has exercised its option by applying to the Minister in writing for an extension, the Minister will be deemed to have granted an extension into the First Extension Period or, as the case may be, into the Second Extension Period.
  - (c) For each well drilled by Contractor or with Contractor's participation during the Initial Exploration Period beyond those referred to in Article 4.3, the Initial Exploration Period shall be extended by three (3) Months and the commencement of subsequent periods shall be postponed in their entirety accordingly.
- 3.2 Following the end of the Second Extension Period, subject to the provisions of Article 3.4, Contractor will be entitled to an extension or extensions, by reference to Article 8, of the Exploration Period as follows:
- (a) Where at the end of the Second Extension Period Contractor is drilling or testing any well, Contractor shall be entitled to an extension for such further period as may be reasonably required to enable Contractor to complete such work and assess the results and, in the event that Contractor notifies the Minister that the results from any such well show a Discovery which merits Appraisal, Contractor shall be entitled to a further extension for such period as may be reasonably required to carry out an Appraisal Programme and determine whether the Discovery constitutes a Commercial Discovery;
  - (b) Where at the end of the Second Extension Period Contractor is engaged in the conduct of an Appraisal Programme in respect of a Discovery which has not been completed, Contractor shall be entitled to a further extension for such period as may be reasonably required to complete that Appraisal

Programme and determine whether the Discovery constitutes a Commercial Discovery;

- (c) Where at the end of the Second Extension Period Contractor has undertaken work not falling under paragraphs ((a) or ((b) which is not completed, Contractor shall be entitled to a further extension following the end of the Second Extension Period for such period as the Minister considers reasonable for the purpose of enabling such work to be completed;
  - (d) Where pursuant to Article 8 Contractor has before the end of the Second Extension Period, including extensions under ((a), ((b) and ((c) above, given to the Minister a notice of Commercial Discovery, Contractor shall, if the Exploration Period would otherwise have been terminated, be entitled to a further extension of the Exploration Period in respect of the Discovery Area during which it must prepare the Development Plan in respect of the Commercial Discovery until either:
    - i) the Minister has approved the Development Plan as set out in Article 8; or
    - ii) in the event that the Development Plan is not approved by the Minister as set out in Article 8 and the matter or matters in issue between the Minister and Contractor have been referred for resolution under 24.1, one (1) Month after the date on which the final decision thereunder has been given.
- 3.3 Where at the end of the 9 month period for submission of Appraisal Programme with respect to the Existing Discoveries, Initial Exploration Period or, as the case may be, at the end of the First Extension Period, Contractor has failed to submit the Appraisal Program or complete its Minimum Work Obligations as specified in Articles 4.3((a),(b),(c) or (d) in respect of that period (including in the circumstances contemplated in Article 4.7, but has made reasonable arrangements to remedy its default, Contractor may apply to the Minister for further extension. The Minister may refuse to grant or grant in his discretion an extension on the then current applicable period subject to such reasonable terms and conditions as the Minister may stipulate to assure performance of the work.
- 3.4 Save in respect of a Discovery Area:
- (a) in the circumstances and subject to the limitations set forth in Section 12(3) of the Petroleum Law;
  - (b) in a case falling within the provisions of Article 3.2(d); or

(c) in circumstances where Article 22.8 applies,

subject to Article 3.5 and Article 8, nothing in Article 3.2 shall be read or construed as requiring the extension of the Exploration Period beyond seven (7) years from the Effective Date.

- 3.5 The provisions of Articles 3.2(a), 3.2(b), 3.2(c), and 3.3, so far as they relate to the duration of the relevant Extension Period to which Contractor will be entitled, shall be read and construed as requiring the Minister to give effect to the provisions of Article 8 relating to the time within which Contractor must meet the requirements of that Article.

## Article 4

### MINIMUM EXPLORATION PROGRAMME

- 4.1 Exploration Operations shall begin as soon as practicable and in any case not later than sixty (60) days after the Effective Date.
- 4.2 GNPC shall, as soon as practicable at the request of Contractor, make available to Contractor such records and information relating to the Contract Area as are relevant to the performance of Exploration Operations by Contractor and are in GNPC's possession, provided that Contractor shall reimburse GNPC for licensing the data and for other costs reasonably incurred in procuring or otherwise making such records and information available to Contractor.
- 4.3 Subject to the provisions of this 3.5, in discharge of its obligations to carry out Exploration Operations in the Contract Area, Contractor shall, during the several phases into which the Exploration Period is divided, carry out the obligations specified hereinafter:

(a) **Existing Discoveries**

Contractor shall within a period of nine (9) months from the Effective Date undertake an evaluation of the Existing Discoveries, and shall submit an Appraisal Programme to the Petroleum Commission for approval and to the Minister for information purposes.

GNPC shall, as soon as practicable following the request of Contractor, make available to Contractor such records and information relating to the Contract Area as are relevant to undertake the evaluation and Appraisal in respect of the Existing Discoveries.

- (b) **Initial Exploration Period:** Commencing on the Effective Date and terminating two and one-half (2½) years from the Effective Date.

**Description of Contractor's Minimum Work Obligation:**

- i) Geological and geophysical studies.
- ii) Drill one Exploration Well.

**Minimum Expenditure:** The minimum expenditure for the work in the Initial Exploration Period shall be Thirty Million United States Dollars (US\$30,000,000).

- (c) **First Extension Period:** Commencing at the end of the Initial Exploration Period and terminating one and one-half (1½) Years from the expiration of the Initial Exploration Period.

**Description of Contractor's Minimum Work Obligation:**

- i) Geological and geophysical studies.
- ii) Drill one Exploration Well.

**Minimum Expenditure:** The minimum expenditure for the work in the First Extension Period shall be Thirty Million United States Dollars (US\$30,000,000).

- (d) **Second Extension Period:** Commencing at the end of the First Extension Period and terminating one and one-half (1½) Years from the expiration of the First Extension Period, or as may be extended under this Agreement.

**Description of Contractor's Minimum Work Obligation:**

- i) Geological and geophysical studies.
- ii) Drill one Exploration Well.

**Minimum Expenditure:** The minimum expenditure for the work in the Second Extension Period shall be Forty Million United States Dollars (US\$40,000,000)

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 fulfillment of any Minimum Work Obligation shall satisfy the corresponding Minimum Expenditure obligation but the fulfillment of any Minimum Expenditure obligation shall not satisfy the corresponding Minimum Obligation. Without prejudice to Article 23.3(e), should Contractor fail to perform its Minimum Work Obligations under Articles 4.3(a),(b),(c) or (d), as applicable, Contractor shall pay to GNPC an amount equal to the minimum expenditure obligation, as reduced by the value of work already performed, for the relevant Exploration Phase.

- 4.4 Within ninety (90) days after the Effective Date, Contractor shall provide to GNPC Security in the amount of five million United States Dollars (US\$5 million) to cover the minimum expenditure obligation for the first 365 days from the Effective Date. As a condition to conduct work in the subsequent years up to the end of the Initial Period, Contractor shall also provide Security based on expenditure related to such work. This Security shall be: (a) reduced proportionately by the work performed; and (b) released upon completion of the Minimum Work Obligation. This provision shall not apply where Contractor provides satisfactory security.

4.5 Each Exploration Well shall be drilled at a location and to an objective depth determined by Contractor in consultation with GNPC. Except as otherwise provided in Article 4.6 and 4.7 below, the minimum depth of each Exploration Well in Articles 4.3(b) and 4.3(c) shall be whichever of the following is first encountered:

- (a) the depth of four thousand five hundred (4,500) metres measured from the Rotary Table Kelly Bushing (RTKB);
- (b) one hundred (100) metres below the depth at which the primary target is first encountered; or
- (c) the depth at which Contractor encounters geologic basement; or
- (d) a depth where GNPC and Contractor agree that the well cannot be drilled any deeper due to technical or safety issues

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

- (a) The depth of four thousand five hundred (4,500) metres measured from the Rotary Table Kelly Bushing (RTKB);
- (b) The depth sufficient to penetrate three hundred and fifty (350) metres into the Campanian; or
- (c) The depth at which Contractor encounters geological basement.

unless GNPC consents otherwise, which consent shall not be unreasonably withheld or delayed.

4.7 If in the course of drilling an Exploration Well Contractor concludes that drilling to the minimum depth specified in Articles 4.5 and 4.6. above is impossible, impracticable, or imprudent in accordance with International Oil Field Practice, then Contractor may plug and abandon the Exploration Well, and GNPC shall have the option of either:

- (a) waiving the minimum depth requirement, in which case Contractor will be deemed to have satisfied the obligation to drill such Exploration Well; or
- (b) requiring Contractor to drill a substitute Exploration Well at a location determined by Contractor in consultation with GNPC and to the minimum depth set forth in Article 4.5 or 4.6, except that if in the course of drilling such substitute Exploration Well Contractor establishes that drilling to the minimum depth specified in Article 4.5 or 4.6 above is impossible,



impracticable or imprudent in accordance with International Best Oil Field Practice, then Contractor may plug and abandon the substitute Exploration Well and will be deemed to have satisfied the obligation to drill one (1) Exploration Well.

The above option shall be exercised by GNPC within sixty (60) days from the notice given by Contractor to GNPC of the completion of the plugging and abandonment of the Exploration Well, and failure to exercise such option shall constitute a waiver of the minimum depth requirement pursuant to (a) above.

- 4.8 During the Exploration Period, Contractor shall have the right to perform additional Exploration Operations subject to the terms of this Agreement and approval by the JMC, including without limitation 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 Contractor may elect to perform such additional Exploration Operations in the absence of approval by the JMC and the costs of such additional Exploration Operations shall not be considered allowable Petroleum Costs. However, such costs shall only be allowable Petroleum Costs for purposes of the calculation of AOE if there arises a subsequent Commercial Discovery associated with such additional Exploration Operations. Any such subsequent Commercial Discovery shall be treated hereunder 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, without limitation, participation by GNPC in such Commercial Discovery.
- 4.9 During the Exploration Period, Contractor shall deliver to GNPC and the Minister reports on Exploration Operations conducted during each Quarter within thirty (30) days following the end of that Quarter. Further requests for information by the Minister under Section 9(1) of the Petroleum Law shall be complied with within a reasonable time and copies of documents and other material containing such information shall be provided to GNPC.

## Article 5

### RELINQUISHMENT

- 5.1 Except as provided in Article 5.2, 8.3, 8.6, 8.12, 8.18, 8.19, 8.20, 8.21, 8.22 and 14.9, Contractor shall relinquish portions of the Contract Area in the manner provided hereafter:
- (a) If on or before the expiration of the First Extension Period, Contractor elects to enter into the Second Extension Period pursuant to Article 3.1((a) then subject to Article 5.2 at the commencement of the Second Extension Period the area retained shall not exceed sixty percent (60%) of the Contract Area as at the Effective Date (excluding the Existing Discoveries);
  - (b) If at the end of nine (9) months from the Effective Date, or at the end of expiration of any extension granted, Contractor fails to submit an Appraisal Programme pursuant to Article 4.3(a), Contractor shall relinquish the Existing Discoveries;
  - (c) On the expiration of the Second Extension Period, Contractor shall subject to Article 5.2 relinquish the remainder of the retained Contract Area.
- 5.2 The provisions of Article 5.1 shall not be read or construed as requiring Contractor to relinquish any portion of the Contract Area which constitutes or forms part of either a Discovery Area (excluding a Discovery Area determined by the terms of this Agreement to neither merit Appraisal nor to be a Commercial Discovery) or a Development and Production Area; provided, however, that if at the end of the Initial Exploration Period or the First Extension Period, as the case may be, Contractor elects not to enter into the First or Second Extension Period Contractor shall relinquish the entire Contract Area, except a Discovery Area or a Development and Production Area.
- 5.3 Each area to be relinquished pursuant to this Article shall be selected by Contractor and shall be measured as far as possible in terms of continuous and compact units of a size and shape which will permit the carrying out of Petroleum Operations in the relinquished portions.

## Article 6

### JOINT MANAGEMENT COMMITTEE

- 6.1 In order that the Parties may at all times cooperate in the implementation of Petroleum Operations, GNPC 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 the operations, the JMC shall oversee, supervise and approve the Petroleum Operations and ensure that all approved Work Programmes and Development Plans are complied with 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 and the accounting principles and procedures generally accepted as International Best 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 GNPC 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. GNPC 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 GNPC from amongst the members of the JMC;
  - (c) Contractor shall be responsible, in consultation with GNPC, 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. GNPC shall have the right, upon reasonable notice, to inspect all records of the JMC during business hours. Contractor shall circulate the agenda and supporting documents for each meeting to all representatives designated pursuant to Article 6.2((a); and
  - (d) At any meeting of the JMC three (3) representatives shall form a quorum. For purposes of a quorum, the representative of Contractor shall be the Contractor Party who holds the majority interest.

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 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 GNPC 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;
- (d) Decisions of the JMC shall require unanimity among GNPC and Contractor and all representatives of a Party shall vote the same way;
- (e) 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;
- (f) Decisions of the JMC may be made without holding a meeting if all representatives of GNPC and Contractor notify their consent thereto in the manner provided in Article 27;
- (g) GNPC 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;
- (h) 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; and
  - iv) a contract/procurement subcommittee,

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

- (i) Reasonable costs and expenses as evidenced by invoices and/or receipts related to attendance by GNPC in or outside Accra (e.g. travel, transportation, lodging, per diem and insurance), in accordance with applicable laws, regulations and GNPC policies and procedures shall be borne by Contractor and treated as Petroleum Costs.

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 Calendar Year, Contractor shall prepare and submit to the JMC for its review and approval a detailed 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 have the option of submitting a single detailed Work Programme and budget covering the remaining Months of the Calendar Year in which the Effective Date occurs and the succeeding Calendar Year;
- (b) Upon notice to GNPC, Contractor may amend any Work Programme and budget submitted to the JMC pursuant to this Article 6.4, which notice will state why in Contractor's opinion the amendment is necessary or desirable. Any such amendment shall be submitted to the JMC for review and approval;
- (c) 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 4.3 relating to the Minimum Work Obligation for the period of the Exploration Phase in which such Work Programme and budget falls;
- (d) Contractor shall report any Discovery to GNPC immediately following such Discovery and shall subsequently 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 to take place before submission of the detailed Appraisal report provided for in Article 8.10
- (e) The JMC will review and approve Work Programmes and budgets and any amendments or revisions thereto, and Proposed Appraisal Programmes and any amendments or revisions thereto, submitted to it by Contractor pursuant to this Article 6, and timely give such advice as it deems appropriate which Contractor shall consider before submitting Work Programmes and budgets and any amendments or revisions thereto for approvals required by law or this Agreement; and
- (f) After the date of the first Commercial Discovery, Contractor shall seek the approval of GNPC's JMC representatives, which approval shall not be unreasonably withheld, on any proposal for the drilling of any further Exploration Well or Wells 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 or Wells at its sole risk and the costs of such Exploration Operations shall not be considered allowable Petroleum Costs. However, such costs shall be allowable 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 hereunder 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, without limitation, participation by GNPC in such Commercial Discovery.

- 6.5 From the Date of Commercial Discovery, the JMC shall oversee Petroleum Operations as follows:
- (a) Within sixty (60) days after the Date of Commercial Discovery, Contractor shall prepare and submit to the JMC 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, with respect to the Contract Area (excluding the Discovery Area) 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 detailed 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 plans for the succeeding Calendar Year; and
  - (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 Calendar Year Contractor shall submit to the JMC for its approval an annual production schedule which shall be in accordance with International Best Oil Field Practice, and shall be designed to provide the most efficient, beneficial and timely production of the Petroleum resources.
- 6.6 Lifting schedules for Development and Production Areas and other supplementary agreements provided for under Article 10.7 shall be subject to JMC approval.

- 6.7 The JMC shall review all reports submitted by Contractor pursuant to this Article 6 on the conduct of Petroleum Operations.
- 6.8 Contractor's insurance programme and the programmes for training and technology transfer submitted by Contractor and the accompanying budgets for such schemes and programmes shall be subject to JMC approval.
- 6.9 Any contract to be entered into or awarded by Contractor for the provision of services for Petroleum Operations must comply with the provisions of Article 20, JMC approved relevant tendering procedures and shall be subject to approval by the JMC.
- 6.10 If during any meeting of the JMC the Parties are unable to reach agreement concerning any of the matters provided for in Articles 6.3, 6.4, 6.5, 6.6, 6.8 and 6.9 the matter shall be deferred for reconsideration at a further meeting to be held not later than fifteen (15) days following the original meeting. If after such further meeting the Parties are still unable to reach agreement, the matter in dispute shall be referred to the Parties' executive management forthwith. Failing agreement within fifteen (15) days thereafter, the matter in dispute shall, at the request of any Party, be referred for resolution under Article 24.
- 6.11 For the avoidance of doubt, the concurrence or approval of JMC representatives shall not be unreasonably withheld or delayed with respect to any proposal submitted to the JMC.

## **Article 7**

### **RIGHTS AND OBLIGATIONS OF CONTRACTOR AND GNPC**

- 7.1 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 International Best Oil Field Practice, including without prejudice to the generality of the foregoing:
- (a) conduct Petroleum Operations diligently in accordance with International Best Oil Field Practice, observing sound technical and engineering practices using appropriate advanced technology and effective equipment, machinery, materials, and methods;
  - (b) take all practicable steps to ensure compliance with Section 3 of the Petroleum Law, including ensuring the recovery and prevention of waste of Petroleum in the Contract Area in accordance with International Best Oil Field Practice;
  - (c) prepare and maintain in Ghana full and accurate records of all Petroleum Operations performed under this Agreement;
  - (d) 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;
  - (e) disclose to GNPC and the Minister any operating or other agreement among the Parties that constitute Contractor relating to the Petroleum Operations hereunder, which agreement shall not be inconsistent with the provisions of this Agreement;
  - (f) prepare and implement a programme to develop GNPC's institutional capacity to become a competent operator. Such programme shall be approved by the JMC;
  - (g) 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 the Contractor under this Agreement except as otherwise provided hereunder and the related documents;



- (h) prepare and submit in accordance with this Agreement for approval by the JMC: (i) the Development Plan; and (ii) such other matters as are specified in this Agreement as subject to approval by the JMC;
- (i) take all measures consistent with International Best Oil Field Practice to: (i) control the flow and prevent loss or waste of Petroleum; (ii) prevent any injurious ingress of water and damage to Petroleum bearing strata; and (iii) manage reservoir pressure;
- (j) not to flare any Natural Gas except to the extent necessary to mitigate or prevent an emergency or for safe operations as provided in the Development Plan;
- (k) keep the Minister, Petroleum Commission and GNPC promptly advised in writing of all material developments which occur, or the occurrence of which is reasonably foreseeable, affecting or highly likely to affect Petroleum Operations;
- (l) to take such steps in case 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 and the related documents for the protection of health, life, the environment and property, and to report in reasonable detail all such steps taken and expenditures made promptly to the Minister, Petroleum Commission and JMC;
- (m) notify promptly the Minister, Petroleum Commission and GNPC if the 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 or the related documents that could reasonably be expected to adversely affect the environment;
- (n) implement and administer contracts related to Petroleum Operations entered into by Contractor with its Affiliates on an arm's-length basis; and
- (o) 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 Oil Field Practice, applicable law, and this Agreement; and
- (p) perform and observe each other term, covenant and agreement of the Contractor contained in this Agreement.

7.2 In connection with its performance of Petroleum Operations, Contractor shall have the right within the terms of and pursuant to applicable law and regulations in effect from time to time:

- (a) to establish offices in Ghana and to assign to those offices such representatives as it shall consider necessary for the purposes of this Agreement;
- (b) to use public lands for installation and operation of shore bases, and terminals, harbours and related facilities, petroleum storage and processing, pipelines from fields to terminals and delivery facilities, camps and other housing;
- (c) to receive licenses and permission to install and operate such communications, Petroleum production, processing, storage facilities, transportation facilities (to the Delivery Point) and other facilities as shall be necessary for the efficiency of its operations;
- (d) to give first consideration to qualified Ghanaians before bringing to Ghana such number of Foreign National Employees as shall 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;
- (e) to provide or arrange for reasonable housing, schooling and other amenities, permanent and temporary, for its employees and to import personal and household effects, furniture and vehicles, for the use of its personnel in Ghana;
- (f) 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 programs established in Ghana;
- (g) to 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

- (h) to engage such Subcontractors, expatriate and national, including also consultants, and to bring such Subcontractors and their personnel to Ghana as are necessary in order to carry out the Petroleum Operations in a skillful, economic, safe and expeditious manner; and said Subcontractors shall have the same rights as Contractor specified in this Article 7 to the extent they are engaged by Contractor for the Petroleum Operations hereunder.

7.3 Provided that Contractor and its Subcontractors have complied with all of their material obligations under this Agreement, GNPC shall use its best efforts to assist Contractor in carrying out Contractor's obligations expeditiously and efficiently as stipulated in this Agreement, and in particular GNPC shall use its reasonable efforts to assist Contractor and its Subcontractors, as long as Contractor and its Subcontractors use their reasonable efforts to appropriately complete applicable procedures and other requirements prescribed by relevant authorities, to:

- (a) establish supply bases and obtain necessary communications facilities, equipment, and supplies;
- (b) obtain necessary approvals to open bank accounts in Ghana;
- (c) subject to Article 21 hereof, obtain entry visas and work permits or any other documentation that may be required from time to time 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) where applicable facilitate and obtain the necessary approvals for the grant to the Contractor by the State of any extension, exemption and waiver of all taxes, charges, customs duties, import duties and any other related charges;
- (e) comply with Ghana customs procedures and obtain permits for the importation of necessary materials;
- (f) 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;
- (g) assist with the acquisition of any approvals or waivers required from any State agencies or other ministerial or regulatory bodies under the direct or

indirect control of the State(each a "State Agency") dealing with fishing, meteorology, navigation, environment and communications as required; in accordance with Article 21.3, identify Ghanaian personnel as candidates for employment by Contractor in Petroleum Operations; and

- (h) identify qualified Ghanaian personnel as candidates for employment by Contractor in Petroleum Operations; and
- (i) procure access, on competitive commercial terms to infrastructure owned by the State, or GNPC (or its Affiliates) or any third party, including facilities owned or used by contractors on oil and gas blocks adjacent to the Contract Area.

7.4 All reasonable and documented expenses incurred by GNPC in connection with any of the matters set out in Article 7.3 shall be borne by Contractor in accordance with this Agreement.

7.5 GNPC shall use its 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.

7.6 Subject to the provisions of this Agreement and save for Petroleum Operations undertaken by GNPC pursuant to Article 9, Contractor shall, during the term of this Contract, maintain and obtain 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 modern oilfield and petroleum industry practices, and shall within two months of the date of policy or renewal furnish to the Minister and the Petroleum Commission, certificates evidencing that such coverage is in effect. Such insurance policies shall cover the interest of GNPC as additional insured and shall waive subrogation against GNPC. The said insurance shall, without prejudice to the generality of the foregoing, cover:

- (a) loss or damage to 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) 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 offshore, 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.

7.7 The Contractor shall require its Subcontractors to obtain and maintain insurance pursuant to Article 7.6 relating mutatis mutandis to such Subcontractors.

7.8 Contractor shall indemnify, defend and hold the State and GNPC harmless against all 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 the Contractor.

## Article 8

### COMMERCIALITY

- 8.1 Contractor shall submit a Discovery Notice to the Minister, the Petroleum Commission and GNPC as soon as possible after any Discovery is made, but in any event not later than thirty (30) days after the date any such Discovery is made. Unless otherwise expressly provided for under this Agreement all provisions of this Agreement which would have applied to a Discovery shall apply or be deemed to apply mutatis mutandis to the Existing Discoveries.
- 8.2 As soon as possible after the analysis of the test results of such Discovery is complete, and in any event not later than one hundred (100) days from the date of such Discovery, Contractor shall by a further notice in writing to the Minister, the Petroleum Commission, and GNPC, indicate whether in the opinion of Contractor the Discovery merits Appraisal.
- 8.3 Where the Contractor does not make the indication required by Article 8.2 within the period indicated or indicates that the Discovery does not merit Appraisal, Contractor shall, subject to Article 8.19, relinquish the Discovery Area associated with the Discovery.
- 8.4 Where Contractor indicates that the Discovery merits Appraisal, Contractor shall within one hundred and eighty (180) days from the date of such Discovery (or, in the case of the Existing Discoveries, within nine (9) months from the Effective Date) notify the Minister and submit to the Petroleum Commission for approval and to the Minister for information purposes a Proposed Appraisal Programme to be carried out by Contractor in respect of such Discovery. For the avoidance of doubt, unless otherwise instructed by the Petroleum Commission, Contractor shall conduct a separate Appraisal for each Discovery where Contractor indicates that such Discovery merits Appraisal.
- 8.5 In the absence of regulations otherwise governing the process, the Petroleum Commission and Contractor shall adhere to the procedure set forth in this Article 8.4 in connection with the submission of a Proposed Appraisal Programme. The Petroleum Commission shall within sixty (60) days of submission of the Proposed Appraisal Programme, give the Contractor a notice in writing stating:

- (a) whether the Proposed Appraisal Programme has been approved (outright or conditionally) or not;
- (b) if not approved, any revisions or improvements required by the Petroleum Commission to be made to the Proposed Appraisal Programme, and the reasons therefor; or
- (c) if conditionally approved, the conditions to the approval of the Proposed Appraisal Programme, and the reasons therefor.
- (d) If the Petroleum Commission fails to provide such notice after such sixty (60) day period, such Proposed Appraisal Programme shall be deemed approved.
- (e) If the Petroleum Commission notifies the Contractor that the Proposed Appraisal Programme is not approved or the Contractor notifies the Petroleum Commission that it does not accept the revisions or conditions required for any approval pursuant to this Article 8.5, the Petroleum Commission and the Contractor shall consult within thirty (30) days of the earlier of (x) the date of the notice by the Petroleum Commission and (y) the date such notice was due with a view to amending the Proposed Appraisal Programme to be acceptable to both. Should the Petroleum Commission not agree to so consult or should the Petroleum Commission and the Contractor fail to agree changes required for such approval within fourteen (14) days following said consultation, Contractor may notify the Minister and request resolution. If the Minister is unable to resolve the matter in a manner agreeable to all relevant Parties within thirty (30) days from the date such notification was lodged, the resulting dispute arising out of this Article 8.5 shall be resolved in accordance with Article 24.
- (f) If the Petroleum Commission has given a notice in writing pursuant to this Article, and the Parties cannot agree on the revisions or conditions, then the resulting dispute shall be submitted for resolution under Article 24

8.6 Where the issue in dispute referred for resolution pursuant to Article 24 is finally decided in favour of Contractor, the Petroleum Commission shall forthwith give the requisite approval to the Proposed Appraisal Programme submitted by Contractor, and where the issue in dispute referred for resolution pursuant to Article 24 is finally decided in favour of the Petroleum Commission, Contractor shall forthwith:

- (a) amend the Proposed Appraisal Programme to give effect to the final decision rendered under Article 24, and the Petroleum Commission shall give the requisite approval to such revised Proposed Appraisal Programme; or

(b) relinquish the Discovery Area.

8.7 Where Contractor seeks to amend an Appraisal Programme, it shall submit such amendment to the JMC for review pursuant to Article 6.4((e) before submission to the Petroleum Commission for approval.

8.8 Unless Contractor and the Petroleum Commission otherwise agree in any particular case, Contractor shall have a period of two (2) years from the date of Discovery to complete the Appraisal Programme. In the event Contractor requires a period of more than the two (2) years to complete the Appraisal Programme, Contractor shall submit a request to the Petroleum Commission for an extension with a firm programme with timelines to justify the request.

8.9 Contractor shall commence Appraisal within one hundred and fifty (150) days from the date of approval of the Appraisal Programme. Where the Contractor is unable to commence or otherwise fails to commence Appraisal within one hundred and fifty (150) days from the date of approval of the Appraisal Programme, GNPC shall be entitled to exercise the option provided for in Article 9 to enable prompt Appraisal unless 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, GNPC shall be entitled to exercise the option provided for in Article 9 to enable prompt Appraisal.

8.10 Not later than ninety (90) days from the date on which said Appraisal Programme relating to the Discovery is completed, Contractor will submit to the Minister and the Petroleum Commission a report containing the results of the Appraisal Programme. Such report shall include all available technical and economic data relevant to a determination of commerciality, including, but not limited to, geological and geophysical conditions, such as structural configuration, physical properties and the extent of reservoir rocks, areas, thickness and depth of pay zones, pressure, volume and temperature analysis of the reservoir fluids, preliminary estimates of Crude Oil and/or Natural Gas reserves, recovery drive characteristics, anticipated production performance per reservoir and per well, fluid characteristics, including gravity, sulphur percentage, sediment and water percentage and refinery assay pattern.



- 8.11 Not later than ninety (90) days from the date on which said Appraisal Programme is completed Contractor shall, by a further notice in writing, inform the Petroleum Commission and Minister whether the Discovery in the opinion of Contractor is or is not a Commercial Discovery.
- 8.12 If Contractor fails to notify the Minister and the Petroleum Commission as provided in Article 8.11 or informs the Minister that the Discovery is not a Commercial Discovery, then subject to Article 8.19, Contractor shall relinquish such Discovery Area; provided, however, that in appropriate cases, before declaring that a Discovery is not a Commercial Discovery, Contractor shall consult with the other Parties and may make appropriate representations proposing minor changes in the fiscal and other provisions of this Agreement which may, in the opinion of Contractor, affect the determination of commerciality. The other Parties may, where feasible, and in the best interests of the Parties agree to make such changes or modifications in the existing arrangements.
- 8.13 If Contractor pursuant to Article 8.11 informs the Minister that the Discovery is a Commercial Discovery, Contractor shall not later than three hundred and sixty five (365) days thereafter, prepare and submit to the Minister, a Development Plan.
- 8.14 The Development Plan referred to in Article 8.13 shall be based on detailed engineering studies and shall include:
- (a) Contractor's proposals on the delineation of the proposed Development and Production Area and for the development of any reservoir(s), including the method for the disposal of Associated Gas in accordance with the provisions of Article 14;
  - (b) the way in which the Development and Production of the reservoir is planned to be financed;
  - (c) Contractor's proposals relating to the spacing, drilling and completion of wells, the production, storage, processing, transportation, gas utilization, delivery facilities and necessary infrastructure developments required for the production, storage and transportation (to the Delivery Point) of the Petroleum, including without limitation:
    - i) the estimated number, size and production capacity of production facilities if any;

- ii) the estimated number of Production wells;
  - iii) the particulars of feasible alternatives for transportation of the Petroleum, including pipelines;
  - iv) the particulars of onshore installations required, including the type and specifications or size thereof; and
  - v) the particulars of other technical equipment required for the operations;
- (d) the estimate of the reserves together with the estimated annual production profiles throughout the life of the field to be developed pursuant to the Development Plan for Crude Oil and Natural Gas from the Petroleum reservoirs;
  - (e) tie-ins with other petroleum fields where applicable;
  - (f) information on operation and maintenance;
  - (g) a description of technical solutions including enhanced recovery methods;
  - (h) estimates of capital and operating expenditures;
  - (i) the economic feasibility studies carried out by or for Contractor in respect of alternative methods for Development of the Discovery, taking into account:
    - i) location;
    - ii) water depth (where applicable);
    - iii) meteorological conditions;
    - iv) estimates of capital and operating expenditures; and
    - v) any other relevant data and evaluation thereof;
  - (j) the safety measures to be adopted in the course of the Development and Production Operations, including measures to deal with emergencies;
  - (k) environmental impact assessments as required by the applicable laws of the Republic of Ghana in effect and as amended from time to time;

- (l) measures to protect the environment and a contingency plan for handling of emergencies (including the provision and maintenance of equipment stockpiles to respond to an emergency);
- (m) Contractor's proposals with respect to the procurement of goods and services obtainable in Ghana;
- (n) Contractor's technology transfer plan;
- (o) Contractor's plan for training and employment of Ghanaian nationals;
- (p) the timetable for effecting Development Operations; and
- (q) a plan for decommissioning and abandonment.

8.15 The date of the Minister's approval of the Development Plan shall be the Date of Commercial Discovery.

8.16 The Minister shall within the ninety (90) days following submission of the Development Plan give Contractor a notice in writing stating:

- (a) whether or not the Development Plan as submitted has been approved or conditionally approved; and
- (b) if not approved, any revisions proposed by the Minister to the Development Plan as submitted, and the reasons thereof; or
- (c) if conditionally approved, any conditions pursuant to which the Development Plan is approved.
- (d) If the Minister fails to approve the Development Plan within the ninety (90) day time period described above, then the Development Plan shall be deemed approved.
- (e) Where the Minister notifies the Contractor that the Development Plan is not approved the Parties shall within a period of thirty (30) days from the date of such notice by the Minister consult (and shall include GNPC in such consultations) with a view to amending the Development Plan to be acceptable to both. Should the Minister not agree to so consult or should the Minister and the Contractor fail to agree changes required for such approval within fourteen (14) days following said thirty (30) day period, the

resulting dispute arising out of this Article 8.16 shall be resolved in accordance with Article 24.

- (f) If the Minister has given a notice in writing pursuant to clause ((b) or ((c), and the Parties cannot agree on the revisions or conditions, then the resulting dispute shall be submitted for resolution under Article 24.

8.17 Where the issue in dispute referred for resolution pursuant to Article 24 is finally decided in favour of Contractor, the Minister shall forthwith give the requisite approval to the Development Plan submitted by Contractor.

8.18 Where the issue in question referred for resolution pursuant to Article 24 is finally decided in favour of the Minister in whole or in part, Contractor shall forthwith:

- (a) amend the proposed Development Plan to give effect to the final decision rendered under Article 24, and the Minister shall give the requisite approval to such revised Development Plan; or

- (b) subject to Article 8.19 below relinquish the Discovery Area.

8.19 Notwithstanding the relinquishment provisions of Articles 8.3 and 8.12 above, if Contractor indicates that a Discovery does not at the time merit Appraisal, or after Appraisal does not appear to be a Commercial Discovery but may merit Appraisal or potentially become a Commercial Discovery at a later date during the Exploration Period, then Contractor need not relinquish the Discovery Area and may continue its Exploration Operations in the Contract Area during the Exploration Period; provided that the Contractor shall explain to the Minister and Petroleum Commission what additional evaluations, including Exploration work or studies, are or may be planned in order to determine whether subsequent Appraisal is warranted or that the Discovery is a Commercial Discovery and the Minister shall approve of any such non relinquishment. Such evaluations shall be performed by Contractor according to a specific time table (which shall not exceed the time frame specified under Article 8.20) to be approved by the JMC and Petroleum Commission, subject to Contractor's right of earlier relinquishment of the Discovery Area. After completion of the evaluations, Contractor shall make the indications called for under Article 8.3 or 8.12 and either proceed with Appraisal, confirm the Discovery is a Commercial Discovery or relinquish the Discovery Area.

8.20 In any case, if a Discovery is made in the Initial Exploration Period or First Extension Period, the Contractor shall by the end of the subsequent phase (that is the First

Extension Period or Second Extension Period as the case may be), take a decision to Appraise the Discovery or relinquish such Discovery. Likewise, if the Contractor has completed the Appraisal of a Discovery in the Initial Exploration Period or First Extension Period, the Contractor shall by the end of the subsequent phase (that is, the First Extension Period or Second Extension Period as the case may be), take a decision to determine if such Discovery is a Commercial Discovery or relinquish such Discovery. In any event, if at the end of the Exploration Period the Contractor has neither indicated its intent to proceed with an Appraisal Programme nor declared the Discovery to be a Commercial Discovery, then the Discovery Area shall be relinquished.

8.21 Upon completion of an Appraisal Programme and before Contractor makes a determination that any Discovery is not a Commercial Discovery, Contractor may consult with the other Parties and may make appropriate representations proposing minor changes in the fiscal and other provisions of this Agreement which may, in the opinion of Contractor, affect the determination of a Commercial Discovery. The other Parties may agree to make such changes or modifications in the existing arrangements. In the event the Parties do not agree on such changes or modifications, then subject to Articles 8.19 and 8.20, Contractor shall relinquish the Discovery Area.

8.22 Nothing in Articles 8.3, 8.12, 8.19 or 8.20 above shall be read or construed as requiring Contractor to relinquish:

- (a) any area which constitutes or forms part of another Discovery Area in respect of which:
  - i) Contractor has given the Minister, the Petroleum Commission and GNPC a separate notice stating that such Discovery merits Appraisal; or
  - ii) Contractor has given the Minister a separate notice indicating that such Discovery is a Commercial Discovery; or
- (b) any area which constitutes or forms part of a Development and Production Area.

8.23 For the avoidance of doubt, where Contractor makes a Discovery after the expiration of the Exploration Period Contractor shall notify the Minister of such

Discovery pursuant to Article 8.1 and, subject to its rights under Article 3, surrender such Discovery to GNPC.

8.24 In the event a field extends beyond the boundaries of the Contract Area, the Minister may require the Contractor to exploit said field in association with the third party holding the rights and obligations under a petroleum agreement covering the said field (or GNPC as the case may be). The exploitation in association with said third party or GNPC shall be pursuant to good unitization and engineering principles and in accordance with International Best Oil Field Practice. In the event Contractor and said third party are unable to agree to the terms of unitization, Contractor shall notify the Minister in writing and the Minister shall give appropriate directions to Contractor and the third party or GNPC to resolve the matter in accordance with International Best Oil Field Practice.

8.25 All notices required to be submitted to the Minister under this Article 8 shall be copied to the Petroleum Commission.

## Article 9

### SOLE RISK ACCOUNT

- 9.1 Subject to Contractors rights under Article 8, GNPC may notify Contractor that it will, at its Sole Risk, commence to appraise a Discovery pursuant to Article 8.9, provided that within thirty (30) days of such notification from GNPC, Contractor may elect to commence to appraise that Discovery within its own Work Programme.
- 9.2 Where an Appraisal undertaken under Article 9 at the Sole Risk of GNPC results in a determination that a Discovery is a Commercial Discovery, Contractor may develop the Commercial Discovery upon reimbursement to GNPC of all expenses incurred in undertaking the Appraisal and after arranging with GNPC satisfactory terms for the payment of a premium equivalent to seven hundred percent (700%) of such expenses. Such premium shall not be counted as cost of Petroleum Operations for the purpose of the Accounting Guide. In the event that Contractor declines to develop said Discovery, Contractor shall relinquish the Development and Production Area established by the Appraisal Programme conducted by GNPC under Article 9.
- 9.3 During the Exploration Period GNPC may, at its Sole Risk, require Contractor to continue drilling to penetrate and test horizons deeper than those contained in the Work Programme of Contractor or required under Article 4.5. GNPC may also at its Sole Risk ask the Contractor to test a zone or zones which Contractor has not included in Contractor's test programme. Notice of this 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 GNPC 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.
- 9.4 At any time before commencing such deeper drilling under Article 9.3 above Contractor may elect to incorporate the required deeper drilling in its own Exploration Operation, in which case any resulting Discovery shall not be affected by the provisions of this Article 9.
- 9.5 Where any Sole Risk deeper drilling results in a Discovery, GNPC 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 operations unless GNPC proposes otherwise and Contractor agrees. Provided

however that if at the time such Petroleum is tested from the producing horizon in a well, 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 GNPC for all costs associated with its Sole Risk deeper drilling and testing in said well, 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.

- 9.6 Alternatively, if at the time such Petroleum is tested from a producing horizon in a well pursuant to a Sole Risk operation, Contractor's Work Programme does not include a well to be drilled to said 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 GNPC for all expenses incurred by GNPC in connection with such Sole Risk operations, and shall make satisfactory arrangements with GNPC for the payment of a premium equivalent to seven hundred percent (700%) of such expenses. Such premium shall not be considered as Petroleum Costs for the purposes of the Accounting Guide.
- 9.7 During the term of this Agreement, GNPC shall have the right to submit a Work Programme to the JMC to drill, at its Sole Risk, a well(s) in the Contract Area provided that the work intended to be done by GNPC had not been scheduled for a Work Programme to be performed by Contractor and the exercise of such right by GNPC and the arrangements made by GNPC for undertaking such drilling do not prevent Contractor 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 GNPC.
- 9.8 In the event that a well drilled at the Sole Risk of GNPC in accordance with Article 9.7 above results in a Discovery, GNPC shall notify Contractor in writing, and GNPC shall have the right to appraise such Discovery and develop or require Contractor to develop, after GNPC declares a Commercial Discovery, such Discovery for a mutually agreed reasonable service fee, so long as Contractor has an interest in the Contract Area, GNPC taking all the interest, risk and costs and hence having 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 GNPC's written notice of such Discovery.

- 9.9 Contractor shall reimburse GNPC for all expenses incurred by GNPC in connection with such Sole Risk operations, and shall make satisfactory arrangements with GNPC for the payment of a premium equivalent to seven hundred percent (700%) of such expenses before exercising the option under Article 9.8. Such premium shall not be considered as Petroleum Costs for the purposes of the Accounting Guide.
- 9.10 In the event that Contractor declines to exercise its option in Article 9.8 or no agreement is reached on the service fee arrangement as provided for in Article 9.9, Contractor shall relinquish the Development and Production Area associated with such Commercial Discovery.
- 9.11 Sole Risk operations under this Article 9 shall not extend the Exploration Period nor the term of this Agreement and Contractor shall complete any agreed programme of work commenced by it under this Article at GNPC'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.
- 9.12 GNPC shall indemnify and hold harmless Contractor 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 operations under this Article 9 unless such actions, claims, demands and proceedings are caused by Contractor's Gross Negligence or Willful Misconduct.

## Article 10

### SHARING OF CRUDE OIL

- 10.1 Gross Production of Crude Oil from each Development and Production Area shall (subject to a Calendar Year adjustment developed under the provisions of Article 10.6) be distributed amongst the Parties in the following sequence and proportions:
- (a) Twelve and one-half percent (12 ½%) in the case of a New Discovery and ten percent ( 10%) for Existing Discoveries of the Gross Production of Crude Oil shall be delivered to the State as **ROYALTY**, pursuant to the provisions of the Petroleum Law. Upon notice to Contractor, the State shall have the right to elect to receive cash in lieu of its royalty share of such Crude Oil. The State's notice shall be given to Contractor at least ninety (90) days in advance of each lifting period, such periods to be established pursuant to the provisions of Article 10.6. In such case, said share of Crude Oil shall be delivered to Contractor and it shall pay to the State the value of said share in cash at the relevant weighted average Market Price for the relevant period as determined in accordance with Article 11.7;
  - (b) After distribution of such amounts of Crude Oil as are required pursuant to Article 10.1(a), the amount of Crude Oil, if any, shall be delivered to GNPC to the extent it is entitled for Sole Risk operations under Article 9;
  - (c) After distribution of such amounts of Petroleum as are required pursuant to Articles 10.1(a) and 10.1(b), the remaining Crude Oil produced from each Development and Production Area shall be distributed to Contractor and, subject to Article 10.1(e) below, to GNPC on the basis of their respective interests pursuant to Article 2.
  - (d) The State's AOE (as defined under Article 10.2), if any, shall be distributed to the State out of the Contractor's share of Crude Oil determined under Article 10.1(c). The State shall also have the right to elect to receive cash in lieu of the AOE share of Crude Oil accorded to it pursuant to Article 10.2. 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 10.1(a). In such case, said share shall be delivered to Contractor and it shall pay to the State the value of said share in cash at the relevant weighted average Market Price for the relevant period as determined in accordance with Article

- (e) Notwithstanding Articles 10.1(a) and (b), in the event that GNPC has failed to pay any amounts due to Contractor pursuant to Article 15.2 of this Agreement (such amounts with interest thereon in accordance with Article 26.5 being hereinafter called "**Default Amounts**") and for so long as any such advances and interest thereon remain unrecovered by Contractor, an amount of Crude Oil shall be delivered to GNPC sufficient in value to reimburse it for its share of Production Costs paid by it to that date, until such share of Production Costs has been fully reimbursed to it, after which a volume of Crude Oil shall be delivered to Contractor equivalent in value to the outstanding amounts of the aforesaid Default Amounts until such Default Amounts are fully recovered by Contractor. The value of the Crude Oil for the purpose of this Article 10.1(e) shall be the Market Price determined pursuant to Article 11.7.

10.2 At any time the State shall be entitled to a portion of Contractor's share of Crude Oil then being produced from each separate Development and Production Area (hereinafter referred to as "**Additional Oil Entitlements**" or "**AOE**") 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. 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 Month in accordance with the following computation:

- (a) Definitions:

"**NCF**" means Contractor's net cash flow for the Month for which the calculation is being made, and shall be computed in accordance with the following formula:

$$\text{NCF} = x - y - z$$

**where:**

"**x**" equals all revenues received during such Month by Contractor from the Development and Production Area, including an amount computed by multiplying the amount of Crude Oil taken by Contractor during such Month in accordance with Articles 00 and 0(e), excluding such Crude Oil taken by Contractor for payment of interest in respect of Petroleum Costs incurred by Contractor on GNPC's behalf, by the Market Price applicable to such Crude Oil during the Month when lifted, plus any other proceeds specified in the Accounting Guide received by Contractor, including, without limitation, the proceeds from the sale of any assets to which Contractor continues to have title. For the avoidance of doubt, "**x**" shall not include

revenues from Crude Oil lifted by Contractor which is part of another Party's entitlement (e.g. Royalty, Crude Oil relating to the State's AOE delivered to Contractor because the State has elected to receive cash in lieu of Crude Oil, Crude Oil purchased by Contractor from GNPC or the State) but shall include revenues from Crude Oil owned by Contractor but lifted by another Party (e.g. Crude Oil purchased by GNPC or the State from Contractor).

"y" equals one-twelfth ( $1/12$ ) of the income tax paid by the Contractor to the State with respect to the Calendar Year in respect of the Development and Production Area. If there are two (2) or more Development and Production Areas, the total income tax paid by Contractor in accordance with the Petroleum Income Tax Law shall for purposes of this calculation be allocated to the Development and Production Area on the basis of hypothetical tax calculations for the separate Development and Production Areas. The hypothetical tax calculation for each Development and Production Area shall be determined by allocating the total amount of tax incurred for each Calendar Year by Contractor under the Petroleum Income Tax Law to each Development and Production Area based on the ratio that the chargeable income from a given Development and Production Area bears to the total chargeable income of Contractor. The chargeable income of Contractor is determined under section 2 of the Petroleum Income Tax Law and the chargeable income of a Development and Production Area shall be calculated by deducting from the gross income derived from or allocated to that Area those expenses deductible under section 3 of the Petroleum Income Tax Law which are reasonably allocable to that Area and with respect to the Development and Production Area with the earliest date of Commercial Production, those expenses deductible under the said section 3 of the Petroleum Income Tax Law which are not attributable to any Development and Production Area. A negative chargeable income for an Area shall be treated as zero for purposes of this allocation and not more (or less) than the total income tax paid by Contractor shall be allocated between the Areas.

"z" equals all Petroleum Costs specified in the Accounting Guide and expended by Contractor during such Month or with respect to abandonment costs, those calculated in accordance with Article 12.9 or actually incurred, as the case may be, with respect to the Development and Production Area, including any Petroleum Costs paid by Contractor on GNPC's behalf, and not reimbursed by GNPC within the Month, provided that all Petroleum Costs for Exploration Operations not directly attributable to a specific Development and Production Area shall for purposes of this calculation be

allocated to the Development and Production Area having the earliest date of Commencement of Commercial Production. Where Petroleum Costs for Exploration Operations are not directly attributable to a specific Development and Production Area during a Month, but are directly attributable to a subsequently delineated Development and Production Area, then Contractor may elect either to maintain the original allocation or reallocate such Petroleum Costs to the newly delineated Development and Production Area to which they are directly attributable and provided further that for the purpose of the ROR calculation Petroleum Costs shall not include any amounts in respect of interest on loans obtained for the purposes of carrying out Petroleum Operations.

"FA<sub>n</sub>", "SA<sub>n</sub>", "TA<sub>n</sub>", "YA<sub>n</sub>" and "ZA<sub>n</sub>" means First Account, Second Account, Third Account, Fourth Account and Fifth Account, respectively, and represent amounts as of the last day of the Month in question as determined by the formulae in (b) below.

"FA<sub>n-1</sub>", "SA<sub>n-1</sub>", "TA<sub>n-1</sub>", "YA<sub>n-1</sub>", and "ZA<sub>n-1</sub>", respectively mean the lesser of (i) the FA<sub>n</sub>, SA<sub>n</sub>, TA<sub>n</sub>, YA<sub>n</sub> or ZA<sub>n</sub>, as the case may be, as of the last day of the Month immediately preceding the Month in question, or (ii) zero. Stated otherwise, FA<sub>n-1</sub> shall equal FA<sub>n</sub> as of the last day of the Month immediately preceding the Month in question if such FA<sub>n</sub> was a negative number, but shall equal zero if such FA<sub>n</sub> was a positive number. Likewise, SA<sub>n-1</sub> shall equal SA<sub>n</sub> as of the last day of the Month immediately preceding the Month in question if such SA<sub>n</sub> was a negative number, but shall equal zero if such SA<sub>n</sub> was a positive number. Likewise TA<sub>n-1</sub> shall equal TA<sub>n</sub> as of the last day of the Month immediately preceding the Month in question if such TA<sub>n</sub> was a negative number, but shall equal zero if such TA<sub>n</sub> was a positive number. Likewise YA<sub>n-1</sub> shall equal YA<sub>n</sub> as of the last day of the Month immediately preceding the Month in question if such YA<sub>n</sub> was a negative number but shall equal zero if such TA<sub>n</sub> was a positive number. Likewise, ZA<sub>n-1</sub> shall equal ZA<sub>n</sub> as of the last day of the Month immediately preceding the Month in question if such ZA<sub>n</sub> was a negative number, but shall equal zero if such ZA<sub>n</sub> was a positive number. In the ROR calculation for the first Month of Petroleum Operations, FA<sub>n-1</sub>, SA<sub>n-1</sub>, TA<sub>n-1</sub>, YA<sub>n-1</sub> and ZA<sub>n-1</sub> shall be zero.

"i" for the Month in question equals one (1) subtracted from the quotient of the United States Industrial Goods Wholesale Price Index ("USIGWPI") for the second Month preceding the Month in question (e.g. use August data for October's computation) as first reported in the International Financial statistics of the International Monetary Fund, divided by the USIGWPI for the same second preceding Month of the immediately preceding Calendar

Year as first reported in the International Financial Statistics of the International Monetary Fund. If the USIGWPI ceases to be published, a substitute U.S. Dollar-based price index shall be used.

"n" refers to the nth Month in question.

"n-1" refers to the Month immediately preceding the nth Month

(b) Formulae:

$$FA_n = \left( FA_{n-1} \left( 1 + \frac{(0.125 + i)}{12} \right) \right) + NCF$$

$$SA_n = \left( SA_{n-1} \left( 1 + \frac{(0.175 + i)}{12} \right) \right) + NCF$$

In the calculation of  $SA_n$  an amount shall be subtracted from NCF identical to the value of any AOE which would be due to the State if reference were made hereunder only to the  $FA_n$ .

$$TA_n = \left( TA_{n-1} \left( 1 + \frac{(0.225 + i)}{12} \right) \right) + NCF$$

In the calculation of  $TA_n$  an amount shall be subtracted from NCF identical to the value of any AOE which would be due to the State if reference were made hereunder only to the  $FA_n$  and  $SA_n$ .

$$YA_n = \left( YA_{n-1} \left( 1 + \frac{(0.275 + i)}{12} \right) \right) + NCF$$

In the calculation of  $YA_n$  an amount shall be subtracted from NCF identical to the value of any AOE which would be due to the State if reference were made hereunder only to the  $FA_n$ ,  $SA_n$  and  $TA_n$

$$ZA_n = \left( ZA_{n-1} \left( 1 + \frac{(0.325 + i)}{12} \right) \right) + NCF$$

In the calculation of  $ZA_n$  an amount shall be subtracted from NCF identical to the value of any AOE which would be due to the State if reference were made hereunder only to the  $FA_n$ ,  $SA_n$ ,  $TA_n$  and  $YA_n$ .

(c) Prospective Application:

The State's AOE measured in Barrels of oil will be as follows:

- i) If  $FA_n$ ,  $SA_n$ ,  $TA_n$ ,  $YA_n$  and  $ZA_n$  are all negative, the State's AOE for the Month in question shall be Zero;
- ii) If  $FA_n$  is positive and  $SA_n$ ,  $TA_n$ ,  $YA_n$  and  $ZA_n$  are all negative, the State's AOE for the Month in question shall be equal to the absolute amount resulting from the following monetary calculation:  
  
Ten percent (10%) of the  $FA_n$  for that Month divided by the weighted average Market Price as determined in accordance with Article 11.7.
- iii) If both  $FA_n$  and  $SA_n$  are positive, but  $TA_n$ ,  $YA_n$  and  $ZA_n$  are negative, the State's AOE for the Month in question shall be equal to an absolute amount resulting from the following monetary calculation:  
  
the aggregate of Ten percent (10%) of  $FA_n$  for that Month plus fifteen percent (15%) of the  $SA_n$  for that Month all divided by the weighted average Market Price as determined in accordance with Article 11.7.
- iv) If  $FA_n$ ,  $SA_n$  and  $TA_n$  are all positive but  $YA_n$  and  $ZA_n$  is negative, the State's AOE for the Month in question shall be equal to the absolute amount resulting from the following monetary calculation: the aggregate of Ten percent (10%) of the  $FA_n$  for that Month plus fifteen percent (15%) of the  $SA_n$  for that Month plus Twenty percent (20%) of the  $TA_n$  for that Month all divided by the weighted average Market Price as determined in accordance with Article 11.7.
- v) If  $FA_n$ ,  $SA_n$ ,  $TA_n$  and  $YA_n$  are all positive but  $ZA_n$  is negative, the State's AOE for the Month in question shall be equal to the absolute amount resulting from the following monetary calculation:  
  
the aggregate of Ten percent (10%) of the  $FA_n$  for that Month plus Fifteen percent (15%) of the  $SA_n$  for that Month plus Twenty percent (20%) of the  $TA_n$  for that Month plus Twenty five percent (25%) of the  $YA_n$  for that Month all divided by the weighted average Market Price as determined in accordance with Article 11.7
- vi) If  $FA_n$ ,  $SA_n$ ,  $TA_n$ ,  $YA_n$  and  $ZA_n$  are all positive, the State's AOE for the Month in question shall be equal to the absolute amount resulting from the following monetary calculation:

the aggregate of Ten percent (10%) of the  $FA_n$  for that Month plus Fifteen percent (15%) of the  $SA_n$  for that Month plus Twenty percent (20%) of the  $TA_n$  for that Month plus Twenty five percent (25%) of the  $YA_n$  for that Month, plus Thirty percent (30%) of the  $ZA_n$  for that Month all divided by the weighted average Market Price as determined in accordance with Article 11.7.

- (d) The AOE calculations shall be made in U.S. Dollars with all non-dollar expenditures converted to U.S. Dollars in accordance with Section 1.3.5 of Annex 2. When the AOE calculation cannot be definitively made because of disagreement on the Market Price or any other factor in the formulae, then a provisional AOE calculation shall be made on the basis of Contractor's good faith estimates of such factors and such provisional calculation shall be subject to correction and revision upon the conclusive determination of such factors, and appropriate retroactive adjustments shall be made.
  - (e) The AOE shall be calculated on a monthly basis, with the AOE to be paid commencing with the first Month following the Month in which the  $FA_n$ ,  $SA_n$ ,  $TA_n$ ,  $YA_n$  or  $ZA_n$ , (as applicable) becomes positive. Because the precise amount of the AOE for a Calendar Year, deliveries (or payments in lieu) of the AOE with respect to a Month shall be made during such Calendar Year based upon the Contractor's good faith estimates of the amounts owing, with any adjustments following the end of the Calendar Year to be settled pursuant to the procedures agreed to pursuant to Article 10.7. Final calculations of the AOE shall be made within thirty (30) days following the filing by the Contractor of the annual tax return for such Calendar Year pursuant to the Petroleum Income Tax Law and this Agreement, and the amount of the AOE shall be appropriately adjusted in the event of a subsequent adjustment of the amount of tax owing on such term.
- 10.3 GNPC shall act as agent for the State in the collection of all Petroleum accruing to the State under this Article 10 and delivery to GNPC by Contractor shall discharge Contractor's liability to deliver the share of the State.
- 10.4 The State or GNPC, having met the requirements of Article 15.1, 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 GNPC pursuant to this Article shall be sold and delivered by the State or GNPC to Contractor or its Affiliate for use and disposal and in such case Contractor or its Affiliate shall pay to the State or to GNPC, as the case may be, the Market Price for any Crude Oil so sold



and delivered. Market Price for purposes of this Article 10.3 shall be the amounts actually realized by Contractor or said Affiliate on its resales of said Crude Oil in arm's length commercial transactions, or for its other resales or dispositions of said Crude Oil, based upon Market Price determined in the manner specified in Article 11.7(b).

- 10.5 Ownership and risk of loss of all Crude Oil produced from the Contract Area which is purchased, and all of its percentage Participating Interest 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 other transportation equipment referred to in Article 11.1
- 10.6 Subject to the provisions of Article 15 hereof, Contractor shall have the right freely to export and dispose of all the Petroleum allocated and/or delivered to it pursuant to this Article.
- 10.7 The Parties shall through consultation enter into supplementary agreements concerning Crude Oil lifting procedures, lifting and tanker schedules, loading conditions, Crude Oil metering, and the settlement of lifting imbalances, if any, among the Parties at the end of each Calendar Year. The Crude Oil to be distributed or otherwise made available to the Parties in each Calendar Year in accordance with the preceding provisions of this Article shall insofar as possible be in reasonably equal monthly quantities.
- 10.8 To assist in the making of the AOE calculation in accordance with Article 10.2, 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.

## Article 11

### MEASUREMENT AND PRICING OF CRUDE OIL

- 11.1 Crude Oil shall be delivered by Contractor to storage tanks or other suitable holding facility constructed, maintained and operated in accordance with applicable laws and International Best Oilfield Practice. Crude Oil shall be metered or otherwise measured for quantity and tested for quality in such storage tanks for all purposes of this Agreement. Any Party may request that measurements and tests be done by an internationally recognized inspection company. Contractor shall arrange and pay for the conduct of any measurement or test so requested provided, however, that in the case of (1) a test requested for quality purposes and/or (2) a test requested on metering (or measurement) devices, or where the test results demonstrate that such devices are accurate within acceptable tolerances agreed to by the Parties or if not established by the Parties, then in accordance with International Best Oil Field Practice, the Party requesting the test shall reimburse Contractor for the costs associated with the test or tests.
- 11.2 GNPC or its authorized agents shall have the right:
- (a) to be present at and to observe such measurement of Crude Oil;
  - (b) to examine and test whatever appliances are used by Contractor therefore; and
  - (c) to install a device or equipment, at GNPC's sole risk, expense and liability, for the purpose of determining the quantity and quality of Crude Oil.
- 11.3 In the event that GNPC considers Contractor's methods of measurement to be inaccurate, GNPC shall notify Contractor to this effect and the Parties shall meet within ten (10) days of such notification to discuss the matter. Where after thirty (30) days the Parties cannot agree over the issue, they shall refer for resolution under Article 24 the sole question of whether Contractor's method of measuring Crude Oil is accurate and reasonable. Retrospective adjustments to measurements shall be made where necessary to give effect to the decision rendered under Article 24.
- 11.4 If upon the examination or testing of appliances provided for in Article 11.2 any such appliances shall be discovered to be defective:
- (a) Contractor shall take immediate steps to repair or replace such appliance; and

- (b) subject to the establishment of the contrary, such error shall be deemed to have existed for three (3) Months or since the date of the last examination and testing, whichever occurred more recently.
- 11.5 In the event that Contractor desires to adjust, repair or replace any measuring appliance, it shall give GNPC reasonable notice to enable GNPC or its authorized agent to be present.
- 11.6 Contractor shall keep full and accurate accounts concerning all Petroleum measured as aforesaid and provide GNPC with copies thereof on a monthly basis, not later than ten (10) days after the end of each Month.
- 11.7 The Market Price for Crude Oil delivered to Contractor hereunder shall be established with respect to each lifting or other period as provided elsewhere in this Agreement as follows:
  - (a) on Crude Oil sold by Contractor in arm's length commercial transactions (defined in Article 11.7((c) below), the Market Price shall be the price actually realized by Contractor on such sales;
  - (b) on sales of Crude Oil by Contractor not in an "arm's length commercial transaction" (defined by Article 11.7((c) below), on exports by Contractor without sale or on sales under Article 15.2, the Market Price shall be the price determined by reference to world market prices of comparable Crude Oils sold in arm's length transactions for export in the major world petroleum markets, and adjusted for oil quality, location, timing and conditions of pricing, delivery and payment provided that in the case of sales under Article 15.2 where such sales relate to part only of Contractor's entitlement, prices actually realized by Contractor in sales of the balance of its proportionate share falling within Article 11.7((a) above shall be taken into account in determining Market Price. For purposes of this Article 11.7((b), "comparable Crude Oils" shall mean Crude Oils of similar API gravity, sulphur content, and acidity, and if Contractor cannot identify comparable Crude Oils for the purposes of this Article, the Parties may agree on an alternative method for establishing a comparable Crude Oil;
  - (c) sales in "arm's length commercial transactions" shall mean sales to purchasers independent of the seller, which do not involve Crude Oil exchange or barter transactions, government to government transaction, sales directly or indirectly to Affiliates, or sales involving consideration other than payment in U.S. Dollars or currencies convertible thereto, or affected in whole or in part by considerations other than the usual economic incentives for commercial arm's length Crude Oil sales;

- (d) the price of Crude Oil shall be expressed in U.S. Dollars per Barrel, F.O.B. the point of delivery by Contractor; and
- (e) if Crude Oils of various qualities are produced from the Contract Area, the Market Price shall be determined separately for each type sold and/or exported by Contractor, only to the extent that the different quality grades remain segregated through to the point where they are sold, and if grades of different quality are commingled into a common stream, Contractor and GNPC shall agree on an equitable methodology for assessing relative value for each grade of Crude Oil comprising the blend and shall implement the agreed methodology for having the producer(s) of higher quality Crude Oil(s) be reimbursed by the producer(s) of lower quality Crude Oil(s).

11.8 Contractor shall provide to GNPC information in accordance with Section 7 of the Accounting Guide on each lifting which shall include the buyer of the cargo, sales basis with respect to benchmark Crude Oil, the pricing basis, the differential, any deductions and the Market Price determined by it for each lifting not later than thirty five (35) days after the end of such lifting. For the purposes of this Article 11.8 the obligations of Parties comprising Contractor shall be several.

11.9 If GNPC considers that the Market Price notified by Contractor was not correctly determined in accordance with the provisions of Article 11.7, it shall so notify Contractor not later than thirty (30) days after notification by Contractor of such price, and GNPC and Contractor shall meet not later than twenty (20) days thereafter to agree on the correct Market Price.

11.10 In the event that GNPC and Contractor fail to agree upon the commencement of meetings for the purpose described in Article 11.9 above, the Market Price shall be referred for determination in accordance with Article 24 of this Agreement.

11.11 Pending a determination under Article 11.10, the Market Price will be deemed to be the last Market Price agreed or determined, as the case may be, or if there has been no such previous agreement or determination, the price notified by Contractor for the lifting in question under Article 11.7. Should the determined price be different from that used in accordance with the foregoing then the difference plus interest at the Specified Rate shall be paid in cash by or to Contractor, as the case may be, within thirty (30) days of such determination.

**Article 12**

**TAXATION AND OTHER IMPOSTS**

12.1 Subject to applicable laws and regulations as the same may be amended from time to time, the tax, duty, fee and other imposts that shall be imposed by the State or any entity or any political subdivision on Contractor, its Subcontractors or its Affiliates and shareholders in respect of work and services related to Petroleum Operations and the sale and export of Petroleum shall include, but not be limited to, the following:

- (a) Tax in accordance with the Income Tax Act as amended from time to time;
- (b) Petroleum Income tax in accordance with the provisions of the Income Tax Act levied at the rate of thirty-five percent (35%) for the term of this Agreement., subject to applicable law in effect from time to time;
- (c) Withholding tax at a rate of fifteen per cent (15%) shall be deducted from payments by Contractor to a Subcontractor or Affiliate in respect of works and services for or in connection with this Agreement. ;
- (d) Withholding tax at the rate of eight percent (8%) shall be deducted from dividends paid to shareholders;
- (e) Gains/profit arising from the sale, transfer, disposal or assignment of any interest in this Agreement and sale of assets shall be subject to tax in accordance with the provisions of the Income Tax Act
- (f) Payments for rental of State property, public lands or for the provisions of specific services requested by Contractor from public enterprises; provided, however, that the rates charged Contractor for such rentals or services shall not exceed the prevailing rates charged to other members of the public who receive similar services or rentals;
- (g) Surface rentals payable to the State pursuant to Section 18 of the Petroleum Law per square kilometre of the area remaining at the beginning of each Contract Year as part of the Contract Area, in the amounts as set forth below:

<u>Phase of Operation</u>	<u>Surface Rentals Per Annum</u>
Initial Exploration Period	US \$50 per sq. km.
First Extension Period	US \$100 per sq. km.
Second Extension Period	US \$100 per sq. km.

Development & Production Area

US \$200 per sq. km.

These rentals 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.

(h) Taxes, duties, fees or other imposts of a minor nature.

12.2 Contractor 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 Contractors Petroleum from Ghana shall not be liable for any tax, duty or other charge by reason of their use for that purpose.

12.3 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 fees and charges;

**PROVIDED THAT:**

(a) GNPC shall have the right of first refusal for any item imported duty free under this Article which is later sold in Ghana; and

(b) where GNPC does not exercise its right of purchase, Contractor may sell to any other person subject to the relevant law in effect and as amended from time to time.

12.4 Contractor shall not be liable to pay VAT 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.

12.5 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 PNDCL 64; provided, however, that no property imported by such employee shall be resold by such employee in Ghana except in accordance with Article 12.3.

- 12.6 Subject to GNPC's rights under 19, Contractor, Subcontractors and Foreign National Employees shall have the right to export from Ghana all items imported duty free. Such exports shall be exempt from all customs and other duties, taxes, fees and charges on exports save minor administrative charges.
- 12.7 Subject to guidelines to be issued by the Minister, the Contractor shall make contributions to a decommission fund based on estimated costs of abandonment in proportion to its Participating Interest. Such contributions shall be allowed as deduction from assessable income from the year of assessment the contributions commenced. In the year of assessment in respect of which decommission has been completed in accordance with an approved decommission plan, the surplus funds shall be treated as chargeable income and subject to tax. The amount left after the tax shall be subject to Additional Oil Entitlement at the highest rate at which the Contractor paid AOE during the period of contributions to the relevant decommission fund. Any surplus after payment of the tax and AOE shall revert to the Contractor.
- 12.8 Parties will negotiate in good faith to ensure that Contractor is afforded tax credits for corporate taxes paid in Ghana. However no adverse effect should occur to the economic rights of GNPC or the State.
- 12.9 It is the intent of the Parties that payments by Contractor of tax levied by the Income Tax Act or any other tax imposed on Contractor qualify as creditable against the income tax liability of each company comprising Contractor in its jurisdiction. Should the fiscal authority involved determine that the Income Tax Act does not impose a creditable tax, the Parties agree to negotiate in good faith with a view to establishing a creditable tax on the precondition that no adverse effect should occur to the economic rights of GNPC or the State.
- 12.10 All tax return prepared and payments made by Contractor and its Affiliates or Subcontractors, and Foreign National Employees thereof shall be made in United States Dollars.