

ERITREA

Model Production Sharing Contract 1997

MODEL PETROLEUM PRODUCTION SHARING CONTRACT

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MODEL PETROLEUM PRODUCTION SHARING CONTRACT

THIS CONTRACT, made and entered into on this ____ day of _____ 19____, by and between:

The Government of the STATE OF ERITREA (hereinafter referred to as the "Government"), represented for the purpose of this Contract by the Minister of Energy and Mines (hereinafter referred to as the "Minister"),

and

_____, a corporation duly organized and existing under the laws of _____, (hereinafter referred to as the "Contractor"), represented for this Contract by _____, its _____.

WITNESSETH:

WHEREAS, the title to all Petroleum existing in its natural condition on, in or under the State of Eritrea, which includes internal waters, islands, archipelagic waters, territorial sea and its beds and subsoils, exclusive economic zone and continental shelf is vested in the State and the people of Eritrea;

WHEREAS, the Government wishes to promote the exploration, development and production of the Petroleum on, in, or under the Contract Area and the Contractor desires to join and assist the Government in the exploration, development and production of potential Petroleum deposits within the Contract Area;

WHEREAS, the Contractor represents that it has the financial ability, technical competence and professional skills to carry out the Petroleum Operations herein described; and

WHEREAS, the Petroleum Operations Proclamation No. 40/1993 provides that a Petroleum Agreement may be entered into between the Minister, representing Government and any Person, either by competitive bidding or subject to the directives of the Council of Ministers, by direct negotiations;

NOW, THEREFORE, the Government hereby grants to the Contractor in consideration of the payments, covenants and representations contained herein and made by the Contractor, the sole right to explore, develop and produce Petroleum in the Contract Area and to exercise other rights granted by this Contract, and further in consideration of the undertakings and covenants contained herein, the Parties agree as follows:

SECTION I: SCOPE AND DEFINITIONS

1.1 Scope

This Contract is a Petroleum Agreement within the meaning of the Petroleum Proclamation and it shall cover Petroleum Operations in the Contract Area. The Contract Area shall be described and delineated in Annex A hereto and shall be periodically adjusted in accordance with the provisions of this Contract. During the term of this Contract all Petroleum production resulting from the conduct of Petroleum Operations shall be divided between the Parties in accordance with the provisions of Sections VI through XIII hereof.

1.2 Definitions

In this Contract, unless the context clearly indicates otherwise, words in the singular include the plural, the plural indicates the singular.

1.2.1 "Accounting Procedure" means the accounting procedure and reporting requirements set forth in Annex C hereto.

1.2.2 "Affiliate" or "Affiliated Person" means any juridical Person directly or indirectly effectively controlling, or effectively controlled by, or under direct or indirect effective common control of a specified Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct, administer and/or dictate policies of such Person (it being understood that it is not necessary to own directly or indirectly fifty percent (50%) or more of such Person's voting shares to have effective control over such Person; however, ownership, whether direct or indirect, of fifty percent (50%) or more of such Person's voting shares shall automatically indicate effective control). The terms "controlling" and "controlled" have meanings corresponding to the foregoing term "control".

1.2.3 "Appraisal Area" means the area within the Contract Area subject to an appraisal work program and budget as set forth in Section 5.3.2.

1.2.4 "Appraisal Well" means a Well drilled within the Contract Area, following a Discovery, for the purpose of delineating the Petroleum reservoir(s) to which the Discovery relates in terms of thickness and lateral extent and estimating the quantity of recoverable Petroleum therein.

1.2.5 "Assets" means all pipes, pipelines, downhole Well equipment, wellhead equipment and all non-recoverable surface and sub-surface equipment used in the conduct of Petroleum Operations.

- 1.2.6 "Associated Natural Gas" means Natural Gas which exists in a reservoir in solution with Crude Oil or, as gas-cap gas, in contact with Crude Oil, and is or could be produced with Crude Oil.
- 1.2.7 "Barrel" means a quantity consisting of 158.984 litres (forty-two (42) United States Gallons) at standard atmospheric pressure of 1.01325 bar and temperature of 15.56° Celsius (Sixty degrees Fahrenheit).
- 1.2.8 "Calendar Month" means any of the twelve (12) months of the Calendar Year.
- 1.2.9 "Calendar Quarter" means a period of three (3) consecutive months beginning 1 January, 1 April, 1 July and 1 October and ending 31 March, 30 June, 30 September and 31 December, respectively.
- 1.2.10 "Calendar Year" means a period of twelve (12) months commencing 1 January and ending the following 31 December, according to the Gregorian Calendar.
- 1.2.11 "Commercial Discovery" as defined in the Petroleum Regulations, means a Discovery that can be produced commercially after consideration of all pertinent operating and financial data collected during the performance of the appraisal work program and otherwise, including but not limited to Crude Oil or Natural Gas recoverable reserves, sustainable production levels and other relevant technical and economic factors, according to generally accepted international petroleum industry practice.
- 1.2.12 "Contract Area" means the area described and delineated in Annex A and Annex B attached hereto as adjusted in accordance with the provisions of this Contract regarding term, surrender and termination.
- 1.2.13 For the purposes of this Contract "Contractor" means the Contractor, its successors or any assignee or assignees of any interest of the Contractor.
- 1.2.14 "Crude Oil" means all Petroleum regardless of specific gravity which are produced in liquid state at atmospheric pressure at the wellhead or gas/oil separator including asphalt and ozokerites or which are extracted from Natural Gas, including distillate and condensate.
- 1.2.15 "Day" means a calendar day unless otherwise provided.
- 1.2.16 "Delivery Point" means a point agreed to by the Parties in writing pursuant to this Contract.

- 1.2.17 "Development and Production Operations" as defined in the Petroleum Regulations, means operations for or in connection with the production of Petroleum.
- 1.2.18 "Development and Production Period" means the period set forth in Sections 2.1 and 2.4.
- 1.2.19 "Discovery" as defined in the Petroleum Regulations, means a significant occurrence of Petroleum recovered at the surface which was not previously known to have existed and which is measurable by generally accepted petroleum industry practice.
- 1.2.20 "Dollar(s) " or " \$" means United States Dollar(s).
- 1.2.21 "Drilling" as defined in the Petroleum Regulations, means operations for or in connection with the perforation of the earth's surface, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the hole from becoming filled by extraneous Materials (including water) and the fitting of wellheads, or coring or logging, and any operations incidental thereto.
- 1.2.22 "Effective Date" means the date this Contract is signed by the Minister and the Contractor.
- 1.2.23 "Environmental Damage" as defined in the Petroleum Regulations, means soil erosion, removal of vegetation, destruction of wildlife and marine organisms, pollution of groundwater, pollution of surface water, land or sea contamination, air pollution, noise pollution, bush fire, disruption to water supplies, disruption to natural drainage, damage to archaeological, paleontological and cultural sites.
- 1.2.24 "Exploration Expenditures" mean expenditures made in conducting Exploration Operations hereunder, but excluding expenditures made within the area of a Field after a Commercial Discovery has been declared. These expenditures shall be determined in accordance with the Accounting Procedure described in Annex C hereto.
- 1.2.25 "Exploration Operations" as defined in the Petroleum Regulations, mean geological, geophysical and geochemical studies, aerial mapping, seismic surveys, investigations relating to the subsurface geology including structure test Drilling, stratigraphic test Drilling, Drilling of Exploration Wells and Appraisal Wells, and other related activities such as surveying, drill site preparation and all work necessarily connected therewith, that is conducted in connection with exploration for Petroleum.
- 1.2.26 "Exploration Period" means the period set forth in Sections 2.1, 2.2 and 2.3.

- 1.2.27 "Exploration Well" means a Well, other than an Appraisal Well, drilled in the course of Exploration Operations.
- 1.2.28 "Factors Constituting Control" as defined in the Petroleum Regulations, means:
- protocols, agreements or contracts binding the Contractor with another contractor or with third parties and relating to the conduct of operations and management of their companies, to the sharing of expenditures and profit, or to the sharing and disposal of products and, if such companies are liquidated, to the distribution of Assets;
 - provisions of the Contractor's Articles of incorporation and by-laws relating to the head office, the rights attached to capital stock, the majority required in annual general meetings;
 - the list and nationalities of any physical or legal Person which holds more than ten percent (10%) of the Contractor's capital stock;
 - when the Contractor's debts maturing in more than four (4) years exceed its shareholders equity: names, nationalities and countries of residence of physical or legal Persons who hold debt in an amount of more than twenty percent (20%) of the said shareholders' equity as well as the nature and term of loans obtained from such Persons; and
 - generally, any transaction the result of which is to make one or more physical or legal Persons gain or lose a controlling interest in the operations and management of the Contractor.
- 1.2.29 "Field" as defined in the Petroleum Tax Proclamation, means an area consisting of a Petroleum reservoir or multiple Petroleum reservoirs all grouped on or related to the same individual geological structure features or stratigraphic conditions from which Petroleum may be produced commercially, the development of which has been approved by the Minister. All reservoirs overlying and underlying a Field shall constitute part of such Field.
- 1.2.30 "Government" as defined in the Petroleum Proclamation, means the Government of Eritrea and its administrative divisions, and all the officials in any capacity who conduct the business of or exercise authority within the Territory of Eritrea.
- 1.2.31 "Income" means every sort of revenue from whatever source derived and in whatever form paid, credited or received in relation to

Petroleum Operations irrespective of whether it is paid, credited or received within or outside Eritrea.

- 1.2.32 "Initial Regular Production " as defined in the Petroleum Tax Proclamation, means the commencement of regular production from the first development area developed by the Contractor.
- 1.2.33 "LIBOR" means the London Interbank Offered Rate of interest on six (6) month Dollar deposits as quoted at 11:00 a.m. in London, United Kingdom, by the National Westminster Bank or any other bank agreed upon by the Parties, on the first banking Day of each month for which interest is due.
- 1.2.34 "Maximum Economic Efficient Rate" means the maximum economic rate of production of Crude Oil in a Field, without excessive rate of decline of production or excessive loss of reservoir pressure, and in accordance with generally accepted practices in the international petroleum industry and the provisions in Section 8.1.
- 1.2.35 "Minister" or "Ministry" as defined in the Petroleum Proclamation, means the Minister of Energy and Mines, or the Ministry of Energy and Mines, respectively, or any successors in jurisdiction thereto.
- 1.2.36 "Natural Gas" means all Petroleum which at atmospheric conditions of temperature and pressure is in a gaseous phase, including wet mineral gas, dry mineral gas, wet gas and residue gas remaining after the extraction, processing or separation of Crude Oil from wet gas, as well as non-hydrocarbon gas or gases produced in association with liquid or gaseous hydrocarbons.
- 1.2.37 "Non-associated Natural Gas" means Natural Gas other than Associated Natural Gas.
- 1.2.38 "Operator" means the Party and its successors designated to conduct the Petroleum Operations.
- 1.2.39 "Participating Interest" means the Government's interest in Petroleum Operations for a particular Field as set forth in Section 6.1.
- 1.2.40 "Participation Agreement" means the agreement entered into in accordance with Section VI hereof and Annex D hereto.
- 1.2.41 "Party" means the Government or the Contractor.
- 1.2.42 "Parties" means the Government and the Contractor.
- 1.2.43 "Person" means any natural or juridical person.

- 1.2.44 "Petroleum" as defined in the Petroleum Proclamation, means all natural organic substances composed of carbon and hydrogen called Petroleum, including Crude Oil and Natural Gas, and all other mineral substances, products, byproducts and derivatives that are found in conjunction with the same.
- 1.2.45 "Petroleum Agreement" as defined in the Petroleum Proclamation, means a contract or other arrangement between the Government and a contractor to conduct Petroleum Operations.
- 1.2.46 "Petroleum Operations" as defined in the Petroleum Proclamation, means Exploration, Development and Production Operations in the Contract Area, including without limitation, all operations related to exploration, development, extraction, production, field separation treatment (excluding refining), transportation, storage, sale or disposition of Petroleum to the Delivery Point, environmental protection, plugging of Wells and abandoning production facilities. The operations shall not include transportation beyond Delivery Point, nor any process of refining or any handling of Petroleum which has been treated in a refinery or liquefaction plant or Natural Gas treatment plant.
- 1.2.47 "Petroleum Operations Costs" as defined in the Petroleum Tax Proclamation, means the costs and expenses incurred by the Contractor for the purposes of conducting Petroleum Operations under this Contract, as set forth in Annex C hereto.
- 1.2.48 "Petroleum Proclamation" means the Petroleum Operations Proclamation No. 40/1993 as published in the Gazette of Eritrean Laws.
- 1.2.49 "Petroleum Regulations" means the Petroleum Regulations, Legal Notice No. 24/1995 as published in the Gazette of Eritrean Laws.
- 1.2.50 "Petroleum Tax Proclamation" means the Petroleum Operations Income Tax Proclamation No. 41/1993 as published in the Gazette of Eritrean Laws.
- 1.2.51 "State" as defined in the Petroleum Proclamation, means the State of Eritrea.
- 1.2.52 "Subcontractor" as defined in the Petroleum Proclamation, means any Person with whom a Contractor establishes a contractual relationship for the provision of services required for performance under a Petroleum Agreement.
- 1.2.53 "Territory of Eritrea" as defined in the Petroleum Proclamation, means its land territory, internal waters, islands, archipelagic waters,

territorial sea and its beds and subsoils, exclusive economic zone and continental shelf.

- 1.2.54 "Well" as defined in the Petroleum Regulations, means any opening in the ground made or being made by Drilling or boring, or in any other manner, in connection with Exploration Operations or Development and Production Operations, other than a seismic hole.

SECTION II: TERM, SURRENDER AND TERMINATION

2.1 Term

- 2.1.1 This Contract shall consist of an Exploration Period, and a Development and Production Period, both of which may run concurrently.

- 2.1.2 This Contract shall remain in effect during the initial term of the Exploration Period and all extensions thereof and shall automatically terminate in its entirety at the end of the Exploration Period, except as otherwise provided and as to any Field.

- 2.1.3 After expiration of the Exploration Period, this Contract shall remain in effect as to each Field during the Development and Production Period for the Field and shall automatically terminate with respect to each Field upon the expiration of the Development and Production Period for the relevant Field.

2.2 Exploration Period

- 2.2.1 The initial term of the Exploration Period provided by this Contract shall be ____ () years, commencing on the Effective Date hereof.

- 2.2.2 The Contractor shall begin Petroleum Operations within ninety (90) Days after the Effective Date. Petroleum Operations shall be deemed to have begun when the Contractor has actually commenced the movement of personnel and equipment to the Territory of Eritrea for the purposes of conducting Petroleum Operations and, specifically, on the date of departure for a direct destination to the Territory of Eritrea of plane or vessel transporting such personnel or equipment or both.

- 2.2.3 The Exploration Period shall have a first extension and a second extension, following the initial term, for successive terms of ____ () years and ____ () years, respectively, each upon the Contractor's election to make application to the Minister at least sixty (60) Days prior to the termination date of the current term of the Exploration Period, provided that the Contractor has fulfilled the

exploration work and expenditure obligations set forth in Section 5.1 for the current term under this Contract.

In order to enable the Contractor to complete Drilling, logging, testing or plugging of any Exploration Well which is actually being drilled, logged, tested or plugged at the end of the second extension of the Exploration Period, the Minister may grant a further extension to such second extension for such a time as he determines may be reasonable, which in any event shall not extend the term of the second extension by more than six (6) months.

2.2.4 In order to expeditiously complete the evaluation of a Discovery, the Minister shall extend the term of the Exploration Period up to ____ () months beyond the second extension of the Exploration Period for each area designated as an Appraisal Area upon the Contractor's submission to the Minister, at least sixty (60) Days prior to the termination date of the second extension, of an appraisal work program and budget under Section 5.3.2; provided, however, that the Contractor has fulfilled the exploration work and expenditure obligations set forth in Section 5.1 for the current term under this Contract. Thereafter, if the Contractor shall determine that an Appraisal Area does not contain a Commercial Discovery and if no further extension is granted under Section 2.2.5, the Exploration Period for the relevant Appraisal Area shall terminate.

2.2.5 Upon justification by the Contractor and in addition to the extensions set forth above, the Minister may extend the term of the Exploration Period in respect to the Appraisal Area of a Natural Gas Discovery for a period up to ____ () years for the purposes of further appraising and evaluating the Natural Gas Discovery and establishing its economic viability as well as preparing a preliminary development scheme for a Natural Gas project.

2.3 Surrender During Exploration Period

2.3.1 At or prior to the end of the initial term of the Exploration Period, the Contractor shall surrender at least twenty-five percent (25%) of the original Contract Area

2.3.2 At or prior to the end of the first extension of the Exploration Period, the Contractor shall surrender at least twenty-five percent (25%) of the original Contract Area.

2.3.3 When calculating the surrender obligation under Sections 2.3.1 and 2.3.2, each area then designated as an Appraisal Area or a Field shall be deducted from the original Contract Area.

2.3.4 At or prior to the end of the second extension to the Exploration Period, the Contractor shall surrender the remainder of the original

Contract Area which is not included within an Appraisal Area or Field.

- 2.3.5 The Contractor shall have the right to surrender, at any time, all or part of the Contract Area not designated as a Field, upon giving the Minister prior written notice.
- 2.3.6 The location and configuration of any area to be surrendered by the Contractor under this Section shall be submitted for approval to the Minister, which approval shall not be unreasonably withheld, sixty (60) Days prior to the date of each surrender, provided however that the size and shape of each portion being surrendered shall be reasonably contiguous in order to facilitate further exploration, and that the area being surrendered shall not be divided into more than two (2) portions.
- 2.3.7 No surrender shall reduce the minimum amount of Contractor's exploration work and expenditure obligations or the related bank guaranty in respect thereof as provided in Sections 5.1 and 5.2.
- 2.3.8 Any surrender under Section 2.3.5 shall be credited toward the Contractor's next surrender obligation under Sections 2.3.1 and 2.3.2.
- 2.3.9 Upon surrender of any area, the Contractor shall perform all necessary cleanup activities in accordance with sub-Article 11(10) of the Petroleum Regulations and generally accepted practices in the international petroleum industry, and shall take reasonable actions necessary to prevent hazards to human life, the environment or third-party property. No surrender made in accordance with this Section shall relieve the Contractor of its obligation to make payments due as a result of surface rentals or any other financial commitments undertaken pursuant to this Contract prior to the effective date of any such surrender.

2.4 Development and Production Period

- 2.4.1 The term of the Development and Production Period provided for by this Contract in respect of a Commercial Discovery shall commence on the date of adoption of the development plan as set forth in Section 5.4.2.2 and shall continue until the _____ (____th) annual anniversary of that date.
- 2.4.2 The Contractor may, not later than one (1) year prior to the expiration of the Development and Production Period, apply to the Minister for an extension to the initial term.
- 2.4.2.1 An application for an extension shall be made in writing to the Minister and shall be accompanied by:

- (a) a complete and up-to-date detailed report on the total production, sale and other disposal of Petroleum from the relevant Field;
- (b) a complete and up-to-date detailed report on the actual revenues generated, royalties, taxes and other fees paid to the Government;
- (c) a detailed forecast of production rates, reserve estimates, economic feasibility, number of years for which the extension is applied for; and
- (d) such other matters as may be required under the Contract or as the Minister may reasonably require.

2.4.2.2

The Minister may enter into good faith negotiations to grant an extension where:

- (a) the Contractor has fulfilled all his obligations under the current Development and Production Period; and
- (b) the proposals accompanying the application pursuant to Section 2.4.2.1.(c) above are consistent with his commitments to continue production and with the national interest as determined by the Minister.

2.4.3

If, subsequent to the designation of the area encompassing a Commercial Discovery as a Field, the extent of the area encompassing the Commercial Discovery is demonstrated to be different from that designated in the development plan under Section 5.4.2.2, the Field shall be adjusted accordingly, provided that the area covered shall be entirely within the original Contract Area and is not subject to any other Petroleum Agreement.

2.4.4

If the Contractor makes more than one Commercial Discovery, the term of the Development and Production Period or extension thereof for each Field embracing a Commercial Discovery shall be determined for that Field in accordance with the foregoing provisions independently of the term of the Development and Production Period for any other Field.

2.4.5

The Contractor shall have the right to surrender all or part of the area included within any Field upon giving the Minister one hundred eighty (180) Days written notice of its intention to do so. The provisions of Section 2.3.9 shall apply to this Section *mutatis mutandis*.

Termination

- 2.5.1 The Contractor may terminate this Contract by giving the Minister one hundred eighty (180) Days prior written notice. Termination shall not relieve the Contractor of the performance of its obligations outstanding hereunder prior to termination nor shall it affect its obligations which survive the termination of this Contract. A surrender of all the area included in the Contract Area shall constitute a termination of this Contract.
- 2.5.2 The Minister may terminate this Contract by giving the Contractor prior written notice for a period specified in Section 2.5.3, if any of the following termination events occurs:
- (a) if the Contractor willfully or negligently fails to comply with the Petroleum Regulations or Petroleum Proclamation;
 - (b) if the Contractor fails to make any payment required under this Contract, or fails to comply with any other Material obligation that it has assumed under this Contract;
 - (c) if the Contractor fails to comply with any other proclamation, regulation, or order, or any instruction which is specifically issued to the Contractor by the Minister or any department or agency of the Government in a manner which materially affects Government's substantive rights hereunder;
 - (d) if the Contractor fails to maintain the degree of financial ability, technical competence and professional skill necessary to carry out Petroleum Operations and such failure materially affects the Contractor's performance;
 - (e) if the Contractor becomes insolvent, makes a composition with creditors, or goes into liquidation other than for reconstruction or amalgamation;
 - (f) if the Contractor enters into an agreement providing for a Person other than the Contractor to become entitled to, or to any proceeds of sale of, any Petroleum, which, at the time the agreement is made has not been but may be produced and saved from the Contract Area, unless the terms of the agreement have been approved in writing by the Minister either unconditionally or subject to conditions, but the preceding provisions of this paragraph shall not apply to:
 - (i) an agreement for the sale of such Petroleum under which the price is payable after the Petroleum is produced and saved; and

- (ii) an agreement insofar as it provides that, after any Petroleum has been produced and saved from the Contract Area, it shall be exchanged for other Petroleum;
- (g) if there is a change in the Factors Constituting Control of any entity comprising the Contractor, as defined in the Petroleum Regulations, and the Minister serves notice in writing on the Contractor that the Minister proposes to terminate this Contract unless such a further change in the Factors Constituting Control of the relevant entity as is specified in the notice takes place within the period of three (3) months beginning with the date the notice was served; and
- (h) if Petroleum Operations are interrupted for more than one hundred eighty (180) Days without the written approval of the Minister.

2.5.3 The period of notice with respect to a termination event under Section 2.5.2(b, e and h) above shall be thirty (30) days, and with respect to any other termination event specified in Section 2.5.2 shall be ninety (90) days. If, however, the Contractor remedies the termination event within the period of the notice, the Minister shall withdraw the notice to the same effect as if the termination event had not occurred under this Contract, unless a termination event of the same type has previously occurred under this Contract, in which case the Minister may, but is not required to, withdraw the notice.

2.5.4 If a termination event specified in Section 2.5.2 is the result of Force Majeure as set forth in Section 16.3, neither the occurrence of the termination event nor the continuance of it unremedied shall result in the termination of this Contract for so long as such Force Majeure continues, and Section 16.3.5 is complied with.

2.5.5 When this Contract is terminated or expires, in whole or in part, the Contractor shall wind up Petroleum Operations in the area as to which this Contract has terminated or expired in an orderly manner calculated to minimize harm or loss to the State, the environment or any Person.

In the event of surrender of an Appraisal Area or a Field or termination of this Contract, the Minister may require the Contractor to continue for the account of the Government, Petroleum Operations for Fields currently producing or capable of producing Petroleum until the right and responsibility for continuing such operations have been transferred to another Person or the Government or any agency thereof but for a period not to exceed one hundred eighty (180) Days after the date this Contract would otherwise terminate with respect to

all or any portion of the Contract Area concerned; provided, however, that the Government shall:

- (a) bear all costs, risk and expenses of Petroleum Operations during such take-over period to the extent this period extends beyond the date that this Contract would otherwise terminate and shall be entitled during this same period to all the production and proceeds from the sale thereof; and
- (b) advance to the Contractor the funds necessary to conduct additional Petroleum Operations on a monthly basis.

SECTION III: GENERAL RIGHTS AND OBLIGATIONS OF THE CONTRACTOR

3.1 Rights of the Contractor

3.1.1 Subject to applicable laws and regulations, the Contractor shall:

- (a) have the sole and exclusive right to conduct Petroleum Operations in the Contract Area in accordance with the provisions of this Contract;
- (b) have the right to enter into the Contract Area and conduct Petroleum Operations there, but notwithstanding this provision and the provisions of Section 3.1.1(a):
 - (i) permission may be granted to other Persons to explore for, develop and produce minerals in the Contract Area other than Petroleum, so long as the activities of such Persons do not unreasonably interfere with Petroleum Operations; and
 - (ii) rights of ways in the Contract Area of reasonable scope and duration may be granted to other Persons for the benefit of land adjacent to the Contract Area but not so as to interfere with Petroleum Operations;
- (c) have access over the Territory of Eritrea for the purpose of constructing, laying, operating and maintaining both onshore and offshore pipelines, cables and any other facilities required for Petroleum Operations;
- (d) have the right, subject to the approval of the Minister, to use water in the Contract Area for operational purposes, but the Contractor shall not deprive any land, domestic settlement or livestock watering place of the water supply to which they are customarily entitled;

- (e) have the right for the purposes of Petroleum Operations to use gravel, sand, clay and stone in the Contract Area subject to the limitations set forth in Section 3.1.1(b);
- (f) have the right to construct within the Territory of Eritrea, such production and processing plants, power stations, communication, transportation and shipping facilities and other facilities as may be reasonably required for its operation under this Contract;
- (g) have the right to install and use radio, telephone and other communication facilities. Such facilities shall be maintained by the Contractor and shall be for its exclusive use for purposes of its activities under this Contract, and shall be subject to all Governmental regulations and be available for reasonable or for emergency use by the Government, free of charge.

Such facilities shall be so constructed and operated as not to interfere with similar installations which exist, or may, with the permission of the Government, be established in the Territory of Eritrea for public use or for the purposes of defense;

- (h) have the right to use, without discriminatory payment, existing roads within the Territory of Eritrea and shall permit free public use of roads constructed and maintained by it, except such roads as the Contractor may, with the consent of the Minister, declare to be for its exclusive private use; and
- (i) have the right to use existing public harbors and airports in the Territory of Eritrea upon payment of the port and harbor dues or landing or other fees generally applicable in accordance with regulations, provided that such use is not so intense as to interfere with public use of such harbors and airports. Subject to the Petroleum Regulations, there shall be no dues or charges payable by the Contractor or the Government for the use of harbors or other shipping and transportation facilities constructed by the Contractor and such facilities shall be for the exclusive use of the Contractor for the transportation and export of Petroleum and for other activities under this Contract. Local fishermen and vessels of the Government's navy shall have access to and shall have the right to make reasonable use of harbors constructed by the Contractor without charge and airports constructed by the Contractor shall be available, without charge, for reasonable Governmental use and for the purposes of defense.

- 3.1.2 The Contractor shall not carry on Petroleum Operations on any part of the land in the Contract Area designated for a public purpose but may have surface access over, on and through such land for the purpose of conducting Petroleum Operations to the extent such access does not interfere with the public purpose.
- 3.1.3 Subject to the Petroleum Proclamation and Petroleum Regulations, the Contractor shall have the right to sell, assign, transfer, convey or otherwise freely dispose of all or any part of the rights and interests under this Contract to:
- (a) any Affiliate subject to notification to the Minister but without diminishing its obligations in the present Contract and if at any time, thereafter, the Contractor should relinquish or lose control of its Affiliate which will then cease to be an Affiliate, the Contractor shall seek consent of the Minister; and
 - (b) any technically and financially capable other Person with the prior written consent of the Minister, which consent shall not be unreasonably withheld, provided that where the Minister gives a negative decision on the grounds of reasons of State, he need not justify his decision.

3.2 Obligations in Respect of the Conduct of Petroleum Operations

- 3.2.1 The Contractor shall carry out the Petroleum Operations within the scope of this Contract diligently, expeditiously and efficiently in accordance with the Petroleum Regulations and generally accepted international petroleum industry practice and pursuant to Section V. The Contractor and its employees shall perform no business activities in the Territory of Eritrea outside the scope of this Contract without the prior written consent of the Minister.
- 3.2.2 The Contractor shall ensure that all Exploration Wells are properly evaluated and where warranted, tested in accordance with generally accepted international petroleum industry practices.
- 3.2.3 The Contractor shall be entitled to employ any Person qualified in the judgment of the Contractor to undertake Petroleum Operations on the Contractor's behalf.

Any Subcontractor retained by the Contractor shall have the necessary professional experience to perform the task to be assigned and the Contractor shall ascertain that any Subcontractor shall abide by all applicable laws and regulations of Eritrea pertaining to Petroleum Operations and the relevant provisions of this Contract. The Contractor shall notify the Minister in writing of the name and

address of any Subcontractor retained within thirty (30) Days of such retention.

In addition, the employees of the Contractor and any Subcontractor and his employees shall abide by the applicable laws and regulations of Eritrea pertaining to Petroleum Operations and shall respect local customs in the country.

3.2.4 The Contractor shall without prejudice to the provisions of Section 6.1.3 hereof:

- (a) advance all necessary funds and purchase or lease all equipment, Materials and supplies required to be purchased or leased in connection with Petroleum Operations;
- (b) furnish all the technical expertise and assistance, including foreign personnel, required for the Petroleum Operations;
- (c) furnish all other funds for the performance of Petroleum Operations as may be required, including payment to foreign entities that perform services as Subcontractors to the Contractor;
- (d) retain control of all property paid for with foreign currency and brought into Eritrea under the rules of temporary importation, and, as such shall be entitled to freely remove same from Eritrea in accordance with the provisions of this Contract; and
- (e) provide acceptable working conditions and field accommodations, including onshore and offshore installations, and access to medical attention and nursing care, for all personnel employed by it and ensure its Subcontractors do the same with respect to their employees.

3.3 Abandonment and Disposal of Assets

3.3.1 The Contractor shall not, except where there is imminent and grave danger to the safety and health of human life or a risk of significant damage to the environment or a risk of significant economic loss, abandon a Well or withdraw casing, tubing or downhole pumps or other downhole equipment therefrom or remove surface equipment used or useful in production therefrom, if any, without the Minister's consent. A written application for such consent shall be submitted to the Minister within the following periods prior to such action being proposed to be carried out:

- (a) thirty (30) Days, in the case of action with respect to a Well that is or has been producing within a development area; and
- (b) seventy two (72) hours, in the case of action with respect to any other Well.

3.3.2

Where the Contractor applies to abandon an Exploration Well in which Petroleum of potentially commercial significance has not been found, the Minister may request the Contractor to deepen, sidetrack or test that Well or to drill an additional Well subject to the following provisions:

- (a) the Contractor may apply to participate in the proposed operation;
- (b) if the Contractor does not apply to participate or the Minister rejects the application, any such additional Petroleum Operations shall be at the sole cost, risk and expense of the Government, and the Minister shall advance to the Contractor the funds necessary to conduct the Drilling operations;
- (c) the Contractor shall not be obligated to undertake such additional work if it will materially interfere with the conduct of the Contractor's Petroleum Operations or if it is not technically or operationally feasible; and
- (d) if the Contractor does not apply to participate or the Minister rejects the application, the Minister shall keep the Contractor informed about such additional work and in the event that the operations undertaken under this Section 3.3.2 result in a Discovery which the Contractor elects to evaluate and/or develop as a Commercial Discovery, the Contractor shall reimburse the Government _____ percent (___%) of the costs and expenses incurred by the Government for the conduct of the additional operations and such sum shall be paid within thirty (30) Days of such approved application made by the Contractor. If the Contractor does not make such application or the Minister rejects the application, the Minister may require the Contractor to surrender all its rights over such Discovery.

3.3.3

The Contractor shall, within sixty (60) Days after termination or expiration of this Contract or the surrender of part of the Contract Area, or the expiration of the take-over period in Section 2.5.5, if later, deliver to the Minister, free of charge, in good repair and working order, all Wells within the area covered by the termination, expiration, or surrender, then producing or capable of producing Petroleum, together with all pipes, pipelines, downhole Well

equipment, wellhead equipment and all non-recoverable surface and/or sub-surface equipment used in the conduct of Petroleum Operations, unless the Minister requires the Contractor to plug the Well.

3.3.4

Subject to the provisions herein, upon expiry or termination of this Contract in any manner, the Contractor shall deliver to the Government, free of charge, all equipment, installations and other Assets whether fixed or moveable, used for the purpose of the Petroleum Operations whether inside or outside the Contract Area.

3.3.4.1 The provisions of Section 3.3.4 shall not apply to Assets which are still required by the Contractor in respect of an area in Eritrea subject to another Petroleum contract and which in the opinion of the Government are not necessary for continued production of the Field delivered. Upon the Government's request, the Contractor shall use its best efforts to assign to the Government any agreement with third parties which are desirable for continued production.

3.3.4.2 At least six months before expiry of this Contract, or within forty five (45) Days following notice of termination thereof, the Government and the Contractor shall jointly prepare a list of the Assets which the Government requires to be delivered to it pursuant to this Section 3.3.4. Assets not required by the Government may be sold or otherwise disposed of by the Contractor.

3.3.4.3 All equipment and Assets may be sold or exchanged by the Contractor in the conduct of Petroleum Operations provided, however, that prior consent of the Minister is obtained for each transaction in excess of twenty five thousand Dollars (\$25,000), such consent not to be unreasonably withheld and to be given within forty-five (45) Days of receipt of request from the Contractor. Failure to respond within such period shall be deemed to constitute consent. Exchanges and proceeds of sale shall be accounted for as provided in the Accounting Procedure.

3.3.5

The Minister may decline the transfer and may require the Contractor to remove all or some of the plants, appliances, installations, pipelines and well platforms at no cost to the Government. Should the Minister accept the transfer, the Contractor shall be relieved of his liabilities except with respect to its obligations to make payments due under Section 2.3.9 hereof.

3.4 **Joint Liability and Indemnity**

3.4.1 At any time where the Contractor consists of more than one Person, their liability shall be joint and several except for the liability to pay income tax, which shall be a liability personal to each Party constituting the Contractor.

The Contractor shall supply to the Minister, a copy of the joint operating agreement and related documents, including without limitation, farm-in agreement, arrangements for financing Petroleum Operations between those Persons, or between any of those Persons and third parties no later than ten (10) Days following the signing of such documents.

3.4.2 The Contractor shall indemnify, defend and save the Government harmless against all claims, losses and damages of any nature whatsoever caused by, or resulting from, any operation conducted by or on behalf of the Contractor under the terms of this Contract, arising on or after the Effective Date of this Contract, including without limitation, claims for loss or damage to property, or death of or injury to Persons provided that if the Government elects to seek such an indemnity from the Contractor, the Government shall notify and consult with the Contractor concerning such claim, loss, or damage and, if appropriate, the Contractor shall be joined as a Party to any lawsuit or proceeding concerning such claim, loss, or damage. The failure of the Contractor to comply with the requirements of Article 30 of the Petroleum Regulations shall in no way limit the Contractor's obligations under this Section.

3.4.3 To ensure that the Contractor meets its obligations to the Government and third parties with respect to claims, losses and damages as specified in Section 3.4.2, the Contractor shall maintain in full force for the duration of this Contract, a third party liability insurance policy/policies covering its activities and those of its agents, Subcontractors and employees. To the fullest extent possible, such insurance shall be placed with an Eritrean insurance company, provided that the terms and costs are equivalent to those generally available in worldwide insurance markets. A certificate evidencing such insurance policy/policies shall be furnished to the Minister within ninety (90) days of its effective date.

The limits, coverage, deductibles and other terms thereof shall be in accordance with generally accepted practices in the international petroleum industry and shall be reviewed annually by the Management Committee.

To the extent that such third party liability insurance does not cover part or all of any claims, losses and damages covered by Section

3.4.2, the Contractor shall remain fully responsible for indemnifying all such claims, losses and damages.

3.5 Local Employment, Training and Preference

3.5.1 The Contractor and the Subcontractors shall give preference to the employment of Eritrean nationals in all Petroleum Operations to the fullest extent possible, provided such nationals have the required qualifications and experience. The Contractor undertakes to gradually replace its expatriate staff with qualified Eritrean nationals as they become available.

3.5.2 The Contractor shall provide training relating to the Petroleum Operations for Eritrean nationals employed by the Contractor in the Petroleum Operations until the expiry and termination of this Contract.

3.5.3 In addition to the obligations set forth in Section 3.5.2, the Contractor shall establish a training and employment program approved by the Minister, for Eritrean nationals and shall contribute a minimum of _____ Dollars (\$ _____) per year, during the Exploration Period, to be increased to _____ Dollars (\$ _____) per year during the Development and Production Period, for the training of Eritrean nationals as may be designated by the Minister, commencing with the Effective Date.

Payment shall be made to the bank designated by the Minister on the Effective Date for the first Contract year and on each anniversary of the effective date thereof until the termination or expiration of the Contract.

3.5.4 The Contractor shall and require its Subcontractors to give preference to Eritrean Materials, products and services used in Petroleum Operations where those materials, products and services are of comparable quality as reasonably determined by the Contractor or Subcontractors, as the case may be, and are readily available at competitive international prices. In connection with the procurement of goods and services from local sources, the Contractor shall, in consultation with the Minister, establish appropriate tender procedures to give effect to this Section.

3.5.5 The Contractor shall submit a report every Calendar Quarter detailing the employment of Eritrean nationals and the utilization of Eritrean Materials, products and services by the Contractor and its Subcontractors, in a form to be specified by the Minister.

3.6 Environmental and Safety Measures

3.6.1 The Contractor shall conduct Petroleum Operations in a safe and proper manner in accordance with generally accepted international petroleum industry practice and with the Petroleum Regulations.

The Contractor shall provide acceptable working conditions, as well as living accommodations, access to medical attention and nursing care in or near the Contract Area for all personnel employed by it in Petroleum Operations. These benefits shall be extended to other Persons who are engaged or assisting in the conduct of Petroleum Operations in the Contract Area.

3.6.2 In the event of a blow-out, accident or other emergency, the Contractor shall take immediate steps to bring the emergency situation under control and protect against loss of life and property and prevent harm to natural resources and the general environment.

3.6.3 If the Minister reasonably determines that the Petroleum Operations may endanger Persons or property, harm natural resources or the general environment, cause pollution, harm marine life, animal life or plant life, or interfere with navigation and fishing, he shall inform the Contractor and the Contractor shall take appropriate remedial action within a reasonable period of time established by the Minister, in accordance with standard international petroleum industry practices. If the Contractor fails to take any action, and without prejudice to the provisions of Article 11 of the Petroleum Regulations, the Minister shall order the Contractor to take reasonable remedial measures and order the Contractor to discontinue Petroleum Operations pending the implementation of those measures.

The Contractor shall securely plug any Well that it abandons to prevent Environmental Damage and shall remove all above-ground production equipment, except as the Minister may otherwise direct.

3.6.4 Immediately upon the termination of this Contract for any reason, unless the Government has granted an extension of time, and without prejudice to Part V of the Petroleum Regulations, the Contractor shall commence any reasonably necessary action as directed by the Government to avoid or minimize Environmental Damage or hazard to human life or third party property as a result of the Contractor's activities in the Contract Area. The provisions of this Section 3.6.4 shall survive the termination of this Contract.

3.6.5 The Contractor shall properly store Petroleum in receptacles constructed for that purpose, and shall not store Crude Oil in an earthen reservoir, except temporarily in an emergency.

In the event an earthen reservoir is used temporarily in an emergency to store Crude Oil, the Contractor shall restore the ground surface to its prior condition within a period of time established by the Minister in accordance with generally accepted practices in the international petroleum industry.

3.7 Registration and Office

3.7.1 The Contractor shall register to do business with the appropriate Eritrean authorities and shall establish and maintain an office in Eritrea within three(3) months after the Effective Date. The Contractor's registered office in Eritrea shall have full authority to represent the Contractor for all purposes of this Contract.

3.7.2 The Contractor shall notify the Minister, before Petroleum Operations begin, of the name and address of the Person resident in Eritrea who will supervise the Petroleum Operations, and prior notice of any subsequent change shall be given to the Minister.

3.8 Records and Reports

3.8.1 The Contractor shall prepare such reports and keep such records as required by law, the Petroleum Regulations, this Contract, and generally accepted procedures and standards of the international petroleum industry.

3.8.2 Prior to or immediately following the expiration or termination of this Contract, the Contractor shall deliver to the Minister all records referred to in the Petroleum Regulations, including, without limitation, magnetic tapes. The obligation created by this Section 3.8.2 shall survive the expiration or termination of this Contract.

3.8.3 In accordance with sub-Article 20 (3) of the Petroleum Regulations, the Contractor shall provide to the Minister in appropriate form all original data resulting from Petroleum Operations, whether or not required for the reports and records referred to in Section 3.8.1 herein above. The Government shall have title to all such original data which shall only be disclosed pursuant to the provisions of Section 17.1 hereof.

The Contractor may export magnetic tapes, samples and any other data solely for the purpose of processing or analysis outside Eritrea, provided that a comparable record or sample is retained in Eritrea, and provided further that such exported originals of magnetic tapes, samples and any other data shall be returned to Eritrea by the Contractor after processing or analysis.

3.8.4 In accordance with Article 25 of the Petroleum Regulations, the Minister and his duly authorized representatives shall have full and complete access to the Contract Area at all reasonable times with the

right to observe Petroleum Operations, and to inspect, upon fifteen (15) Days' prior written notice to Contractor, all Assets, records, books, accounts and data kept by the Contractor relating to Petroleum Operations and this Contract. The Minister and his duly authorized representatives may make a reasonable number of surveys, drawings, tests and copies for the purpose of implementing this Contract. In doing so the Minister and his duly authorized representatives shall be entitled to make reasonable use of equipment and instruments of the Contractor and shall be given reasonable assistance by the Contractor for such functions. The Contractor shall afford the Minister and his duly authorized representatives all transportation, accommodation and medical facilities and amenities afforded to its own personnel in the Field, including the reasonable use of office space and room and board, free of charge.

SECTION IV: GENERAL RIGHTS AND OBLIGATIONS OF THE GOVERNMENT AND THE MINISTER

- 4.1 Rights of the Government and the Minister**
- 4.1.1 Without prejudice to the Petroleum Regulations, the Minister may require the Contractor to perform an obligation which the Contractor has failed to perform under this Contract by giving reasonable written notice, and after failure of the Contractor to comply with that notice, may execute any necessary works for which the Contractor shall pay forthwith. The Minister may give notice to the Contractor to perform an obligation hereunder at any time, but not later than forty-five (45) Days after the termination or expiration of this Contract or surrender of the part of the Contract Area to which the obligation relates.
- 4.2 Obligations of the Government and the Minister**
- 4.2.1 The Government shall not unreasonably refuse to grant or renew any visas, work and entry or exit permits necessary for personnel employed in the Petroleum Operations by the Contractor or its Subcontractors and their dependents; nor shall the Government unreasonably refuse to grant any necessary right-of-way as may be required by the Contractor or its Subcontractors, subject to any general applicable laws or regulations.
- 4.2.2 The Minister shall use his best efforts to assist and expedite the execution of Petroleum Operations carried on hereunder by rendering all necessary and reasonable assistance in obtaining communication permits, visas, work or other permits, authorizations, import or other licenses, and right-of-way as may be necessary.
- 4.2.3 The Government undertakes to make available to the Contractor all original data at its disposal including seismic information, field tapes,

Well logs and all other geological and geophysical information relating to the Contract Area; provided the Government is under no obligation to make any classified or confidential information available to the Contractor. The Contractor shall bear the actual cost of copying all such information and data. However, should the Contractor wish to acquire reprocessed seismic data, the Contractor shall purchase such reprocessed data at prevailing rates.

SECTION V: WORK AND EXPENDITURE OBLIGATIONS AND BUDGETS

5.1 Exploration

5.1.1 The Contractor shall carry out the following work obligations and make the following Exploration Expenditures during the initial term of the Exploration Period:

- (a) Geological and geophysical operations, including _____ (____) kilometers of seismic surveys, or Dollar equivalent 3-D surveys, with a minimum expenditure of _____ Dollars (\$ _____) for such geophysical and geological operations; and
- (b) The Contractor shall drill _____ Exploration Wells to a minimum depth of _____ (____) metres per Well with a Minimum Drilling expenditure of _____ Dollars (\$ _____) for each such Well.

5.1.2 Should the Contractor make an application for the first extension of the Exploration Period, it shall carry out the following work obligations and make the following Exploration Expenditures during the first extension to the Exploration Period:

- (a) geological and geophysical operations, including the acquisition and processing of _____ (____) line kilometers of seismic surveys with a minimum expenditure of _____ Dollars (\$ _____) for such geological and geophysical operations; and
- (b) drill _____ (____) Exploration Wells to a minimum depth of _____ (____) meters per Well with an anticipated minimum Drilling expenditure of _____ Dollars (\$ _____) for each such Well.

5.1.3 Should the Contractor make an application for the second extension of the Exploration Period, it shall carry out the following work obligations and make the following Exploration Expenditures during the second extension to the Exploration Period:

- (a) geological and geophysical operations, including the acquisition and processing of _____ (____) line kilometers of seismic surveys with a minimum expenditure of _____ Dollars (\$ _____) for such geological and geophysical operations; and
- (b) drill ____ (____) Exploration Wells to a minimum depth of _____ (____) meters per Well with an anticipated minimum Drilling expenditure of _____ Dollars (\$ _____) for each such Well.

5.1.4

The required minimum expenditure obligations set forth in Sections 5.1.1, 5.1.2 and 5.1.3 are expressed in constant Dollars of the month of the Effective Date and shall be adjusted annually on the anniversary of the Effective Date, so as to reflect the balance of the Contractor's minimum expenditure obligations, as follows:

- (a) at the end of each Calendar Year of the Exploration Period, the minimum expenditure obligations for the initial term of the Exploration Period, the first extension or second extension, whichever is applicable, shall be reduced in accordance with paragraph (b) below by the amount of expenditure actually made during that year on seismic and exploratory Drilling work;
- (b) for the purpose of making the adjustments provided for in Sections 5.1.4 (a) and 5.1.5, all expenditures made on seismic and exploration Drilling work in excess of the amount specified in Sections 5.1.1, 5.1.2 and 5.1.3 (as adjusted for inflation in accordance with paragraph (c) below between (i) the month of the Effective Date, and (ii) the month in the prior year corresponding to the month of the Effective Date) shall be submitted to the Minister for his approval, which approval shall not be unreasonably withheld; and
- (c) at the end of each Calendar Year of the Exploration Period, in order to determine the minimum expenditure obligations for the remaining years of initial term of the Exploration Period, the first extension or second extension, whichever is applicable, the balance of the minimum expenditure obligations corresponding to such term at the end of the preceding year, as reduced for expenditure under the provisions of Section 5.1.4(a), shall be adjusted by multiplying that amount by the number which is the sum of one (1) and the decimal equivalent of the percentage change in the monthly index of US Consumer Prices, seasonally adjusted, as reported in the "International Financial Statistics" of the International Monetary Fund between (i)

the month in the year of the adjustment corresponding to the month of the Effective Date and (ii) the month in the preceding year corresponding to the month of the Effective Date.

5.1.5 If, during the initial term of the Exploration Period or the first extension thereof, the Contractor exceeds the expenditure obligations for such period, then such excess may be credited towards the expenditure obligations for the following extension or extensions of the Exploration Period.

5.1.6 The fulfillment of any work obligations shall relieve the Contractor of the corresponding expenditure obligations; but the fulfillment of any expenditure obligations shall not relieve the Contractor of the corresponding work obligations. If the continuation of any Drilling activity is precluded for justifiable technical reasons, prior to reaching the minimum depth herein specified, the Minister shall authorize the Contractor to terminate such activity and may deem the Contractor to have met the work obligation in respect of that Well or may specify an appropriate and reasonable substitute work obligation. Any dispute related to the justification for discontinuing Drilling activity shall be resolved by a binding expert determination as provided in Section 16.2.1.

5.1.7 Without prejudice to the provisions of Part VI of the Petroleum Regulations, the Contractor shall prepare and submit to the Minister for discussion, thirty (30) Days after the Effective Date, the following:

- (a) a general statement of exploration work and budget for each Calendar Year of the Exploration Period; and
- (b) a detailed statement of the exploration work program and budget for the current Calendar Year of the initial term of the Exploration Period.

To the maximum extent possible, the Contractor shall involve representatives of the Government in the preparation of the statements required in (a) and (b) above.

5.1.8 The Contractor may, upon consultation with and notification to the Minister, make changes to the detailed exploration work program and budget therefor for any Calendar Year of the Exploration Period, submitted pursuant to Article 18 of the Petroleum Regulations, if those changes do not materially affect the original objectives of the said work program and budget.

5.1.9 The Contractor shall prepare and submit to the Minister for discussion, ninety (90) Days before the end of each Calendar Year in the Exploration Period, the following:

- (a) revisions, if any, to the general statement of exploration work and budget for the remaining Calendar Years of the Exploration Period; and
- (b) a detailed statement of the exploration work program and budget for the next Calendar Year in the Exploration Period.

5.2 Bank Guaranty

5.2.1 The Contractor shall provide to the Minister at the commencement of Petroleum Operations of the initial term of the Exploration Period and each extension thereof, a bank guaranty in the form of Annex E to this Contract for the anticipated minimum expenditure set forth in the Contract for that term or extension as adjusted and as provided in Section 5.1.4 above. The guaranty shall be renewed each time the initial term is extended. Where an Eritrean bank offers competitive rates, such guaranty shall be placed with an Eritrean bank. Failing that the guaranty shall be provided by a bank designated by the Contractor and which is acceptable to the Minister.

5.2.2 The Contractor may request from time to time that the bank guaranty be reduced by the amount equal to the value of the portion of the minimum work program which has been completed by the Contractor. The Minister shall, within thirty (30) Days of receipt of the Contractor's request, either (a) direct the bank to reduce the guaranty in the amount requested or (b) notify the Contractor that the request is not acceptable and state the reasons for rejecting the request.

5.2.2.1 With regard to the initial term of the Exploration Period, the reductions shall be made in the following manner, amounts and circumstances:

- (a) by _____ Dollars (\$ _____) upon completion of the work obligations under Section 5.1.1 (a); and
- (b) by _____ Dollars (\$ _____) when the Contractor has fulfilled the work obligations under Section 5.1.1(b).

5.2.2.2 With regard to the first extension of the Exploration Period, the reductions shall be made in the following manner, amounts and circumstances:

- (a) by _____ Dollars (\$ _____) upon completion of the work obligations under Section 5.1.2 (a); and

(b) by _____ Dollars (\$ _____) when the Contractor has completed the work obligations under Section 5.1.2(b).

5.2.2.3 With regard to the second extension of the Exploration Period, the reductions shall be made in the following manner, amounts and circumstances:

(a) by _____ Dollars (\$ _____) upon completion of the work obligations under Section 5.1.3 (a); and

(b) by _____ Dollars (\$ _____) when the Contractor has fulfilled the work obligations under Section 5.1.3 (b).

5.2.3 If, at the end of the initial term of the Exploration Period, any extension thereof, or upon the date of expiration or termination of this Contract, the Contractor has not performed the minimum work obligations required during the initial term of the Exploration Period or any applicable extension thereof, the Contractor or its guarantor shall immediately pay the amount corresponding to the unfulfilled work obligations to the Government.

5.2.4 The Contract shall be voided if the Contractor does not provide the said bank guaranty within the term specified in Section 5.2.1.

5.3 **Discovery and Appraisal**

5.3.1 The Contractor shall notify the Minister of a Discovery as soon as practicable, but in no event later than forty eight (48) hours, after the Discovery of Petroleum within the Contract Area. This notice shall include all available details of the Discovery and particulars on any testing program to be undertaken in order to allow the Minister to send a representative during testing operations

5.3.2 Within ninety (90) Days after the date of the notice of the Discovery under Section 5.3.1, if the Contractor considers that a Discovery merits appraisal, the Contractor shall submit to the Minister a detailed appraisal work program and budget to evaluate as expeditiously as possible whether the Discovery is a Commercial Discovery.

This work program shall include an indication of the location, nature and size of the Discovery, with a designation of the area to be included in the evaluation, which area shall be designated as an Appraisal Area. The appraisal work program shall also include all Drilling, testing and evaluation to be conducted in the Appraisal Area and the preparation of all technical and economic studies related to recovery, treatment and transportation of Petroleum from the Appraisal Area. The duration of this appraisal work program shall

not exceed _____ () months unless otherwise agreed in writing by the Minister and, in any event, it shall not exceed the remaining term of the Exploration Period as provided in Section 2.2 of this Contract. Performance of the obligations under an appraisal work program and budget shall not satisfy all or any part of the exploration work and expenditure obligations for the Exploration Period set forth in Section 5.1, as those obligations are separate and independent.

5.3.3

If the Minister does not request in writing any changes to the appraisal work program and budget for any Appraisal Area within thirty (30) Days after receipt thereof, the program shall be deemed approved and adopted by the Minister.

If the Minister requests any changes to the appraisal work program and budget for any Appraisal Area such changes shall be in accordance with standard international petroleum industry practices. The Contractor and the Minister shall meet within fifteen (15) Days after the Minister's written notification as to these requested changes to agree on an appraisal work program and budget. The work program and budget shall be approved and adopted by the Minister after such agreement has been reached. If the Contractor does not respond to the Minister's notice within thirty (30) Days of notification, the Minister's changes shall be deemed to have been incorporated and accepted by the Contractor.

If, after sixty (60) Days have elapsed following the Minister's notification as to requested changes to the appraisal work program, the Parties are unable to reach agreement, the matter may be referred by either Party for resolution by a binding expert determination pursuant to Section 16.2.1.

The Contractor shall involve representatives of the Ministry in the preparation of the detailed appraisal work program and budget.

5.3.4

After adoption of the appraisal work program and budget, the Contractor shall diligently continue to evaluate the Discovery without undue interruptions until the Contractor determines whether the Discovery is a Commercial Discovery.

Within thirty (30) days after the evaluation is completed, but in any event within _____ Calendar Months from the date on which Contractor notified the Minister of a Discovery or the expiration of the Exploration Period, whichever occurs first, the Contractor shall notify and report to the Minister whether the Appraisal Area or any part contains a Commercial Discovery. Such report shall include all relevant technical and economic data relating thereto.

5.3.5

If pursuant to Section 5.3.4, the Contractor notifies the Minister that the Appraisal Area does not contain a Commercial Discovery, or fails

to provide the required notification and report within the time periods set forth in that Section, the Minister shall have the option, exercisable by notice in writing to the Contractor, to require the Contractor to relinquish its rights with respect to the area in which the Discovery is located and forfeit any rights relating to production therefrom. In the event that the Minister and the Contractor are unable to agree upon the area to be relinquished, either Party may refer the matter for resolution by a binding expert determination pursuant to Section 16.2.1.

5.4 Development and Production

5.4.1 If the Contractor reports that the Discovery for any Appraisal Area is a Commercial Discovery under Sections 5.3.4 and 5.3.5, the Contractor shall comply with Article 16 of the Petroleum Regulations within six (6) months after the completion of the appraisal work program.

The Contractor shall involve representatives of the Ministry in the preparation of reports, work program, work program budget, and all other proposals required to be submitted in compliance with Article 16 of the Petroleum Regulations.

5.4.2 The Minister shall examine the report and any work program and work program budget submitted pursuant to Article 16 of the Petroleum Regulations. As soon as possible thereafter the Minister and the Contractor shall meet (i), to determine at such meeting, or at such later date as may be mutually agreed, the boundaries of the area to be delineated as a Field, together with a reasonable margin surrounding the Field consistent with petroleum industry practice, having regard to Part II of the Petroleum Regulations (Constitution of blocks) and (ii), to adopt a work program and work program budget for the development of the Discovery.

5.4.2.1 The Minister may require the Contractor to provide, within a specified time period, such further information as the Minister may reasonably need to evaluate the development plan for any development area.

The Minister may also request that the Contractor make such revisions to the development plan as are reasonable to contribute to the efficient development of Eritrean infrastructure, develop and utilize Eritrean personnel and Eritrean suppliers of goods and services and secure a production profile which is consistent with the public interest, provided that such requested revisions shall relate, inter alia, to Petroleum Operations and shall, inter alia, be utilized by Contractor in Petroleum Operations.

5.4.2.2 At the meeting referred to in Section 5.4.2 the Minister may require the Contractor to provide in writing any change to the development plan within ninety (90) Days after receipt thereof.

If the Minister requests any change to the development plan, such change shall be in accordance with standard international petroleum industry practice. The Contractor and the Minister shall meet within fifteen (15) Days of the Minister's written notification as to these requested changes to agree on a revised development plan. The plan shall be approved and adopted by the Minister after such agreement has been reached. If the Contractor does not respond to the Minister's notice within sixty (60) Days of notification, the Minister's change shall be deemed to have been incorporated and accepted by the Contractor.

5.4.2.3 If the Minister and the Contractor agree upon the boundaries of the area to be delineated as a Field and upon the adoption of a work program and work program budget for the development of the Discovery consistent with sub-Article 16 (c) of the Petroleum Regulations, the date upon which such agreement is reached, as reflected in a written instrument signed by both Parties, shall be the date of commencement of the Development and Production Period. The area so determined shall, on such date, be automatically converted into a Field, and the Contractor shall, as soon as is practicable, commence Development and Production Operations in the Field according to the work program and work program budget. Upon adoption of the development work program and work program budget, the annual work program and work program budget adopted pursuant to Article 18 of the Petroleum Regulations and this Contract shall be revised accordingly.

5.4.2.4 In the event that no agreement is reached between the Minister and the Contractor within one hundred eighty (180) Days from the date of submission of the report and work program and work program budget pursuant to Section 5.4.2 as to (i) matters relating to the adoption of the work program and work program budget for the development of the Discovery or (ii) the boundaries of the area to be delineated as a Field, the Minister or the Contractor may refer the matter for expert determination in accordance with the provisions of Section 16.2.1. The expert's determination shall be final and binding upon the Government and the Contractor, and the work program and work program budget for the development of the Discovery and the boundaries of the area, to be delineated

as a Field, as the case may be, shall be deemed to have been adopted and agreed as determined. Where within sixty (60) Days of receipt of the determination of the expert, the Contractor notifies the Minister that the Discovery to which such work program and work program budget relate is no longer considered to be a Commercial Discovery, the Minister and the Contractor shall meet to discuss the matter within thirty (30) Days of the Contractor's notice. If no agreement is reached within the last mentioned thirty (30) Day period, then, the Contractor may be requested to relinquish the Discovery area within sixty (60) Days thereof. Failing such notification as aforementioned, the date sixty (60) Days after the receipt of such expert determination shall be deemed to be the date of commencement of the Development and Production Period. The area so determined shall on such date, be automatically converted into a Field and the Contractor shall commence Development and Production Operations in the Field according to the work program and work program budget so adopted. Upon adoption of the development work program and work program budget as aforesaid, the annual work program and work program budget adopted pursuant to Article 18 of the Petroleum Regulations and this Contract shall be revised accordingly.

5.4.3 After the development plan has been adopted by the Parties, and without prejudice to the provisions of Article 18 of the Petroleum Regulations, the Contractor shall submit to the Minister for discussion within ninety (90) Days from the commencement of the Development and Production Period a detailed statement of the development work program and budget for the first full Calendar Year of the Development and Production Period and the portion of the year preceding the first full Calendar Year.

Each annual development work program and budget submitted pursuant to Article 18 of the Petroleum Regulations shall be consistent with the development plan adopted or revised by the Parties under Section 5.4.2.

5.4.4 The Contractor may submit, during the term of the Development and Production Period, revisions to any development plan. These revisions shall be consistent with the provisions of Section 5.4.2 and shall be subject to the approval procedure set forth in Sections 5.4.2.

5.4.5 Notwithstanding any other provision of this Contract, in the event that development work has not commenced within six (6) months from the date of commencement of the Development and Production Period, the Minister shall give the Contractor a ninety (90) Day

notice. Should the Contractor fail to commence work within the said notice period, it shall relinquish the area comprising such Commercial Discovery and shall forfeit any rights relating to any production therefrom.

5.5 Management Committee

5.5.1 Within thirty (30) Days after the Effective Date, the Parties shall set up a Management Committee, composed of six (6) members. Three (3) of the members shall be appointed by the Minister and the other three (3) by the Contractor. The chairman shall be appointed by the Contractor during the Exploration Period. However, upon the declaration by the Contractor that a Discovery is a commercial Discovery, all issues discussed in the Management Committee pertaining to such Commercial Discovery shall be chaired by a member appointed by the Minister. A deputy chairman shall be appointed by the chairman.

5.5.2 The meetings of the Management Committee shall be presided over by the chairman, or in his absence by the deputy chairman. The meetings shall be called by the chairman, with at least fourteen (14) Days' prior notice, accompanied, where possible and appropriate, by supporting documentation. The meetings shall be held in Eritrea, unless otherwise agreed. The frequency of the meetings shall be determined by the Management Committee but shall not be less frequent than quarterly when major development operations are contemplated or in progress, and in other cases not less frequent than semi-annually. The chairman shall arrange for minutes to be taken of the meetings. The minutes shall be regarded as approved, if no comments on the draft are made within two (2) weeks from receipt thereof by each Party.

5.5.3 The Parties may appoint a reasonable number of advisors to participate at the meetings of the Management Committee. Each Party shall advise the other of the name such advisors, at least fourteen (14) Days prior to the meeting of the Management Committee. The Management Committee may establish sub-committees to deal with specific issues. The composition and mandate of such sub-committees shall be determined by the Management Committee.

5.5.4 All decisions and recommendations of the Management Committee shall be taken by a majority of the members, provided that an equal number of members from each Party are present or represented by proxy.

5.5.5 The mandate of the Management Committee shall be, in general, to secure coordination between the Parties, and to supervise the Petroleum operations carried out by the Contractor. Without

limiting the generality of the forgoing, the Management Committee shall:

- (a) review and advise on the proposed annual work program and budget, and any proposed changes therein;
- (b) review and advise on the possible commerciality of any Discovery, and subsequently the declaration of a Commercial Discovery, as well as the pertinent development plan;
- (c) monitor the performance of the Contract and of the work program;
- (d) advise on the delineation of any Appraisal Area;
- (e) advise on the proposed delineation of a Field;
- (f) review on the recruitment and training of Eritrean nationals, and on development and utilization of Eritrean suppliers of goods and services;
- (g) examine and, if required, comment upon any reports submitted by the Contractor pursuant to Part VI of the Petroleum Regulations;
- (h) review on the Contractor's marketing of Petroleum pursuant to Section VIII hereof, and
- (i) advise on any other matter submitted to the Management Committee by any Party.

5.5.6

In the event the Ministry exercises its option to take a Participating Interest in any Field pursuant to Section VI hereof, the functions of the Management Committee with regard to such Field shall be assumed by the operating committee as defined in the Participation Agreement.

SECTION VI: GOVERNMENT PARTICIPATION

6.1 Government Participation

6.1.1 The Government may participate in the Petroleum Operations in any Field and acquire a Participating Interest not to exceed ____ (____%) therein.

The Government may acquire such interest either directly or through a specialized Government entity.

- 6.1.2 The Minister shall notify the Contractor in writing of the Government's decision to participate within one hundred twenty (120) Days after the date of adoption by the Minister of the development plan under Section 5.4.2 for the particular Field concerned. The notice shall specify the percentage interest to be acquired by the Government and the identity of the Government entity that will hold the interest if other than the Government itself.
- 6.1.3 If the Government elects to participate with respect to any particular Field:
- (a) the Government's participation shall be effective from the date of adoption of the development plan under Section 5.4.2.2 for the particular Field concerned;
 - (b) the Government or the Government entity, whichever is specified and the entities comprising the Contractor shall within two months, after the Government participation is effective, enter into a Participation Agreement which, except for the names of the Parties, percentages of interest and other variables shall be substantially identical with the Participation Agreement attached hereto as Annex D and this Participation Agreement shall not create or be considered as a partnership or any other similar entity;
 - (c) the Government shall, within thirty (30) Days after the end of the Calendar Quarter in which it elected to participate, reimburse the Contractor, without interest, for the Government's pro-rata share of expenditure incurred by the Contractor in conducting Petroleum Operations in the Field from the date of commencement of the Development and Production Period;
 - (d) the Person acting as Operator shall remain as Operator of the Field in accordance with the rights, authorities and obligations of the Operator under the Participation Agreement;
 - (e) the Government, as a Party under the Participation Agreement, shall in respect of the Field concerned:
 - (i) have the right to vote in proportion to its Participating Interest on all decisions made under a Participation Agreement which permit a vote by a Party;
 - (ii) separately take and dispose of its Participating Interest share of all Petroleum produced and saved;

- (iii) pay its proportionate part of the expenditures incurred in conducting Petroleum Operations in accordance with the Participation Agreement and Accounting Procedures attached hereto;
 - (iv) own a Participating Interest share in all Materials and equipment acquired for use under the Participation Agreement; and
 - (v) have the right in common with all other Parties to carry out sole risk operations in accordance with the provisions of the Participation Agreement; and
- (f) the Minister may, upon giving the Contractor reasonable written notice, require the Contractor to lend the Government up to hundred percent (100%) of the funds required to pay the Government's pro-rata share of expenditures. The loan shall bear interest _____ percent (____ %). The Government shall make repayments of the loan on a quarterly basis in an amount equal to _____ percent (____ %) of the difference between the gross revenue attributable to the Government's Participating Interest in the Field and the costs and expenses, including royalty but excluding income taxes, attributable to the Government's Participating Interest in the Field for Petroleum Operations. Repayments of the loan shall be applied first to accrued and unpaid interest and the balance shall be applied in reduction of the outstanding principal balance.

SECTION VII: COST RECOVERY AND PRODUCTION SHARING

7.1 Cost Recovery

- 7.1.1 The Contractor shall be entitled to recover its Petroleum Operations Costs from Petroleum produced within the Contract Area and that is not used in Petroleum Operations, to the extent permitted by the provisions of this Section 7.1.
- 7.1.2 The Contractor shall retain and dispose, in each Calendar Year, of that volume of Petroleum (hereinafter referred to as "Cost Oil") the value of which is equal to the recoverable Petroleum Operations Costs for that Calendar Year limited to an amount not exceeding the maximum share of production determined according to the following incremental scale:

Average daily production from the Contract Area	Maximum share of average daily production available for cost recovery
First 20,000 Barrels/Day	_____ %
Next 30,000 Barrels/Day	_____ %
Any volume over the first 50,000 Barrels/Day	_____ %

7.1.3 To the extent that the recoverable Petroleum Operations Costs for any Calendar Year exceed the value of the maximum amount of Petroleum available under Section 7.1.2 herein above, the excess shall be carried forward for recovery in the next succeeding Calendar Year or Calendar Years.

7.1.4 For the purpose of valuation of Cost Oil, the provisions of Section 12.1 shall apply.

7.2 **Production Sharing**

7.2.1 The balance of Petroleum remaining in any Calendar Year after deduction of the royalty payments under Section 11.2 and after recoverable Petroleum Operations Costs have been satisfied to the extent and in the manner aforesaid in Section 7.1 hereof, shall be referred to as "Profit Oil" and shall be shared, taken and disposed of between the Government and the Contractor as follows:

Increments of Profit Oil	Government's Share	Contractor's Share
First 20,000 Barrels/Day	_____ %	_____ %
Next 20,000 Barrels/Day	_____ %	_____ %
Next 30,000 Barrels/Day	_____ %	_____ %
Next 30,000 Barrels/Day	_____ %	_____ %
Any volume over the first 100,000 Barrels/Day	_____ %	_____ %

7.2.2 For the purposes of this Section, Cost Oil and Profit Oil calculations shall be done for each Calendar Quarter on a cumulative basis. To the extent that actual quantities, prices and expenses are not known on the date of said calculations, provisional estimates shall be made based on the annual development work program and budget

submitted to the Minister under Section 5.4.2. Within thirty (30) Days of the end of each Calendar Quarter, adjustments shall be made based on actual quantities, prices and expenses in relation to such Quarter.

Within sixty (60) Days of the end of each Calendar Year, a final calculation of Cost Oil and Profit Oil based on actual data pertaining to that Year shall be prepared and any necessary adjustments shall be made.

7.2.3 The Government may elect to take in kind all or any part of the total Government's share of Profit Oil under this Section 7.2 or direct the Contractor to lift and market all or any part of such Petroleum, all in accordance with the provisions of Section 8.2.

7.2.4 If the Government elects not to take and receive in kind all or part of the Government's share of Profit Oil, the Contractor shall make payment to the Government for the Government's share of Profit Oil not taken in kind within thirty (30) Days after the end of each month.

SECTION VIII: PRODUCTION RATE AND MARKETING

8.1 Production Rate

8.1.1 The Contractor shall produce Petroleum at the Maximum Economic Efficient Rate having consideration for generally accepted international petroleum industry practice and international standards for the conservation of Petroleum resources.

8.1.2 The Contractor shall endeavor to produce in each Calendar Year the quantity of Petroleum forecast in the quarterly report required by Article 19 of the Petroleum Regulations. The Crude Oil shall be run to storage facilities, maintained and operated by the Contractor in accordance with Government regulations, in which such Crude Oil shall be metered or otherwise measured for royalty and the other purposes required by the Petroleum Regulations and this Contract.

8.1.3 The Contractor shall submit Petroleum production reports on a regular basis in accordance with Article 16 of the Petroleum Regulations in a form to be designated by the Minister.

8.2 Marketing

8.2.1 The Contractor, if so directed by the Minister, shall be obligated to market all or any part of the Petroleum produced and saved from the Contract Area subject to the provisions of this Contract.

- 8.2.2 Subject to Section 10.1, with respect to domestic consumption, the Contractor shall be entitled to take and receive and freely export the Contractor's share of Petroleum produced under this Contract.
- 8.2.3 Title to Petroleum produced to which the Contractor is entitled under this Contract shall pass to the Contractor at the measurement point.
- 8.2.4 One hundred eighty (180) Days prior to the estimated date of commencement of Initial Regular Production from any Field, the Minister shall notify the Contractor in writing whether it elects to take in kind all or any part of the royalty production under Section 11.2 and/or the Government's production share as provided under Section VII.
- This election shall be effective until the Minister elects in writing to change its election with respect to taking in kind all or any part of the production attributed to royalty and/or the Government's production share as provided under Section VII, in which case the new election shall be effective one hundred eighty (180) Days after the date the Minister gives written notice of such election; provided, however, that such election shall not interfere with the proper performance of any sales agreement for Crude Oil produced within the Contract Area that the Contractor has executed prior to the notice of such election.
- Failure by the Minister to give timely notice of its original election shall be conclusively deemed to evidence the Minister's election not to take in kind all or any part of the royalty production and/or the Government's production share as provided under Section VII. Any sale by the Contractor of the production attributed to royalty or the Government's production share as provided under Section VII shall not be for a term of more than twelve (12) months without the written consent of the Minister.
- 8.2.5 The Minister shall take, at the agreed upon point of exportation or entry into a system for domestic consumption, regular delivery at reasonable intervals during the period of election to take Crude Oil in kind as provided in Section 8.2.4.
- At a reasonable time prior to the date of commencement of regular production from a Field, the Parties shall agree on procedures covering the scheduling, storage and lifting of produced Crude Oil from the agreed upon point of exportation or entry into a system for domestic consumption.
- 8.2.6 If the Minister elects not to take and receive in kind all or any part of the production attributed to royalty and/or the Government's production share as provided under Section VII, the Minister may direct the Contractor to market or itself buy such production, whichever the Contractor shall elect to do, and the price paid to the

Government for such production shall not be less than the value for that Petroleum determined in accordance with Section 12.1. In such event, the Contractor shall pay for the production attributed to royalty and the Government's production share as provided under Section VII in accordance with the provisions of Sections 7.2, 11.2 and 14.1.2.

SECTION IX: UNITIZATION

9.1 Unitization

- 9.1.1 If the provisions of Part VII (Unitization) of the Petroleum Regulations become applicable, the Minister and the Contractor shall agree upon the timetable and the modalities to enable the Minister to discharge his duties under those Articles.

SECTION X: DOMESTIC CONSUMPTION

10.1 Domestic Consumption

- 10.1.1 The Minister may require the Contractor, by written notice given one hundred eighty (180) Days in advance, to supply Crude Oil to the State to meet the State's domestic consumption needs. Such Crude Oil shall be supplied from the Crude Oil to which the Contractor is otherwise entitled under this Contract.
- 10.1.2 The maximum amount of Crude Oil that the Contractor shall be obligated to supply to the State to meet its domestic consumption needs under Section 10.1.1 shall be equal to the difference between:
- (a) the total domestic consumption needs multiplied by a fraction the numerator of which is the total Crude Oil production from the Contract Area and the denominator is the total Crude Oil production in the Territory of Eritrea; and
 - (b) the amount of Crude Oil from the Contract Area to which the Government is entitled under this Contract, including royalties in kind, Government participation production and the Government's production share as provided under Section VII.

Such determination shall be made on a quarterly basis.

- 10.1.3 If the Contractor supplies Crude Oil for domestic consumption, the price paid to the Contractor shall be calculated in accordance with Section 12.1 and paid in Dollars or any other currencies mutually agreed upon.

- 10.1.4 The Contractor may comply with Section 10.1.1, upon the written consent of the Minister, by importing Crude Oil and exporting the same amount, with adjustments to be made in price and volume to reflect transportation costs, differences in quality, gravity and the terms of the sale.

SECTION XI: RENTALS, ROYALTIES AND BONUSES

11.1 Annual Rentals

- 11.1.1 The Contractor shall pay to the Minister during the term of the Exploration Period, the following annual rentals for all unsurrendered parts of the Contract Area that have not been designated as a Field:

- (a) during the initial term of the Exploration Period _____ Dollars (\$) per square kilometer;
- (b) during the first extension to the Exploration Period _____ Dollars (\$) per square kilometer;
- (c) during the second extension to the Exploration Period _____ Dollars (\$) per square kilometer; and
- (d) during any other period or extension to the Exploration Period _____ Dollars (\$) per square kilometer.

- 11.1.2 The Contractor shall pay to the Minister during the term of the Development and Production Period an annual rental of _____ Dollars (\$) per square kilometer for each part of the Contract Area that is designated as a Field.

- 11.1.3 The first annual rental payment shall be made within thirty (30) Days after the Effective Date of this Contract. All subsequent annual rental payments shall be made within thirty (30) Days after the anniversary of the Effective Date and shall be calculated on the basis of the length of time during the year that any part of the Contract Area was held under the Exploration Period or the Development and Production Period. If, during any year, a change occurs with regard to the Contract Area that results in an increase or decrease in the annual rental payment due, the payment for the following year shall be adjusted to compensate for the difference.

11.2**Royalties****11.2.1**

The Contractor shall pay, within ten (10) Days after the end of each Calendar Quarter, to the Minister, a royalty at a rate depending on the total daily production in a Field of all Crude Oil and Natural Gas produced and saved and not used in Petroleum Operations, and determined according to the following incremental scale:

Average Crude Oil Production from a Field	Royalty
First 10,000 Barrels/Day	_____ %
Between 10,000 and including 20,000 Barrels/Day	_____ %
Greater than 20,000 Barrels/Day	_____ %

Average Natural Gas Production from a Field	Royalty
First 50 million cubic feet/Day	_____ %
Between 50 and including 100 million cubic feet/Day	_____ %
Greater than 100 million cubic feet/Day	_____ %

11.2.2

The Minister may elect to take all or any part of the royalty in kind from any Field in accordance with the provisions of Section 8.2 and, unless the Minister elects to take royalty in kind as provided in this Section, the royalty shall be paid pursuant to Section 14.1.2.

11.2.3

The royalty taken in cash shall be valued at the agreed upon point of exportation or entry into a system for domestic consumption, in accordance with the appropriate provisions of Section 12.1.

11.2.4

The title to the production attributed to royalty not taken in kind shall pass to the Contractor at the measurement point.

11.3 Production Bonuses

11.3.1 The Contractor shall pay to the Minister, the following sums when production of Crude Oil from the Contract Area attains the following levels for the specified periods of time:

- (a) _____ Dollars (\$____) after daily production averages _____ () Barrels or more per Day for a period of _____ () consecutive Days; and
- (b) _____ Dollars (\$____) after daily production averages _____ () Barrels or more per Day for a period of _____ () consecutive Days; and
- (c) In the event the above two (2) levels are attained within the same _____ () Day period the bonus payment shall be the aggregate of the bonuses due in (a) and (b) above.

11.3.2 The payments under Section 11.3.1 shall be made within _____ () Days after the last Day of the applicable _____ () Day period.

11.4 Signature Bonus

11.4.1 The Contractor shall pay to the Minister, within thirty (30) Days of the Effective Date, the sum of _____ Dollars (\$ _____) as a signature bonus.

SECTION XII: VALUATION AND MEASUREMENT

12.1 Valuation

12.1.1 The value of Crude Oil for all purposes shall be:

- (a) if the Crude Oil is sold by the Contractor to third parties in arm's length transactions, the net realized price (i.e., after deducting commissions and brokerages) for that sale, at the F.O.B. point of exportation, or the point of entry into a system for domestic consumption;
- (b) where Crude Oil is sold by the Contractor other than to third parties in arm's length transactions or is relevantly appropriated for domestic consumption, as provided herein, without being disposed of, that Crude Oil shall be valued at the following applicable price:
 - (i) the average per unit price for the Calendar Month of the tender date, net of commissions and brokerages, at the F.O.B. point of exportation paid in arm's

length transactions of sale of Crude Oil of a similar quality, grade and quantity as published in internationally accepted oil publications adjusted for quality, grade, quantity, transportation costs and any special circumstances at the most recent differential; and

- (ii) provided that commissions or brokerages incurred in connection with sales to third parties, if any, shall not exceed the customary and prevailing rate.
- (c) If the Minister and the Contractor cannot reach agreement on the value of Crude Oil within thirty (30) Days, such determination shall be made by a binding expert determination as provided in Section 16.2.1.

Pending the determination of the value of Crude Oil for a given period, the value of Crude Oil determined for the preceding Calendar Quarter will be provisionally applied to make calculation and payment until the applicable value for that period is finally determined. Any adjustment to provisional calculation and payment, if necessary, will be made within thirty (30) Days after such applicable value is finally determined.

12.1.2

The value of Natural Gas for all purposes shall be:

- (a) where Natural Gas is sold by the Contractor to third parties in arm's-length transactions, the net realized price obtained for such Natural Gas at the point where title and risk pass to the buyer; and
- (b) where Natural Gas is sold by the Contractor other than to third parties in arm's length transactions or is sold to the Government, that Natural Gas shall be valued at a price and in a currency to be determined by agreement between the Minister and the Contractor.

12.1.3

For the purposes of this Section 12.1:

- (a) "relevantly appropriated" means appropriated as Domestic Consumption pursuant to Section X; and
- (b) a sale of Petroleum is a sale at "arm's length" if the following conditions are satisfied:
 - (i) the price is the sole consideration for the sale;

- (ii) the terms of the sale are not affected by any commercial relationship, other than that created by the contract of sale itself, between the seller or an Affiliate and the buyer or an Affiliate; and
- (iii) the seller or an Affiliate does not have, directly or indirectly, an interest in the subsequent resale or disposal of the Petroleum or any product derived therefrom.

12.2 Measurement

- 12.2.1 The Contractor and the Minister shall determine the point at which production shall be measured in accordance with the provisions of Article 14 of the Petroleum Regulations.

SECTION XIII: NATURAL GAS

13.1 Non-associated Natural Gas

- 13.1.1 If Non-associated Natural Gas is discovered, the Contractor and the Minister shall engage in good faith discussions to determine whether the Natural Gas Discovery should be appraised with a view to its eventual development and production. Such discussions shall take into consideration, among other things, the following factors:

- (a) priority uses for Natural Gas will be (i) its use in Petroleum Operations, (ii) its utilization in Eritrea, and (iii) its sale for export projects, depending on the existence or potential of the respective markets;
- (b) the quality, minimum quantities and costs of facilities required to produce, develop, transport and market the Natural Gas;
- (c) the pricing of the Natural Gas for domestic utilization at levels that will ensure the economic viability of the project and the economic utilization of the Natural Gas for each particular use, including reference to the value of the energy it may displace; and
- (d) the willingness of the Government to enter into long-term sales arrangements with adequate safeguards for and from the Contractor in order to promote and develop the use of indigenous resources of Natural Gas in Eritrea, as well as to develop, on a timely basis, the necessary downstream components of the project.

13.1.2 If the Contractor, after discussions with the Minister under Section 13.1.1, considers that the Non-associated Natural Gas Discovery merits appraisal, the Contractor shall proceed with the appraisal program as stipulated under Section 5.3 and, if necessary, the provisions of Section 2.2.5 shall apply.

13.1.3 If the Contractor and the Minister agree, after discussions under Section 13.1.1 and the completion of the appraisal program, that the Non-associated Natural Gas discovery constitutes a Commercial Discovery, the Contractor shall proceed with its development and production through submission of a development plan in accordance with the provisions of Section 5.4. The Contractor and the Minister shall enter into good faith negotiations for detailed separate agreements to govern the development, processing, utilization and disposition or sale of the Natural Gas concerned.

For the purpose of expediting the execution of a domestic Gas development project, a Gas development advisory committee shall be established with representatives of the Minister and the Contractor to co-ordinate all upstream and downstream components of the project and facilitate its evaluation and implementation.

Unless otherwise agreed, the adoption of the relevant development plan under Section 5.4 shall be made only once all agreements for the disposition or sale of the Natural Gas concerned have been concluded.

To the maximum extent possible, the Contractor shall involve representatives of the Government in the preparation of the development plan specified above.

13.1.4 If the Contractor elects not to develop a Non-associated Natural Gas Discovery which has been appraised and found to be of potential commercial interest in accordance with the provisions of Section 13.1.3, the Government shall have the right to proceed with the development and production of the Discovery at its sole risk, cost and expense. In such a case the Government shall reimburse the Contractor the certified costs and expenses directly attributable to the appraisal of such Discovery provided, however, that:

- (a) the Contractor surrenders all its rights under this Contract in respect of the area corresponding to the Non-associated Natural Gas Discovery;
- (b) the appraisal program was approved in writing by the Minister;
- (c) the Contractor and the Government agree, with the assistance of specialized third parties, if and when necessary, that sufficient economically recoverable gas reserves have been

proved to support the demand for and the economic viability of a pre-identified domestic Natural Gas project for a period of at least twenty five (25) years under the pricing principles specified under Section 13.1 and taking into account the reimbursement included herein; and

- (d) such reimbursement to the Contractor shall be made within ____ () years, without interest, in equal quarterly installments starting six (6) months after the date of adoption by the Minister of the development plan for the particular Natural Gas Discovery concerned. The Government may elect to make reimbursements either in cash or in Crude Oil valued pursuant to the provisions of Section 12.1.

13.1.5

If the Contractor decides, after discussions under Section 13.1.1 and the completion of the appraisal program, that the Non-associated Natural Gas Discovery is not a Commercial Discovery, the Government shall have the right to proceed with further appraisal and development of reservoirs corresponding to the Natural Gas Discovery at its sole risk, cost and expense. The Government may develop, produce, take, process and utilize or sell the Non-associated Natural Gas without compensation to the Contractor provided, however, that:

- (a) the Government shall bear all costs for any new fixtures and installations required for development, production, transportation, processing and utilization thereof;
- (b) the production of Natural Gas shall not materially interfere with other Petroleum Operations; and
- (c) the rights of the Contractor under this Contract in respect of reservoirs other than the identified Non-associated Natural Gas reservoirs shall remain unaffected.

13.1.6

If, after good faith discussions with the Minister under Section 13.1.1, the Contractor decides that there is no merit in appraising the Non-associated Natural Gas Discovery, the Contractor shall, within a period of six (6) months, submit to the Minister, a report justifying its decision on the basis of at least the following factors:

- (a) evaluation of possible reserves taking into account test results of the Discovery Well and any other relevant information;
- (b) market alternatives considered for the Non-associated Natural Gas;
- (c) investment and cost estimates; and

(d) economic reserves under different price assumptions.

If the Contractor fails to comply with these requirements within a period of one (1) year after the date of the Discovery, the Minister may at his discretion terminate the rights of the Contractor in respect of the area, corresponding to the Non-associated Natural Gas Discovery.

13.1.7 Where the Contractor decides after discussions under Section 13.1.1 and completion of the appraisal program, that the Non-associated Natural Gas Discovery is not a Commercial Discovery, the Contractor shall inform the Minister of its decision and where the latter agrees with said decision, the provisions of Section 13.1.5 above shall apply. If, however, the Minister disagrees with the decision of the Contractor the Minister may refer the question for resolution by an expert determination as provided in Section 16.2.1.

13.2 Associated Natural Gas

13.2.1 Associated Natural Gas, not required for use in Petroleum Operations and the development, production, processing and utilization or sale of which the Contractor concludes is not economical, shall be returned to the subsurface structure. The Contractor shall, nonetheless, have the right to flare such Natural Gas in accordance with generally accepted international petroleum industry practice, provided the Contractor demonstrates that the flaring is required for technical and economic reasons and the Minister approves it.

If the Contractor determines to flare such Natural Gas, the Government shall have the right to take such gas at no cost except to compensate the Contractor for the additional costs to deliver the Natural Gas to the Government.

13.2.2 If the Contractor and the Minister agree that the Associated Natural Gas that is not required for Petroleum Operations may be economically processed and utilized or sold other than in gas recycling, reservoir pressure maintenance, gas lift or secondary recovery operations, the Contractor and the Minister shall enter into good faith negotiations for a separate agreement to govern the processing, utilization and disposition or sale of the Natural Gas concerned.

13.3 Other Provisions

13.3.1 The development and production of Natural Gas, whether associated or non-associated, shall be subject to this Contract and the Accounting Procedure attached hereto as Annex C as well as any

special agreement entered into between the Minister and the Contractor pursuant to the provisions of Sections 13.1 and 13.2.

However, the Minister and the Contractor may engage in good faith negotiations to modify the provisions of Section VII on cost recovery and production sharing in respect of Natural Gas, if the Minister determines that special circumstances relating to Natural Gas development and production which warrant such modification exist.

13.3.2 Except as otherwise agreed, the provisions of this Contract shall apply *mutatis mutandis* to the production of Natural Gas, it being agreed and understood that six thousand (6,000) cubic feet of Natural Gas at a temperature of fifteen point fifty six degrees Celsius (15.56°C) and standard atmospheric pressure of 1.01325 bar shall be deemed to be equivalent to one (1) Barrel of Crude Oil. Natural Gas liquids shall be treated as Crude Oil.

In the event that a Non-associated Natural Gas Discovery is produced, the Petroleum Operations Costs incurred by the Contractor and directly attributable to the Discovery shall be only recovered in accordance with Section VII from part of the production from that Discovery, unless an agreement made pursuant to this Section otherwise provides.

13.3.3 The value of Natural Gas for all purposes shall be determined in accordance with the provisions of Section 12.1.

SECTION XIV: FINANCIAL AND FISCAL MATTERS AND ACCOUNTING

14.1 Finances

14.1.1 The Contractor shall provide all funds necessary to conduct Petroleum Operations, shall bear the sole financial risk in carrying out such Petroleum Operations and shall, therefore, have an economic interest in the development and production of Petroleum from the Contract Area, except as otherwise provided in this Contract.

14.1.2 (a) All payments under this Contract by the Contractor to the Government shall be made in Dollars at a bank to be designated by the Minister or, at the Contractor's election, such other currency as is acceptable to the Minister.

(b) All payments under this Contract by the Government to the Contractor shall be in Dollars at a bank to be designated by the Contractor or, at the Government's election, such other currency as is acceptable to the Contractor.

- (c) Except as otherwise expressly provided herein or stipulated in any applicable legislation, all payments required to be made pursuant to this Contract shall be made within thirty (30) Days following the end of the Calendar Month in which the obligation to make such payment occurs. After that point in time any delayed payments shall bear interest at _____ percent (___%) per year.

14.1.3 Charges for services requested by the Contractor and actually rendered by the Government or its administrative or political subdivisions shall be made at the generally applicable rates for such services.

14.2 Taxation

14.2.1 The Contractor and the Subcontractors shall be subject to, and comply with, all income tax laws and regulations of Eritrea. The Contractor shall be answerable for the payment of tax obligations of its foreign Subcontractors in accordance with the Petroleum Tax Proclamation.

Unless otherwise agreed by the Parties, the provisions of Section 14.1.2(a) shall apply to income tax payments.

14.2.2 The salaries and other benefits in cash or in kind of expatriate employees of the Contractor and the Subcontractors derived from activities attendant to performance under this Contract shall be subject to the Petroleum Proclamation.

14.3 Foreign Exchange Control

14.3.1 The Contractor shall comply with the procedures and formalities required by legislation and regulations relating to foreign exchange in force from time to time in Eritrea, provided, however, that the Contractor shall have the right to:

- (a) open and keep one or more transferable or non-transferable local currency accounts with the Commercial Bank of Eritrea. Such local currency accounts shall be credited with:
 - (i) the proceeds of the conversion into local currency pursuant to paragraph (c) below of funds deposited in the external accounts referred to in paragraph (b) below; and
 - (ii) amounts received in local currency, subject to approval of the Bank of Eritrea as to the source of origin;

- (b) open and keep foreign currency account with the Commercial Bank of Eritrea and freely dispose of the sums deposited therein. Such account shall be credited only with sums deposited in convertible currencies;
- (c) convert to local currency the foreign convertible currencies acceptable to Eritrean banks at rates of exchange quoted by commercial banks operating in Eritrea. Such rates shall not be less favorable to the Contractor than the effective rate applicable for similar transactions undertaken by any private or State enterprise on the date of the transaction;
- (d) open and freely maintain foreign bank accounts outside Eritrea. Said bank accounts may be credited with funds from any source, except that such accounts shall not be credited with the proceeds of the sale of local currency without the prior approval of the Bank of Eritrea. Except for funds needed by the Contractor to discharge its obligations in Eritrea under this Contract, the Contractor shall have the right to retain, abroad, all proceeds and payments under this Contract, received in said bank accounts, including but not limited to the proceeds of sales of Petroleum hereunder, and to dispose freely of the same without any obligation to repatriate the same or any part thereof to Eritrea;
- (e) pay directly foreign Subcontractors outside Eritrea for purchases of goods and services necessary to carry out Petroleum Operations hereunder;
- (f) freely repatriate abroad all proceeds from Contractor's Petroleum Operations within Eritrea; and
- (g) pay directly outside of Eritrea from its offices abroad for purchases or services for Petroleum Operations hereunder, provided, however, that no such payments shall be made to Eritrean citizens (whether natural or juridical) or to firms using Eritrea as their main base of operations contrary to the laws of Eritrea.

The foreign Subcontractors of the Contractor shall have the same rights and obligations specified above as the Contractor.

14.3.2

Any foreign Subcontractor of the Contractor or of any of its Subcontractors shall be entitled to receive, outside Eritrea, the whole or any part of their compensation provided, however, that such foreign Subcontractor shall be required to bring into Eritrea such freely convertible currencies to meet payments of Eritrean taxes and other expenses.

All expatriate personnel of the Contractor, or of any of its Subcontractors, shall be entitled to receive, outside Eritrea, the whole or any part of their remuneration, provided that they shall be required to bring into Eritrea such freely convertible currencies to meet their living and other expenses.

- 14.3.3 The payment of principal, interest and/or costs due on funds and loans in foreign currency shall not be made out of funds deposited in the accounts opened and kept under Section 14.3.1(a) above.
- 14.3.4 The Contractor and the Subcontractors shall each be required, within thirty (30) Days after the end of each Calendar Quarter to submit to the Bank of Eritrea with a copy to the Minister, a summary of all currency received, imported, remitted and maintained abroad pursuant to Section 14.3.1 during the relevant Quarter. Such summary shall be in the form required by the Bank of Eritrea.
- 14.3.5 Except as otherwise provided herein, expatriate employees of the Contractor and the Subcontractors shall comply with the applicable foreign exchange legislation and regulations.
- 14.4 Accounting**
- 14.4.1 The Contractor shall keep complete financial accounts and records in accordance with the Accounting Procedure Annex C hereto.
- 14.4.2 The Minister shall have the right to audit the Contractor's books, in the manner provided for in the Accounting Procedure Annex C hereto.

SECTION XV: IMPORTS AND EXPORTS

15.1 Imports

- 15.1.1 Subject to the local purchase obligations of Section 3.5 and pursuant to Article 21 of the Petroleum Proclamation, the Contractor and each Subcontractor shall be entitled to import, into Eritrea, any and all drilling, geological, geophysical, production, treating, processing, transportation and other machinery and equipment necessary for Petroleum Operations, including aircraft, vessels, vehicles and other transportation equipment and parts therefor (other than sedan cars and fuel therefor), fuels, chemicals, lubricants, films, seismic tapes, house trailers, office trailers, disassembled prefabricated structures, communication equipment, office equipment, furniture, appliances, and Materials; and household equipment, furnishings, appliances, and Materials; and other Materials necessary for Petroleum Operations free of import taxes, charges, duties, levies and imposts of any kind,

provided, however, that this shall not relieve the Contractor and the Subcontractor from paying generally applicable charges to the Government for services requested and actually rendered by any appropriate Government agency.

15.1.2 Except as specified in this Contract and the Petroleum Proclamation, all other imports by the Contractor, each Subcontractor and their employees shall be subject to all generally applicable import duties and taxes of Eritrea.

15.1.3 Any expatriate employee of the Contractor and Subcontractors may, in accordance with prevailing regulations, import household goods and personal effects including one (1) sedan car per employee within six (6) months of his arrival, free of import taxes, charges, duties, levies and imposts of any kind, provided, however, that such properties are imported for the sole use of the employee and his family.

15.1.4 The exemption provided under this Section XV shall not apply to any imported items of the same, or substantially the same kind and quality manufactured locally and are available for purchase and timely delivery at the Contractor's operating base in Eritrea, at a price competitive to the cost of the imported item.

15.1.5 The Government reserves the right to inspect the records, documentation or physical item or items for which an exemption is or has been provided under Section 15.1.4 to determine that such item or items are being or have been imported solely for the purpose for which the exemption was granted.

15.2 Exports

15.2.1 All items imported under Section 15.1 and taken out from Eritrea shall be exempted from export duties and other taxes and duties levied on exports, provided, however, that if these items are disposed of within Eritrea, the Contractor, Subcontractors and expatriate employees, as the case may be, shall pay customs duties and taxes in accordance with the applicable laws.

15.2.2 The Contractor may export from Eritrea exempt of all export duties and other taxes levied on exports, the Petroleum produced from the Contract Area to which the Contractor is entitled in accordance with the provisions of this Contract.

15.2.3 Notwithstanding any other provision of this Contract, the Contractor shall not make shipments of Petroleum produced from Petroleum Operations in Eritrea to or through countries whose export destinations are proscribed by the State.

SECTION XVI: GOVERNING LAW AND DISPUTES

16.1 Governing Law

16.1.1 Without prejudice to Section 16.2 below, this Contract shall be construed under, governed by and interpreted in accordance with the laws of the State of Eritrea as of the Effective Date; provided that the State's sovereign right to legislate as it sees fit is no way restricted by this provision.

16.1.2 The Contractor undertakes to abide by all the laws and regulations in force in Eritrea.

16.1.3 In the event after the Effective Date of this Contract the economic benefits to be derived by a Party from the Petroleum Operations under this Contract are substantially affected by the promulgation of new laws and/or regulations of Eritrea and if the affected Party so requests, the Parties shall agree to make the necessary adjustments to the relevant provisions of this Contract, in order to ensure that the affected Party is restored to the same economic condition it would have been in if such change in the applicable laws had not taken place.

16.2 Resolution of Disputes

16.2.1 The Parties agree that in the event a dispute arises between them on the matters addressed in Sections 5.1.6, 5.3.3, 5.4.2.3, 12.1.1 and 13.1.7 of this Contract, the issues in dispute shall be submitted for international expert determination in accordance with the Rules of Technical Expertise of the International Chamber of Commerce.

16.2.2 Except as otherwise provided in this Contract, if, during the term of this Contract or thereafter, any difference or dispute arises with respect to the construction, meaning or effect of this Contract or arising out of or related or in connection with this Contract or concerning the rights and obligations hereunder, which difference or dispute cannot be mutually resolved by the Parties within ninety (90) Days, either Party shall have the right to submit the difference or dispute to a formal settlement process under this Section 16.2.2.

16.2.2.1 The difference or dispute referred to under Section 16.2.2 shall be finally settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law as at present in force.

16.2.2.2 This arbitration, including the rendering of the award, shall take place in Asmara, Eritrea, and shall be in English. The decision of the majority of the arbitrators shall be final and binding upon the Parties.

Any decision of the arbitrators may be presented for enforcement before any court having local and material jurisdiction.

16.2.2.3

The number of arbitrators shall be three (3) and they shall be appointed as follows:

- (a) each Party shall appoint one (1) arbitrator and notify the other Party of such appointment and those two (2) arbitrators shall appoint the third arbitrator. The third arbitrator shall be fluent in English, of a nationality different from that of either of the Parties, and shall serve as the President of the Arbitration Tribunal;
- (b) if any of the arbitrators shall not have been appointed within thirty (30) Days after receipt of written request to do so, either Party may request, in writing, _____ of _____ to appoint the arbitrator or arbitrators not yet appointed and to designate an arbitrator to be the _____ of the Arbitration Tribunal. The _____ shall forthwith send a copy of that request to the other Party.

The _____ shall comply with the request within thirty (30) Days from the receipt thereof or such longer period as the Parties may agree.

The _____ shall promptly notify the Parties of any appointment or designation made by him pursuant to the aforesaid request. The experts' fees and expenses, and the costs associated with an appointment, if any, made by the _____ of _____, shall be borne equally by the Government and the Contractor; and

- (c) if the arbitrator fails or is unable to act, his successor shall be appointed in the same manner as the arbitrator whom he succeeds.

16.3

Force Majeure

16.3.1

Lack of compliance by any of the Parties with any obligation or condition stipulated in this Contract shall, except for the payment of monies due, shall be excused during the time and to the extent that the said non-compliance is caused by Force Majeure.

An event shall be considered Force Majeure if it meets the following conditions:

- 16.3.1.1 It has the effect of temporarily or permanently preventing either of the Parties from carrying out its obligations under the Contract; and

16.3.1.2 It is:

- either enforceable and beyond the control of the Party which declares Force Majeure and is not the result of its negligence or omission; or
- unavoidable and beyond the control of the Party which declares Force Majeure and is not the result of its negligence or omission.

A Force Majeure occurrence includes, without limitation, riots, strikes, wars (declared or undeclared), insurrections, rebellions, terrorist acts, civil disturbances, orders of any Governmental authority, whether such authority be actual or assumed, natural phenomena or calamities or "acts of God"; provided, however, that the inability to obtain equipment, supplies, or fuel shall not be a cause of Force Majeure.

Failure to effect payment of any sums due shall never be exonerated by the defense of Force Majeure.

16.3.2

If either Party cannot comply with any obligation or condition herein stipulated because of Force Majeure it shall notify the other Party in writing as promptly as possible (in any case not later than fourteen (14) Days after the event) giving the reason for its non-compliance, particulars of the Force Majeure and the obligation or condition affected. The Party affected by the Force Majeure shall keep the other Party informed from time to time of the evolution of the Force Majeure occurrence and shall promptly notify the other as soon as the Force Majeure has been removed and no longer prevents it from complying with its obligation or condition and shall thereafter resume compliance with such obligation or condition as soon as possible.

16.3.3

Any period during which compliance with any contractual obligation or condition is rendered impossible because of Force Majeure shall be added to the period laid down in this Contract for compliance with such obligation or condition.

16.3.4

The Party which has given the notice of Force Majeure shall do all that is reasonably within its power to remove such cause, and shall keep the other Party informed of its efforts in that direction, except that no Party shall be required to settle any labor dispute against its best judgment.

16.3.5

Where a Force Majeure situation continues for more than ninety (90) Days the Parties shall meet to review the situation and its implications for Petroleum Operations and to discuss the appropriate course of action in the circumstances.

SECTION XVII: GENERAL

17.1 Confidentiality

17.1.1 Subject to the provisions of Article 24 of the Petroleum Regulations, all information and data made available or obtained under this Contract shall be and remain confidential among the Parties during the term of this Contract and for two years thereafter, and a Party shall not, during such period, without prior written consent of all Parties which consent shall not be unreasonably withheld, disclose such information and data to any entity which is not a Party to this Contract except that a Party may disclose, without having obtained prior written consent, such information and data, but only insofar as is reasonably required to:

- (a) Affiliates;
- (b) a Government agency of competent jurisdiction;
- (c) an established stock exchange;
- (d) a lending institution in connection with a loan to the disclosing Party;
- (e) a contractor of a Party in connection with technical studies pertaining to reserves underlying the Contract Area or a portion thereof;
- (f) an entity which is engaged with a Party in good faith negotiations for the acquisition of all or a part of the Participating Interest of such Party; and
- (g) legal counsel, accountants, other professional consultants, underwriters, lenders, and agents.

In each case, the Party shall obtain a written commitment from the Party to whom the disclosure is made guaranteeing that such information and data will be held in strict confidence. This requirement is waived in the case of a stock exchange as in (c) above:

17.1.2 Notwithstanding the provisions of Section 17.1.1, the Minister may use any information supplied, for the purpose of preparing and publishing any reports and returns required by law, and for the purpose of preparing and publishing reports and surveys of a general nature.

17.1.3 The Minister may publish any information of a geological, scientific or technical nature which relates to a surrendered area at any time after the surrender and in any other case, three (3) years after the information was received unless the Minister determines, after representations by the Contractor, that a longer period shall apply.

17.2 **Waiver**

17.2.1 Performance of any condition or obligation to be performed hereunder shall not be deemed to have been waived or postponed except by an instrument in writing signed by the Party which is claimed to have granted such waiver or postponement.

No waiver by any Party of any one or more obligations or defaults by any other Party in the performance of this Contract shall operate or be construed as a waiver of any other obligations or defaults whether of a like or of a different character.

17.3 **Notices**

17.3.1 Any and all notices, requests, demands and other communications required or permitted to be made or given under this Contract shall be in writing and shall be deemed to have been duly made or given if delivered by hand to an authorized representative of the Party for whom intended, registered mail, cable, telex, or facsimile as follows:

(a) If to the Ministry: Minister of Energy and Mines
Government of the State of Eritrea
Facsimile 291-1-127652
P.O. Box 5285, Asmara, Eritrea

(b) If to the Contractor : _____

Facsimile: _____

P. O. Box _____

Either Party may designate, in writing, in conformance with the above, another address at which it should receive all future notices, requests, demands and other communications required or permitted to be made or given under this Contract.

17.3.2 All notices, requests, demands and other communications required or permitted to be made or given under this Contract shall be in English. All reports, agreements or other documents produced by the Contractor in connection with this Contract shall be in English.

17.3.3 A notice shall be effective upon receipt.

17.4 Headings and Amendments

17.4.1 Headings are inserted in this Contract for convenience only and shall not affect the construction or interpretation hereof.

17.4.2 This Contract shall not be amended, modified or supplemented except by an instrument in writing signed by the Parties.

SIGNED on the day and year first above written.

For the STATE of ERITREA For _____ Petroleum Company

By: _____ By: _____

The Minister of Energy and Mines Title: _____

ANNEX A: COORDINATES OF THE CONTRACT AREA

ANNEX B: MAP OF THE CONTRACT AREA

ANNEX C: ACCOUNTING PROCEDURE

PARAGRAPH C. 1: GENERAL PROVISIONS

C.1.1 Purpose

C.1.1.1 To classify expenditures, define Allowable Petroleum Operations Expenditures, and prescribe the manner in which the Contractor's accounts shall be prepared and approved. This Accounting Procedure is without prejudice as to whether the Contractor may deduct the said amounts in computing its net income from Petroleum Operations for purposes of the Petroleum Tax Proclamation.

The Allowable Petroleum Operations Expenditures shall reflect the actual costs, direct and indirect, of carrying out the Petroleum Operations. There shall never be any profit element in any of the Allowable Petroleum Operations Expenditures. Consequently, the Accounting Procedure shall never, regardless of any specific wording, be construed in such a way that any element of profit is incorporated in the Allowable Petroleum Operations Expenditures. Insofar as its contractual relationships with the Government are concerned all profit elements for the Contractor may be derived solely from Petroleum Operations under this Contract.

Accounts and records are required for several purposes, including, but not limited to:

- (a) reporting to the Minister expenditures and receipts;
- (b) reporting actual expenditures to the Minister for comparison with minimum exploration obligations;
- (c) calculating royalties;
- (d) calculating cost recovery and production sharing as set forth in the relevant Sections of the Contract;
- (e) calculating income taxes;
- (f) preparation of the annual balance sheet and profit and loss account; and
- (g) any other requirements under the Contract.

C.1.1.2 The Contractor may act as agent for the Government or for any other party in a number of matters. In such cases, the Minister shall

separately determine, as appropriate, in consultation with the Contractor, the requisite Accounting Procedures. Such cases may include, but not be limited to, sales of Petroleum on behalf of the Government.

C.1.2 **Definitions**

For purposes of this Accounting Procedure the terms used herein which are defined in the Contract shall have the same meaning when used in this Accounting Procedure.

"The Contract" means the Contract for Petroleum Exploration, Development and Production in Blocks _____ by and _____ between the Government of Eritrea and _____ Company dated, _____, of which this Accounting Procedure forms a part.

"Material" means personal property (including, but not limited to, equipment and supplies) acquired and held for use in Petroleum Operations.

"Parent Company" means _____ and its successors and assignees.

C.1.3 **Inconsistency**

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

C.1.4 **Accounting Records and Reports**

C.1.4.1 During the term of the Contract, the Contractor shall maintain in Asmara or such other location in Eritrea designated by the Contractor, complete accounts, books and records of all revenues, costs and expenses related to Petroleum Operations hereunder in accordance with generally accepted Accounting Procedures and standards in the international petroleum industry and in accordance with the charts of accounts agreed under paragraph C.1.4.2 below.

C.1.4.2 Within sixty (60) Days of the Effective Date of the Contract, the Contractor shall submit to and discuss with the Minister a proposed outline of charts of accounts, books, records and reports, which outline shall be in accordance with generally accepted accounting practices used in the international petroleum industry for production sharing contract

or joint venture operations, as the case may be. Within ninety (90) Days of receiving the above submission, the Minister shall either provide written notification of its approval of the proposal or request in writing revisions to the proposal. Within one hundred and eighty (180) Days after the Effective Date of the Contract, the Contractor and the Minister shall agree on the outline of charts of accounts, books, and records and reports which shall describe the basis of the accounting system and procedures to be developed and used hereunder. Following such agreement, the Contractor shall expeditiously prepare and provide the Minister with formal copies of the comprehensive charts of accounts and manuals related to the accounting, recording and reporting functions, and procedures which are, and shall be, observed under the Contract.

C.1.4.3

Notwithstanding the generality of the foregoing, the Contractor shall submit regular statements relating to the Petroleum Operations as follows:

- (a) Production Statement (see paragraph C.6 of this Accounting Procedure).
- (b) Value of Production and Pricing Statement (see paragraph C.7 of this Accounting Procedure).
- (c) Profit Share Account Statement (see paragraph C.8 of this Accounting Procedure).
- (d) Statement of Expenditures and Receipts (see paragraph C.9 of this Accounting Procedure).
- (e) Final End-of-Year Statement (see paragraph C.10 of this Accounting Procedure).
- (f) Budget Statement (see paragraph C.11 of this Accounting Procedure).

C.1.4.4

All reports and statements shall be prepared in accordance with the Contract, the laws of Eritrea, and where there are no relevant provisions of either of these, in accordance with generally accepted practices in the international petroleum industry.

C.1.5 Language and Units of Account

Unless otherwise agreed, all accounts, records, books and reports shall be maintained and prepared in the English language and shall be recorded in Dollars. Where necessary for clarification, the Contractor may also maintain accounts and records in other languages and currencies.

C.1.6 Audit and Inspection Rights of the Government

C.1.6.1 The Contractor shall appoint an auditor, approved by the Minister, to audit, annually, the accounts and records, including production records of the Petroleum Operations and report thereon. The cost of such audit shall be borne by the Contractor.

C.1.6.2 The Minister, upon at least fifteen (15) Days advance written notice to the Contractor, shall have the right to inspect and audit, during normal business hours, all records and documents supporting costs and expenses such as the Contractor's accounts, books, records, invoices, cash vouchers, debit notes, price lists or similar documentation with respect to the Petroleum Operations hereunder.

C.1.6.3 All audits in respect of the Exploration Period shall be conducted in Asmara or other designated location in Eritrea.

C.1.6.4 There shall be one audit in respect of the initial term of the Exploration Period and one audit in respect of each extension of the Exploration Period. Such audits shall be commenced within six (6) months of the end of the relevant period.

C.1.6.5 Following the end of the Exploration Period, Government audits shall be conducted annually. Such audits shall commence within a period of two (2) years following completion of the year under audit.

C.1.6.6 The costs of any audits conducted for the Government within Eritrea shall be borne by the Contractor as a Petroleum Operations Expenditure.

C.1.6.7 Any audit exceptions shall be made in writing and notified to the Contractor within one hundred and eighty (180) Days, following completion of audit in question (which audit shall be recorded in an

exchange of letters between the Contractor and the Minister), and failure to give such written exception within such time shall be deemed to be an acknowledgment of the correctness of the Contractor's books and accounts.

C.1.6.8 For purposes of auditing, the Government may examine and verify all charges and credits relating to the Petroleum Operations, such as books of account, accounting entries, material records and inventories, vouchers, payrolls, invoices and any other documents, correspondence and records considered necessary by the Government to audit and verify the charges and credits. Furthermore, the auditors shall have the right in connection with such audit, to visit and inspect at reasonable times, all sites, plants, facilities, warehouses and offices of the Contractor directly or indirectly serving the Petroleum Operations and to question personnel associated with those Operations. Where the Government requires verification of charges made by an Affiliate of the Contractor, the Government shall have the right to obtain an audit certificate from an internationally recognized firm of public accountants acceptable to both the Minister and the Contractor, which firm may be the Contractor's statutory auditor. The costs of such audits shall be charged to Petroleum Operations Costs.

C.1.6.9 The Contractor shall respond to any notice of exception under paragraph C.1.6.7 within ninety (90) Days of the receipt of such notice. Where the Contractor has, after the said ninety (90) Days, failed to respond to a notice of exception, the exception shall prevail.

C.1.6.10 All agreed adjustments resulting from an audit and all adjustments required by prevailing exceptions shall be promptly made in the Contractor's accounts and any consequential adjustments to payments due to the Government shall be made promptly.

C.1.6.11 If the Contractor and the Minister are unable to reach final agreement on proposed audit adjustments they may, by mutual agreement, refer their dispute for a binding expert determination in accordance with the provisions of Section 16.2.1 of the Contract. When issues are outstanding with respect to an audit, the

Contractor shall maintain the relevant documents and permit inspection thereof until the issue is resolved.

C.1.7 Payments

C.1.7.1 All payments between the Parties shall, unless otherwise agreed, be in Dollars and be made through a bank designated by each receiving Party.

C.1.7.2 All sums due by one Party to the other under the Contract during any month shall, for each Day such sums are overdue during such month, bear interest compounded daily at the LIBOR rate plus _____ percent (___%).

C.1.8 Arm's-Length Transactions

Unless otherwise specifically provided for in the Contract, all transactions giving rise to revenues, costs or expenses which shall be credited or charged to the books, accounts, records and reports prepared, maintained or submitted hereunder shall be conducted at arm's length or on such a basis as will assure that all such revenues, costs or expenses will not be higher or lower, as the case may be, than would result from a transaction conducted at arm's length on a competitive basis with third parties.

C.1.9 Currency Exchange Rates

The book-keeping exchange rate shall be established monthly, based on the arithmetic average of the closing buy and sell rates for the Dollar against the Eritrean currency unit for the last working Day of the preceding month, as published by the Bank of Eritrea.

The book-keeping exchange rate of the last working Day of each Calendar Month shall be used for exchange transactions and for the purpose of determining the counter value of Dollars in the Eritrean currency unit for the next succeeding month and for subsequent months, until changed in accordance with the following provisions. The book-keeping exchange rate shall be changed when the arithmetic average of the closing buy and sell rates for any subsequent Calendar Month varies from the currently applicable book-keeping exchange rate by more than one percent (1%) higher or lower.

The book-keeping exchange rate for all expenditures or credits received which are denominated in a currency other than Dollars or the Eritrean currency unit shall be the rate established using

Contractor's standard translation policy. This rate will be used in all applicable reports, accounts and accounting statements.

All exchange gains or losses will be charged to Petroleum Operations Costs.

C.1.10 Revision of the Accounting Procedure

By mutual agreement between the Government and the Contractor this Accounting Procedure may be revised from time to time by a document in writing signed by the Parties.

C.1.11 Accrual Basis

All books and accounts shall be prepared on an accrual basis. Revenues shall be attributed to the accounting period in which they are earned, and costs and expenses to the accounting period in which they are incurred, without the need to distinguish whether cash is recovered or disbursed in connection with a particular transaction. Costs and expenses shall be deemed to have been incurred, in the case of physical items, in the accounting period when title thereto passes to the Contractor, and in the case of services, in the accounting period when such services are performed. All Government reporting (C.1.4.3) shall be prepared on a cash-flow basis. A quarterly and yearly reconciliation between cash-flow basis and accrual basis will be provided with the reports specified in C.1.4.3.

C.1.12 Values and Treatments

Values and treatments proposed by the Contractor relating to all costs and expenses shall be subject to challenge by Government in the course of audit to ensure that they are in accordance with the provisions of this Accounting Procedure. Upon request by the Minister or its representative, the Contractor shall present all records and original documents supporting such costs or expenses, such as invoices, cash vouchers, debit notes, price lists or similar documentation verifying the values and treatment proposed.

PARAGRAPH C.2 : CLASSIFICATION, DEFINITION AND ALLOCATION OF COSTS AND EXPENDITURES

C.2.1 Segregation of Expenditures

Expenditures shall be segregated in accordance with the purposes for which such expenditures are made. The

purposes which shall qualify are those which have been included in the approved work program and work program budget for the year in which the expenditure is made and other items which have been agreed to by the Parties from time to time. All expenditures allowable under paragraph C.3 relating to Petroleum Operations shall be classified, defined and allocated as set out below. Expenditure records shall be maintained in such a way as to enable proper allocation to each Field in the event of a Commercial Discovery.

C.2.2 **Exploration Expenditures**

Exploration Expenditures are all direct and allocated indirect expenditures incurred in the search for Petroleum in an area which is, or was at the time when such costs were incurred, part of the Contract Area including:

C.2.2.1 Aerial, geophysical, geochemical, paleontological, geological, topographical and seismic surveys and studies and their interpretation.

C.2.2.2 Core-hole drilling and water Well drilling.

C.2.2.3 Labor, Materials, supplies, and services used in Drilling Wells with the object of finding Petroleum of Appraisal Wells provided such Wells are not completed as producing Wells.

C.2.2.4 Facilities used solely in support of the purposes described in paragraphs C.2.2.1, C.2.2.2 and C.2.2.3 above, including access roads and purchased geological and geophysical information, all separately identified.

C.2.2.5 That portion of all Service Expenditures and that portion of all General and Administrative Expenditures allocated to Exploration Expenditures as determined by the proportionate share of total Petroleum Operations Costs (excluding General and Administrative Expenditures and Service Expenditures) represented by all other Exploration Expenditures.

C.2.2.6 Any other expenditures incurred in the search for and appraisal of Petroleum after the Effective Date but prior to Initial Regular Production of the relevant Field and not covered under paragraph C.2.3.

C.2.3 Development Expenditures

Development Expenditures shall consist of all expenditures incurred in:

- C.2.3.1 Drilling Wells which are completed as producing Wells and Drilling Wells for purposes of production from a Field whether these Wells are dry or producing and drilling Wells for the injection of water or gas to enhance recovery of Petroleum.
- C.2.3.2 Completing Wells by way of installation of casing or equipment or otherwise after a Well has been drilled for the purpose of bringing the Well into use as a producing Well or as a Well for the injection of water or gas to enhance recovery of Petroleum.
- C.2.3.3 The costs of Field Petroleum production, transport and storage facilities such as pipelines, flow lines, production and treatment units, wellhead equipment, subsurface equipment, enhanced recovery systems, offshore platforms, Petroleum storage facilities, export terminals and piers, harbors and related facilities, and access roads for production activities.
- C.2.3.4 Engineering and design studies for facilities referred to in paragraph C.2.3.3.
- C.2.3.5 That portion of all Service Expenditures and that portion of all General and Administrative Expenditures allocated to Development Expenditures as determined by the proportionate share of total Petroleum Operations Expenditures (excluding General and Administrative Expenditures and Service Expenditures) represented by all other Development Expenditures.

C.2.4 Operating Expenditures

Operating Expenditures are all expenditures incurred in Petroleum Operations after Initial Regular Production which are other than Exploration Expenditures, Development Expenditures, General and Administrative Expenditures and Service Expenditures. The balance of General and

Administrative Expenditures and Service Expenditures not allocated to the Exploration Expenditures or Development Expenditures shall be allocated to Operating Expenditures.

C.2.5 Service Expenditures

Service Expenditures are expenditures in support of Petroleum Operations including warehouses, piers, marine vessels, vehicles, motorized rolling equipment, aircraft, fire and security stations, workshops, water and sewerage plants, power plants, housing, community and recreational facilities and furniture, tools and equipment used in these activities. Service Expenditures in any Calendar Year shall include the costs incurred in such year to purchase and/or construct the said facilities as well as the annual costs of maintaining and operating the same. All Service Expenditures shall be regularly allocated as specified in paragraphs C.2.2.5, C.2.3.5 and C.2.4 to Exploration Expenditures, Development Expenditures and Operating Expenditures, and shall be separately shown under each of these categories. Where Service Expenditures are made in respect of shared facilities the basis of allocation of costs to Petroleum Operations hereunder shall be specified in the Statement of Expenditures and Receipts listed in paragraph C.1.4.3(d).

C.2.6 General and Administrative Expenditures

General and Administrative Expenditures are direct and indirect overhead as described in paragraphs C.2.6.1 and C.2.6.2:

C.2.6.1 Direct Overhead

Direct Overhead covers all main office, field office and general administrative expenditures of the Contractor and its Affiliates in the State of Eritrea including but not limited to supervisory, accounting and employee relations services.

Services performed outside Eritrea by the departments of the Contractor and its Affiliates which directly benefit Petroleum Operations under the Contract shall be charged as direct costs in accordance with paragraph C.3 of this Annex C.

C.2.6.2 Indirect Overhead

Indirect Overhead covers an annual overhead charge for indirect services rendered by the Contractor's

Affiliates outside Eritrea to support and manage Petroleum Operations under the Contract (Affiliate overhead). Affiliate overhead will be deemed to cover the actual cost incurred for indirect services rendered by those functions of Contractor's Affiliates which:

- (i) cannot, without unreasonable effort and/or expenditure or without the release of confidential data proprietary to Contractor's Affiliates be charged under any other Section of this Annex C; and
- (ii) are properly allocable to Petroleum Operations under the Contract.

In respect of the indirect costs of Contractor's Affiliates, as described above, the Contractor shall charge monthly to Petroleum Operations an amount equal to the total of the following:

C.2.6.2.1 Indirect Exploration Overhead

The Contractor shall be entitled to an annual charge based on a sliding scale percentage and charged monthly to Petroleum Operations. The basis for applying this percentage shall be the total of Allowable Petroleum Exploration Expenditures during each Calendar Year or fraction thereof less expenditures which have been subjected to the four percent (4%) fee, referred to in paragraph C.3.1.8(b). The sliding scale percentage shall be calculated as follows:

- For the first four million Dollars ___%
- For the next four million Dollars ___%
- Over eight million Dollars _____%

The foregoing percentages may be reviewed but not more often than annually, and any approved adjustment shall be made, prospectively.

C.2.6.2.2 Indirect Development and Production Operations - Overhead

The overhead rates applicable to Development and Production Operations shall be agreed upon between the Parties in due course and shall incorporate the following guidelines:

(a) The indirect rates and related calculation method for Development and Production Operations shall be agreed to between the Parties prior to submission of the first annual budget for those phases of operations.

(b) The maximum percentage rates may be revised by mutual agreement not more often than annually. The initial maximum percentage rates and the types of expenditures to which they apply shall be agreed to as soon as the Parties possess reasonably reliable cost estimates for the Field.

(c) The Contractor must budget for overhead charges.

C.2.6.3 All General and Administrative Expenditures shall be regularly allocated as specified in paragraphs C.2.2.5, C.2.3.5 and C.2.4 to Exploration Expenditures, Development Expenditures and Operating Expenditures, respectively.

PARAGRAPH C.3: COSTS, EXPENSES, EXPENDITURES AND CREDITS OF THE CONTRACTOR

C.3.1 Costs Allowable Without Further Approval of Government

Petroleum Operations Costs incurred by the Contractor pursuant to the Contract as classified under the headings referred to in paragraph C.2 shall be allowable for the purpose of Section 7 of the Contract (except to the extent provided in paragraph C.4.2.2 or elsewhere in this Accounting Procedure), subject to audit as provided for herein.

C.3.1.1 Surface Rights

All direct costs necessary for the acquisition, renewal or relinquishment of surface rights acquired and maintained in force for the purposes of the Contract.

C.3.1.2 Labor and Associated Labor Costs

(a) Contractor's locally recruited employees based in Eritrea

Costs of all Contractor's locally recruited employees who are directly engaged in the conduct of Petroleum Operations under the Contract in the Territory of Eritrea. Such costs shall include the costs of employee benefits and Government benefits for employees and levies imposed on the Contractor as an employer, transportation and relocation costs within the Territory of Eritrea of the employee and such members of the employee's family (limited to spouse and dependent children) as required by law or customary practice in Eritrea. If such employees are engaged in other activities in the Territory of Eritrea, in addition to Petroleum Operations, the cost of such employees shall be apportioned on a time sheet basis according to sound and acceptable accounting principles.

(b) Assigned Personnel

Costs of salaries and wages including bonuses of the Contractor's employees directly and necessarily engaged in the conduct of the Petroleum Operations under the Contract, whether temporarily or permanently assigned, irrespective of the location of such employees, it being understood that in the case of those personnel only a portion of whose time is wholly dedicated to Petroleum Operations under the Contract, only that pro-rata portion of applicable salaries, wages, and other costs as specified in paragraphs C.3.1.2(c), (d), (e), (f) and (g), shall be charged and the basis of such pro-rata allocation shall be specified.

(c) The Contractor's costs regarding holiday, vacation, sickness and disability benefits and living and housing and other customary allowances applicable to the salaries and wages chargeable under paragraph C.3.1.2(b) above

- (d) Expenses or contributions made pursuant to assessments or obligations imposed under the laws of Eritrea which are applicable to the Contractor's cost of salaries and wages chargeable under paragraph C.3.1.2(b) above.
- (e) The Contractor's cost of established plans for employees' group life insurance, hospitalization, pension, stock purchase, savings, bonus, and other benefit plans of a like nature customarily granted to the Contractor's employees, provided however that such costs are in accordance with generally accepted standards in the international petroleum industry, applicable to salaries and wages chargeable to Petroleum Operations under paragraph C.3.1.2(b) above.
- (f) Personal income taxes where and when they are paid by the Contractor to the Government for employees, in accordance with the Contractor's standard personnel policies.
- (g) Reasonable transportation and travel expenses of employees of the Contractor, including those made for travel and relocation of the expatriate employees, including their families and personal effects, assigned to the Territory of Eritrea and whose salaries and wages are chargeable to Petroleum Operations under paragraph C.3.1.2(b) above.

Actual transportation expenses of personnel transferred to Petroleum Operations from their country of origin shall be charged to the Petroleum Operations. Transportation expenses of personnel transferred from Petroleum Operations to a country other than the country of their origin shall not be charged to the Petroleum Operations. Transportation cost as used in this Section shall mean the cost of freight and passenger service, meals, hotels, insurance and other expenditures related to vacation and transfer travel and authorized under the Contractor's standard personnel policies. The Contractor shall ensure that all expenditures related to transportation costs are equitably allocated to the activities which have benefited from the personnel concerned.

- (h) Reasonable personal expenses of personnel whose salaries and wages are chargeable to Petroleum

Operations under paragraph C.3.1.2(b) above and for which expenses such personnel are reimbursed under the Contractor's standard personnel policies. In the event such expenses are not wholly attributable to Petroleum Operations, the Petroleum Operations shall be charged with only the applicable portion thereof, which shall be determined on an equitable basis.

C.3.1.3 Transportation and Employee Relocation Costs

The cost of transportation of employees, equipment, materials and supplies other than as provided in paragraph C.3.1.2(g) necessary for the conduct of the Petroleum Operations under the Contract along with other related costs such as, but not limited to, import duties, customs fees, unloading charges, dock fees, and inland and ocean freight charges.

C.3.1.4 Charges for Services

(a) Third Parties

The actual costs of contract services, services of professional consultants, utilities, and other services necessary for the conduct of the Petroleum Operations under the Contract performed by third parties other than an Affiliate of the Contractor provided that the transactions resulting in such costs are undertaken pursuant to paragraph C.1.8.

(b) Affiliates of Contractor

1. Professional and Administrative Services Expenses - cost of professional and administrative services provided by any Affiliates of the Contractor for the direct benefit of Petroleum Operations, including but not limited to, services provided by the Production, Exploration, Legal, Financial, Insurance, Accounting and Computer Services Divisions other than those covered by paragraphs C.3.1.4(b)2, C.3.1.6 and C.3.1.8(b) which the Contractor may use in lieu of having its own employees. Charges shall reflect the cost of providing their services and shall not include any element of profit and shall be no less favorable than similar charges for other operations carried on by the Contractor and its Affiliates and shall not be

higher than rates charged by third parties for like services. The chargeout rate shall include all costs incidental to the employment of such personnel. Where the work is performed outside Eritrea, the daily rate shall be charged from the date such personnel leave the town where they usually work in Eritrea up to their return thereto, including Days which are not working Days in the country where the work is performed, excluding any holiday entitlements derived by such personnel from their employment in Eritrea.

2. Scientific or Technical Personnel - cost of scientific or technical personnel services provided by any Affiliate of the Contractor for the direct benefit of Petroleum Operations, which cost shall be charged on a cost of service basis. Charges therefor shall not exceed charges for comparable services currently provided by outside technical service organizations of comparable qualifications. Unless the work to be done by such personnel is covered by an approved budget and work program, the Contractor shall not authorize work by such personnel without approval of the Government.
3. Equipment and Facilities - costs related to the use of equipment and facilities owned and furnished by the Contractor's Affiliates, at rates commensurate with the cost of ownership and operation; provided, however, that such rates shall not exceed those currently prevailing for the supply of like equipment and facilities on comparable terms in the area where the Petroleum Operations are being conducted. The equipment and facilities referred to herein shall exclude major investment items such as (but not limited to) drilling rigs, producing platforms, oil treating facilities, oil and gas loading and transportation systems, storage and terminal facilities and other major facilities, rates for which shall be subject to separate agreement with the Government.

C.3.1.5 Communications

Cost of acquiring, leasing, installing, operating, repairing and maintaining communication systems including radio and microwave facilities between the Contract Area and the Contractor's nearest base facility.

C.3.1.6 Office, Shore Bases and Miscellaneous Facilities

Net cost to the Contractor of establishing, maintaining and operating any office, sub-office, shore base facility, warehouse, housing or other facility directly serving the Petroleum Operations. If any such facility renders service to contract areas other than the Contract Area, the net costs thereof shall be allocated on an equitable basis.

C.3.1.7 Ecological and Environment

Costs incurred in the Contract Area as a result of legislation for archaeological and geophysical surveys relative to identification and protection of cultural resources and/or environmental or ecological surveys as may be required by regulatory authorities. In addition, costs to provide or have available pollution containment and removal equipment plus costs of actual control and cleanup and resulting responsibilities of oil spills as required by applicable laws and regulations.

C.3.1.8 Material Costs

Costs of Materials and supplies, equipment, machines, tools and any other goods of a similar nature used or consumed in Petroleum Operations subject to the following:

- (a) Acquisition - the Contractor shall only supply or purchase Materials for use in Petroleum Operations that may be used in the foreseeable future. The accumulation of surplus Materials shall be avoided so far as is reasonably practicable and consistent with efficient and economical operations. Inventory levels shall, however, take into account the time lag for replacement, emergency needs, weather conditions affecting operations and similar considerations;
- (b) Components of costs, arm's-length transactions - except as otherwise provided in paragraph C.3.1.8(d) below, Material for use in Petroleum Operations under the Contract shall be purchased by the Contractor in arm's length transactions in the open

market (net cost). The net cost of Material shall include invoice price less trade and cash discounts, if any, plus purchase and procurement fees, plus freight and forwarding charges between point of supply and point of shipment, freight to port of destination, insurance, taxes, customs duties, consular fees, excise taxes, other items chargeable against imported Material and, where applicable, handling and transportation expenses from point of importation to warehouse or operating site. Where an Affiliate of the Contractor has arranged the purchase and coordinated the forwarding and expediting effort, a fee equal to four percent (4%) of the value of the Materials shall be added to the cost of the Materials purchased;

- (c) Inventory Accounting- Material costs will be charged to the inventory when title passes to the Contractor and will be charged to Petroleum Operation costs when consumed from inventory calculated based on the weighted average cost method;
- (d) Material purchased from or sold to Affiliates of the Contractor or transferred from other activities of the Contractor to or from Petroleum Operations under this Contract shall be valued and charged or credited at the prices specified in paragraphs C.3.1.8(d)1, C.3.1.8(d)2 and C.3.1.8(d)3 hereof:
 - 1. New Material (Condition "A") shall be valued at the current net cost as determined, in accordance with paragraph C.3.1.8(b).
 - 2. Used Material (Conditions "B", "C" and "D"):
 - (a) Material which is in sound and serviceable condition and is suitable for reuse without repair or reconditioning shall be classified as Condition "B" and priced at seventy-five percent (75%) of such new purchase net cost at the time of transfer;
 - (b) Material not meeting the requirements of paragraph C.3.1.8(d)2(a) above, but which can be made suitable for use after being repaired or reconditioned, shall be classified as Condition "C" and priced at fifty percent (50%) of such

new purchased net cost at the time of transfer. The cost of reconditioning shall also be charged to the reconditioned Material provided that condition "C" price plus the cost of reconditioning does not exceed the condition "B" price; and provided that Material so classified meet the requirements for condition "B" Material upon being repaired or reconditioned; and

- (c) Material which cannot be classified as Condition "B" or Condition "C" shall be classified as Condition "D" and priced at a value commensurate with its use by the Contractor. If Material is not fit for use by the Contractor it shall be disposed of as junk. Material involving erection costs shall be charged at the applicable condition percentage of the current knocked-down price of new Material as defined in paragraph C.3.1.8(d)1 above.
3. When the use of Material is temporary and its service to Petroleum Operations under the Contract does not justify the reduction in price as provided for in paragraph C.3.1.8 (d), 2(b) hereof, such Material shall be priced on a basis that will result in a net charge to the accounts under the Contract consistent with the value of the service rendered.
 4. Premium prices - whenever Materials is not readily obtainable at published or listed prices because of national emergencies, strikes or other unusual causes over which the Contractor has no control, the Contractor may charge Petroleum Operations for the required Material at the Contractor's actual cost incurred in providing such Material, including the cost of making the Material suitable for use, and in moving it to the Contract Area, provided notice in writing is furnished to the Minister of the proposed charge prior to charging Petroleum Operations for such

Material and the Minister shall have the right to challenge the transaction on audit.

5. Warranty of Material furnished by the Contractor - The Contractor does not warrant the Material furnished by the Contractor for Petroleum Operations. The Contractor shall secure warranty from the vendor, as is customary in the international oil and gas industry, for the purchase of new Material furnished for Petroleum Operations. In case of defective Material, credit shall not be passed to Petroleum Operations until adjustment has been received by the Contractor from the manufacturers of the material or their agents.

C.3.1.9 Rentals, Duties and Other Assessments

All rentals, production payments, taxes, levies, charges, fees, contributions and any other assessments and charges of every kind and nature levied by any governmental or taxing authority in connection with the Contractor's activities under the Contract and paid directly by the Contractor (except where the contrary is expressly provided in the Contract) and of payments made under the provisions of Section VII of the Contract.

C.3.1.10 Insurance and Losses

Insurance premiums and costs incurred for insurance pursuant to the Contract and the Petroleum Regulations provided that such insurance is customary, affords prudent protection against risk and is at a premium no higher than that charged on a competitive basis by insurance companies which are not Affiliates of the Contractor. Except in cases of failure to insure where insurance coverage is required pursuant to Article 30 of the Petroleum Regulations, actual costs and losses incurred shall be allowable to the extent not made good by insurance. Such costs may include, but are not limited to, repair and replacement of property in the Contract Area resulting from damages or losses caused by fire, flood, storm, theft, accident or such other cause.

C.3.1.11 Legal Expenses

All reasonable costs and expenses resulting from the handling, investigating, asserting, defending, or settling of any claim or legal action necessary or expedient for the procuring,

perfecting, retention and protection of the Contract Area, and in defending or prosecuting lawsuits involving the Contract Area or any third party claim arising out of Petroleum Operations under the Contract, or sums paid in respect of legal services necessary for the protection of the joint interest of the Government and the Contractor shall be allowable. Such expenditures shall include, without limitation, attorney's fees, court costs, costs of investigation, and procurement of evidence and amounts paid in settlement or satisfaction of any such litigation and claims provided such costs are not covered elsewhere in the Accounting Procedure. Where legal services are rendered in such matters by salaried or regularly retained lawyers of the Contractor or an Affiliate of the Contractor, such compensation shall be included instead under paragraph C.3.1.2 or C.3.1.4(b) above as applicable.

C.3.1.12 Claims

Expenditures made in the settlement or satisfaction of any loss, claim, damage, judgment or other expense arising out of or relating to Petroleum Operations, except as may otherwise be covered elsewhere in the Accounting Procedure.

C.3.1.13 Training Costs

All costs and expenses incurred by the Contractor in the training of its Eritrean employees engaged in Petroleum Operations under the Contract and such other training as required under Section 3.5 of the Contract.

C.3.1.14 General and Administrative Costs

The direct overhead costs described in paragraph C.2.6.1 and the indirect overhead charge described in paragraph C.2.6.2.

C.3.1.15 Other Expenditures

Other reasonable expenditures not covered or dealt with in the foregoing provisions of paragraph C.3 herein which are necessarily incurred by the Contractor for the proper, economical and efficient conduct of Petroleum Operations.

C.3.2 Credit Under the Contract

The proceeds received from Petroleum Operations under the Contract, including but not limited to the items listed below shall be credited to the accounts under the Contract:

- C.3.2.1 The proceeds of any insurance settlement or claim or judicial awards in connection with Petroleum Operations under the Contract or any Assets charged to the accounts under the Contract where such operations or Assets have been insured and the premiums charged to the accounts under the Contract.
- C.3.2.2 Legal costs charged to the accounts under paragraph C.3.1.11 and subsequently recovered by the Contractor.
- C.3.2.3 Revenue received from third parties for the use of property or Assets, the cost of which has been charged to the accounts under the Contract.
- C.3.2.4 Any adjustment received by the Contractor from the suppliers/manufacturers or their agents in connection with a defective Material, the cost of which was previously charged by the Contractor to the accounts under the Contract.
- C.3.2.5 Rentals, refunds or other credits received by the Contractor which apply to any charge which has been made to the accounts under the Contract, but excluding any award granted to the Contractor under arbitration or sole expert proceedings referred to in paragraph C.4.2.2(g).
- C.3.2.6 Materials costs originally charged to Petroleum Operations Costs and subsequently exported from the Territory of Eritrea for use by the Contractor or its Affiliates in operations outside Eritrea.
- C.3.2.7 Proceeds from the sale or exchange by the Contractor of plants or facilities which have been charged to the accounts under the Contract for the relevant Field.
- C.3.2.8 Proceeds from the sale or exchange by the Contractor of any Petroleum rights being an interest in the Contract Area and not constituting an assignment under Section 3.1.3 of the Contract.

C.3.2.9 Proceeds from the sale of any Petroleum information which relates to the Contract Area provided that the acquisition costs of such information have been charged to the accounts under the Contract.

C.3.2.10 Proceeds derived from the sale or license of any intellectual property, the development costs of which were incurred pursuant to the Contract.

C.3.2.11 Proceeds derived from the sale, exchange, lease, hire, transfer or disposal in any manner whatsoever of any other item, the costs of which have been charged to Petroleum Operations.

C.3.3

Duplication of Charges and Credits

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

PARAGRAPH C. 4: PETROLEUM OPERATIONS EXPENDITURES

C.4.1 Definition for the Purpose of Determining Compliance with the Minimum Exploration Expenditures Obligation

In determining the Contractor's compliance with the minimum Exploration Expenditures obligations undertaken pursuant to the Contract, Petroleum Operations Costs shall consist only of all Exploration Expenditures incurred in the performance of Exploration Operations in accordance with approved work programs in the contract year in question; provided, however, that expenditures incurred in training Eritrean nationals pursuant to Section 3.5 of the Contract and the value of stock listed in inventory shall be excluded from Petroleum Operations Costs for the purpose of this paragraph C.4.1.

C.4.2 Definition for the Purpose of Section VII

C.4.2.1 For each Field and for each Calendar Year, including any Calendar Year prior to the Calendar Year in which Initial Commercial Production first occurs, Petroleum Operations

Costs, for the purposes of Section VII of the Contract shall consist of:

- (a) all Petroleum Operations Costs made in that Calendar Year in respect of the Field in question, plus
- (b) the Contractor's share of all Exploration Expenditure, wherever incurred in the Contract Area, up to the date on which the Minister approves the work program and work program budget for the Field concerned submitted pursuant to Section 5.4 of the Contract, provided that such Exploration Expenditure has not been included, for purposes of Section VII, in the Petroleum Operations Costs made in respect of another Field in the Contract Area.

C.4.2.2

The following costs and expenses shall not be included in Petroleum Operations Costs for the purposes of Section VII of the Contract:

- (a) the signature bonus;
- (b) any payments made to the Government for failure to fulfill the minimum expenditure obligations in accordance with Section V of the Contract;
- (c) costs incurred before the Effective Date;
- (d) interest and any other financing charges incurred on loans raised to finance Petroleum Operations;
- (e) costs of marketing or transportation of Petroleum beyond the F.O.B. point of exportation or the point of entry into a system for domestic consumption;
- (f) the cost of any letter of guarantee of the Contract and any other amounts spent on indemnities with regard to nonfulfillment of contractual obligations;
- (g) attorney's fees and other costs of proceedings in connection with arbitration under Section 16.1.2 of the Contract or expert determination as provided in the Contract or this Accounting Procedure; and
- (h) fines and penalties imposed under the laws of Eritrea.

- C.4.2.3 All credits under the Contract received in accordance with paragraph C.3.2 of this Accounting Procedure shall be credited to the accounts for the purposes of Section VII of the Contract.

PARAGRAPH C.5: RECORDS AND VALUATION OF ASSETS

C.5.1 Records

The Contractor shall maintain detailed records of property in use for Petroleum Operations under the Contract in accordance with normal practice in exploration and production activities in the international petroleum industry.

C.5.2 Inventories during Initial Exploration Operations

Prior to the date of approval of the first work program and work program budget submitted pursuant to Section 5.1.7 of the Contract, the Contractor shall prepare an annual schedule (to be included as part of the Statement required under paragraph C.10 of this Accounting Procedure) of all property in use for Petroleum Operations and its value as shown in the Contractor's records.

C.5.3 Inventories in Subsequent Operations

Subsequent to the date of approval of the first work program and work program budget submitted pursuant to Section 5.1.7 of the Contract, inventories of property in use in Petroleum Operations under the Contract shall be taken at reasonable intervals but at least once a year with respect to movable Assets and once every three (3) years with respect to immovable Assets. The Contractor shall give the Minister at least thirty (30) Days written notice of its intention to take such inventory and the Minister shall have the right to be represented when such inventory is taken. The Contractor shall clearly state the principles upon which valuation of the inventory has been based. The Contractor shall make every effort to provide to the Minister a full report on such inventory within thirty (30) Days of the taking of the inventory. When an assignment of rights under the Contract takes place the Contractor may, at the request of the assignee, take a special inventory provided that the costs of such inventory are borne by the assignee.

PARAGRAPH C.6: PRODUCTION STATEMENT

C.6.1 Production Information

Without prejudice to the Petroleum Regulations or the Contract, from the date of Initial Regular Production from the Contract Area, the Contractor shall submit a monthly Production Statement to the Government showing the following information separately for each producing Field and in aggregate for the Contract Area:

- C.6.1.1 The quantity of Crude Oil produced and saved;
- C.6.1.2 The quality characteristics of such Crude Oil produced and saved;
- C.6.1.3 The quantity of Natural Gas produced and saved;
- C.6.1.4 The quality characteristics of such Natural Gas produced and saved;
- C.6.1.5 The quantities of Crude Oil and Natural Gas used for the purposes of carrying on drilling and production operations and pumping to field storage;
- C.6.1.6 The quantities of Crude Oil and Natural Gas unavoidably lost;
- C.6.1.7 The quantities of Natural Gas flared and vented;
- C.6.1.8 The size of Petroleum stocks held at the beginning of the Calendar Month in question;
- C.6.1.9 The size of Petroleum stocks held at the end of the Calendar Month in question; and
- C.6.1.10 The quantities of Natural Gas reinjected into the Petroleum reservoir.

All quantities shown in this statement shall be expressed in both volumetric terms (barrels of oil and cubic meters of gas) and in weight (metric tons).

C.6.2 Submission of Production Statement

The Production Statement for each Calendar Month shall be submitted to the Government no later than ten (10) Days after the end of such Calendar Month.

PARAGRAPH C.7: VALUE OF PRODUCTION AND PRICING STATEMENT

C.7.1 Value of Production and Pricing Statement Information

The Contractor shall for the purposes of Section XII of the Contract, prepare a statement providing calculations of the value of Crude Oil produced and saved during each Calendar Quarter.

This Statement shall contain the following information:

C.7.1.1 The quantities, prices and receipts realized therefor by the Contractor as a result of sales of Crude Oil to third parties made during the Calendar Quarter in question as defined in sub-Article 17(1) of the Petroleum Regulations.

C.7.1.2 The quantities, prices and receipts realized therefor by the Contractor as a result of sales of Crude Oil made during the Calendar Quarter in question, other than to third parties.

C.7.1.3 The value of stocks of Crude Oil at the end of the Calendar Quarter preceding the Calendar Quarter in question.

C.7.1.4 The value of stocks of Crude Oil at the end of the Calendar Quarter in question.

C.7.1.5 Information available to the Contractor, insofar as required for the purposes of Section XII of the Contract, concerning the prices of competitive Crude Oils produced by the main petroleum producing and exporting countries including contract prices, discounts and premiums, and prices obtained on the spot markets.

C.7.2

Submission of Value of Production and Pricing Statement

The value of production and pricing statement for each Calendar Quarter shall be submitted to the Minister no later than twenty one (21) Days after the end of such Calendar Quarter.

PARAGRAPH C.8: PROFIT SHARE ACCOUNT STATEMENT

C.8.1 Quarterly Statement

The Contractor shall prepare with respect to each Calendar Quarter a statement containing the following information for the purposes of Section VII of the Contract with respect to each Field:

C.8.1.1 Allowable and unrecovered Petroleum Operations Expenditures and Income Tax payments carried forward from the previous Quarter, if any.

C.8.1.2 Allowable Petroleum Operations Costs and Income Tax payments for the Quarter in question.

C.8.1.3 Cumulative Allowable Petroleum Operations Expenditures and Income Tax payments for the Quarter in question (paragraph C.8.1.1 plus paragraph C.8.1.2).

C.8.1.4 Gross Revenues (including credits under the Contract) carried forward from the previous Calendar Quarter, if any.

C.8.1.5 Gross Revenues (including credits under the Contract) for the Calendar Quarter in question.

A Quarterly Statement shall be submitted pursuant to Article 17 of the Petroleum Regulations.

C.8.2 Annual Statement

The Annual Statement furnished pursuant to Section 7.2.2 of the Contract shall contain the categories of information listed in paragraph C.8.1 above for the Calendar Year in question

and shall set out the position at the beginning and end of the Calendar Year in question for each Field.

C.8.3 Separation of Expenditures

In both Quarterly and Annual Statements, Exploration, Development and Operating Expenditures and Income Tax payments, apportioned and charged to that Field, shall be separately identified for each Field. The Contractor shall specify the basis of allocation of shared expenditures or payments. Exploration Expenditures prior to the date of approval of the first work program and work program budget submitted pursuant to Section 5.1.7 of the Contract or not directly attributable to a specific Field shall be shown separately.

C.8.4 Basis of Accounting

The Profit Share Account Statements shall show expenditures and receipts on a cash-flow basis.

C.8.5 Recoverability and Deductibility of Petroleum Operations

C.8.5.1 The determination of whether the costs and expenses set forth herein are recoverable Petroleum Operations Costs shall apply for the purpose of cost recovery under this Contract, and shall not be interpreted to preclude the Contractor from deducting said amounts in computing its taxable income under the applicable laws of Eritrea.

C.8.5.2 For the purpose of cost recovery under this Contract, no depreciation shall apply for recoverable Petroleum Operations Costs, as such costs are, subject to the maximum percentage limit specified in Section 7.1 of this Contract, recoverable either in the Calendar Year in which these Costs are incurred or the Calendar Year in which regular production commences, whichever is the later.

PARAGRAPH C. 9: STATEMENT OF EXPENDITURE AND RECEIPTS

C.9.1 Expenditures and Receipts Statements

The Contractor shall prepare with respect to each Calendar Quarter a Statement of Expenditure and Receipts under the Contract. The Statement shall distinguish between Exploration Expenditures, Development Expenditures and Operating Expenditures and shall separately identify all significant items of expenditure within these categories. If the Minister is not satisfied with the degree of disaggregation within the categories he shall be entitled to ask for a more detailed breakdown. The statement shall show the following:

- C.9.1.1 Actual expenditures and receipts for the Calendar Quarter in question.
- C.9.1.2 Cumulative expenditures and receipts for the budget year in question.
- C.9.1.3 Latest forecasted cumulative expenditures for the year.
- C.9.1.4 Variations between budget forecast and latest forecast and explanations of variances.

C.9.2 Quarterly Statement

The statement of expenditures and receipts of each Calendar Quarter shall be submitted to the Minister no later than twenty one (21) Days after the end of such Calendar Quarter.

PARAGRAPH C . 10: FINAL END-OF-YEAR STATEMENT

C.10.1 Final End-of-Year Statement

The Contractor shall prepare a Final End-of-Year Statement. The Statement shall contain aggregated information in the same format as required in the Production Statement, Value of Production and Pricing Statement, Profit Share Account Statement, and Statement of Expenditure and Receipts but shall be based on actual quantities of Petroleum produced and expenses incurred. Based upon this statement, any adjustments that are necessary shall be made to the

transactions concerned under the Contract. The Final End-of-Year Statement for each Calendar Year shall be submitted to the Minister within sixty (60) Days of the end of such Calendar Year.

PARAGRAPH C . 11: BUDGET STATEMENT

C.11.1 Annual Budget Statement

The Contractor shall prepare an annual budget statement. This statement shall distinguish between budgeted Exploration Expenditures, Development Expenditures and Operating Expenditures and shall show the following:

C.11.1.1 Forecasted expenditures and receipts for the budget year in question.

C.11.1.2 Cumulative expenditures and receipts to the end of the said budget year.

C.11.1.3 A schedule showing the most important individual items of Petroleum Operations Expenditures for said budget year.

C.11.2 Annual Budget Statement Due Dates

The Budget Statement shall be submitted to the Minister with respect to each budget year no less than ninety (90) Days before the start of such budget year provided that in the case of the year in which the Effective Date falls, the Budget Statement shall be submitted within ninety (90) Days of the Effective Date.

ANNEX D: PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT, made and entered into on this ___ day of ___
_ 19_, by and among _____ incorporated under the laws of having
established a place of business at _____

incorporated under the laws of having established a place of business at _____

_____ incorporated under the laws of
having established a place of business at _____

_____ incorporated under the laws of having
established a place of business at _____

WHEREAS the Government and the Contractor have entered into a Production Sharing
Contract in Eritrea (referred to as the "Contract"), to which this Annex is attached;

WHEREAS the Government has decided to exercise its option under Section VI of the
Contract and has appointed _____ as the specialized Government entity referred to
in Section 6.1.1 of the Contract (hereafter "Appointee"); and

WHEREAS the Parties wish to set forth the terms and conditions under which the
Government has agreed to participate in the Petroleum Operations in respect of _____

NOW, THEREFORE, the Parties have agreed as follows:

1 INTERPRETATION

1.1 In this Participation Agreement, words in the singular include the plural
and vice versa, and except where the context otherwise requires:

1.1.1 "AFE" means an authorization for expenditure;

1.1.2 "Government" includes an Appointee (which shall be
considered as one of the entities comprising the Contractor)
as defined in Section VI of the Contract;

- 1.1.3 "Joint Account" means the accounts maintained by the Operator to record all transactions related to operations in the Participation Area under this Participation Agreement;
- 1.1.4 "Joint Property" means immovable and moveable property acquired and held for use in connection with operations under this Participation Agreement;
- 1.1.5 "Non-Operator" means a Party other than the Operator;
- 1.1.6 "Operating Committee" means the committee established by Section 4 hereof;
- 1.1.7 "Operator" means the Party designated to conduct the Petroleum Operations, pursuant to Section 3 hereof and its successors, when acting as the Operator and not as the owner of a Participating Interest;
- 1.1.8 "Participating Interest" means the respective undivided interest of each of the Parties as it may exist at any given time in the Participation Area and under this Participation Agreement;
- 1.1.9 "Participation Area" means the Field in which the Government has elected to participate pursuant to the Contract;
- 1.1.10 "Participation Date" means the effective date of participation by the Government in accordance with Section VI of the Contract;
- 1.1.11 "Participation Work Program" means a program of Petroleum Operations under this Participation Agreement;
- 1.1.12 "Parties" means all of the entities constituting the Contractor collectively, their respective successors and assignees;
- 1.1.13 "Year" means Calendar Year.
- 1.2 Words not defined in this Participation Agreement but which are defined in the Contract have the meanings given to them therein.
- 1.3 Nothing herein shall be construed to abridge or adversely affect any right of any party under the Contract.

2

PARTICIPATING INTERESTS

2.1 Pursuant to Section VI of the Contract, each entity previously constituting the Contractor has assigned proportionately to ___ a part of its Participating Interest in ___ Field so that the rights, interest and obligations of the Contractor in such Field shall be owned and borne as of the Participation Date in undivided interests as follows:

- _____ percent (__%)
- _____ percent (__%)
- _____ percent (__%)
- _____ percent (__%)

3

OPERATOR AND DUTIES OF THE OPERATOR

3.1 The ___ Company shall serve as Operator until it resigns or is removed pursuant to the provisions of this Section, or until it ceases to hold a Participating Interest hereunder. In the event that an Operator assigns the whole of its Participating Interest hereunder to one of its Affiliates, such Affiliate shall become an Operator hereunder in the former's place.

3.2 Upon the affirmative vote of at least fifty percent (50%) of the Participating Interests of the Non-Operators, the Operator shall be removed as Operator in case of any one of the following:

- 3.2.1 Bankruptcy of the Operator or its parent company;
- 3.2.2 Assignment for the benefit of Operator's creditors;
- 3.2.3 Appointment of a receiver or trustee with respect to the whole or any part of the property or Assets of the Operator;
- 3.2.4 Entitlement of any person other than an Affiliate of Operator to appoint a majority of the members of the board of directors of the Operator by reason of any act, default or neglect of the Operator;
- 3.2.5 Operator's material breach of this Participation Agreement which remains unremedied for more than sixty (60) Days after the Operator is notified by Non-Operators of such breach; or

- 3.2.6 Reduction in the Operator's Participating Interest to ten percent (10%) or less.
- 3.3 An Operator may at any time resign as Operator by giving to the other Parties notice in writing of such resignation. Such resignation shall be effective one hundred eighty (180) Days after the date of notice thereof or on the date on which a successor Operator appointed by the Parties (other than the Operator) shall be ready and able to assume the obligations of the Operator in accordance with all the provisions of this Participation Agreement, whichever shall first occur.
- 3.4 Should an Operator so resign or be removed, a successor Operator shall immediately be appointed by the Operating Committee. A Party having been removed as Operator may not vote to succeed itself as Operator. Such appointment shall be made by a vote in the manner prescribed in Section 4.6 hereof. For the purpose of this Section 3.4 the Operator includes any of its Affiliates holding a Participating Interest in this Participation Agreement.
- 3.5 Removal or resignation of an Operator shall not in any way affect its rights or obligations as a Non-Operator Party to this Agreement. On the effective date of removal or resignation, the Operator shall deliver to the successor Operator any and all funds, equipment, materials, appurtenances, books, records, data, interpretations, information and rights acquired by and in the custody of the Operator for the Joint Account of the Parties (including available Petroleum not delivered to the Parties) and shall, with the successor Operator, prepare an inventory of Joint Property, adjusting the Joint Account accordingly, and shall cooperate as far as possible in effecting a smooth transfer of operating responsibilities. A change in Operator shall not relieve the departing Operator of any of its liabilities and obligations accrued before the date of changeover.
- 3.6 Should there be a change in Operator under the provisions of Section 3.5 above, all necessary and reasonable costs of effecting such change, as determined by the Operating Committee, shall be charged to the Joint Account.
- 3.7 The Operator shall have control of Petroleum Operations in the Participation Area subject to the directives of the Operating Committee and shall have exclusive custody of all materials, equipment and other property acquired therefor, and shall perform its duties under this Participation Agreement diligently and in accordance with the approved Participation Work Programs and budgets and the Contract. The Operator shall not be liable to any Non-Operator for any acts or omissions, claim, damages, losses or expenses, in connection with or arising out of the Participation Agreement or the Contract or Petroleum Operations save those caused directly by willful misconduct of the Operator.

3.8

The Operator Shall:

- 3.8.1 Consult with Non-Operators and advise them of all matters arising from the Petroleum Operations;
- 3.8.2 Comply with the decisions of the Operating Committee;
- 3.8.3 Keep the Participating Interests and all property acquired or used free from liens, except for those authorized by Section 6 hereof; and
- 3.8.4 Pay the costs of the Petroleum Operations under this Participation Agreement promptly and make proper charges to Non-Operators.

3.9

The Operator shall submit a copy of an AFE to the Non-Operators for prior approval for each budget item of capital expenditure in the approved Participation Work Program and budget that costs more than two hundred and fifty thousand Dollars (\$250,000). Where it is necessary to complete an expenditure in a budget item in the approved Participation Work Program, the Operator may exceed the budget for the budget item by the lesser of ten percent (10%) thereof or one hundred thousand Dollars (\$100,000) and shall report promptly such excess expenditure to the Non-Operators.

The Operator may spend not more than fifty thousand Dollars (\$50,000) on Petroleum Operations in the Participation Area not included in an approved Participation Work Program, provided that such expenditure shall not be for items previously rejected by the Operating Committee. The Operator shall report promptly that expenditure to the Non-Operators and, if it is approved in accordance with Section 4.6 hereof, the Operator may make further expenditure thereon or on other items not exceeding fifty thousand Dollars (\$50,000) in that Year.

The limits in this Section 3.9 may be changed from time to time by an unanimous decision of the Operating Committee.

In case of emergency, the Operator may make such immediate expenditure and take such immediate action as it may deem necessary for the protection of life or property or the prevention of pollution and such emergency expenditure shall be reported promptly to the Parties by the Operator.

3.10

A Non-Operator may inspect the Participation Area, the Petroleum Operations, and the books, records and other information of the Operator pertaining thereto.

The Operator shall supply to a Non-Operator by telephone, telefax, telegraph, or telex, daily on drilling, production reports and such other reports in writing normally provided by an Operator to a Non-Operator in the international petroleum industry, including but not limited to reports on well tests and core analysis, and copies of drilling logs, well surveys and velocity surveys. The Operator shall furnish any other information reasonably requested by a Non-Operator.

3.11 The Operator shall obtain and maintain all insurance required by law and the Contract, and such other insurance as the Operating Committee may from time to time determine, provided that, in respect of such other insurance, any Party may elect not to participate provided such Party gives notice to that effect to the Operator. The cost of insurance in which all the Parties are participating shall be for the Joint Account and the cost of insurance in which less than all the Parties are participating shall be charged to such Parties individually. The Operator shall, in respect of any insurance:

- 3.11.1 promptly inform the Parties participating therein when it is taken out and supply them with copies of the relevant policies when the same are issued;
- 3.11.2 arrange for the Parties participating therein, according to their respective Participating Interests, to be named as co-insureds on the relevant policies with waivers of subrogation in favor of the Parties; and
- 3.11.3 duly file all claims and take all necessary and proper steps to collect any proceeds and, if all the Parties are participating therein, credit them to the Joint Account or, if less than all the Parties are participating therein, credit them to the participating Parties.

Subject as stipulated above, any of the Parties may obtain such insurance as it deems advisable for its own account at its own expense providing such insurance is acceptable under the applicable law. All policies shall provide for a waiver of subrogation in favor of the other Parties.

If the Operator is unable to obtain such other insurance required by the Operating Committee, it shall so advise the Parties and thereafter, it shall be discharged of its obligation to obtain such insurance.

The Operator shall guarantee that all Subcontractors performing work in respect of the Petroleum Operations and the Joint Property obtain and maintain all insurance required by law and the Contract and such other insurance as the Operator may require and obtain from their insurers a waiver of subrogation in favor of the Parties.

Each of the Parties shall, in respect of its Participating Interest share of any liability to third parties which may arise in connection with the Petroleum Operations, obtain and maintain insurance or other evidence of financial responsibility as may from time to time be determined by the Operating Committee or be required by law and the Contract. Each of the Parties shall, as and when required by the Operating Committee, produce to it such evidence as it may reasonably require to establish that such insurance or other evidence of financial responsibility is being maintained. All policies shall provide for a waiver of subrogation in favor of the other Parties.

- 3.12 Without prejudice to the provisions of Section 4.2.5 hereof the Operator shall handle all claims and litigation arising out of the Petroleum Operations other than claims and litigation which may arise between or among any of the Parties and may settle any such claims or litigation which involve an amount not exceeding the equivalent of one hundred thousand Dollars (\$100,000) per occurrence without the approval of the Operating Committee. Any claim or litigation involving an amount in excess of the equivalent of one hundred thousand Dollars (\$100,000) shall be reported promptly to the Non-Operators and a Non-Operator shall have the right to be represented by its own counsel at its expense.
- 3.13 The Operator shall fulfill the reporting obligations of the Contractor arising under the Contract unless otherwise stipulated in this Participation Agreement and the Contract.
- 3.14 In case of any proposed services and supply contract for the Petroleum Operations where the cost thereof will or is likely to exceed three hundred thousand Dollars (\$300,000) or such other amount as may from time to time be determined by the Operating Committee, the Operator shall use its best endeavors to obtain competitive bids.

4 OPERATING COMMITTEE AND WORK PROGRAMS

- 4.1 The Parties shall establish an Operating Committee to supervise and control the Petroleum Operations. The Operating Committee shall meet in Asmara unless it decides on another location. Without prejudice to Section 9.5 herein the Operating Committee shall consist of one representative and one alternate representative appointed by each of the Parties provided always that more than one of the Parties may appoint the same representative who shall represent each of them separately.

Each Party shall, as soon as possible after the effective date of this Participation Agreement, give notice to all the other Parties of the name of its representative and of its alternate on the Operating Committee. Such representative may be replaced, from time to time, by like notice. Representatives may bring to the meetings of the Operating Committee

such advisers as they consider necessary. The representative of a Party or, in the absence of the representative, his alternate, shall be deemed authorized to represent and bind such Party with respect to any matter which is within the powers of the Operating Committee and is properly brought before the Operating Committee. The representative of the Party which is the Operator shall be the chairman of the Operating Committee and shall report the proceedings.

4.2 Except as otherwise provided in this Participation Agreement, the powers and duties of the Operating Committee shall include:

4.2.1 the consideration and determination of all matters relating to general policies, procedures and methods of the Operator hereunder;

4.2.2 the approval of any public announcement or statement regarding this Participation Agreement or the Petroleum Operations conducted pursuant to this Participation Agreement;

4.2.3 the consideration, revision, and approval or disapproval, of all proposed Participation Work Programs and budgets prepared and submitted to it pursuant to the provisions of this Participation Agreement;

4.2.4 the determination of the timing and location of all Wells drilled under this Participation Agreement and any change in the use or status of a Well;

4.2.5 the determination of whether the Operator will represent the Parties regarding any matters or dealings with the Government or third parties insofar as the same relate to the Petroleum Operations, provided that there is reserved to each Party the unfettered right to deal with any governmental authorities in respect of matters relating to its own Participating Interest; and

4.2.6 the consideration and, if so required, the determination of any other matter relating to the Petroleum Operations which may be referred to it by the Parties or any of them.

4.3 The frequency of meetings of the Operating Committee shall be determined by that Committee except that they shall be held not less frequently than quarterly when major development operations are contemplated or in progress and not less frequently than semi-annually at other times. In addition, the Operator or two Non-Operators may call a special meeting at any time. A single Non-Operator may call one special meeting of the Operating Committee in any one Year.

- 4.4 A request to call a meeting of the Operating Committee shall state the purpose of that meeting and, except in an emergency, the Operator or the other Parties calling a meeting shall give the Parties at least fifteen (15) Days' written notice with an agenda of the meeting, but where a meeting is called in an emergency, the Operator shall give as much notice thereof as possible by telephone, telex or telegraph and except with the consent of all the Parties, the business of a meeting shall be only that for which it was called.
- 4.5 The Operator may, instead of calling a meeting, submit matters to the Parties by written notice including telex, upon which each Party may vote within the period prescribed in the notice which shall not be less than three (3) days or more than fifteen (15) days from the date notice is received. Failure of a Party to respond within the above time limits shall be deemed a negative vote. If the decision called for concerns an active operation where a rig is on location, failure of a Party to respond shall be deemed to be an affirmative vote. In the event of an emergency the aforesaid periods may be reduced by Operator, as necessary.
- 4.6 Each Party shall have a voting interest equal to its Participating Interest. Unless otherwise provided in this Participation Agreement, all decisions of the Operating Committee shall be made by the affirmative vote of one or more Parties holding not less than _____ (___%) of the Participating Interest. A timely written vote, including by telex and facsimile, is permitted. The Operator shall notify the other Parties of any decision taken pursuant to Section 4.5 hereof.
- The decisions of the Operating Committee shall be reduced to writing and initialed by the Participating Parties prior to the end of the meeting.
- The Operator shall cause the initialed minutes of the proceedings to be circulated to the Parties within twenty (20) Days after the meeting. Comments and edits by the Non-Operators shall be attached and made a part of the minutes.
- 4.7 Except as otherwise provided in Sections 9 and 11 hereof, any matter involving surrender or the drilling of an Exploration Well shall require the unanimous consent of all Parties.
- 4.8 The Operator shall, at least four (4) months before the end of each Year, submit to the Parties for approval a Participation Work Program and budget, which shall contain details of the Petroleum Operations to be carried out in the next Year and allocation of funds therefore including administrative overheads and third party expenditure
- 4.9 Unless otherwise unanimously agreed, at least sixty (60) Days prior to the beginning of the Year, the Operator shall call a meeting of the

Operating Committee to discuss and approve a Participation Work Program and budget for the ensuing Year and such Work Program and budget shall be approved not later than thirty (30) Days prior to the commencement of such Year and the decision of the Operating Committee shall bind the Parties. Upon approval of such work program and budget the Operator is thereby authorized and obliged to proceed with it in accordance with such approval, consistent with Section 3.9 hereof.

- 4.10 The Operating Committee may decide from time to time to establish such advisory committees as it deems desirable. The Operating Committee shall prescribe in writing the organization, duties and modus operandi of such advisory committee.

5 COSTS AND EXPENSES

- 5.1 Except as otherwise specifically provided in the Contract and this Participation Agreement, all costs and expenses incurred by the Operator in the conduct of Petroleum Operations hereunder shall be borne by the Parties in proportion to their respective Participating Interests set forth in Section 2 hereof. For purposes of this Participation Agreement costs and expenses incurred by the Operator shall not include interest or other financing charges incurred by any Party in respect of loans raised to finance contributions to costs and expenses hereunder.

- 5.2 All costs and expenses incurred by the Operator in the conduct of Petroleum Operations hereunder shall be determined and settled in accordance with the provisions of the Contract. The Operator shall keep its records of costs and expenses in accordance therewith.

6 BANK ACCOUNTS, PAYMENTS TO THE OPERATOR AND DEFAULT

6.1 Bank Accounts and Payments to the Operator

- 6.1.1 Each Party shall pay when due, its Participating Interest share of [.....] Field Joint Account costs and expenses, including any cash call amounts pursuant to the provisions of this Section 6.1, and any interest in the event of tardy payment accrued in accordance with this Participation Agreement.
- 6.1.2 Operator shall open one or more bank accounts (hereafter called "the Joint Bank Account(s)"), separate and distinct from its own bank accounts as a Party, into which all funds held or received for the purposes of financing Petroleum Operations shall be deposited and from which all disbursements shall be made.

Any excess cash in Joint Bank Accounts may be invested in interest-bearing short-term deposits and the Parties shall own them in the ratio of their Participating Interests.

6.1.3 The Operator shall maintain adequate records (including a statement of expenditures) for the Joint Bank Accounts which shall be furnished to all Parties consistent with the Accounting Procedure.

6.1.4 The Operator may, upon fifteen (15) Days' advance written notice to the Parties, request all Parties to advance their shares of the estimated expenditure for the following month, stipulating the due date of payment and the currencies required, provided, however, that such due date of payment shall be the same for all Parties. The Operator may, at any time upon fifteen (15) Days' written notice to the Parties, request additional cash calls to cover unforeseen expenditures.

6.1.5 With the objective of preventing excess funds from accumulating in the Joint Bank Accounts, the Operator may, whenever appropriate, adjust the cash call schedule as appropriate.

6.1.6 If any Party remits for a given period an amount which exceeds its share of cash disbursements for the same period, the next succeeding cash call, after such determination, shall be reduced accordingly.

6.2 **Default of Payment:**

6.2.1 Any Party that fails to pay when due its Participating Interest share of Joint Account expenses, including cash advances and interest, accrued pursuant to this Agreement (hereafter a "Defaulting Party") shall be in default under this Agreement. Operator, or any other Party in the case of the default of Operator, shall promptly give written notice of such default to such Party and each of the non-defaulting Parties. The amount not paid by the Defaulting Party shall bear interest from the date due until paid in full. Interest will be calculated using the agreed interest rate pursuant to the Contract.

Provided that where the Government is a defaulting Party, all of its rights under the Contract and relevant Proclamations and all regulations shall remain intact.

6.2.2 After any default has continued for ten (10) business Days from the date of written notice of default under Section 6.2.1 hereof, and for as long thereafter as the Defaulting Party remains in default on any payment due under this Agreement, the Defaulting Party shall not be entitled to attend Operating Committee meetings or to vote on any matter coming before the Operating committee during the period such default continues. Unless agreed otherwise by the non-defaulting Parties, the voting interest of each non-defaulting Party

shall be in the proportion which its Participating Interest bears to the total of the Participating Interest of all the non-defaulting Parties. Any matters requiring unanimous vote of the Parties shall be deemed to exclude the Defaulting Party. After the said ten (10) business Days and while the Defaulting Party remains in default as aforesaid, the Defaulting Party shall not have access to any data or information relating to joint operations, and non-defaulting Parties shall be entitled to trade data without such Defaulting Party's consent and the Defaulting Party shall have no right to any data received on such trade unless and until its default is remedied in full. Notwithstanding the foregoing, the Defaulting Party shall be deemed to have approved, and shall join with the non-defaulting Parties in taking any action to maintain and preserve the Contract.

6.2.3

- a) Operator shall, either at the time of giving notice of default as provided in Section 6.2.1 or by separate notice, notify each non-defaulting Party of the sum of money it is to pay as its portion (such portion being in the ratio that each non-defaulting Party's Participating Interest bears to the Participating Interest of all non-defaulting Parties) of such amount in default. Each non-defaulting Party shall, if such default continues, pay Operator, within ten (10) business Days after receipt of such notice, its share of the amount which the Defaulting Party failed to pay. If any non-defaulting Party fails to pay its share of the amount in default as aforesaid, such non-defaulting Party shall thereupon be in default and shall be a Defaulting Party subject to the provisions of this Section. The non-defaulting Parties which pay the amount owed by any Defaulting Party shall be entitled to receive their respective share of the principal and interest payable by such Defaulting Party pursuant to Section 6.2.1 hereof.
- b) The total of all amounts paid by the non-defaulting Parties for the Defaulting Party, together with interest accrued on such amounts, shall constitute a debt due and owing by the defaulting Party to the non-defaulting Parties in proportion to such amounts paid. In addition, the non-defaulting Parties may, in the manner contemplated by this Section, satisfy such debt (together with interest) and may accrue an amount equal to the Defaulting Party's Participating Interest share of the estimated cost to abandon any Joint Property.
- c) A Defaulting Party may remedy its default by paying to the Operator the total amount due, together with interest calculated as provided in Section 6.2.1, at any time prior to transfer of its interest pursuant to Section 9 and upon receipt of such payment Operator shall remit to each non-defaulting Party its proportionate share of such amount.

- d) The rights granted to each non-defaulting Party pursuant to this Section shall be in addition to, and not in substitution for, any other rights or remedies which each non-defaulting Party may have at law or equity or pursuant to the other provisions of this Agreement.

7 MATERIAL AND EQUIPMENT

7.1 Subject to the provisions of Section 3.3 of the Contract all Material and equipment acquired by the Operator for Petroleum Operations hereunder shall be owned by the Parties in undivided shares in the proportion of their respective Participating Interests.

7.2 Except as may be otherwise approved by the Operating Committee, the Operator shall purchase for the Joint Account of the Parties only such Material and equipment as is reasonably required in the conduct of Petroleum Operations provided for in approved Participation Work Programs or revisions thereto. The Operator shall not stockpile Material or equipment for future use without the approval of the Operating Committee.

7.3 Jointly acquired Material or equipment declared by the Operator to be surplus shall be disposed of in such manner as the Operating Committee may direct, or, if the book value thereof does not exceed fifty thousand Dollars (\$50,000), the Operator shall dispose of same in such manner as the Operator shall deem appropriate and account for the proceeds in accordance with the Accounting Procedure of the Contract.

7.4 Subject to the provisions of Section 3.3 of the Contract, upon termination of this Participation Agreement, the Operator shall salvage for the Joint Account all jointly owned Material and equipment which can reasonably be salvaged, to be disposed of as provided in Section 7.3 hereof.

8 RELATIONSHIP OF THE PARTIES AND TAX PROVISIONS

8.1 The Parties declare that it is not their intention by entering into the Participation Agreement to create or be considered as a partnership or any other similar entity.

8.2 In accordance with the Contract each Party shall be responsible for and shall pay to the Eritrean tax authorities its own taxes, if any, arising out of operations hereunder.

8.3 It is recognized that a Party hereunder may be subject to the laws of its place of incorporation in addition to the laws of Eritrea.

SURRENDERS AND TRANSFERS

- 9.1 Any Party desiring that all of the Participation Area be surrendered voluntarily shall notify the other Parties in writing accordingly, specifying its reasons therefor, and thereafter:
- 9.1.1 Each Party shall within thirty (30) Days after receipt of said notice inform the other Parties in like manner whether it concurs in or opposes the proposed surrender;
- 9.1.2 If all the Parties concur in the proposed surrender, the Participation Area shall be surrendered as soon as possible under the Contract;
- 9.1.3 If one or more of the Parties shall oppose the proposed surrender, each Party desiring to surrender shall, upon request by the opposing Parties, transfer and convey without warranty of title, free and clear of all liens, charges and encumbrances and without right to compensation, all of its interest in the Participation Area and Material left thereon to said opposing Party or Parties, who shall be required to accept such transfer, each in the proportion that its Participating Interest hereunder bears to the sum of the Participating Interests of all said opposing Parties, or as otherwise agreed by the opposing Parties. The transferring Party or Parties shall bear:
- (i) its or their Participating Interest share of costs, expenses and liabilities incurred hereunder which are attributable to the Participation Area for the period prior to the effective date of such transfer of interest;
 - (ii) its or their Participating Interest share of all costs and expenses incurred by the Operator after such date under any contracts entered into by the Operator in execution of a Participation Work Program previously approved by the Operating Committee;
 - (iii) its or their Participating Interest share of the estimated removal, abandonment and demobilization costs, if any, associated with all Participating Work Programs previously approved by the Operating Committee;

- (iv) its or their Participating Interest share of any accrued obligations under the Contract which are not included in (i) or (ii) or (iii) above, but shall thereafter have no further rights or other obligations in connection therewith; and
- (v) all fines and penalties which may be imposed by the governmental authorities and all costs and expenses incurred by the other Parties in connection with such surrender.

9.1.4 A transfer under Section 9.1.3 above shall be effective as among the Parties thirty (30) Days after the opposing Parties' receipt of the transferring Party's first mentioned notice proposing surrender. Thereafter until such transfer has received whatever approvals may be necessary under the provisions of the Contract or applicable law, each transferring Party shall hold at most legal, but not equitable, title to the interest transferred for the benefit of the opposing Party or Parties. All Parties involved in a transfer shall execute and deliver such documents and do such other acts as may be necessary to give legal effect to such transfer, to obtain all approvals thereof as may be required from the Government and otherwise to give effect to the purposes of this Section.

9.2 No transfer of any interest under this Participation Agreement and the Contract shall be made by any Party otherwise than in respect of its undivided interest in all or part of its Participating Interest in this Participation Agreement and the Contract, and in accordance with the following provisions of this Section 9.

9.3 If any Party shall receive a bona fide offer for the purchase of all or a portion of its Participating Interest in this Participation Agreement, the Contract and the Participation Area, which such offer Party is willing to accept, the offeree Party shall give notice thereof in writing to the other Parties.

9.3.1 Such notice shall set forth the identity of the offeror, the terms and conditions (including monetary and other consideration) offered in good faith, and all other relevant particulars.

9.3.2 For the period of thirty (30) Days following the receipt of such notice, the other Parties shall have an option to purchase the entire interest proposed to be sold on the same terms offered by the offeror, as set forth in the respective offer.

- 9.3.3 If more than one of the Parties should exercise its right to purchase said interest, each shall have the right to acquire such interest in the proportion that the Participating Interest hereunder of such Party bears to the sum of the Participating Interests of all the Parties exercising such right, except as they may otherwise agree.
- 9.3.4 If within such a period of thirty (30) Days, none of the other Parties shall exercise its rights to purchase said interest or if none of the other Parties responds to such notice, the sale to said offeror may be made under the terms and conditions set forth in the notice given; provided that the sales shall be consummated and transfer made in accordance with the Contract and applicable law within six (6) months from the date of such notice.
- 9.3.5 For purposes of this Section 9.3, an offer to purchase shall also include an acceptance of a Party's offer to sell.
- 9.4 The limitations of Section 9.3 shall not apply to a transfer of a Participating Interest by a Party to an Affiliate of such Party or by the Government to an Appointee, or from an Appointee to another Appointee, nor shall they apply to a transfer of a Participating Interest effected as a result of merger, consolidation, reorganization or sale of capital stock of the parent company of a Party.
- 9.5 Every transfer of a Participating Interest in the Participation Area shall be made expressly subject to this Participation Agreement and the Contract and shall include a corresponding interest in jointly acquired equipment and facilities. No transfer of an interest hereunder shall be effective unless made by an instrument in writing duly executed by the Parties hereto in accordance with applicable law, and until the same has received all consents required under this Participation Agreement and the Contract. A transfer shall provide that the transferor remains liable for obligations incurred before the date of transfer and such obligations shall in addition become the obligations of the transferee. Where transferor disposes of less than its entire Participating Interest and after the transfer either the transferee or the transferor owns a Participating Interest of less than ten percent (10%), they shall be required to jointly nominate a single representative on the Operating Committee; however, such representative shall be free to vote separately the Participating Interests of the Parties it represents.
- 9.6 If a transferee other than an Affiliate of an Appointee is not of sufficient financial standing to meet its Participating Interest share of its obligations under the Contract and this Participation Agreement no Party hereto is required to consent to any transfer.

9.7 In this Section, transfer means an, assignment, sale or other disposal of the interest of a Party.

10 DISPOSAL OF PRODUCTION

10.1 Each Party shall separately own, take in kind and dispose of its Participating Interest share of that portion of the Petroleum produced and saved from the Participation Area which is available to the Parties under the terms of the Contract.

10.2 Contractor's entitlement to Petroleum shall be shared among the Parties in proportion to their actual respective contributions to costs incurred under the Contract and not yet recovered until such time as the Party or Parties which have contributed to Exploration Costs have recovered such Exploration Costs provided that Operating Costs and such Exploration Costs, in that order, shall be deemed recovered prior to any other costs from the share of Petroleum accruing to such Party or Parties.

10.3 Within six (6) months following the signing of this Participation Agreement, the Parties shall, in accordance with the provisions of the Contract and in light of the gathering and transportation facilities available under the adopted development plan, establish a set of rules governing the scheduling, lifting and other necessary provisions for the offtake of Crude Oil by the Parties, consistent with generally accepted international petroleum industry practice, which shall provide, among other things, such detailed terms and procedures as required for:

- 10.3.1 Short-term production forecasts;
- 10.3.2 Nomination and calculation of entitlements;
- 10.3.3 Scheduling of deliveries;
- 10.3.4 Lifting tolerances;
- 10.3.5 Underlift, overlift and make-up provisions;
- 10.3.6 Passage of title and risk; and
- 10.3.7 Other related matters.

Whatever is mutually agreed to by the Parties shall be deemed to form part of this Participation Agreement.

The above terms and procedures shall apply separately to each grade of Crude Oil that is segregated and separately stored for offtake.

- 10.4 In the event of production of Associated Natural Gas or of any Discovery of Natural Gas, the Parties shall agree upon appropriate procedures for disposal of any Natural Gas available under this Participation Agreement and the Contract.

11 SOLE RISK OPERATIONS

- 11.1 Any Party may undertake Petroleum Operations at its sole risk in the Participation Area, in accordance with the provisions of this Section. Such sole risk Petroleum Operations, which include not only the drilling and the construction phase of the project but also the operations of sole risk facilities, are hereinafter referred to as a "Sole Risk Project".

- 11.2 The following are the only types of Sole Risk Project which may be proposed:

11.2.1 The Drilling, completing and equipping for production of any Exploration Well in order to test a formation in which no jointly owned Well has been completed as a Well producing or capable of producing Petroleum; or

11.2.2 The installation of storage and transportation facilities the purpose of which is not to increase or accelerate production of Petroleum from the Participation Area.

- 11.3 The conduct of a project in the Participation Area may not be the subject of a sole risk notice under this Section until after it has been proposed in complete form to the Operating Committee for consideration pursuant to Section 4 hereof and has not been approved within the period therein provided.

In the event that such project fails to obtain the requisite approval of the Operating Committee, any party may serve notice on the other Parties of its intention to carry out that project at its sole risk. The other Parties may give counter notice within sixty (60) Days after receipt of that notice that they wish to participate in the project. The period set forth in this Section 11.3 shall be extended for any period of time unanimously agreed to by the Parties as necessary or desirable for acquiring or developing additional information on the Sole Risk Project.

- 11.4 If all the Parties elect to participate in the project identified in proposing Party's notice within the period provided in Section 11.3, such project shall be deemed approved by the Operating Committee pursuant to the provisions of Section 4.9 of this Participation Agreement.

11.5 In the event that less than all the Parties elect to participate in the project, the Party or Parties which elected to participate (hereinafter referred to as "Sole Risk Parties") shall be entitled to have the Sole Risk Project carried out subject to the provisions of Sections 11.7 to 11.13, if applicable to such type of Sole Risk Project.

The interest of the Sole Risk Parties in a Sole Risk Project shall be in proportion to their Participating Interest in this Participation Agreement, or in such other proportion as the Sole Risk Parties may agree upon. Any Sole Risk Project shall be carried out at the sole risk, costs and expense of the Sole Risk Parties.

11.6 No Sole Risk Project may be commenced:

- (a) after one hundred and eighty (180) Days following the expiry of the notice period prescribed in Section 11.3 in case of a project under Section 11.2.1; or
- (b) after three hundred and sixty-five (365) Days following the expiry of the notice prescribed in Section 11.3 in case of project under Section 11.2.2.

11.7 The Operator carrying out the Sole Risk Project shall complete the Sole Risk Project with due diligence unless the Operating Committee has determined that the Sole Risk Project jeopardizes the economic interest of the Parties who are not Sole Risk Parties, or unreasonably interferes with Petroleum Operations carried out under the Contract and adopted by the Operating Committee pursuant to Section 4 of this Participation Agreement, in which event the Sole Risk Project shall not be carried out.

11.8 The Sole Risk Parties may use for the Sole Risk Project any production, handling, processing or transportation facilities which are Joint Property, provided the terms and conditions of such use are unanimously agreed upon among the Parties.

11.9 In connection with any Sole Risk Project:

- (a) the Sole Risk Project shall be carried out under the overall supervision and control of the Sole Risk Parties in lieu of the Operating Committee;
- (b) the computation of costs and expenses of the Sole Risk Project incurred by the Sole Risk Parties shall be made in accordance with the principles set out hereinafter ;
- (c) the Operator carrying out the Sole Risk Project shall maintain separate books, records and accounts (including bank accounts) for the Sole Risk Project which shall be subject to the right of

examination and audit by the Sole Risk Parties in the manner provided in the Accounting Procedure;

- (d) the costs and expenses of the Sole Risk Project incurred by the Sole Risk Parties shall not be reflected in the statements and billings rendered by the Operator for Petroleum Operations under the Participation Agreement; and
- (e) if the Operator is carrying out a Sole Risk Project on behalf of the Sole Risk Parties, the Operator shall be entitled to request the Sole Risk Parties to advance their share of the estimated expenditure and shall not use Joint Account funds or be required to use its own funds for the purpose of paying the costs and expenses of the Sole Risk Project; furthermore the Operator shall not be obliged to commence, or having commenced, to continue the Sole Risk Project unless and until the relevant advances have been received from the Sole Risk Parties.

11.10 The Sole Risk Parties shall indemnify and hold harmless the other Parties against all actions, claims, demands and proceedings whatsoever brought by any third party arising out of or in connection with the Sole Risk Project and shall further indemnify the other Parties against all damages, costs, losses and expenses whatsoever directly or indirectly caused to or incurred by them as a result of anything done or omitted to be done in the course of carrying out such Sole Risk Project.

11.11 Subject to the provisions under Section 11.12.2 below, the Sole Risk Project, including data and information, shall be wholly owned by the Sole Risk Parties in accordance with the provisions of the Contract, but the Sole Risk Parties shall keep the other Parties fully and continuously informed about the Sole Risk Project in accordance with the relevant provisions of this Participation Agreement.

11.12 In the event that any Exploration Well drilled as a Sole Risk Project is completed as a producer:

11.12.1 The Contractor's share of production from such oil Well shall be owned solely by the Sole Risk Parties for so long as the Parties who are not Sole Risk Parties have not made their election under Section 11.12.2.

11.12.2 The Parties who are not Sole Risk Parties, by giving thirty (30) Day's prior notice to the Sole Risk Parties, may become participants in such Well at any time after the Sole Risk Parties have recovered from the Contractor's share of Crude Oil produced from that Well the following sums of money: six hundred percent (600%) of their sole risk costs plus one hundred percent (100%) of the costs of operating such Well.

The value of the production to which a Sole Risk Party is entitled shall be determined in accordance with Section XII of the Contract.

From and after the election of the other Parties to become participants in such Well, the Sole Risk Well and all relevant facilities, equipment and other property appurtenant thereto shall be owned jointly by the Parties and each of the Parties shall be entitled to receive its Participating Interest share of the Petroleum production from such Well.

11.13 In case of a Sole Risk Project under Section 11.2.2 hereof the relevant facilities shall be owned by the Sole Risk Parties at all times during the period of validity of this Participation Agreement. The Sole Risk Parties shall not be entitled to receive any Crude Oil by reason of such Sole Risk Project.

12 CONFIDENTIALITY

12.1 Except as may be otherwise provided in the Contract, all information related to the Petroleum Operations shall be confidential and shall not be disclosed to a person other than a Party except to:

12.1.1 an Affiliate wholly owned directly or indirectly by the parent company of one of the entities comprising the Contractor;

12.1.2 the Government and other public authorities to the extent necessary for the purpose of any applicable law;

12.1.3 a stock exchange to which a Party is obliged to make disclosure;

12.1.4 contractors, consultants, lawyers or arbitrators of a Party, where disclosure is essential;

12.1.5 a bona fide prospective purchaser of an interest of a Party in the Contract;

12.1.6 a lender, where disclosure is essential; or

12.1.7 a person to whom disclosure has been agreed upon by the Parties.

All Persons referred to in Section 12.1.1 and Sections 12.1.4 through 12.1.7 above shall undertake written confidentiality obligations and shall have no further right of disclosure.

12.2 A Party making disclosure to a Person described in Sections 12.1.5 and 12.1.6 shall give five (5) Days' prior written notice thereof to the other Parties.

12.3 The Parties shall consult with each other prior to the release of any public statement or press release, and, except to the extent required by law, rule or regulation of any governmental authority or stock exchange, no Party shall make any public statement or press release without the approval of all the other Parties, which approval shall not be unreasonably withheld. The Operator shall utilize its best efforts to co-ordinate all such public statements to the end that all Parties may effect simultaneous press releases.

12.4 The obligations of the Parties under this Section 12 are continuing obligations and any Party ceasing to be a Party to this Agreement shall remain bound by this Section until this Agreement is no longer in force between any remaining Parties and the Contract has expired.

13 LIABILITY AND MUTUAL UNDERTAKING

13.1 Each of the Parties shall abide by all the provisions of the Petroleum Proclamation, Petroleum Tax Proclamation, Petroleum Regulations and the Contract and shall do nothing to put the Contract in jeopardy.

13.2 The Parties shall be severally liable in accordance with their respective Participating Interest to third parties. Each Party shall in no event be liable for consequential damages to any other Party.

13.3 Subject to Section 3.7 hereof, each Party agrees to indemnify each other Party, to the extent of its Participating Interest share, for any claim by or liability to (including any costs and expenses necessarily incurred in respect of such claim or liability) any Person not being a Party hereto, arising from or in connection with a Participation Work Program.

14 GOVERNING LAW

14.1 This Participation Agreement shall be governed by and be construed in accordance with the laws of Eritrea.

15 ARBITRATION

15.1 Whenever the Government or its Appointee is a Party to a dispute under this Participation Agreement, such dispute shall be referred to arbitration in accordance with Section 16.2 of the Contract. In such event the rights and obligations of the Contractor under said Section 16.2 shall devolve upon the Parties to the dispute which are not the Government.

16 **FORCE MAJEURE**

16.1 The provisions of Section 16.3 of the Contract relating to Force Majeure shall be effective for this Participation Agreement, *mutatis mutandis*.

17 **NOTICES**

17.1 All notices and other communications provided for in this Participation Agreement shall be in writing and shall be delivered by hand or sent by registered airmail, as appropriate, return receipt requested, or by telegram, or facsimile (with confirmation by mail) to the Parties at the following addresses:

To.....
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.....
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Facsimile:
Attention:

To.....
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.....
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Facsimile:
Attention:

To.....
.....
.....
.....

Facsimile:
Attention:

17.2 A notice shall be effective on receipt. Notices given by registered airmail shall be deemed received on the date shown on the return receipt. Notices given by telegram, facsimile with a call-back record shall be presumed received on the working Day at the place of receipt next following the time of transmissions. Such notices given by telegram or facsimile shall be promptly confirmed by letter signed by the Party giving the notice.

17.3 Any Party may at any time and from time to time change its authorized representative or its address herein on giving the other Parties ten (10) Days notice in writing to such effect.

18 TERM

- 18.1 This Participation Agreement shall come into force on the Participation Date and shall remain in force until:
 - 18.1.1 it is terminated by the written consent of all the Parties;
 - 18.1.2 all the Participating Interests are vest in one Party; or
 - 18.1.3 the expiration or termination of the Contract.
- 18.2 Before this Participation Agreement is terminated, there shall be a final accounting and settlement of the Joint Account.

19 FINAL PROVISIONS

- 19.1 Headings are inserted in this Participation Agreement for convenience only and shall not affect the construction or interpretation hereof.
- 19.2 This Participation Agreement shall not be amended, modified or supplemented except by an instrument in writing signed by the Parties.
- 19.3 Subject to the provisions hereof, this Participation Agreement shall inure to the benefit of and be binding upon the successors and assignees of the Parties hereto and each of them respectively.
- 19.4 In the event where a provision in this Agreement should be considered as unlawful or unenforceable, the validity of the rest of this Agreement shall not thereby be affected. The provision found not to conform to the law shall be modified, whenever possible, so that the purpose it has been stipulated for can be attained.

IN WITNESS WHEREOF, the Parties hereto have signed this Participation Agreement on the Day and Year first above written.

WITNESS:

WITNESS:

ANNEX E: LETTER OF GUARANTY FOR THE ___ EXPLORATION PERIOD

LETTER OF GUARANTY NO.....

To the Minister of Energy and Mines, Asmara.

Gentlemen:

We, the ___ Bank (hereinafter referred to as the "Bank"), hereby constitute ourselves as joint and several guarantors for ___ Company (hereinafter referred to as Contractor), in favor of the Minister of Energy, Mines and Water Resources of the State of Eritrea, Asmara (hereinafter referred to as "the Minister") for a sum not exceeding a maximum aggregate amount of ___ Dollars (\$___) in order to guarantee the faithful compliance by Contractor of the minimum work program specified in Section ___ of that certain contract for Petroleum exploration, development and production by and between the Government of Eritrea and ___ Company dated ___ (hereinafter referred to as "the Contract").

The obligation which the ___ Bank assumes under the present guaranty is limited to paying the Minister the amount demanded in its payment request, provided it does not exceed the amount of the guaranty in effect on the Day the payment request is made. The amount of the guaranty in effect shall be understood as that amount remaining after deducting from the original amount the sum total of the reduction authorizations issued by the Minister and received by the Bank pursuant to the present guaranty.

1. This is a joint and several, irrevocable, unconditional and automatically collectible guaranty, payable during the period it is in effect, upon presentation of a letter addressed by the Minister to the ___ Bank requesting payment of a sum no greater than the amount of the guaranty then in effect, declaring that the Contractor has not complied with the obligation of the aforementioned minimum work program under the Contract. The said letter shall be supported by a certified copy of the letter sent by the Minister to the Contractor, giving notice of the Minister's intention to call on the guaranty. The said letter from the Minister to the Contractor must be dated and have been delivered to the Contractor not less than thirty (30) Calendar Days before the date on which the Minister submits its claim to the ___ Bank for payment under this guaranty. No other justification shall be required.

2. When appropriate the Minister may direct the _____ Bank to reduce the amount of the guaranty pursuant to the relevant term of the Contract. Upon the _____ Bank's receipt of the Minister's notice to reduce the guaranty, the _____ Bank shall immediately proceed to deem the amount of the guaranty reduced by the corresponding sum, and shall report such event in writing to the Minister and the Contractor. It shall not be necessary to issue a new guaranty document for the reduced amount but the original shall be taken as valid only for such amount.

3. The present guaranty shall expire not later than _____ months from the date hereof, that is on the _____, unless before that date the _____ Bank has received a letter from the Minister releasing the _____ Bank and the Contractor from any responsibility under the present guaranty, in which case the present guaranty shall be canceled as of the date of the aforementioned letter from the Minister.

From the expiry or cancellation date no claim whatsoever may be made regarding the present guaranty and the _____ Bank and the Contractor shall be released from any responsibility or obligation regarding the present guaranty.

Sincerely,

Bank

BARRO
CONFIDENTIAL