



Republic of The Gambia

MODEL PETROLEUM, EXPLORATION, DEVELOPMENT AND PRODUCTION LICENCE

_____ **2022**

Block A1

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THIS PETROLEUM LICENCE (the "**Licence**") made on _____ 2019

BY AND AMONG:

THE REPUBLIC OF THE GAMBIA, represented for these purposes by the Minister responsible for Petroleum matters,

AND

[♦] (the "**Licensee**" which term shall include its successors and permitted assigns)

each a "**Party**" and together the "**Parties**".

WHEREAS:

- (A) Subject to the Act, all rights relating to the ownership, exploration, development, production and disposal of Petroleum existing in its natural state in The Gambia are vested in the Government;
- (B) The Minister is responsible for the regulation of the Petroleum industry in The Gambia;
- (C) The Minister, following the receipt of a number of expressions of interest and proposals from oil companies in relation to the conduct of Petroleum Operations in the Licence Area, has selected the Licensee to undertake Petroleum Operations in the Licence Area;
- (D) The Licensee is ready, willing and able to undertake Petroleum Operations in the Licence Area; and
- (E) The Licensee has represented to the Minister's satisfaction that the Licensee has the required financial capability, technical competence, and resources necessary to undertake Petroleum Operations in the manner set out in this Licence and the Act.

NOW THEREFORE, as of the date first written above the Parties agree as follows:

1 **DEFINITIONS AND INTERPRETATION**

1.1 **Defined Terms**

In this Licence the following capitalised words shall have the following meanings, and capitalised words used in this Licence and not defined below shall have the meanings given to them in the Act and the Income Tax Act as enacted at the time of this Licence:

"Act" means the Petroleum (Exploration, Development and Production) Act, 2004 of The Gambia, which is amended by the Petroleum (Exploration, Development and Production) (Amendment) Act, 2007.

"Additional Licence" means any licence, other than this Licence, that the Licensee has entered into with the Minister, pursuant to the Act, for the purposes of exploration, development and production of Petroleum in The Gambia.

"Additional Profits Payment" has the meaning given to it in in Schedule 2, Part 6.

"Additional Profits Payment Rate" has the meaning given to it in in Schedule 2, Part 6.

"Affiliate" means, with respect to a Person, any other Person that directly or indirectly (i) Controls that such Person, (ii) is Controlled by such Person or (iii) is under common Control with such Person.

"AIPN" shall mean the Association of International Petroleum Negotiators.

"Applicable Laws" means all statutes, regulations, by-laws, codes, ordinances, decrees, rules, and all judgements, orders, decisions, rulings, awards, policies, voluntary restraints, guidelines, standards, criteria, interim directives, general bulletins, or any provisions of the foregoing of the Government and all principles of common law and equity in The Gambia.

"Appointee" means the Gambia National Oil Company, or a body corporate wholly owned or Controlled by the Government and appointed for the purposes of the Licence.

"Appraisal" means all work carried out for the purpose of delineating the discovered Petroleum Accumulation(s) in terms of thickness, lateral extent, volume of petroleum, recoverable volumes of petroleum and the commerciality thereof. This includes the drilling, evaluation and testing of Appraisal Wells, seismic surveys, and any activities or operations in connection with preparing or proposing a Proposed Development and Production Plan (which includes reservoir analysis, engineering, environmental and economic data gathering and analysis).

"Appraisal Operations" means that portion of Exploration Operations following a Discovery which is conducted for the purpose of Appraisal.

"Appraisal Programme" means a programme for the conduct of Appraisal Operations.

"Appraisal Well" means any Well which is drilled or deepened for the purpose of Appraisal.

"Approved Derivative Contracts" means Derivative Contracts that have been approved by the Commissioner pursuant to Article 10.6.

"Approved Development and Production Plan" means a Proposed Development and Production Plan approved in accordance with Article 7.7.

"Approved Work Programme and Budget" means a Work Programme and Budget approved in accordance with Article 5.4.

"Associated Gas" means:

- (a) any Natural Gas dissolved in or in contact with Crude Oil under reservoir conditions; and
- (b) any residue gas remaining after the extraction of Crude Oil from a Reservoir.

"Authorised Officer" means the Commissioner and/or such public officers as may be required to assist the Commissioner and the Minister in the performance of their functions under the Act.

"Barrel" means a quantity consisting of forty-two (42) United States gallons, liquid measure, corrected to a temperature of sixty (60) degree Fahrenheit and at one (1) atmosphere of pressure.

"Best Industry Practice" means using standards, practices, methods and procedures which comply with Applicable Law and relevant industry codes and guides and exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances.

"Calendar Year" means a period of twelve (12) consecutive months commencing with the first day of January in any year and ending the last day of December in that year, according to the Gregorian calendar.

"Central Bank" means the Central Bank of The Gambia.

"Change in Law" means the enactment, adoption, promulgation, bringing into effect, modification, amendment, repeal or re-interpretation after the date of the Licence by any Governmental Authority of any statute, decree, ordinance or any other Applicable Laws (including, where existing, those relating to any tax, duty, licence, fee or other revenue-producing measure).

"Closure Certificate" means the certificate issued by the Secretary of State in accordance with Section 51 of the Act.

"Commercial Assessment Period" means the period commencing, at the request of the Licensee, at the time when a report regarding the technical evaluation relating to the Discovery of Non-Associated Gas has been submitted by the Licensee in accordance with Article 7.1.1.

"Commercial Discovery" has the meaning given to it in Article 7.5.2.

"Commissioner" means the Commissioner for Petroleum Exploration, Development and Production appointed by the President of The Gambia pursuant to the Act and Director General appointed by the President of The Gambia pursuant to the Petroleum Commission Act 2021.

"Conditions Precedent" has the meaning given to it in Article 2.1.1.

"Conflict" has the meaning given to it in Article 36.8.1.

"Control" or **"Controlled"** means the possession of power by a Person, directly or indirectly, to direct or cause the direction of the management of another Person, whether through the ownership of shares, voting, securities, partnership or other ownership or powers conferred by participation interests, agreements or otherwise.

"Crude Oil" means any hydrocarbon which is in a liquid state at the wellhead or gas/oil separator or which is extracted from Natural Gas in a plant, including distillate and condensate.

"Decommissioning" means all actions associated with permanently ceasing a significant operation (such as the drilling of a Well, conducting a Flow Test, or Development and Production Operations) and remedying the effects of that operation on the surrounding area in accordance with Best Industry Practice and includes the plugging of a Well, the removal and salvage of associated equipment, site restoration and all other such operations required by the Act and the

Commissioner; and **"Decommission"** and other such word derivatives shall be construed accordingly.

"Decommissioning Fund Agreement" means an industry standard agreement to be entered into between the Government and the Licensee for the purposes of establishing and governing the Decommissioning Fund.

"Decommissioning Fund" means any account or fund established by agreement of the Licensee and the Commissioner for which the Licensee shall be required to make periodic contributions to fund some or all future Decommissioning obligations arising in connection with Petroleum Operations.

"Deepening" means an operation whereby a Well is drilled to a target Interval below the deepest Interval to which the Well was previously drilled; and **"Deepen"** and other such word derivatives shall be construed accordingly.

"Delivery Point" has the meaning given to it in Article 8.4.2.

"Derivative Contracts" means hedges or other similar financial instruments entered into by the Licensee for the purpose of mitigating the risk of fluctuations in the price of Petroleum produced from the Licence Area.

"Development" means all activities relating to the studies, design, procurement, construction and installation of all the facilities required to commence and sustain Production, including without limitation the drilling and completion of development wells; and **"Developed"** and other such word derivatives shall be construed accordingly.

"Development Loan" means a loan facility provided by the Licensee for the amount of the Government's participating share of all expenses incurred by the Licensee(s), Government, and/or the Appointee (and in case of the Government and/or the Appointee, on behalf of the Licensee(s)), in relation to Petroleum Operations in the Development and Production Area, after the approval of the Approved Development and Production Plan, consisting of the monies paid by the Licensee on behalf of the Government in accordance with Article 20.5.1.

"Development and Production Area" means that area covering one or more discovered Petroleum Accumulations as delineated in an Approved Development and Production Plan.

"Development and Production Operations" means those operations or activities undertaken to commence Production or to sustain Production once Production has commenced (as the case may be), including the drilling and completion of Development and Production Wells but excluding Exploration Operations and Appraisal Operations.

"Development and Production Period" has the meaning given to it in Article 2.7.

"Development and Production Plan Bonus" means the amount described in Article 8.12 payable by the Licensee upon the approval, pursuant to Article 7.7, of a Proposed Development and Production Plan.

"Development and Production Well" means a Well (other than an Exploration Well or Appraisal Well) drilled in accordance with an Approved Development and Production Plan for producing petroleum, pressure maintenance or for increasing the production rate.

"Direct Operating Costs" means any outlay or expense directly incurred by a person for the purposes of producing Petroleum from a particular licence area, including any royalties paid or payable to the Government for those purposes, provided that the outlays or expenses:

- (a) are incurred during a tax year in which the person has gross income from petroleum operations;
- (b) does not include costs or expenses in satisfaction of environmental obligations pursuant to the Petroleum Act;
- (c) does not include any fines or other penalties incurred pursuant to the Petroleum Act;
- (d) does not include any exploration, appraisal or development costs, drilling or completing costs, costs of equipping wells, planning, engineering, project management, procurement or
- (e) construction costs overhead, general administration, management or interest expenses or any costs similar to any of the foregoing; and

does not include any excess operating costs.

"Discount Rate" means the sum of one and the decimal equivalent of the percentage increase in the United States Consumer Price Index, as reported for the first time in the monthly publication *"International Financial Statistics"* of the International Monetary Fund, between the month of the Effective Date and the month when such costs were incurred.

"Discovery" means the discovery of a Petroleum Accumulation not previously proven by the drilling of a Well, with Petroleum productivity being demonstrated by either:

- (a) Petroleum being recovered at the surface in a flow measurable by conventional industry testing methods; or
- (b) Reservoir fluid content and deliverability being demonstrated using petrophysical and other subsurface evaluation technologies.

"Discovery Area" means that portion of the Licence Area reasonably determined by the Licensee on the basis of available seismic and well data to cover the areal extent of the discovered Petroleum Accumulation(s) as determined pursuant to Article 7.3.1.

"Discovery Not Currently Warranting Appraisal" means a Discovery that is not currently a Discovery Warranting Appraisal but which the Licensee reasonably believes may become a Discovery Warranting Appraisal prior to the end of the Exploration Period.

"Discovery Warranting Appraisal" means a Discovery which taking into account the available data and the prevailing commercial and technical environment, would reasonably warrant drilling Appraisal Wells into the Discovery Area in which that Discovery is located.

"Dispute" has the meaning given to it in Article 30.1.

"Dollars" or **"USD"** means United States Dollars.

"Domestic Goods and Services Contribution" means an amount equal to the difference between (1) the minimum amount the Licensee shall spend each Calendar Year in respect of domestic goods and services in accordance with Article 14.3 and (2) the actual amount spent by the Licensee in respect of domestic goods and services for each Calendar Year.

"Domestic Supply Request" has the meaning given to it in Article 12.1.3.

"Effective Date" means the date immediately following the day on which the conditions set out in Article 2.1 are satisfied or waived.

"Emergency" means an event causing or, in the reasonable opinion of a Party, threatening to cause: (i) death or injury to any individual, or serious disruption to the lives of a number of people; (ii) extensive damage to property; or (iii) contamination of the environment.

"Encumbrances" means all liens, charges, mortgages, pledges, encumbrances, security, overriding interests, claims, options, pre-emption rights or equitable interests or any agreement to create any of the foregoing, to the extent that the foregoing would affect any of the rights or benefits whatsoever of the Licensee under this Licence, other than the liens, claims or encumbrances in favour of the Government under the terms of this Licence and/or Applicable Laws.

"Environmental Impact Assessment" means an environmental impact assessment which is to be conducted within one hundred and eighty (180) days of the date on which the Licensee is notified by the Minister to do so.

"Evaluation Period" means the period commencing on the date of a Discovery and ending on the earlier of:

- (a) the date the Licensee notifies the Commissioner pursuant to Article 7.1.1(e) whether the Discovery is a Non-Commercial Discovery, a Discovery Not Currently Warranting Appraisal, a Discovery Warranting Appraisal or a Discovery of Non-Associated Gas; or
- (b) six (6) months from the date of the Discovery.

"Expatriate Employee" means any employee of the Licensee or its subcontractors who is not normally resident in The Gambia immediately prior to becoming an employee of the Licensee.

"Exploration" means geoscientific studies and operations carried out for or in connection with the search for Petroleum in the Licence Area by geological, geophysical, or photogeological surveys (including remote sensing techniques and site surveys), the drilling and testing of Exploration Wells, Appraisal Operations (including the drilling and testing of Appraisal Wells) and activities connected therewith.

"Exploration Operations" means all work carried out for the purpose of Exploration.

"Exploration Period(s)" means the period(s) described in Article 2.5, which includes the Initial Exploration Period, the First Extension Exploration Period, the Second Extension Exploration Period and any other extension as permitted under Article 2.5.

"Exploration Well" means a Well drilled in the course of Exploration Operations for the purpose of making a Discovery.

"Extension Exploration Period" means the First Extension Exploration Period, the Second Extension Exploration Period, or any additional period by which the Exploration Period is extended pursuant to Article 2.5.2, as the context requires.

"Field" means an area consisting of a single Petroleum Accumulation or multiple Petroleum Accumulations all grouped on, or related to, the same individual geological structural feature and/or stratigraphic condition. There may be two or more Petroleum Accumulations in a field that are separated vertically by intervening impermeable rock, laterally by local geologic barriers, or both.

"Financial Guarantee" means a guarantee to be provided in accordance with Article 19 (*Financial Guarantee*) and pursuant to Article 23.1.9 which shall be in one of the forms attached hereto as Appendix 3 (*Form of Parent Company Guarantee*) or Appendix 4 (*Form of Bank Guarantee*) and which shall (in each case) be subject to the written approval of the Government (in its sole discretion).

"First Extension Exploration Period" has the meaning given to it in Article 2.5.1(b)(i).

"Flow Test" means a test to measure a Reservoir's ability to flow Petroleum, the percentage or volume of water (if any) in the Reservoir, liquid and gas gravities, establish shut-in pressure prior to testing and other technical data.

"Government" means the Government of The Republic of The Gambia.

"Governmental Authority" means any national, federal, regional, state, local or other court, arbitral tribunal, administrative agency or commission or other governmental, administrative or regulatory body, authority, agency or instrumentality.

"Guarantor" means any Person who guarantees the obligations of the Licensee (or any Person constituting the Licensee) pursuant to a Financial Guarantee.

"Health, Safety and Environment Laws" means

- (a) the Environmental Protection (Prevention of Dumping) Act, the National Environment Management Act, and any other Applicable Law;
- (b) any applicable provision of this Licence; and
- (c) any approval or other operating authorisation relating to the protection or rehabilitation of the environment, health safety or natural resources, including those relating to the manufacture, use, handling, transportation, sale, treatment, storage, disposal, release, emission or discharge of hazardous substances and occupational health and safety.

"Income Tax" has the meaning given to it in the Income Tax Act.

"Income Tax Act" means the Income and Value Added Tax Act, 2012 (as amended pursuant to the Income and Value Added Tax (Amendment) Act 2018) of The Gambia.

"Initial Exploration Period" has the meaning given to it in Article 2.5.1(a).

"Intellectual Property Rights" has the meaning given to it in Article 21.10.1.

"Interval" means a recognizable section or unit of rock that is distinct from that above or below.

"Joint Operating Agreement" means a joint operating agreement in the form based on the Model Contract of the International Operating Agreement (2012) developed by the AIPN, unless a form is expressly prescribed by the Act (or regulations thereunder) in which case such form of joint operating agreement shall be used, to be entered into between Persons forming part of the Licensee with respect to their respective rights and obligations under the Licence, in the form of as such agreement may be amended, supplemented, novated or restated from time to time.

"Lapse of Consent" means any Permit:

- (a) ceasing to remain in full force and effect; or
- (b) not being issued (or, having lapsed, not being renewed or replaced) within 180 days of properly and timely made and diligently pursued application by the Licensee for that Permit to be issued, renewed, or replaced, as the case may be; or
- (c) being made subject, upon renewal or otherwise, to any terms or conditions that materially and adversely affect the Licensee's ability to perform its obligations under the Licence; or
- (d) being withdrawn, cancelled, or suspended,

in each of the above instances despite the Licensee's compliance with the applicable procedural and substantive requirements as applied in a non-discriminatory manner. For the avoidance of doubt, if any Lapse of Consent is the result of any applicable procedural and substantive requirements (whether or not applied in a non-discriminatory manner) that have changed after the Effective Date, such change should be deemed a Change in Law event as defined in the Licence.

"LIBOR" means in relation to any period in respect of which an interest rate is to be determined:

- (a) the London interbank offered rate for deposits in USD which is quoted on Reuters' LIBOR01 page (or such other page as may replace such page on such service for the purpose of displaying London interbank offered rates for deposits in USD) at or about 11.00 a.m. London time on the first day of such period; or
- (b) if no such rate is quoted at the relevant time, the arithmetic mean (rounded upwards to 4 (four) decimal places) of the rates quoted by the principal London offices of Barclays Bank plc and HSBC Bank plc to prime banks in the London interbank market at or about 11.00 a.m. London time on the first day of such period for deposits in USD; or
- (c) if the rates referred to in (a) and (b) above are not available in respect of the relevant period for any reason, such comparable rate as the Parties may agree,

and if LIBOR is a negative number it shall be deemed to be zero (0).

"Licence Area" means on the Effective Date the area described in Annex "A" and shown on the map in Annex "B", **but thereafter excludes any portions of that area in respect of which the Licensee's rights under this Licence have been relinquished.**

"Local Content Contribution" means an amount equal to one percent (1%) of the annual expenditure of any given Work Programme and Budget payable in accordance with Article 13.2.1.

"Local Content Fund" means a fund established by the Government into which the Licensee shall pay the Local Content Contribution and the Domestic Goods and Services Contribution.

"Local Content Plan" means the plan setting out the programme of activities to be undertaken by the Licensee in relation to corporate social responsibility, and other activities in Articles 14 (*Gambian Resources*) and Article 15 (*Employment and Training*), which is submitted annually to the Government with the corresponding Work Programme and Budget.

"Longstop Date" means the date that is three (3) months from the date that this Licence is signed by both Parties.

"Management Committee" has the meaning given to it in Article 3.2.1.

"Material Adverse Effect" means any of the following:

- (a) a material increase in the cost to the Licensee (including any material increase in amounts payable by the Licensee to the Government or any Governmental Authority in The Gambia); or
- (b) a material decrease in the gross Revenue received by the Licensee.

"Maximum Efficient Rate" means the rate at which the maximum economic recovery of Petroleum is obtained without excessive rate of decline in reservoir pressure, and consistent with Best Industry Practice.

"Minister" means the Minister responsible for the Petroleum matters of The Gambia.

"Natural Gas" means that portion of Petroleum which exists either in the gaseous phase or is in solution in Crude Oil in underground reservoirs, and which is gaseous at atmospheric conditions of pressure and temperature. Natural Gas may include certain amounts of non-hydrocarbons.

"Net Income from Petroleum Operations" has the meaning given to it in the Tax Schedule.

"Non-Associated Gas" means Natural Gas other than Associated Gas.

"Non-Commercial Discovery" means a Discovery that is neither a Discovery Not Currently Warranting Appraisal nor a Discovery Warranting Appraisal.

"Notification Date" has the meaning given to it in Article 34.4.

"Operator" means the designated entity that is responsible for managing the day-to-day operation of Petroleum Operations.

"Permits" means all such permits, approvals, consents, authorisations, grants or certificates of registration, notifications, concessions, acknowledgements, agreements, licenses, decisions or similar items required to be obtained from any Gambian Governmental Authority for the Licensee or for the performance of the Petroleum Operations.

"Person" means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust (including a business trust), body corporate, company, joint stock company, joint venture, governmental authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative.

"Petroleum Accumulation" means any individual body of moveable Petroleum.

"Petroleum" means all hydrocarbons (including Crude Oil and Natural Gas), capable of being produced from conventional and unconventional reservoirs, including shale oil, oil shale, shale gas, coal bed methane gas, tar sands, and other sources of hydrocarbon reserves.

"Petroleum Operations" means the exploration, development and production of petroleum under this Licence and includes any activity relating to the rehabilitation of the environment pursuant to the Act.

"Prescribed Percentage" has the meaning given to it in Article 8.7(b).

"Producing Interval" means an Interval at which Petroleum is, or is reasonably expected to be (as the case may be), Produced.

"Production" means, as the context requires, (a) the flowing of Petroleum from a discovered Petroleum Accumulation to the surface, for a purpose other than a Flow Test, or (b) the Petroleum that has been flowed from a discovered Petroleum Accumulation to the surface and not consumed in the operations causing the flow of such Petroleum to the surface; and **"Produced"** and other such word derivatives shall be construed accordingly.

"Proposed Development and Production Plan" means the detailed document required in order to obtain approval by the Minister pursuant to Article 7.7 of Development and Production Operations in respect of one or more discovered Petroleum Accumulations that, among other things, is in accordance with, and includes the information specified in, Article 7.6 including policies and procedures for Decommissioning in connection therewith.

"Quality" has the meaning given to it in Article 10.1(a).

"Quarter" means a period of three (3) consecutive months starting with the first day of January, April, July or October.

"Regulations" means any regulations made pursuant to the Act.

"Relevant Amount(s)" means any amount payable by the Licensee or other person under Article 8.1 or referred to in Article 8.1, including (without limitation):

- (a) any amount referred to in Article 8.1;
- (b) any payroll tax or national development levy as referred to in Article 8.15;
- (c) the Licensee's Net Income from Petroleum Operations as referred to in Article 8.16; and
- (d) any capital gains tax referred to in Article 8.18.

"Remaining Royalty Percentage" has the meaning given to it in Article 8.7(a).

"Reservoir" means a porous, permeable sedimentary rock formation or fractured rock formation capable of holding Petroleum and allowing Petroleum to flow from it.

"Resource Expense" means an outlay or expense incurred by a Person which is reasonably attributable to the person's acquisition of an interest in a licence or permit or the exploration, development and Production of petroleum in The Gambia with respect to a particular licence or permit, including excess operating costs, rentals paid or payable to the Government and a reasonable amount of any general administration and management or interest expense (excluding interest paid to any Affiliate) incurred for the purpose of exploration, development and production of petroleum in The Gambia with respect to the licence, but does not include-

- (a) costs or expenses incurred in satisfaction of environmental obligations pursuant to the Income Tax Act; or
- (b) fines or other penalties incurred pursuant to the Income Tax Act.

"Return on Capital Factor" has the meaning give to it in Schedule 2, Part 6 Paragraph 2.

"Revenue" means the expected revenues derived from the conveyance and sale of Petroleum together with any income earned through the Petroleum Operations (if any).

"Royalty Ceiling" has the meaning given to it in Schedule 2 Part 1 paragraph 1

"Royalty Floor" has the meaning given to it in Schedule 2 Part 1 paragraph 1

"Satellite Development" means one or more discovered Petroleum Accumulations described in a Proposed Development and Production Plan (or otherwise) to be Produced through any Production facilities installed pursuant to, in respect of, or contemplated by (as the case may be) an Approved Development and Production Plan, or any other Production facilities located outside The Gambia.

"Second Extension Exploration Period" has the meaning given to it in Article 2.5.1(b)(ii).

"Secretary of State" shall have the meaning given to it in the Act.

"Shortfall" shall have the meaning given to it in Article 19.2.2.

"Suspension Period" means in respect of any Force Majeure Event, an uninterrupted period of sixty (60) months from the date of commencement of that Force Majeure Event.

"Tax Schedule" means the Second Schedule of the Income Tax Act.

"Term" means the term of this Licence described in Article 2.2.

"Third Party Sales" has the meaning given to it in Article 10.1(b).

"Threshold Amount" has the meaning given to it in Article 34.3.

"Unit Development Scheme" has the meaning given to it in Article 26.1.2

"Well" means any opening in the ground or seabed, made or being made by drilling or boring or in any other manner, within the Licence Area for the purpose of

discovering and/or Production of Petroleum, or for the injection of any fluid, other than a seismic hole.

"Well Commitment Penalty" means [♦]¹ USD

"Work Programme and Budget" means an annual plan and budget for the conduct of those Petroleum Operations to be undertaken in the year governed by such plan.

"Work Programme" means a statement itemising the Petroleum Operations to be carried out pursuant to the Licence during any relevant period of time.

1.2 Interpretation

1.2.1 The words "include" and "including" when used in this Licence shall be construed without limitation.

1.2.2 References to a statute, treaty or legislative provision in this Licence shall be construed, at any particular time, as including a reference to any modification, amendment, extension or re-enactment at any time then in force and to all subordinate legislation made from time to time under it.

1.2.3 Article headings are included for convenience only and shall not affect the interpretation of this Licence.

1.2.4 Every reference to an "Article", "Schedule" or "Appendix" is a reference to an Article or Article of, or an Appendix to, this Licence.

1.2.5 Every reference to a "Section" or "Part" is a reference to a Section or Part of the Act.

1.2.6 Every reference to a "day", "month" or "year" is a reference to a day, month or year on the Gregorian calendar.

1.2.7 If at any time an index used in the Licence is withdrawn or becomes unavailable for any reason or becomes, in the reasonable opinion of either Party, inappropriate as a basis for indexation pursuant to this Licence, then upon written notice of either Party to the other, the Parties shall:

- (a) use reasonable efforts to agree on a mutually acceptable replacement index; and
- (b) if after fourteen (14) days of such notice they have been unable to agree on a mutually acceptable replacement index, then either Party may refer the matter to an expert, who shall determine an appropriate substitute index pursuant to Article 31 (*Expert Determination*),

provided that pending the substitution of a replacement index no index adjustment shall be made, and following the substitution of a replacement index the Parties shall make the indexation adjustment with the substitute index retroactively to the date on which the relevant adjustment would otherwise have been made.

1.3 Appendixes

The following Appendixes are attached to and form part of this Licence:

¹ Note this is a biddable term

- Appendix 1 Description of Licence Area;
- Appendix 2 Map of Licence Area;
- Appendix 3 Form of Parent Company Guarantee; and
- Appendix 4 Form of Bank Guarantee.

2 **EXCLUSIVITY, TERM, EXPLORATION PERIOD AND DEVELOPMENT AND PRODUCTION PERIOD**

2.1 **Conditions Precedent**

2.1.1 Save for Article 2.1, Article 3 (*Joint Operating Agreement and Operator*), Article 8.11.1, Article 16.3 and Article 19 (*Financial Guarantee*) which shall be effective from the date of this Licence, the entry into full force and effect of the remaining provisions of the Licence is conditional upon the satisfaction (or waiver by the Minister, or in respect of Article 2.1.1(d) waiver by the Minister and Licensee, in writing) of the following conditions:

- (a) the payment in cleared funds of the signature bonus pursuant to Article 8.11.1;
- (b) the Licensee demonstrating, to the reasonable satisfaction of the Government, that it has complied with the applicable insurance requirements set out in Article 16.3;
- (c) the Licensee providing the Government with the relevant Financial Guarantee in accordance with Article 19 (*Financial Guarantee*); and
- (d) if there is more than one Person constituting the Licensee, the approval and execution of the Joint Operating Agreement in accordance with Article 3 (*Joint Operating Agreement and Operator*);

(the "**Conditions Precedent**").

2.1.2 The Licensee shall use all reasonable endeavours to ensure that all of the Conditions Precedent are satisfied (or waived by the Minister, or in respect of Article 2.1.1(d) waived by the Minister and Licensee, in writing) on or before the Longstop Date.

2.1.3 If all of the Conditions Precedent have not been satisfied (or waived by the Minister, or in respect of Article 2.1.1(d) waived by the Minister and Licensee, in writing) by the Longstop Date then the Licence shall be of no further force and effect and Article 3 (*Joint Operating Agreement and Operator*), Article 8.11.1, Article 16.3 and Article 19 (*Financial Guarantee*) shall terminate with immediate effect, unless the Minister, in his or her absolute discretion:

- (a) elects to extend the Longstop Date by a maximum of thirty (30) days or such other period as the Parties may agree to enable the Licensee to satisfy, or procure the satisfaction of, the Conditions Precedent; and/or
- (b) elects to waive the Conditions Precedent that have not yet been satisfied (save in respect of Article 2.1.1(d) where the Minister and Licensee may elect to waive such Conditions Precedent).

2.2 **Term**

2.2.1 Unless sooner terminated or surrendered pursuant to Article 28 (*Surrender and Termination*) and subject to the extension of the Development and Production Period in accordance with Article 2.7, this Licence shall commence on the Effective Date and remain in force until the first to occur of:

- (a) the last day of the Exploration Period if there has been no Development and Production Period;
- (b) the last day of the last subsisting Development and Production Period; and
- (c) the day that is thirty (30) years from the Effective Date,

(the "**Term**").

2.2.2 The Parties agree that any expenses incurred by the Licensee from the date that this Licence is signed by both Parties up to the Effective Date that would, following the Effective Date, be defined as Resource Expenses, shall be deemed Resource Expenses and expenses incurred in satisfying the minimum work obligations set out in Schedule 1. If the Licence is terminated prior to the Effective Date, the Government shall not be liable, and shall have no obligation to reimburse the Licensee, for any expenses incurred by the Licensee up to the date of such termination.

2.3 **Exclusivity**

Subject to the Act, the Licensee shall, from the Effective Date until the end of the Term, on the terms and conditions set out or referred to herein, have the exclusive right to carry on Petroleum Operations, and execute such works as may be necessary or expedient in relation to those Petroleum Operations, in the Licence Area.

2.4 **Title**

2.4.1 The Government warrants and represents that:

- (a) it has the full authority and power to grant to the Licensee the rights and benefits afforded to the Licensee under this Licence, including without limitation, the matters referred to in Article 2.3 (*Exclusivity*);
- (b) the rights and benefits afforded to the Licensee under this Licence are granted free from all Encumbrances; and
- (c) the execution and delivery of this Licence and each of the other documents or agreements referred to herein by the Government and/or any Appointee, as applicable, and the performance of and compliance with their terms and provisions will not conflict with or result in a breach of, or constitute a default under any Applicable Law, order or judgment that applies or binds the Government and/or any Appointee, as applicable, or any of its property, to the extent that the foregoing would affect any of the rights or benefits whatsoever of the Licensee under this Licence.

2.4.2 Legal and beneficial title to Petroleum shall pass to the Licensee at the wellhead.

2.5 **Exploration Period**

2.5.1 The Exploration Period shall commence on the Effective Date and, unless this Licence is sooner terminated or surrendered pursuant to Article 28 (*Surrender and Termination*) shall continue:

- (a) for an initial period of three (3) years from the Effective Date (the "**Initial Exploration Period**"); and
- (b) provided that the Licensee has fulfilled all its obligations hereunder, including Article 4 (*Work Obligations*) and Article 19.1.1, upon the Licensee's election made by notice in writing to the Commissioner:
 - (i) not later than thirty (30) days before the Initial Exploration Period would otherwise expire, for a period of two (2) years from the date of expiry of the Initial Exploration Period (the "**First Extension Exploration Period**"); and
 - (ii) not later than thirty (30) days before the date on which the First Extension Exploration Period would otherwise expire, for a period of two (2) years from the date of expiry of the First Extension Exploration Period (the "**Second Extension Exploration Period**");
- (c) for the period of any extension calculated pursuant to Article 29.3.

2.5.2 In order to enable the Licensee to complete the works at the end of the Second Extension Exploration period, the Commissioner shall, on written application by the Licensee made not later than ninety (90) days before the expiry of that Second Extension Exploration Period, grant an extension for such period as may be necessary for the Licensee to complete the works, which in any event shall not be longer than one hundred and eighty (180) days and shall require the Licensee to carry out such works continuously and diligently.

2.5.3 Unless the Commissioner notifies the Licensee of any objection within forty-five (45) days of receiving a notice under Article 2.5.1(b), the Licensee shall be deemed to have fulfilled its obligations under Article 4 (*Work Obligations*) in respect of the relevant period.

2.5.4 The Exploration Period may run concurrently with one or more Development and Production Periods.

2.6 **Exploration Period Special Extensions**

2.6.1 If the Licensee has made a Discovery and pursuant to Article 7.1 has notified the Commissioner that it has made a Discovery, the Exploration Period shall not terminate before the end of the Evaluation Period and shall apply to the Licence Area at the time the Discovery was made.

2.6.2 If pursuant to Article 7.3.1(a) the Licensee is drawing up an Appraisal Programme in respect of a Discovery, the Exploration Period shall not terminate unless the Licensee fails to submit to the Commissioner an Appraisal Programme in accordance with the timescales set out in Article 7.3.1(a). Where the Licensee submits an Appraisal Programme in compliance with Article 7.3.1(a) the Exploration Period shall apply to the Licence Area until the Licensee commences Appraisal Operations in respect of the Discovery Area.

2.6.3 If the Licensee is undertaking Appraisal Operations in compliance with Article 7.3, the Exploration Period shall not terminate in respect of the Discovery Area to which those Appraisal Operations relate until the first to occur of:

- (a) the date on which the Proposed Development and Production Plan submitted by the Licensee in respect of the Discovery Area is approved by the Commissioner pursuant to Article 7.7;
- (b) where the Commissioner does not approve the Proposed Development and Production Plan and reference is made to an expert, the date approval is given pursuant to Article 7.7.6(a) or Article 7.7.7; and
- (c) the date the Licensee gives notice, or is deemed to have given notice, to the Commissioner under Article 7.3.1(e) that the Licensee does not intend to enter into Development and Production Operations in respect of that Discovery Area.

2.6.4 If pursuant to Article 11.3(a) there is an ongoing Commercial Assessment Period, the Exploration Period shall not terminate in respect of the portion of the Licence Area that is subject to a Commercial Assessment Period for the duration of the Commercial Assessment Period. The portion of the Licence Area that is subject to a Commercial Assessment Period shall be agreed between the Parties in accordance with Article 11.3(a).

2.7 **Development and Production Period**

A Development and Production Period shall commence with respect to each Development and Production Area on the date when the Commissioner pursuant to Article 7.7 approves the Proposed Development and Production Plan in relation to such area, and unless this Licence is extended or sooner terminated or surrendered in accordance with its terms, shall, in respect of the Development and Production Area, continue to subsist until the day that is twenty-five (25) years from the date of such approval or until the day that is thirty (30) years after the Effective Date, whichever is the later to occur. The Development and Production Period may, at the absolute discretion of the Commissioner, on application by the Licensee made not later than twelve (12) months before the date on which the Development and Production Period would otherwise expire, be extended by the Commissioner in respect of the Development and Production Area for five (5) years on such terms and conditions as he or she may determine.

3 **JOINT OPERATING AGREEMENT AND OPERATOR**

3.1 **Submission of Joint Operating Agreement**

3.1.1 Where the Licensee consists of more than one Person:

- (a) their liability shall be joint and several (other than in relation to the corporate taxes, where the liability shall be several); and
- (b) the Persons shall enter into a Joint Operating Agreement binding the Persons constituting the Licensee.

3.1.2 Where such persons under Article 3.1.1(b) enter into a Joint Operating Agreement, the Licensee shall provide a copy of the Joint Operating Agreement (including any amendment thereof) to the Commissioner for review.

3.1.3 The Commissioner shall have twenty (20) days following submission of the Joint Operating Agreement under Article 3.1.2 to submit to the Licensee suggested modifications and revisions thereto. Following consultation with the Commissioner, the Licensee shall consider in good faith the inclusion of such suggested modifications and revisions against Best Industry Practice and update the Joint Operating Agreement to reflect any changes it deems appropriate following such consultation. The provisions of this Article 3.1.3 shall be without prejudice to any other obligations of the Licensee regarding the form and content of the Joint Operating Agreement which are otherwise set out in this Article 3 or elsewhere in this Licence.

3.1.4 In case of expiry of the period of twenty (20) days following submission of the Joint Operating Agreement under Article 3.1.2 without the submission of comments and alterations from the Commissioner, the Licensee shall be deemed to have complied with its obligations in Article 3.1.2.

3.2 **Management Committee**

3.2.1 The Joint Operating Agreement shall establish a management committee for the purposes of controlling and supervising the conduct of Petroleum Operations, ensuring cooperation between the Parties, overseeing and supervising the implementation of Petroleum Operations and the compliance with Work Programmes and Approved Development and Production Plans, (the "**Management Committee**"). The Joint Operating Agreement shall establish the functions and the procedures of the Management Committee.

3.2.2 The Government is entitled to appoint up to three (3) representatives who shall be part of the Management Committee and shall act as observers (with the right, *inter alia*, to provide information and informal suggestions, but with no voting rights) in all Management Committee activities. The Licensee shall ensure that the appointed Government representatives in the Management Committee receive all information in connection with the activities of the Management Committee. The Licensee shall ensure that the Government representatives receive written notice within reasonable time and latest at the same time as the other Licensee representatives in the Management Committee.

3.3 **Appointment of an Operator**

3.3.1 As at the Effective Date the Operator shall be [♦].

3.3.2 In the event that an existing Operator ceases to be the Operator, the Licensee shall within thirty (30) days propose a new Operator to the Commissioner.

3.3.3 If the Commissioner has reasonable grounds for refusal of the proposed Operator (such grounds to be notified to the Licensee), the Commissioner may refuse grant of approval within twenty (20) days following receipt of the proposal, at which point the Parties shall work together in good faith to agree an appropriate Operator. In case of expiry of the period of twenty (20) days without the Commissioner approving or refusing grant of approval, the Operator nominated by the Licensee shall be deemed approved by the Commissioner.

3.3.4 If the Licensee does not put forward a proposal for a new Operator or a proposed Operator is not approved by the Commissioner (such approval not to be unreasonably withheld or delayed) and:

- (a) the Operator is being replaced pursuant to Article 3.5.1, the Commissioner may, by written notice to the Operator and the Persons constituting the

Licensee, terminate this Licence due to the Licensee's material default in accordance with Article 28.2.; or

- (b) the Operator is being replaced for any reason other than pursuant to Article 3.5.1, the decision of approving a new Operator shall be referred to an expert for determination in accordance with Article 31 (*Expert Determination*) and subject to Article 3.3.5.

3.3.5 Where Article 3.3.4(b) applies as a result of the Commissioner rejecting the Licensee's proposed Operator, and where:

- (a) the expert determines that the Commissioner acted reasonably, the Licensee shall propose a new Operator. Until such time as a new Operator is accepted by the Commissioner under this Article 3.3, the Operator who is being replaced shall continue to be the Operator; or
- (b) the expert determines that the Commissioner acted unreasonably, the Operator proposed by the Licensee pursuant to Article 3.3.2 shall be deemed approved by the Commissioner.

3.4 **Obligations of the Operator**

3.4.1 The Operator shall:

- (a) supervise the Petroleum Operations on behalf of the Licensee;
- (b) represent the Licensee in all matters related to the Licence; and
- (c) be the only Person which, on behalf of the Licensee, may execute contracts, incur expenses, make commitments and implement other actions in connection with the Petroleum Operations.

3.4.2 The obligations, liabilities, acts and omissions of the Operator are considered the obligations, liabilities, acts and omissions of the Licensee.

3.5 **Removal of an Operator**

3.5.1 If the Commissioner, acting reasonably, determines that the Operator is in material breach of this Licence, the Commissioner may by written notice to the Licensee give notice of such breach. The Licensee shall have ninety (90) days' following the notice to remedy the breach. If following the ninety (90) day period the breach has not been remedied, or is incapable of being remedied, the Commissioner may, by written notice to the Operator and the Persons constituting the Licensee, request that a new Operator be proposed by the Licensee.

3.5.2 Where the Commissioner requests that a new Operator be proposed by the Licensee under Article 3.5.1, Article 3.3. shall apply.

4 **WORK OBLIGATIONS**

4.1 **Minimum Work Obligations**

4.1.1 In the course of carrying out Exploration Operations in the Licence Area, the Licensee shall, during the relevant Exploration Period in which such Exploration Operations occur, diligently carry out no less than the minimum work obligations listed in that part of Schedule 1 which corresponds to the relevant Exploration Period.

- 4.1.2 To the extent that, by the end of Initial Exploration Period, the Licensee has not carried out the entire minimum work obligations listed in Schedule 1, or, the Licensee wishes to exit the Licence at any time during the Initial Exploration Period having not undertaken the minimum work obligations, the Licensee shall pay to the Government, within thirty (30) days of demand, an amount equal to the relevant proportion of the Well Commitment Penalty as set out in Schedule 3 (*Well Commitment Penalty*).
- 4.1.3 To the extent that, by the end of First Extension Exploration Period or the Second Extension Exploration Period, the Licensee has not carried out the entire minimum work obligations listed in Schedule 1, or, the Licensee wishes to exit the Licence at any time during either the First Extension Exploration Period or the Second Extension Exploration Period having not undertaken the minimum work obligations which relate to that Exploration Period, the Licensee shall pay to the Government, within thirty (30) days of demand, thirty million United States Dollars (USD 30,000,000).
- 4.1.4 Subject to Article 19.2.1, if the Licensee does not comply with its obligation under Article 4.1.2 or 4.1.3 the Government may, notwithstanding any other rights available to it under this Licence, make a claim against the Guarantor for the amount due pursuant to Article 19.2.2.
- 4.1.5 The aggregate costs of any fees, charges or other sums payable by the Licensee to the Government and/or any Government Authority in respect of each Environmental Impact Assessment to be undertaken in connection with this Licence and any approvals, consents or permits associated with such Environmental Impact Assessment under the terms of this Licence and/or any Applicable Laws, shall not exceed the amount of one hundred thousand United States Dollars (USD 100,000). For the avoidance of doubt, the Parties acknowledge that each Environmental Impact Assessment shall only be requested and completed in accordance with Applicable Law.
- 4.2 **Commencement**
- Exploration Operations shall commence on the Effective Date.
- 5 **WORK PROGRAMMES AND BUDGETS**
- 5.1 **Submission of Work Programme and Budget**
- 5.1.1 Within thirty (30) days of the Effective Date, the Licensee shall prepare and submit to the Commissioner a detailed draft Work Programme and Budget setting forth the Petroleum Operations which the Licensee proposes to carry out in the first twelve (12) months of the Term and a reasonable estimate of the cost thereof.
- 5.1.2 Thereafter, the Licensee shall repeat the steps in Article 5.1.1 in respect of each subsequent twelve (12) month period by submitting to the Commissioner the draft Work Programme and Budget no later than three (3) months prior to the beginning of such twelve (12) month period. If agreed by the Parties, the date for submission of the draft Work Programme and Budget during the Term of this Licence can be accommodated to the fiscal year of the Government.
- 5.2 **Work Programme and Budget Content**
- Every Work Programme and Budget submitted to the Commissioner pursuant to Article 5.1.1 and every amendment thereto shall:

- (a) be consistent with the provisions of Article 4 (*Work Obligations*) and the minimum work obligations listed in Schedule 1 in respect of any Exploration Operations to be undertaken in the period to which the Work Programme and Budget relates;
- (b) be consistent with the requirements set out in the applicable Appraisal Programme, submitted pursuant to Article 7.3, to be undertaken in the period to which the Work Programme and Budget relates;
- (c) be consistent with the requirements set out in the applicable Approved Development and Production Plan to be undertaken in the period to which the Work Programme and Budget relates; and
- (d) be necessary or desirable for Petroleum Operations, applying Best Industry Practice.

5.3 **Work Programme and Budget Amendments**

By giving written notice to the Commissioner the Licensee may propose amendments to any Work Programme and Budget or any revised Work Programme and Budget. A notice under this Article 5.3 shall state the reasons why in the reasonable opinion of the Licensee the proposed amendments meet the requirements of Article 5.2.

5.4 **Approval of Work Programme and Budget**

- 5.4.1 The Parties shall meet at the cost of the Licensee before the approval of any Work Programme and Budget to review the Petroleum Operations in the previous year and to discuss the Petroleum Operations of the next year.
- 5.4.2 The Commissioner shall approve any Work Programme and Budget submitted pursuant to Article 5.1 and any amendments thereto proposed pursuant to Article 5.3 if the proposed Work Programme and Budget or amendments meet the requirements of Article 5.2.
- 5.4.3 If the Commissioner wishes to propose any amendments to a proposed Work Programme and Budget or proposed amendments thereto, he or she shall, within forty (40) days after receipt thereof, so notify the Licensee specifying in reasonable detail his or her reasons. Within thirty (30) days after receipt of a proposal from the Commissioner pursuant to this Article 5.4.3, the Licensee shall make such revisions as the Licensee deems appropriate and give written notification thereof to the Commissioner together with the revised Work Programme and Budget.
- 5.4.4 If the Commissioner does not propose amendments to a proposed Work Programme and Budget or proposed amendments thereto within forty (40) days after receipt thereof, the Commissioner will be deemed to have approved the proposed Work Programme and Budget or proposed amendments thereto.
- 5.4.5 If the Commissioner does not approve the amendments proposed by the Licensee pursuant to Article 5.3 or 5.4.2 then the Commissioner shall notify the Licensee within forty (40) days after his or her receipt thereof and the Parties shall meet promptly thereafter and attempt to agree on a Work Programme and Budget. If the Parties are unable to agree within thirty (30) days of their first meeting, then either Party may refer the matter to an expert for determination pursuant to Article 31 (*Expert Determination*).

- 5.4.6 Where the expert determines that the Work Programme and Budget or amendments thereto meets the requirements of Article 5.2, the Commissioner shall forthwith give the requisite approval to the Work Programme and Budget or amendments thereto submitted by the Licensee.
- 5.4.7 Where the expert determines that the Work Programme and Budget or amendments thereto do not meet the requirements of Article 5.2 then the expert shall within thirty (30) days make such amendments to the Work Programme and Budget or revisions thereto as he or she deems appropriate and which meets the requirements of Article 5.2 and the Commissioner shall forthwith give the requisite approval to the expert's Work Programme and Budget.
- 5.4.8 The Licensee shall diligently undertake and complete all Petroleum Operations described in any Work Programme and Budget approved pursuant to this Article 5.4.

6 RELINQUISHMENT OF AREAS

6.1 Mandatory Periodic Relinquishment

The Licensee shall:

- (a) on or prior to the commencement of the First Extension Exploration Period, relinquish its rights in respect of at least thirty percent (30%) of the net area determined in accordance with Article 6.4;
- (b) on or prior to the commencement of the Second Extension Exploration Period, relinquish its rights in respect of at least twenty five percent (25%) of the net area in accordance with Article 6.4; and
- (c) at the end of the Exploration Period, relinquish its rights in respect of all of the remaining Licence Area that does not then comprise a Development and Production Area.

6.2 Final Relinquishment

- (a) Unless the Commissioner determines otherwise, the Development and Production Area shall be deemed to be relinquished on the earlier of:
- (b) Production from the Development and Production Area ceasing permanently or for a continuous period of twelve (12) months (or, if because of a Force Majeure Event, sixty (60) months, or such longer period as determined by the Minister, in consultation with the Licensee); or
- (c) the expiry of the Development and Production Period.

6.3 Retention of Discoveries Not Currently Warranting Appraisal

Only until the earlier of:

- (a) the day that is six (6) years after the Effective date; or
- (b) the day on which the Licence is terminated,

the Licensee shall retain its rights in respect of each Discovery Area that the Licensee notifies the Commissioner pursuant to Article 7.1.1(e)(ii) is a Discovery Not Currently Warranting Appraisal if, together with that notice, the Licensee pays

to the Government one thousand United States Dollars per square kilometre (USD 1,000 per sq km).

6.4 Conditions of Relinquishment

6.4.1 In this Article 6, each reference to the Licence Area from which a portion is to be relinquished is a reference to the Licence Area as it was immediately prior to the relinquishment, excluding:

- (a) any area relating to a Discovery the commerciality of which is still being evaluated by the Licensee pursuant to Article 7.1.1;
- (b) any Discovery Area that is a Discovery Not Currently Warranting Appraisal in respect of which the Licensee has made a payment pursuant to Article 6.3;
- (c) any Discovery Area that is the subject of approved Appraisal Operations;
- (d) any subsisting Development and Production Area; and
- (e) any Discovery Area that is subject to a Commercial Assessment Period for Non-Associated Gas.

6.4.2 Each area relinquished under Article 6.1 must be a contiguous area comprising compact units of a size and shape which will permit the carrying out of Petroleum Operations in the relinquished portions and such areas shall be approved by the Commissioner (such approval not being unreasonably withheld, delayed or conditioned).

6.4.3 The Licensee shall specify the areas to be relinquished by notice to the Commissioner at least sixty (60) days prior to the day on which the relinquishment is to take effect. If the Licensee fails to provide this notice by that date, the Commissioner shall have the absolute discretion to determine the areas to be relinquished and shall notify the Licensee accordingly prior to the date which the relinquishment is to take effect.

6.4.4 The Licensee shall comply with its rehabilitation obligations under Section 50 of the Act prior to its relinquishment of any area pursuant to Article 6.1.

7 DISCOVERY, APPRAISAL AND DEVELOPMENT

7.1 Initial Notice of Discovery

7.1.1 Upon a Discovery in the Licence Area the Licensee shall:

- (a) as soon as practicable after the Discovery, and in any event within forty eight (48) hours thereof, notify the Commissioner of the Discovery;
- (b) promptly run a Flow Test and other tests in respect of the Discovery;
- (c) as soon as practicable in any event no later than fifty (50) days after notifying the Commissioner pursuant to Article 7.1.1(a), furnish full particulars in writing of the Discovery to the Commissioner;
- (d) carry out a technical evaluation of the well data and of all other relevant subsurface data and submit the evaluation to the Commissioner as soon as

it is completed (and in any event within five (5) months of making the Discovery); and

- (e) within thirty (30) days after the date on which the technical evaluation is submitted to the Commissioner in accordance with Article 7.1.1(d), notify the Commissioner (together with the Licensee's detailed analysis of the reasons for that assessment) in writing whether or not in the reasonable opinion of the Licensee the Discovery is:
 - (i) a Discovery Warranting Appraisal;
 - (ii) a Discovery Not Currently Warranting Appraisal;
 - (iii) a Non-Commercial Discovery; or
 - (iv) a Discovery of Non-Associated Gas; and
- (f) for Discoveries Not Currently Warranting Appraisal, propose a Discovery Area for the purposes of Article 6.3 for approval by the Commissioner (such consent not to be unreasonably withheld).

7.1.2 At any time following the notification of a Discovery in accordance with Article 7.1.1 (a) the Licensee may propose an early production scheme for the Commission's consideration. Any decision to implement an early production scheme shall be at the absolute discretion of the Commission.

7.2 **Classification of a Discovery Not Currently Warranting Appraisal**

7.2.1 If the Commissioner receives notice from the Licensee that the Licensee classified a Discovery as a Discovery Not Currently Warranting Appraisal pursuant to Article 7.1.1(e)(ii) and the Commissioner believes that the Discovery should be classified as a Discovery Warranting Appraisal, the Commissioner shall notify the Licensee within sixty (60) days that he believes the Discovery should be classified as a Discovery Warranting Appraisal (failing which the Commissioner shall be deemed to have agreed with the Licensee's classification). The Parties shall attempt in good faith to resolve any differences regarding the Licensee's classification, but if they are unable to do so within sixty (60) days of the Commissioner having given notice under this Article 7.2, either Party may refer the matter to an expert for determination pursuant to Article 31 (*Expert Determination*).

7.2.2 If the expert referred to in Article 7.2.1 determines that the Licensee's classification of a Discovery as a Discovery Not Currently Warranting Appraisal pursuant to Article 7.1.1(e)(ii) was incorrect and that the Discovery should have been classified as a Discovery Warranting Appraisal under Article 7.1.1(e)(i), the Government shall return to the Licensee the corresponding payment received from the Licensee pursuant to Article 6.3 (without interest) and the Licensee may notify the Commissioner within thirty (30) days of the expert's decision that the Licensee elects to appraise the Discovery pursuant to Article 7.3. If the Licensee does not so notify the Commissioner within thirty (30) days, the Licensee shall be deemed to have classified the Discovery as a Non-Commercial Discovery pursuant to Article 7.1.1(e)(iii).

7.2.3 Unless the Licence has been terminated earlier, until the date which is six (6) years after the Effective Date, the Licensee may give written notice to the Commissioner that a Discovery Not Currently Warranting Appraisal in respect of which the Licensee made the requisite payment under Article 6.3 is a Discovery Warranting Appraisal.

7.3 **Discovery Warranting Appraisal**

7.3.1 If the Licensee notifies the Commissioner that a Discovery is a Discovery Warranting Appraisal under Article 7.1.1(e)(i) or Article 7.2.3, or if the Licensee elects to appraise a Discovery after a determination by the expert pursuant to Article 7.2.2:

- (a) the Licensee shall within sixty (60) days draw up and submit to the Commissioner for approval an Appraisal Programme and delineated Discovery Area in respect of the Discovery. If more than one Petroleum Accumulation has been discovered by the well, the Appraisal Programme and Discovery Area should cover all the Petroleum Accumulations;
- (b) the Commissioner shall notify the Licensee within thirty (30) days of receiving an Appraisal Programme if the Commissioner disagrees with the scope of the delineated Discovery Area and Appraisal Programme described therein, and the Parties shall meet as soon as is reasonably possible thereafter and attempt to resolve their differences. If the Parties are unable to resolve their differences within thirty (30) days of their first meeting then either Party may refer the matter to an expert for determination in the manner provided in Article 31 (*Expert Determination*). The Parties shall each submit to the expert a proposed Discovery Area and Appraisal Programme and the expert shall be restricted to deciding between the two proposals based upon which, on the basis of available seismic, Well, Flow Test and other data, most appropriately covers the Petroleum Accumulation(s) in which the relevant Discovery was made;
- (c) the Licensee may, on the basis of new information and by notice to the Commissioner, modify the Discovery Area and Appraisal Programme and the approval and dispute resolution provisions in Article 7.3.1(b) shall apply *mutatis mutandis* in respect of such notice. No such modification may be made after the date of completion of the Appraisal Operations;
- (d) upon receipt of the Commissioner's approval in accordance with Article 7.3.1(a) (which shall not be unreasonably withheld or delayed), shall promptly carry out Appraisal Operations in accordance with the aforesaid Appraisal Programme; and
- (e) within a period of twenty-four (24) months from the date on which the Commissioner gives such approval, the Licensee shall:
 - (i) notify the Commissioner in writing that the Licensee does not intend to enter into Development and Production Operations in respect of the Discovery Area; or
 - (ii) in respect of a Discovery of Crude Oil, notify the Commissioner by notice in writing that the Licensee intends to enter into Development and Production Operations and submit to the Commissioner a Proposed Development and Production Plan pursuant to Article 7.6, in respect of the Field as described in the Appraisal Programme report (under Article 7.5),

provided that if the Licensee fails to provide any of the applicable submissions or notices referred to in Article 7.3.1(a) to Article 7.3.1(e) within the time periods set out therein, then on the last day of the applicable time period the Licensee shall be deemed to have notified the Commissioner under Article 7.3.1(e)(i) that the Licensee does not intend to

enter into Development and Production Operations in respect of the Discovery Area.

7.4 Discovery of Non-Associated Gas

If the Licensee notifies the Commissioner under Article 7.1.1(e) that a Discovery is a Discovery of Non-Associated Gas, the provisions of Article 11.3 shall apply.

7.5 Appraisal Programme Report

7.5.1 The notice referred to in Article 7.3.1(e) shall be accompanied by a comprehensive and detailed Appraisal Programme report which shall include all available technical and economic data relevant to a determination of whether a Discovery merits Development and Production Operations, including but not limited to particulars of:

- (a) seismic interpretation and structural configuration;
- (b) geological interpretation and description of the Reservoir (including petrochemical properties);
- (c) geological model;
- (d) petrophysics and Reservoir fluids;
- (e) hydrocarbons initially in place;
- (f) reservoir modelling approach;
- (g) reservoir development, including any improved and enhanced recovery processes;
- (h) wells design and production technology;
- (i) feasibility studies, assessment of reserves and economic evaluations sufficient to establish whether or not the Discovery merits Development and Production Operations; and
- (j) any other information that has been collected by the Licensee in its preparation of the Appraisal Programme report.

7.5.2 Where a Discovery merits Development and Production Operations, it shall be referred to as a "**Commercial Discovery**".

7.6 Proposed Development and Production Plan Requirement and Content

7.6.1 Where pursuant to Article 7.3.1(e)(ii) or Article 11.3 the Licensee elects to submit a Proposed Development and Production Plan to the Commissioner, the Licensee shall have a period of twelve (12) months from the date of notification under Article 7.3.1(e)(ii) or Article 11.3 to submit such Proposed Development and Production Plan.

7.6.2 The Proposed Development and Production Plan shall provide a clear explanation of the Licensee's commitments in respect of the development of the Petroleum resources in a manner that is representative of Best Industry Practice and shall not contain any activities or operations that are contingent on further Appraisal Operations or on any other activities, operations or determinations.

7.6.3 The Proposed Development and Production Plan shall contain:

- (a) the data set out in the Appraisal Programme report, which shall be updated as necessary;
- (b) the Licensee's proposal for the delineation of the proposed Development and Production Area covering, so far as the boundaries of the Licence Area permit, the entire volume of the discovered Petroleum Accumulations that constitute the Commercial Discovery as determined by the Appraisal Programme and;
- (c) a plan for development of the Development and Production Wells, reserves and Production profiles which shall include technical and economic appraisal of the alternative methods for developing the Commercial Discovery and transporting Petroleum with the objective of maximising economically recoverable Petroleum;
- (d) a justification for the preferred development scheme should include:
 - (i) description of drilling and Production facilities ;
 - (ii) process, storage and transport facilities ;
 - (iii) project planning; and
 - (iv) a field management plan and explanation as to the recovery techniques in respect of the Petroleum Accumulations, including the method for disposal of Associated Gas.
- (e) information regarding the financing of the Development and Production Operations, including:
 - (i) cost estimates of capital and operating expenditures; and
 - (ii) the Licensee's detailed economic model generated in accordance with Best Industry Practice and with a start date on the assumed date of the Commissioner's approval of the Proposed Development and Production Plan and taking into account, for taxation purposes only, all estimated Resource Expenses following that date, excluding all Resource Expenses prior to the assumed date of the Commissioner's approval, for the calculation of project internal rate of return and net present value. The economic model must have appropriate sensitivities for all economic parameters including a range of oil and gas price forecasts;
- (f) safety measures to be adopted in the course of Development and Production Operations including measures to deal with emergencies;
- (g) the necessary measures to be taken for the protection of the environment and for Decommissioning (and compliance in all other respects with the rehabilitation obligations set forth in Section 50 of the Act) including a schedule for the amortization of costs and recovery of costs, estimated to be incurred when the Proposed Development is Decommissioned;
- (h) proposals for employment and training of citizens of The Gambia;

- (i) proposals with respect to the procurement of goods and services obtainable in The Gambia;
- (j) an estimate of the time required to complete each phase of the Proposed Development and Production Plan; and
- (k) such other documentation as the Commissioner may reasonably require in addition to or to verify or supplement the foregoing.

7.7 Approval of Proposed Development and Production Plan

- 7.7.1 As a condition precedent to the approval of a Proposed Development and Production Plan, the Commissioner may (at his or her discretion) require that the Licensee enters into a Decommissioning Fund Agreement for the purposes of meeting all costs and liabilities associated with Decommissioning on terms satisfactory to the Commissioner, acting reasonably.
- 7.7.2 Subject to the condition precedent set out in Article 7.7.1, the Commissioner shall notify the Licensee in writing, within a period of three (3) months from the date on which the Proposed Development and Production plan was submitted:
- (a) of his or her approval to the Proposed Development and Production Plan; or
 - (b) that he or she does not approve the Proposed Development and Production Plan, in which case the Commissioner shall provide details of any revisions or changes to such plan which it proposes are necessary in order for it to comply with Article 7.6.
- 7.7.3 If the Commissioner gives notice under Article 7.7.2(b) the Parties shall, within a period of thirty (30) days from the date on which the Licensee has been notified of the Commissioner's decision, use best endeavours to meet and shall attempt to agree in good faith on the revisions to the Proposed Development and Production Plan proposed by the Commissioner.
- 7.7.4 If the Parties are unable to agree on the revisions and/or the content of a Proposed Development and Production Plan within one-hundred and twenty (120) days from the date on which the Licensee has been notified of the Commissioner's decision in accordance with Article 7.7.2(b), then either Party may refer the matter to an expert for determination pursuant to Article 31 (*Expert Determination*).
- 7.7.5 Where the Proposed Development Production Plan is referred to an expert in accordance with Article 7.7.4, such expert shall determine whether the Proposed Development and Production Plan (including any revisions which the Parties agree pursuant to Article 7.7.3) meets the requirements of Article 7.6.
- 7.7.6 If the expert determines that that the Proposed Development and Production Plan:
- (a) does meet the requirements of Article 7.6, the Commissioner shall forthwith give the requisite approval to the Proposed Development and Production Plan submitted by the Licensee;
 - (b) does not meet the requirements of Article 7.6, the expert shall be instructed to make recommendations (as part of its determination) as to those amendments which are required in order to meet the requirements of Article 7.6.

7.7.7 If the expert provides recommendations to the Parties in accordance with Article 7.7.6(b), the Licensee shall be entitled, within a period of ninety (90) days from the date it receives the expert's determination, to propose amendments to the Proposed Development and Production Plan to reflect the recommendations proposed by the expert and submit such updated Proposed Development and Production Plan to the Commissioner for approval in accordance with the provisions of 7.7.2.

7.7.8 If the Commissioner notifies the Licensee that he or she does not approve the updated Proposed Development and Production Plan within the time period set out in Article 7.7.2, the procedure set out in Articles 7.7.3 to 7.7.7 shall apply mutatis mutandis (including, if necessary, referral to the expert for its second determination ("**Second Determination**").

7.7.9 If the Licensee does not submit an updated Proposed Development and Production Plan within the time period specified in Article 7.7.7, or, in the event of a Second Determination it does not agree with the recommendations of the expert, it shall within a period of ninety (90) days relinquish that Development and Production Area of the Licence proposed by the Licensee in the Proposed Development and Production Plan.

7.8 **Amendments to Proposed Development and Production Plan**

7.8.1 The Licensee or the Commissioner may from time to time during a Development and Production Period propose amendments to the then prevailing Approved Development and Production Plan, including for the purposes of incorporating a Satellite Development.

7.8.2 Any such amendments ("**Proposed Amendment**") shall be consistent with Best Industry Practice.

7.8.3 Within one hundred and eighty days (180) days of receipt of a Proposed Amendment, the other Party (the "**Receiving Party**") shall notify the Party which submitted the Proposed Amendment in writing whether or not it consents to that proposal.

7.8.4 Without prejudice to the foregoing, during such one hundred and eighty (180) day period, the Parties shall, if requested by either Party, use best endeavours to meet and shall discuss the Proposed Amendment and attempt to agree in good faith any revisions or amendments to the Proposed Amendment which either Party may propose.

7.8.5 If the Receiving Party does not consent to a Proposed Amendment (or otherwise fails to respond within the period specified in Article 7.8.3), the Proposed Amendment shall have no effect and the existing Approved Development and Production Plan shall continue to be implemented by the Parties.

8 **ROYALTIES, BONUSES, RENTALS, TAXES AND LEVIES**

8.1 **Royalties, Rentals, Taxes and Levies**

The Licensee shall be liable for the payment of:

- (a) royalties in accordance with Articles 8.2 through 8.9 (inclusive);
- (b) annual rentals in accordance with Article 8.10;

- (c) a signature bonus in accordance with Article 8.11;
- (d) Development and Production Plan Bonuses in accordance with Article 8.12;
- (e) Production bonuses in accordance with Article 8.13;
- (f) all taxes and levies contained in the Income Tax Act subject to any exemptions or qualifications in Article 8 and Article 17 (*Import Duties*) and subject to Article 34 (*Economic Stabilisation*); and
- (g) Additional Profits Payment in accordance with Article 8.14.

8.2 **Royalty Payment Generally**

The Licensee shall pay to the Government a royalty on all Petroleum Produced under this Licence. The liability of the Licensee to pay the royalty shall be discharged as follows:

- (a) in the case of Associated Gas, by paying to the Government the royalty at the rate specified in Article 8.5.
- (b) in the case of Non-Associated Gas royalty rates will be negotiated in accordance with Article 11.6.
- (c) in the case of Crude Oil:
 - (i) by paying to the Government the royalty at the rate specified in Article 8.3; or
 - (ii) where Article 8.4 applies, by delivering the specified percentage of Crude Oil as provided in Article 8.4; or
 - (iii) where Article 8.6 applies, partly by so paying the royalty and partly by so delivering Crude Oil as provided in Article 8.6.

8.3 **Royalty Amount**

- 8.3.1 Subject to the remainder of this Article 8.3 and Article 10 (*Valuation of Crude Oil*) the royalty payable in respect of Crude Oil Produced from the first Development and Production Area, and from each subsequent Development and Production Area that is not developed as a Satellite Development, shall be the value FOB The Gambia of all Crude Oil Produced by the Licensee in that Development and Production Area during the month in which Crude Oil was Produced, multiplied by the applicable percentage as set forth in Schedule 2, Part 1.
- 8.3.2 Subject to Article 8.3.3, the royalty payable in respect of Crude Oil Produced from a Satellite Development shall be the applicable percentage in Schedule 2, Part 1.
- 8.3.3 The royalty rate in respect of Crude Oil Produced from each Development and Production Area prior to the completion and commissioning of permanent Production facilities in that Development and Production Area, shall be the applicable percentage in Schedule 2, Part 1.
- 8.3.4 The value of Crude Oil shall be calculated in accordance with Article 10 (*Valuation of Crude Oil*) hereof.

8.4 Royalty Taken in Kind and Quantities Produced in Testing

8.4.1 The Government may, instead of taking the royalty payments in accordance with Article 8.3.1 elect to take a royalty in kind, in which case the provisions of Article 8.4.2 shall apply.

8.4.2 If the Government chooses to exercise the right under Article 8.4.1 the Commissioner shall give written notice to the Licensee not less than ninety (90) days before the commencement of any month, requiring that the Licensee to deliver the Prescribed Percentage, or such lesser percentage as may be specified in such notice, of Crude Oil that is Produced in that month, and the Licensee shall comply with the requirement by delivery to the Government at any of the Licensee's normal loading points in the Gambia (the "**Delivery Point**") specified by the Commissioner, of corresponding quantities of Crude Oil.

8.4.3 If in the relevant month the Licensee has produced different qualities of Crude oil and not commingled them, proportionate quantities of each Quality of Crude Oil shall be so delivered unless otherwise requested by the Commissioner.

8.4.4 Crude Oil Produced during any Flow Test is the property of The Gambia and shall, if requested by the Commissioner, be made available to the Government for lifting at a mutually agreed loading point.

8.5 Royalty on Associated Gas

If the Licensee elects to process and sell Associated Gas in accordance with Article 11 (*Natural Gas*), the royalty rate on the realised price of Associated Gas shall be the percentage as set out in Schedule 2, Part 1, paragraph 2.

8.6 Royalty Partly Taken in Kind

Where in a notice referred to in Article 8.4 the Commissioner specifies a percentage that is less than the Prescribed Percentage, the Licensee shall discharge its liability to pay the royalty:

- (a) by delivery in accordance with Article 8.4 of the percentage so specified of Crude Oil; and
- (b) by paying in accordance with Article 8.4 the royalty at the Remaining Royalty Percentage in respect of Crude Oil Produced in the relevant month.

8.7 Defined Terms Relating to Royalties

For the purpose of this Article 8:

- (a) "**Remaining Royalty Percentage**" means the difference (expressed as a percentage) between the Prescribed Percentage and the amount (expressed as a percentage) specified in the relevant notice given under Article 8.4; and
- (b) the "**Prescribed Percentage**" means the applicable rate for each royalty as specified in Article 8.3 and Schedule 2.

8.8 **Royalty Statements**

The Licensee shall within twenty (20) days after the end of each month after the commencement of Production under this Licensee deliver to the Commissioner in such form as the Commissioner may specify, a statement of:

- (a) the quantity of Petroleum Produced from the Licence Area, including a breakdown showing the quantity of Petroleum Produced from each Development and Production Area, in that month;
- (b) the value FOB The Gambia of the Petroleum on which the royalty is payable;
- (c) the amount of the royalty payable for that period and the particulars of the calculation of that amount; and
- (d) any other matters which the Minister may from time to time require.

8.9 **Royalty Payment Timing**

The royalty in respect of Crude Oil Produced hereunder is payable not later than thirty (30) days after that Crude Oil is sold or otherwise disposed of as contemplated in Article 10 (*Valuation of Crude Oil*).

8.10 **Rental Payments**

- 8.10.1 The annual rental payable to the Government under this Licence shall be the amount calculated by charging the amounts set out in Schedule 2, Part 2.
- 8.10.2 The first annual rental payment shall be made within thirty (30) days of the Effective Date and subsequent payments within thirty (30) days of subsequent anniversaries of the Effective Date.

8.11 **Signature Bonus**

- 8.11.1 As a condition precedent to the Effective Date, the Licensee shall pay to the Government the signature bonus set out in Schedule 2, Part 3.
- 8.11.2 The signature bonus paid by the Licensee to the Government pursuant to Article 8.11.1 shall not constitute a Resource Expense, Direct Operating Cost or otherwise be deductible for the purposes of calculating the Licensee's Net Income from Petroleum Operations pursuant to the Tax Schedule.

8.12 **Development and Production Plan Bonuses**

- 8.12.1 The Licensee shall pay to the Government the Development and Petroleum Plan Bonuses as set out in Schedule 2, Part 4.
- 8.12.2 The Development and Production Plan Bonuses paid by the Licensee to the Government pursuant to Article 8.12.1 shall not constitute Resources Expenses, Direct Operating Costs or otherwise be deductible for the purposes of calculating the Licensee's Net Income from Petroleum Operations pursuant to the Tax Schedule.

8.13 Production Bonuses

8.13.1 The Licensee shall pay to the Government production bonuses in respect of each Development and Production Area (and again in respect of each Satellite Development within that Development and Production Area) as set out in Schedule 2, Part 5.

8.13.2 The production bonuses paid by the Licensee to the Government pursuant to Schedule 2, Part 5 shall not constitute Resource Expenses, Direct Operating Costs or otherwise be deductible for the purpose of calculating the Licensee's Net Income from Petroleum Operations pursuant to the Tax Schedule.

8.14 Additional Profits Payment

8.14.1 The Licensee shall pay to the Government an Additional Profits Payment in accordance with Schedule 2, Part 6.

8.14.2 The Licensee shall pay the Additional Profits Payment to the Government within the time set out in the Income Tax Act for the payment by the Licensee of any Income Tax due by the Licensee.

8.15 Payroll Tax and National Development Levy

The Licensee shall not be liable to pay any payroll tax or national development levy in relation to its employees engaged in Petroleum Operations hereunder during any period prior to the commencement of the first Development and Production Period under this Licence.

8.16 Income Tax Clarifications

Income tax paid by the Licensee pursuant to the Income Tax Act shall not constitute a Resource Expense, a Direct Operating Cost or otherwise be deductible for the purposes of calculating the Licensee's Net Income from Petroleum Operations pursuant to the Income Tax Act.

8.17 Sales Tax Clarifications

8.17.1 Before the commencement of the Development and Production Period, the Licensee shall not be liable to account for any value added tax, purchase tax, consumption tax or any similar tax (any, and each a "**Sales Tax**") on any goods or service provided by it under or in connection with this Licence.

8.17.2 Before the commencement of the Development and Production Period, the Licensee shall not bear any Sales Tax on any goods or service provided to it under or in connection with this Licence, and accordingly (without limitation):

(a) If the Sales Tax is collected from the Licensee by direct assessment, the Licensee shall be exempt from such direct assessment;

(b) If the Sales Tax is payable by the Licensee as additional consideration to the provider (the "**Provider**") of the relevant goods or service:

(i) to the extent that the Provider can without prejudice to itself supply such goods and service to the Licensee without charging the Sales Tax as additional consideration, such goods or services shall be exempt from Sales tax when provided by the Provider; and

- (ii) to the extent that Article 8.17.2(b)(i) above does not apply, the Licensee shall be entitled to recover from the relevant authority any Sales Tax it has paid.

8.17.3 The Government may at its discretion, exempt the Licensee from Sales Tax incurred in relation to Development and/or Production.

8.17.4 If Sales Tax is payable by the Licensee for goods or services in respect of Development and Production Operations to the Provider of the relevant goods or services or to the Government, the Licensee shall be entitled to recover from the relevant authority any Sales Tax it has paid.

8.18 **Payments on Asset Transfers**

All income accruing or arising, whether directly or indirectly, through or from any disposal, sale or transfer of any share or interest in:

- (a) this Licence;
- (b) the Licensee; or
- (c) any other company or entity whether registered or incorporated inside or outside of The Gambia (if such share or interest derives, directly or indirectly, its value substantially from this Licence or any asset located in The Gambia),

shall be subject to capital gains tax pursuant to the Income Tax Act.

8.19 **Ring-fencing**

The liability of the Licensee or any other person to pay the Relevant Amounts shall not be reduced by reference to any fact or matter external to this Licence, and in particular (but without limitation to the generality of the foregoing):

- (a) the Relevant Amounts shall not be directly or indirectly reduced by reference to any losses, costs or any other matter incurred under or in connection with any other Licence and/or other matter external to this Licence; and
- (b) the Relevant Amounts shall not be directly or indirectly reduced by reference to any losses, reliefs, exemptions, amounts or other matters, whether of or in respect of any royalties, annuals rentals, signature bonus, development and production plan bonuses, production bonuses, taxes (including income tax, payroll taxes and capital gains tax), levies (including the additional development levy), additional profit payments or other matter, calculated by reference to or incurred under or in connection to (in each case whether in whole or in part) any other Licence and/or other matter external to this Licence, and neither the Licensee nor any other person shall exercise or seek to exercise any right so to reduce any Relevant Amount or any right that has the effect of directly or indirectly so reducing any Relevant Amount.

9 CONDUCT OF PETROLEUM OPERATIONS

9.1 Standard of Petroleum Operations

The Licensee shall diligently and in good faith carry on all Exploration Operations, Appraisal Operations, Development and Production Operations, other Petroleum Operations and any other activities, operations or obligations pursuant to this Licence or in the Licence Area in accordance with Best Industry Practice and the relevant approved Work Programme and Budget. Similarly, all opinions, recommendations, submissions, representations, determinations, decisions and the like of the Licensee shall be based upon and made in accordance with Best industry Practice and in good faith.

9.2 Content of Petroleum Operations

In particular, and without limiting the generality of Article 9.1, the Licensee:

- (a) shall control the flow and prevent the waste or escape in the Licence Area of petroleum, gas (not being petroleum), and water;
- (b) shall ensure the proper Decommissioning of all Exploration Operations, Appraisal Operations and Development and Production Operations;
- (c) shall prevent damage to any Producing Interval in any area within or outside the Licence Area;
- (d) shall keep separate each Reservoir discovered in the Licence Area and each source of water (if any) discovered in the Licence Area;
- (e) shall prevent water or any other matter from entering any Reservoir through the Wells in the Licence Area except when required by, and in accordance with, Best Industry Practice;
- (f) shall comply with its obligations under Part IX (Health, Safety and Environment) of the Act, including in respect of the conduct of Petroleum Operations, responses to releases of hazardous substances, the preparation of Environmental Impact Assessments, and the preparation and the implementation of environmental rehabilitation plans;
- (g) in carrying out Petroleum Operations in the Licence Area, shall not interfere unjustifiably with any navigable waters or fishing in or conservation of the living resources of any waters in or in the vicinity of the Licence Area;
- (h) shall furnish to the Commissioner prior to the drilling of any Well, a detailed report on the technique to be employed, an estimate of the time to be taken, the material to be used and the safety measures to be employed in the drilling of the Well;
- (i) shall maintain in good conditions and repair all structures, equipment and other property in the Licence Area and used in connection with the Petroleum Operations hereunder; and
- (j) shall take reasonable steps to warn persons who may, from time to time, be in the vicinity of any such structures, equipment or other property and the possible hazards resulting there from.

9.3 No Perimeter Wells

A Licensee shall not drill a Well or any part of which is less than one hundred and fifty (150) metres from the boundary of the Licence Area except with the consent in writing of the Commissioner and in accordance with such conditions, if any, as are specified in the instrument of consent.

9.4 Survey Obligations

The Commissioner may, at any time for any reasonable purpose, by notice in writing served on the Licensee, direct the Licensee:

- (a) to carry out a survey of the position of any Well, structure or equipment specified in the notice; and
- (b) to furnish promptly to the Commissioner a report in writing of the survey.

9.5 Meetings on Petroleum Operations

The Parties shall meet periodically at the mutually agreed time and venue, but not less than every three (3) months, to discuss the technical and operational issues during the Term of this Licence at the cost of the Licensee.

9.6 Flaring of Petroleum

9.6.1 The Licensee shall not flare any Petroleum for the duration of the Licence, including during the testing of any Reservoir or Producing Interval without the express written consent of the Commissioner (such consent not to be unreasonably withheld or delayed), except in the case of an Emergency where the Licensee may flare such amounts of Petroleum as is reasonably required to prevent or reduce the impact of the Emergency, provided that the Licensee:

- (a) gives notice to the Commissioner immediately following such Emergency detailing the actions that the Licensee took in relation to the flaring of any Petroleum; and
- (b) complies with all of the Commissioner's reasonable instructions thereafter in respect of the flaring of any Petroleum.

9.6.2 Where the Licensee does flare Petroleum in accordance with Article 9.6.1, such flaring must be in accordance with the Act, Regulations and Best Industry Practice. For the avoidance of doubt, breach of this Article 9.6 represents a material default of the Licensee under this Licence.

9.7 Any request for flaring that the Licensee submits to the Commissioner shall include an evaluation of reasonable alternatives to flaring that have been considered along with information on the amount and quality of Petroleum involved and the duration of the requested flaring.

10 VALUATION OF CRUDE OIL

10.1 Fair market Value of Crude Oil

The Parties hereby agree that Crude Oil Produced from the Licence Area shall be sold or otherwise disposed of at competitive international market prices. The average fair market price of crude Oil marketed in any Quarter shall, for the purposes of this Licence, be determined as follows:

- (a) as soon as possible after the end of each Quarter in which Crude Oil has been Produced from any Development and Production Area pursuant to this Licence an average price (in terms of United States Dollars per Barrel, FOB The Gambia) for each separate volume of Crude Oil of the same gravity, sulphur and metal content, pour point, product yield and other relevant characteristics ("**Quality**") shall be determined in respect of Production during that Quarter. It is understood that Production from different Development and Production Areas may be of differing Quality and that separate average prices may accordingly be appropriate for any Quarter in respect of Production from each Development and Production Area in which event the overall price applicable to Production from the Licence Area shall be determined by taking the arithmetic weighted average (weighted by volume) of all such prices separately determined;
- (b) the prices aforesaid shall be determined on the basis of international fair market value as follows:
 - (i) if fifty percent (50%) or more of the total sales by the Licensee during the Quarter of Crude Oil of a given Quality Produced hereunder have been third Party arm's length sales transacted in foreign exchange ("**Third Party Sales**"), the fair market valuation for all Crude Oil of that Quality will be taken to be the simple arithmetic average price actually realised in such Third Party Sales (inclusive of any gains or losses arising under any Approved Derivative contracts). This will be calculated by dividing the total receipts from all Third Party Sales by the total number of Barrels of Crude Oil sold in such sales;
 - (ii) subject to Article 10.1(b)(iv)(C) below, if less than fifty percent (50%) of the total volume of sales made by the Licensee during the quarter of Crude Oil of a given Quality Produced hereunder have been Third Party Sales, the fair market valuation for all Crude Oil of that Quality will be determined by the arithmetic weighted average of:
 - (A) the simple arithmetic average price actually realised in the Third Party Sales during the Quarter of such Crude Oil Produced hereunder, if any, calculated by dividing the total receipts from all Third Party Sales by the total number of Barrels of Crude Oil in such sales; and
 - (B) the simple arithmetic average price per Barrel at which a selection of major competitive Crude Oils of generally similar Quality to that of Crude Oil Produced hereunder were sold in international markets during the same period,

provided that:

 - (C) the prices of the Crude Oils used for reference will be adjusted for differences in Quality, quantity, transportation costs, delivery time, payment and other contract terms;
 - (D) the selected Crude Oils will be agreed between the Licensee and the Commissioner in advance for each year and in making the selection preference will be given to those Crude Oils of similar Quality to Crude Oil which are produced in Africa or the Middle East and are regularly

sold in the same markets as Crude Oil is normally sold;
and

- (E) the arithmetic weighted average aforesaid will be determined by the percentage volume of sales of Crude Oil by the Licensee that are, and that are not, as the case may be, Third Party Sales during the Quarter in question;
- (iii) all such prices shall be adjusted to FOB The Gambia; and
- (iv) for the purpose of this Article 10, Third Party Sales of Crude Oil made by the Licensee shall include any third party arm's length sales made by the Licensee on the Government's behalf pursuant to Article 12.3 but shall exclude:
 - (A) sales, whether direct or indirect through brokers or otherwise, of any seller or to any Affiliate of such seller; and
 - (B) Crude Oil exchanges, barter deals or restricted or distress transactions, and more generally any Crude Oil transaction which is motivated in whole or in part by considerations other than the usual economic incentives for commercial arm's length crude oil sales; and
 - (C) if less than fifty percent (50%) of the total volume of sales by the Licensee are Third Party Sales, the Licensee shall promptly notify the Commissioner of the applicable percentage and respective volumes and prices realised (inclusive of any gains or losses arising under any Approved Derivative Contracts). The Commissioner shall have the right to elect that the fair market valuation for all Crude Oil of that Quality will be determined for that Quarter in accordance with Article 10.1(b)(i). If the Commissioner so elects he or she will notify the Licensee in writing within fourteen (14) days of receipt of the original notification from the Licensee and the fair market valuation of the aforesaid Crude Oil shall be determined accordingly. If the Commissioner does not so elect, then the fair market valuation shall be determined in accordance with Article 10.1(b)(ii).

10.2 **Determination of Average Prices**

- 10.2.1 The Licensee shall be responsible for establishing the relevant average prices for Crude Oil in accordance with this Article 10 and such prices shall be subject to the agreement by the Commissioner before they shall be accepted as having been finally determined. If the Parties fail to agree on the average price for any Quarter within thirty (30) days following the end of such Quarter then the calculation of the relevant average price shall be referred to an expert pursuant to Article 31 (*Expert Determination*).
- 10.2.2 The Licensee shall, for the purposes of this Article 10, prepare and submit to the Commissioner within twenty (20) days after the end of each Quarter during a Development and Production Period a statement providing calculations of the value of Crude Oil Produced from Petroleum Operations during that Quarter and containing the following information:

- (a) the quantities, prices and receipts realised by the Licensee in Third Party Sales of Crude Oil of a given Quality Produced hereunder from each Development and Production Area during that Quarter;
- (b) the quantities, prices and receipts realised by the Licensee in sales of Crude Oil of a given Quality Produced hereunder from each Development and Production Area during that Quarter, other than in Third party Sales;
- (c) the quantity of stocks of Crude Oil of a given Quality Produced hereunder from each Development and Production Area held at the end of that Quarter;
- (d) the percentage volume of total sales of Crude Oil of a given Quality Produced hereunder from each Development and Production Area made by the Licensee during that Quarter that are Third Party Sales; and
- (e) all information available to the Licensee, if relevant for the purposes of the calculations to be performed under this Article 10, concerning the prices of the selection of major competitive Crude Oils, including contract prices, discount and premium, and prices obtained on the spot markets.

10.3 **Crude Oil Disputes**

Any Dispute arising between the Parties under, or in respect of, Article 10.1 and/or Article 10.2 shall be dealt with in accordance with Article 31 (*Expert Determination*).

10.4 **Annual Meeting**

During the year in which Production from the Licence Area commences, the Parties shall meet at the cost of the Licensee in order to establish a provisional selection of the major competitive Crude Oils and an appropriate mechanism for the purposes of giving effect to Article 10.1(b)(ii)(B). The selection of Crude Oils will be reviewed annually and modified if necessary.

10.5 **Interim Royalty Calculations**

For the purposes of ascertaining any amount of royalty until such time as the value of the Crude Oil attributable to a Quarter is determined hereunder, the calculations shall be based on the value of the Crude Oil attributable to the preceding Quarter under this Article 10 and in the absence of such value, on the value agreed between the Commissioner and the Licensee. Upon determination of the value of the Crude Oil attributable to the Quarter in question hereunder, adjustments shall be made on the basis of the value determined.

10.6 **Derivative Contracts**

Prior to entering into any Derivative Contract the Licensee shall provide the Commissioner with a copy of that Derivative Contract or a term sheet accurately and in detail describing all of its material terms. If the Commissioner approves the use of that Derivative Contract in the calculations set out in Article 10.1 the Commissioner shall so notify the Licensee in writing within seven (7) days after the receipt by the Commissioner of the Derivative Contract (or term sheet). If the Commissioner does not so notify the Licensee, the Derivative Contract shall not be used in the calculations set out in Article 10.1.

11 NATURAL GAS

11.1 The Licensee shall have the right to use Natural Gas extracted from the discovered Petroleum Accumulations within the Licence Area for the Petroleum Operations in the Licence Area (including, but not limited to, power generation, pressure maintenance and recycling and re-injection operations).

11.2 The terms and conditions relating to the use and Production of Associated Gas shall be as follows:

- (a) if the Licensee elects to process and sell Associated Gas, the Licensee shall notify the Government and, for the purposes of this Licence, the provisions relating to the processing and sale of Non-Associated Gas shall apply mutatis mutandis to the processing and sale of Associated Gas, to the extent applicable;
- (b) if Licensee elects not to process and sell Associated Gas not used for the purposes specified in Article 11.1 the Government may, at the field separator, process and utilise that Associated Gas without compensation, but the Government shall pay for all costs and expenses related thereto (which shall include, but not be limited to, any engineering studies, new facilities and equipment required for the gathering, transport, processing and utilization thereof) and the operations and maintenance of the same shall be at the sole risk, cost and expense of the Government, provided that such off-take does not significantly disrupt or delay the conduct of the Petroleum Operations; and
- (c) the Licensee may re-inject any Associated Gas not used for the purposes specified in Article 11.1, taken by the Government pursuant to Article 11.2(b) or sold by the Licensee pursuant to Article 11.2(a) to the subsurface structure. Costs of such re-injection shall be recoverable to the extent that such re-injection is included in the Approved Development and Production Plan.

11.3 The terms and conditions relating to the evaluation and the commercial assessment of a Discovery of Non-Associated Gas and of the Production and sale of Non-Associated Gas shall be as follows:

- (a) within thirty (30) days of completion of the technical evaluation relating to a Discovery of Non-Associated Gas made by the Licensee in accordance with Article 7.1.1 the Licensee may notify the Commissioner of its intention for a Commercial Assessment Period in respect of such Discovery to commence, at which point the Commercial Assessment Period shall, commence for a period of three (3) years in respect of such portion of the Licence Area that relates to the Discovery as agreed between the Parties. If the Parties do not agree on the extent of the area relating to such Commercial Assessment Period, such Dispute shall be dealt with in accordance with Article 31 (*Expert Determination*);
- (b) an extension to the Commercial Assessment Period may be granted upon request by the Licensee to the Government, for a second period of up to two (2) years;
- (c) during the Commercial Assessment Period the Licensee shall carry out an Appraisal and commercial assessment of the Discovery of Non-Associated Gas, which shall be proposed and approved in accordance with Article 7.3.1 and shall provide the Commissioner with a report on the estimated

recoverable reserves, projected delivery rate and pressure, quality specifications, other technical and economic factors relevant to the determination for available market for such Non-Associated Gas and additional data and analysis requested by the Government. The Licensee shall, at any time during the Commercial Assessment Period, notify the Government that any Discovery of Non-Associated Gas made by the Licensee (in respect of which an Appraisal and commercial assessment report has been submitted) is commercial; and

- (d) if the Licensee does not request a Commercial Assessment Period pursuant to Article 11.3(a) within ninety (90) days from the date on which the technical evaluation was submitted pursuant to Article 7.1.1 the Licensee shall lose all rights to the Discovery of Non-Associated Gas on the expiry of the Exploration Period.

11.4 The Commercial Assessment Period shall end on the first to occur of:

- (a) the date following that on which the Licensee gives a notice under Article 11.3(c) that the Discovery is commercial; or
- (b) the date that the Licensee voluntarily relinquishes that portion of the Licence Area to which the Commercial Assessment Period relates; or
- (c) expiry of the period to which Licensee is entitled to under Article 11.3.

11.5 The Licensee shall be deemed to have relinquished all rights to the Discovery of Non-Associated Gas if it has not given a notice that the Discovery is commercial in accordance with Article 11.3(c) by the end of the Commercial Assessment Period or the earlier relinquishment of that portion of the Licence Area.

11.6 Where the Licensee has declared the Non-Associated Gas Discovery to be commercial, a Proposed Development and Production Plan, associated gas sales agreement and comprehensive terms and conditions of such agreement shall be determined by negotiations between the Licensee and the Commissioner in good faith.

12 **MARKETING AND DOMESTIC SUPPLY OBLIGATIONS**

12.1 **Domestic Supply Obligation**

12.1.1 The requirements of the domestic market of The Gambia shall in the first instance be met by royalty Crude Oil delivered to the Government pursuant to Article 8 (*Royalties, Bonuses, Rentals, Taxes and Levies*) and the Governments participating interest share of production pursuant to Article 20 (*Government Participation*).

12.1.2 Subject to Article 12.1.3, if there is a domestic demand in excess of the Crude Oil Production available pursuant to Article 8 (*Royalties, Bonuses, Rentals, Taxes and Levies*) and Article 20 (*Government Participation*), the Commissioner has the right to demand that the Licensee sell up to 15% of the Licensee's participating interest share of Crude Oil production to the Government.

12.1.3 The Commissioner shall give the Licensee at least three (3) months' written notice in advance of the said requirements, specifying:

- (a) the percentage of Crude Oil that will be required by the Government; and
- (b) the term of supply, which shall not be less than twelve (12) months,

(the “**Domestic Supply Request**”).

- 12.1.4 If, in the Domestic Supply Request, the Commissioner requested less than 15% Crude Oil, the Commissioner has the right, at any point during the term of supply to which that Domestic Supply Request relates and provided that the Commissioner has given three (3) months written notice to the Licensee, to request additional Crude Oil, up to the maximum fifteen percent (15%), for the remainder the term of supply specified in the Domestic Supply Request.

12.2 **Price of Domestic Supply**

- 12.2.1 Crude Oil sold pursuant to Article 12.1 shall be paid for in foreign exchange at a price equal to the value determined in accordance with Article 10 (*Valuation of Crude Oil*).
- 12.2.2 The Licensee may set-off or deduct any amount payable by the Government under Article 12.1.2 against royalty payments due to the Government under Article 8.1.

12.3 **Marketing of Government’s Share of Crude Oil**

The Licensee shall, if requested by the Commissioner with at least three (3) months advance notice, market abroad on competitive terms all or part of Government’s entitlement to Crude Oil Production under Article 8.4 (*Royalty Taken in Kind and Quantities Produced in Testing*) and its participating interest share of Crude Oil Production pursuant to Article 20 (*Government Participation*), subject to payment by the Government of direct costs normally borne by a seller in such transactions as may be agreed by the Government but excluding any commission overhead, marketing or similar fee or charge in respect of such service.

13 **CORPORATE SOCIAL RESPONSIBILITY AND SUBMISSION OF LOCAL CONTENT PLAN**

- 13.1.1 Corporate social responsibility is the commitment of the Licensee to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life in The Gambia.
- 13.1.2 The Government and the Licensee shall meet annually in order to formulate the programmes of activities to be undertaken by the Licensee in relation to corporate social responsibility, and those activities specifically mentioned in Articles 14 (*Gambian Resources*) and Article 15 (*Employment and Training*), for the following year, and which are to be included in the Local Content Plan.
- 13.1.3 Within thirty (30) days of the Effective Date and at least three (3) months prior to the beginning of each anniversary of the Term thereafter, the Licensee shall prepare and submit to the Commissioner a detailed Local Content Plan, which is consistent with the reciprocal Work Programme and Budget and the outcome of the discussions of the meeting referred to in Article 13.1.2 and which sets forth the itemised expenditure that the Licensee intends to spend in accordance with Article 14 (*Gambian Resources*) and Article 15 (*Employment and Training*) below.

13.2 **Local Content Fund**

- 13.2.1 Within thirty (30) days of the commencement of the Development and Production Period and at least three (3) months prior to each anniversary of the commencement of the Development and Production Period, the Licensee shall pay the Local Content Contribution into the Local Content Fund.

- 13.2.2 The Government may at its discretion spend the Local Content Contribution and proceeds of the Local Content Fund in accordance with its own local content policy, which may include contributions towards the creation of employment opportunities for Gambians in the petroleum industry, creating and developing sustainable industries in the Gambian economy, promoting the participation of Gambian businesses in the petroleum industry, and development of local capacity in the petroleum industry. For the avoidance of doubt, the Licensee is under no obligation to assist the Government in spending the Local Content Contribution.

14 **GAMBIAN RESOURCES**

- 14.1 In Petroleum Operations the Licensee shall use goods and services produced or provided in The Gambia provided such goods and services are:
- (a) in accordance with accepted international standards;
 - (b) available on a timely basis in the quantity required; and
 - (c) available at prices that are not more than ten percent (10%) greater than those offered by an international supplier that would otherwise have been selected pursuant to the tender procedures established pursuant to Article 14.2.
- 14.2 The Licensee will establish appropriate tender procedures, that are consistent with Best Industry Practice, for the aforesaid Gambian goods and services, taking into account Gambian local market conditions and enabling Gambian Licensees to bid for the supply of such goods and for the provision of such services, and shall submit an annual plan to that effect.
- 14.3 The Licensee shall use all reasonable endeavours to meet the following minimum amounts to be spent by the Licensee on the use of domestic goods and services:
- (a) no less than an amount equal to three percent (3%) of the costs associated with Exploration within the annual Work Programme and Budget; and
 - (b) no less than an amount equal to two percent (2%) of the costs associated with Development within the annual Work Programme and Budget; and
 - (c) no less than an amount equal to:
 - (i) until the fifth (5th) anniversary of the date of commencement of Production, five percent (5%) of the costs associated with Production within the annual Work Programme and Budget;
 - (ii) thereafter until the tenth (10th) anniversary of the date of commencement of Production, seven and half percent (7.5%) of the costs associated with Production within the annual Work Programme and Budget; and
 - (iii) thereafter, ten percent (10%) of the costs associated with Production within the annual Work Programme and Budget.
- 14.4 In the event that the Licence does not become effective on the 1st January, the minimum expenditure requirements under Article 14.3 shall be adjusted on a *pro rata* basis for the first and last years of the Licence.

15 EMPLOYMENT AND TRAINING

15.1 Work Permits

Subject to the requirements of any law relating to immigration and labour and to Article 15.2, the Government shall provide the necessary work permits and other approvals required for the employment of Expatriate Employees by the Licensee in The Gambia for the purpose of performing its obligations under this Licence.

15.2 Employment of Gambian Citizens

15.2.1 Where Gambian citizens with the requisite expertise and/or qualifications are available for employment in the conduct of Petroleum Operations, the Licensee shall provide opportunities for and, as far as reasonably practicable, give preference to such Gambian citizens.

15.2.2 The Licensee shall, upon request from the Minister, submit to the Minister an employment plan stating the number of personnel that are required for the conduct of Petroleum Operations, including the required professions and technical capabilities of such personnel.

15.2.3 In response to the employment plan provided under Article 15.2.2, the Minister may suggest appropriate personnel for employment by the Licensee in Petroleum Operations. The Licensee shall consider such personnel and, subject to Article 15.2.1, shall procure their employment.

15.3 Secondments

15.3.1 The Licensee shall, if so requested by the Minister, provide the opportunity for a mutually agreed number of Gambian personnel (who shall be nominated by the Minister) to be seconded to the Licensee to be trained and take part in Petroleum Operations to be performed under this Licence. During such secondments, the Licensee shall provide ongoing education and short industry courses that are agreed between the Parties as being beneficial to the secondees.

15.3.2 Any costs and expenses incurred in connection with Article 15.3.1 shall be paid by the Licensee and shall be considered Direct Operating Costs for the purposes of calculating income tax.

15.4 Information

15.4.1 The Licensee shall, on a regular basis and no less than annually, provide the Minister with the latest information and data relating to worldwide Petroleum science and technology, Petroleum economics and engineering available to the Licensee, and shall on a continuous basis use all reasonable endeavours to assist Government personnel to acquire knowledge and skills in all aspects of the Petroleum industry.

15.4.2 The Minister acknowledges that any confidential information received under Article 15.4.1 shall be subject to the obligations of confidentiality pursuant to Article 21.9.

15.5 Expenditure on Training and Resources

15.5.1 In order to establish programmes to train Gambian personnel for work in Petroleum Operations, to ensure the transfer of management, financial, technical and other skills required for the efficient conduct of Petroleum Operations, and to acquire

resources needed for the development of Gambian institutions working in the Petroleum sector, the Licensee shall pay the Government:

- (a) Five hundred thousand United States Dollars (USD 500,000) during each year of the Exploration Period (whether or not it runs concurrently with one or more Development and Production Periods); and
- (b) One million United States Dollars (USD 1,000,000) during each year of each Development and Production Period in respect of each Development and Production Area and each Satellite Development.

15.5.2 The minimum expenditure requirements in Article 15.5.1 shall be adjusted annually by multiplying them by an inflation factor "I", where "I" is calculated as follows:

$$I = D \div C$$

where:

"C" is the United States Producer Price Index on Crude petroleum and natural gas extraction industry (published by Bureau of Labor Statistics, U.S.A. with Series Id: PCU2111121111) for the year and the month in which the Effective Date falls; and

"D" is the same index as published for the first time for the month in which the first and any subsequent anniversary of the Effective Date falls.

15.5.3 Any payments made by the Licensee in connection with this Article 15.5 shall be considered Direct Operating Costs for the purposes of calculating income tax.

16 **ASSETS AND INSURANCE**

16.1 **Surrender of Assets After Term**

16.1.1 Subject to the occupation rights of the Licensee (if any) under Licence, prior to terminating Petroleum Operations in any area, the Licensee shall comply with its rehabilitation obligations under Article 50 of the Act, including its obligation to give the Minister on behalf of the Government thirty (30) days prior written notice of the option to take possession of and title to the affected facilities, materials, equipment and wells.

16.1.2 The provisions of this Article 16.1 shall not apply to any facility, materials, equipment and wells which are still required by the Licensee for use in respect of any other Petroleum production licence in The Gambia.

16.2 **Disposal of Assets During Term**

16.2.1 Subject to Articles 16.1.1 and 16.2.2, the Licensee may, from time to time, remove and sell or otherwise dispose of any facility, materials, equipment and wells in or on the Licence Area which are no longer required by the Licensee for the purpose of the Petroleum Operations under this Licence.

16.2.2 The Licensee shall, prior to removing and selling from the Licence Area any facility, materials, equipment and wells described in Article 16.2.1, offer to the Government, at no more than fair market value, all such facility, materials, equipment and wells. Such offer shall be made in writing by the Licensee to the Minister and shall set out the particular facility, materials, equipment and wells to be removed and sold. If the Minister has not responded in writing to the Licensee within thirty (30) days of

receiving such notice that it intends to take possession and title to such facility, materials, equipment and wells, the licensee may remove and sell such in accordance with Article 16.2.1.

16.3 **Insurance**

- 16.3.1 As a condition precedent to the Effective Date the Licensee shall provide evidence that all insurances under this Article 16.3 have been obtained.
- 16.3.2 The Licensee shall obtain and at all times during the Term maintain, and shall require its subcontractors to obtain and maintain, for Petroleum Operations hereunder, all insurances of such type and in such amount as is required in accordance with Applicable Law and which are customary in the international Petroleum industry in accordance with Best Industry Practice. Such insurance shall, without prejudice to the generality of the foregoing, cover:
- (a) the full replacement cost if there is any loss or damage to all assets for so long as they are used in the Petroleum Operations;
 - (b) pollution caused in the course of the Petroleum Operations for which the Licensee, the subcontractor or the operator may be held responsible;
 - (c) property loss or damage or bodily injury suffered by any third party in the course of the Petroleum Operations;
 - (d) the cost of removing wrecks and clean-up operations following an accident in the course of the Petroleum Operations; and
 - (e) the Licensee's, subcontractor's and/or the Operator's liability to its employees engaged in the Petroleum Operations.
- 16.3.3 If any of the assets used or to be used by the Licensee in Petroleum Operations are lost or damaged for any reason, then irrespective of whether the proceeds of the insurance described in Article 16.3.2(a) are sufficient for these purposes, the Licensee shall fully replace or repair those assets as soon as is reasonably possible.
- 16.3.4 The Licensee shall also maintain appropriate and adequate third party liability insurance and workmen's compensation insurance and shall provide the Commissioner with evidence of those insurances before the start of the Petroleum Operations.
- 16.3.5 The Licensee shall give preference to Gambian insurance companies, if such companies offer insurance policies that have pricing and other terms comparable to insurance offered by the international market and meet the security and creditworthiness requirement under Article 16.3.10.
- 16.3.6 In relation to Development and the Production Operations, the Licensee shall submit to the Government a programme for the provision of an all risks insurance policy which shall, *inter alia*, cover physical damage to the facilities under construction and installation as well as legal liabilities arising out of the Development and the Production Operations.
- 16.3.7 The Licensee shall require its subcontractors to carry equivalent insurance of the type and in such amount as is required by Law and is customarily in accordance with the Best Industry Practice.

- 16.3.8 Any insurance policy relating to the Licence shall name the Government as an additional insured party and shall include a waiver of subrogation protecting the Government against any claim, loss and damage resulting from any Petroleum Operations conducted by or on behalf of the Licensee, to the extent that the Licensee is liable for such claim, loss or damage under the Licence. The Licensee shall not be liable for any claims arising from negligence or wilful misconduct of the Government.
- 16.3.9 Without prejudice to the condition precedent contained in Article 2.1 in respect of insurances, upon its written request at any time during the term of this Licence, the Commissioner shall promptly be provided with insurance certificates, including necessary details, for any insurance policy obtained and maintained by the Licensee which relates to the Licence.
- 16.3.10 The security and creditworthiness of such insurance or reinsurance arrangements required in this Article 16.3 must meet the minimum financial criterion of a long-term debt rating of at least 'A-' by Standard & Poor's or 'A3' by Moody's Investor's Service Inc., or equivalent rating by another internationally recognised agency, including ratings by successor entities to these agencies, or an equivalent issuer credit rating.

17 **IMPORT DUTIES**

17.1 **Import Duty Exemptions**

The Licensee and its subcontractors engaged in Petroleum Operations hereunder shall be permitted to import free of duty and other taxes on imports machinery, equipment, vehicles, materials, supplies, consumable items (other than food stuffs or alcoholic beverages) and moveable property where imports in any of the said categories have been certified, with appropriate verification thereof, by the Licensee to be for use solely in carrying out Petroleum Operations under this Licence.

17.2 **Disposal of Imported Items**

Subject to Article 16 (*Assets and Insurance*), any of the items imported in The Gambia may, if no longer required for the operations hereunder, be freely exported at any time by the importing party without the payment of any export duty or import duty provided, however, that on the sale or transfer by the importer of any such items to any person in The Gambia import duty shall be payable by the importer on the value thereof at the date of such sale or transfer.

17.3 **Imports by Expatriate Employees**

Each Expatriate Employee of the Licensee and of its subcontractors shall be permitted, subject to the limitations and conditions set out in the Customs Act and the Customs Tariff Act, to import into The Gambia free of import duty *bona fide* personal and household effects including one automobile and one motorcycle provided, however, that no property imported by the Expatriate Employee shall be resold in The Gambia except in accordance with Applicable Laws.

18 **FOREIGN EXCHANGE**

- 18.1 As long as the Licensee meets its obligations to the Government in terms of tax payments or any other payments contemplated by this Licence, and as long as the Licensee is not in a material breach with this contract, the Licensee has the right and the freedom to:

- (a) open and freely maintain accounts inside The Gambia and foreign bank accounts outside The Gambia in accordance with Central Bank laws and regulations;
- (b) receive, retain outside The Gambia and freely dispose of foreign currencies received by it outside The Gambia, including the proceeds of sales of petroleum hereunder, and a Licensee shall not be obligated to remit such proceeds to The Gambia with the exception of those proceeds as may be needed to meet in The Gambia its expenses and payments to the Government;
- (c) pay directly outside The Gambia for purchases of goods and services necessary to carry out upstream petroleum operations hereunder; and
- (d) pay, subject to Article 18.2, its expatriate employees working in The Gambia in foreign currencies outside of The Gambia.

18.2 Expatriate Employee Foreign Exchange Rights

18.2.1 Expatriate Employees of the Licensee and its subcontractors engaged in Petroleum Operations hereunder shall be entitled to:

- (a) export freely from The Gambia their savings on salaries in The Gambia and to export from The Gambia upon termination of their contract any sums paid to them from any provident fund or similar fund; and
- (b) export freely from The Gambia their personal property previously imported into The Gambia or purchased with their personal property previously imported into The Gambia or purchased with their savings on salaries in The Gambia.

18.2.2 Where the Licensee by notice in writing to the Commissioner has guaranteed the full and proper discharge by any Expatriate Employee of his or her liability for Income Tax under the laws of The Gambia that Expatriate Employee shall be entitled to receive freely the whole or any part of his or her remuneration in the country in which he or she is normally resident.

19 FINANCIAL GUARANTEE

19.1 Financial Guarantee Amounts

19.1.1 As a condition precedent to the Effective Date of this Licence and, when the Licence has been extended, as a condition precedent to the commencement of each subsequent extension period, in accordance with Article 2.5.1(b), the Licensee shall thereafter maintain in full force and effect, as required pursuant to the Act, a Financial Guarantee which shall be subject to the written approval of the Government (in its sole discretion).

19.1.2 Unless otherwise agreed between the Parties, the amount of the Financial Guarantee to be maintained during each Exploration Period shall be thirty-five million United States Dollars (USD 35,000,000).

19.1.3 Unless otherwise agreed between the Parties, thereafter (or on the occurrence of the first Development and Production Period, if earlier) the amount of the Financial Guarantee shall be two hundred and fifty million United States Dollars (USD 250,000,000).

- 19.1.4 Wherever the Licensee is formed by more than one entity, each entity shall provide a Financial Guarantee in an amount pro rata to its participating interest share. Where the Government and/or the Appointee is participating in the Licence, neither the Government nor the Appointee shall be required to provide a Financial Guarantee, in which case the remaining Licensees shall guarantee the Government's and the Appointee's, as applicable, share in an amount pro rata to their participating interest excluding from such calculation any participating interest held by the Government and/or the Appointee.

19.2 **Claims Under Financial Guarantee**

- 19.2.1 The Minister may claim under the Financial Guarantee if:

- (a) the Licensee fails to perform any of its obligations under this Licence;
- (b) the Minister has notified the Licensee of the amount due (calculated in accordance with Article 19.2.2) and the Licensee has not rectified such default in all material respects within thirty (30) days of receipt of the notice; and
- (c) the Minister is permitted to do so under the Act.

- 19.2.2 Subject to Article 19.2.1, the amount that the Government shall be entitled to claim from the Guarantor under the Financial Guarantee shall be:

- (a) in respect of the Licensee's payment obligations under this Licence including under Article 8 (*Royalties, Bonuses, Rentals, Taxes and Levies*), Article 14 (*Gambian Resources*) and Article 15.3 (*Secondments*), the full amount that is outstanding to be paid by the Licensee; and
- (b) in respect the Licensee's minimum work obligations during the Exploration Period as set out in Schedule 1, the amount specified in Article 4.1.2 or Article 4.1.3;
- (c) in respect of Petroleum Operations set out in an Approved Work Programme and Budget after the commencement of the Development and Production Period, an amount calculated by reference to the estimated expenditure under the Approved Work Programme and Budget relating to the work obligations which have not been fulfilled,

(each and together the "**Shortfall**").

- 19.2.3 If and to the extent that the amount of the Financial Guarantee does not cover the entire Shortfall, the Licensee shall promptly, but not later than thirty (30) days of written demand, pay to the Government (or as directed by the Government) the Shortfall that has not been paid under the Financial Guarantee.

- 19.2.4 If at any time prior to the issuance pursuant to Section 51 of the Act of the final Closure Certificate in respect of the Licence Area the expiry date of the Financial Guarantee will occur within fourteen (14) days. The Minister may draw down from the Financial Guarantee the maximum amount available thereunder.

19.3 **Preservation of Financial Guarantee**

The Financial Guarantee is a continuing guarantee and will extend to the ultimate balance as determined under Article 19.1, regardless of any intermediate payment or discharge in whole or in part.

20 **GOVERNMENT PARTICIPATION**

20.1 **Government Participation**

20.1.1 On the Effective Date, the Government shall acquire a ten percent (10%) participating interest in the Licence, thereby becoming one of the Persons constituting the Licensee(s), so that the participating interest of the Licensee and the Government in the Licence Area shall be as follows:

- (a) Government as licensee – 10 %; and
- (b) Licensee (other than the Government) – 90%.

20.1.2 In the event that:

- (a) a Party transfers in whole or in part its participating interest pursuant to Article 23; or
- (b) the Government exercises its option under Article 20.3, increasing its participating interest up to an additional five percent (5%),

the participating interest of the Parties under Articles 20.1.1(a) and 20.1.1(b) shall be revised accordingly.

20.2 **Liability for Exploration Expenses**

20.2.1 Notwithstanding Article 20.1, but subject to Article 20.2.3, the Government and/or the Appointee, during the Exploration Period, shall not be liable whatsoever for:

- (a) any expenses or payments in relation to Exploration undertaken by the Licensee(s), and the Licensee(s) shall be exclusively liable for all such expenses and payments without the right to be reimbursed by the Government and/or the Appointee for all such expenses and payments;
- (b) its participating interest share of any claims, losses, costs, liabilities or expenses arising out of or in connection with the negligence, gross negligence or wilful misconduct of the Licensee, its Affiliates, or its or their contractor, vendors or agents; or
- (c) in the event that the Government assigns its participating interest during an Exploration Period under Article 20.6.1(b)(ii), any expenses or payments incurred by the Licensee pursuant to this Licence.

20.2.2 For the avoidance of doubt, the exemption of liability under Articles 20.2.1(a), 20.2.1(b) and 20.4.1, shall only apply to the Government and/or the Appointee and not to any third party transferee of the Government's participating interest.

20.2.3 The provisions of Articles 20.2.1(a) to 20.2.1(c) (inclusive) shall only apply in respect of the initial ten percent (10%) participating interest in the Licence acquired by the Government and/or an Appointee pursuant to Article 20.1. If the Government or an Appointee acquires any participating interest during the Exploration Period in excess of its initial ten percent (10%) participating interest then solely in respect of such additional participating interest, the Government and/or such Appointee shall be liable for each of the expenses, payments, claims, losses, costs and liabilities referred to in Article 20.2.1.

20.3 Participating Interest at Development and Production

20.3.1 Upon commencement of the Development and Production Period, the Government shall have the option to acquire up to an additional five percent (5%) participating interest in the rights and obligations of the Licensee hereunder in the Licence Area.

20.3.2 If the Government wishes to exercise its option under this Article 20.3, the Minister must give notice to that effect to the Licensee no later than ninety (90) days following the commencement of the Development and Production Period, and the Government's participation shall be effective from the commencement of the Development and Production Period.

20.4 Liability for Future Development and Production Expenses

20.4.1 Subject to the provisions relating to the approval of Work Programmes and Budgets the Government shall be liable for its participating interest share of all expenses incurred by the Licensee in relation to Petroleum Operations in the Development and Production Area after the commencement of the Development and Production Period, provided that the Government shall not be liable for its participating interest share of any claims, losses, costs, liabilities or expenses arising out of in connection with the negligence, gross negligence or wilful misconduct of the Licensee, its Affiliates, or its or their contractor, vendors or agents.

20.4.2 For the purposes of Article 20.4.1 "negligence, gross negligence or wilful misconduct" means the failure by a person to exercise the standard of care that a reasonably prudent person would have exercised in the same or similar circumstances, and any act or failure to act (whether sole, joint or concurrent) by any person which was intended to cause, or which was in reckless disregard of or wanton indifference to, harmful consequences such person knew, or should have known, such act or failure to act would have on the safety or property of another person.

20.5 Development Loan

20.5.1 Upon acquiring a participating interest, the Government may send notice to the other Licensee(s), requesting that the other Licensee(s) pay, in proportion to their respective participating interests, the Government's participating share (up to an aggregate participating share of fifteen percent (15%)) of all expenses incurred by the Licensee(s), Government, and/or the Appointee (and in case of the Government and/or the Appointee on behalf of the Licensee(s)) in relation to Petroleum Operations in the Development and Production Area after the approval of the Approved Development and Production Plan, which shall take the form of a Development Loan.

20.5.2 The Licensee(s) shall, within sixty (60) days of receipt of the notice in accordance with Article 20.5.1, send notice to the Government confirming that it either:

- (a) approves the request and shall provide a Development Loan to help fund the Government's participating share of all expenses incurred in the Development and Production Area; or
- (b) reject the request, and confirm that it shall not provide a Development Loan to the Government to help fund its participating share of all expenses incurred in the Development and Production Area.

20.5.3 For the avoidance of doubt, the Licensee(s) shall be under no obligation to provide a Development Loan to the Government in accordance with this Article 20.5.

- 20.5.4 In the event that the Government is not able to fund its participating share of all expenses to be incurred in relation to Petroleum Operations in the Development and Production Area, the Government and/or Appointee will be required to relinquish its participating share in the Licence and its share shall be shared equally between the other Licensees pro rata to their current interest.

20.6 Licensee agrees to provide Development Loan

- 20.6.1 In the event that the Licensee has agreed to provide the Development Loan in accordance with Article 20.5.2(a), the Government shall from all of its participating interest share of production:

- (a) first, pay any ongoing expenses incurred by the Licensee on behalf of the Government and/or the Appointee in relation to Petroleum Operations; and
- (b) second, repay the Development Loan, with interest calculated in accordance with Article 20.5.4.

- 20.6.2 Without prejudice to Article 20.5.2, the Government has the option to repay the outstanding Development Loan in full at any time during the Term of the Licence. The Government will also have the right at any time to revert to paying its own participating share of expenses upon giving (thirty) 30 days' written notice to the other Licensees.

- 20.6.3 The rate of interest shall be negotiated between the Parties based on comparable resource projects being funded at that time but, in any event, shall not be in excess of LIBOR plus 2%.

- 20.6.4 In the event that the Government fails to comply with its obligation to repay the Development Loan in accordance with this Article 20.5, any such payments that are due may be set-off against any royalties owed and due by such Licensee to the Government pursuant to Article 8.

20.7 Government Assignment Rights

- 20.7.1 The Government may assign its participating interest in the Licence to:

- (a) an Appointee, without restriction, upon written notice to the Licensee; or
- (b) any other third party which can demonstrate its technical competence and financial capability:
 - (i) during the Development and Production Period, upon written notice to the Licensee and subject only to any rights of pre-emption under Article 24 that may apply to the Government's participating interest; or
 - (ii) not within a Development and Production Period, but subject to the Licensee's prior written consent (not to be unreasonably withheld or delayed) and to any rights of pre-emption under Article 24 that may apply to the Government's participating interest,

provided that no assignment to a third party can take place which would cause any Party to be in violation of any laws of England and Wales and the United States of America which are applicable to it.

20.7.2 Such third party assignee under Article 20.6.1(b) shall be immediately liable to pay for its participating share of all expenses to be incurred by the Licensee(s) from the effective date of the assignment, but shall not be liable to pay for any expenses incurred prior to the assignment or any part of the Development Loan.

20.7.3 The Parties shall use all reasonable endeavours to procure that any assignee under this Article 20.6 becomes a party to the Joint Operating Agreement.

20.8 **Repayment of Development Loan**

20.8.1 In the event that the Government assigns its participating interest in the Licence to a third Party in accordance with Article 20.6.1(b)(i) the Government shall be liable to repay the outstanding Development Loan.

20.8.2 Where the Government is required to repay the outstanding Development Loan in accordance with Article 20.7.1 or if the Government wishes to repay the Development Loan in accordance with Article 20.5.3, the following shall apply:

- (a) the Commissioner shall on written notice to the Licensee request an outstanding interim Development Loan statement;
- (b) the Licensee shall submit the outstanding interim Development Loan statement to the Commissioner within fifteen (15) days of receipt of notice, and each statement shall:
 - (i) clearly state the sum of the outstanding interim Development Loan and interest payable;
 - (ii) include an itemised schedule of costs and expenses;
- (c) the Government shall pay the amount set out in the interim Development Loan statement:
 - (i) within twenty-one (21) days from the date of the assignment or transfer if the Government is assigning its participating interest in the Licence to a third Party in accordance with Article 20.6.1(b)(i); or
 - (ii) within twenty-one (21) days of receipt of the invoice, if the Government wishes to repay the Development Loan in accordance with Article 20.5.3.

20.8.3 Within six (6) months from the date the interim Development Loan statement has been paid by the Government under 20.7.2(c)(i), the Licensee shall submit to the Commissioner a final Development Loan statement taking into account all costs, expenses and revenues forming part of the Development Loan that were not accounted for in the interim Development Loan statement.

20.8.4 If the value of the interim Development Loan statement was higher than the value of the final Development Loan statement, the Licensee shall pay to the Government the difference between the values of the interim Development Loan statement and the final Development Loan statement plus interest at the rate of LIBOR plus 2% within forty-five (45) days from the date of the final Development Loan statement.

20.8.5 If the value of the interim Development Loan statement was lower than the value of the final Development Loan statement, the Government shall, subject to Article 20.7.6, pay to the Licensee the difference between the values of the interim

Development Loan statement and the final Development Loan statement plus interest at the rate of LIBOR plus 2% within forty-five (45) days from the date of the final Development Loan statement.

- 20.8.6 Subject to the Government complying with its obligations in Article 20.7.2, the Government may reasonably and in good faith dispute an outstanding interim or final Development Loan statement, in which case such the dispute shall be dealt with in accordance with Article 31 (*Expert Determination*).

21 **RECORDS, REPORTS AND CONFIDENTIALITY**

21.1 **Exploration Record Requirements**

- 21.1.1 The Licensee shall keep at an address in The Gambia which has been notified to the Commissioner, full and accurate accounts and records relating to Exploration, in accordance with Applicable Laws.

- 21.1.2 The records and accounts referred to in Article 21.1.1 shall include full particulars of the following matters:

- (a) the drilling, operation, deepening, plugging and Decommissioning of Wells;
- (b) the Intervals and subsoil through which Wells are drilled;
- (c) the casing inserted in Wells and any alteration to such casing;
- (d) any Petroleum, water and economic minerals or dangerous substances encountered, and any significant discovery of any mineral made;
- (e) the areas in which any geological or geophysical work has been carried out, and shall include:
 - (i) all tapes, diagrams, profiles and charts which were prepared in respect of the Licence Area;
 - (ii) all geological and geophysical data and studies relating to the Licence Area, including digital data in raw and final forms, copies of all interpretations in workstation backup format, and reports and logs in digital and paper form; and
 - (iii) all engineering data, studies and records relating to the Licence Area, including drawings, plans, designs and evaluations.

21.2 **Maps and Plans**

The Licensee shall keep at the address referred to in Article 21.1 all geological maps and plans, geophysical records, and interpretations thereof, relating to the Licence Area which have been prepared by or on behalf of the Licensee or which the Licensee has otherwise acquired.

21.3 **Exploration and Appraisal Reporting Requirements**

On the date falling six (6) months after the Effective Date, and every six (6) months thereafter, the Licensee shall submit to the Commissioner, in such form as the Commissioner directs:

- (a) a summary of all geological and geophysical work carried out;

- (b) a summary of all drilling activity and results obtained;
- (c) a list of maps, or reports and of other geological and geophysical data prepared by or for the Licensee, in respect of the period concerned;
- (d) summaries of Wells drilled, including lithological groups, layer classification boundaries and Producing Intervals within six (6) months of the completion of drilling or, in the case of information that cannot reasonably be obtained in that period, as soon as possible after the completion of drilling; and
- (e) copies of all data, including geological and geophysical reports, logs and Well surveys and interpretation of such data and any other data relating to Petroleum Operations hereunder as and when such data becomes available to the Licensee.

21.4 **Production Reporting Requirements**

The Licensee shall submit to the Commissioner:

- (a) at quarterly intervals commencing one (1) month after the approval of an Approved Development and Production Plan, in such form as the Commissioner directs:
 - (i) a Production report covering the data identified in Article 21.5;
 - (ii) a summary of all geological and geophysical work carried out;
 - (iii) a summary of all drilling activity and results obtained; and
 - (iv) a list of maps, or reports and of other geological and geophysical data prepared by or for the Licensee, in or in respect of the period concerned;
- (b) a record describing the results of all Petroleum Operations carried out by or for the Licensee and estimates (if available) of economically recoverable reserves of Crude Oil and Natural Gas:
 - (i) within thirty (30) days from the last day of March, June, September and December, covering the days of the previous quarter;
 - (ii) within ninety (90) days of the last day of December, covering the previous Calendar Year; and
 - (iii) within ninety (90) days of the date of expiry or termination of the Licence;
- (c) summaries of Wells drilled, including lithological groups, layer classification boundaries and Producing Intervals within six (6) months of the completion of drilling or, in the case of information that cannot reasonably be obtained in that period, as soon as possible after the completion of drilling; and
- (d) copies of all data, including geological and geophysical reports, logs and Well surveys and interpretation of such data and any other data relating to Petroleum Operations hereunder as and when such data becomes available to the Licensee.

21.5 **Development and Production Record Requirements**

The Licensee shall keep at the address referred to in Article 21.1 full and accurate accounts and records relating to Production. Such records and accounts shall be kept in accordance with Applicable Laws, and shall include particulars of the following matters:

- (a) the gross quantity of any Crude Oil and Natural Gas Produced from the Licence Area;
- (b) the grades and gravity of any Crude Oil Produced and the composition of Natural Gas Produced;
- (c) the quantities of:
 - (i) Crude Oil;
 - (ii) Natural Gas;
 - (iii) each refined Petroleum product, including liquefied Petroleum gases; and
 - (iv) sulphur, in any form or any other mineral in any form or any other gases, liquids or solids, disposed of by way of sale or otherwise, the consideration received, the quantity disposed of, and the name of the Person to whom any such quantity was disposed;
- (d) the quantity of Petroleum injected into the formation of:
 - (i) Crude Oil;
 - (ii) Natural Gas;
 - (iii) each refined Petroleum product including liquefied Petroleum gases; and
 - (iv) other liquids or gases;
- (e) the quantity consumed for drilling or otherwise in Production (other than quantities reported under Article 21.5(d)) and consumed in pumping to field storage and refineries in The Gambia of:
 - (i) Crude Oil;
 - (ii) Natural Gas; and
 - (iii) each refined Petroleum product including liquefied Petroleum gases;
- (f) the quantity of Crude Oil refined by it or on its behalf in The Gambia;
- (g) the quantity of natural Gas treated in The Gambia by it or on its behalf for the removal of liquids and liquefied petroleum gases, and the quantity of:
 - (i) butane;
 - (ii) propane; and

(iii) any other liquids or gases or any solids,

obtained from it; and

(h) the quantity of Natural Gas or other Petroleum flared.

21.6 Retention of Core and Cutting Samples

21.6.1 The Licensee shall save and keep at its address referred to in Article 21.1 for an indefinite period of time a representative portion of each sample of cuttings, and a full set of cores, taken from drilling Wells and shall store such samples in accordance with Best Industry Practice.

21.6.2 The Licensee shall only be entitled to dispose of or forward the samples to the Commissioner or an Authorised Officer in such manner as directed by the Commissioner.

21.6.3 Upon notice by the Government to the Licensee, the Licensee shall give the Commissioner or an Authorised Officer unfettered access during standard business hours to review and assess the samples stored by the Licensee and to take such samples off-site if required by the Government for processing or laboratory examination or analysis or any other reasonable requirement.

21.6.4 Notwithstanding Article 21.6.2, the Licensee shall be permitted to export portions of such samples for purposes of processing or laboratory examination or analysis only with the prior approval of the Commissioner.

21.7 Property and Assets Records

21.7.1 The Licensee shall maintain, at the address referred to in Article 21.1.1 and in accordance with Applicable Laws, detailed records of property and assets it owns or utilises in relation to this Licence.

21.7.2 At six (6) monthly intervals, the Licensee shall notify the Government in writing of all assets acquired during the preceding six (6) months indicating the quantities, costs and location of each asset.

21.7.3 At reasonable intervals but at least once a year with respect to moveable assets and once every two (2) years with respect to immovable assets, the Licensee shall take inventories of the property and assets it owns or utilises in relation to this Licence. The Licensee shall give the Government at least ninety (90) days written notice of its intention to take such inventory and the Government shall have the right to be represented when such inventory is taken. The Licensee will clearly state the principles upon which valuation of the inventory has been based.

21.8 Accounting and Tax Records and Reports

21.8.1 The Licensee shall keep at the address referred to in Article 21.1.1 full and accurate accounting and tax records. Such records and accounts shall be kept in accordance with Applicable Laws.

21.8.2 The accounts shall be maintained in Gambian Dalasis and United States Dollars; however, the United States Dollar accounts will prevail in case of any conflict. Metric units and Barrels shall be employed for measurements required under the Licence. The language employed shall be English. Where necessary for clarification the Licensee may also maintain accounts and records in other units of measurements and currencies.

21.8.3 The Licensee shall prepare and submit to the Commissioner within twenty (21) days after every month a statement of expenditures and receipts under the Licence in respect of that month. If the Commissioner is not satisfied with the degree of detail and segregation within the categories, he or she shall be entitled to ask for a more detailed breakdown and the Licensee shall comply with such request. The statement shall show the following:

- (a) actual expenditures and receipts for the month in question;
- (b) cumulative expenditures and receipts for the year in question;
- (c) the latest forecast of cumulative expenditures and receipts at the year-end;
- (d) variations between the budgeted forecast and the latest forecast of expenditures and receipts, with explanations thereof; and
- (e) long-term project forecasts to include life of project estimates of capital expenditure, operating expenditure, Licensee post-fiscal internal rate of return, and net present value against a specified Discount Rate.

21.9 **Title and Confidentiality**

21.9.1 The Government has the title in all original data and information resulting from the Petroleum Operations (including, but not limited to, geological, geophysical, petrophysical and engineering data; Well logs and completion status reports; and any other data that the Licensee or anyone acting on its behalf may compile or obtain during the term of the Licence) and/or which the Licensee is required to keep at the address referred to in Article 21.1.1. The Licensee may retain and use a copy of all such data, expressly in accordance with the provisions of this Article 21.

21.9.2 The Licensee acknowledges the proprietary rights of the Government in all data and information referred to in this Article 21.9.

21.9.3 The Government shall have the right, in its absolute discretion and without the requirement for any prior consent of the Licensee, provided that all data and interpretations are kept confidential, to make public an executed version of the Licence.

21.9.4 Subject to Article 21.9.3, the Parties, and Persons comprising Licensee, shall maintain the confidentiality of all data, interpretations, and other information generated hereunder except:

- (a) to the extent such information is required in compliance with Applicable Law or regulations, or pursuant to any legal proceedings or because of any order of any court binding upon a Party;
- (b) to prospective or actual attorneys, consultants, shipping companies, subcontractors (applicable only to Licensee), or agents engaged by a Party where disclosure is essential to such Person's work for such Party;
- (c) as may be required under the rules or requirements of a government or stock exchange having jurisdiction over such a party, or its Affiliates;
- (d) to its employees for the purposes of implementation of this Licence;

- (e) any information which, through no fault of a Party, becomes part of the public domain;
 - (f) in circumstances where there is a termination or relinquishment in accordance with Article 21.10, in which case such obligations of confidentiality shall cease to apply to the Government; and
 - (g) in a data trade that would enhance Petroleum Operations in The Gambia and only with the prior approval of the Commissioner.
- 21.9.5 Disclosure pursuant to Article 21.9.4(b) shall not be made unless the disclosing Party has obtained a written undertaking from the recipient that provides for rights and obligations substantially in accordance with this Article 21.9.1, provided that any obligation on the part of an attorney to make a disclosure in accordance with his or her law society or bar association shall be considered as a disclosure required by law.
- 21.9.6 The Licensee, and the Persons comprising or representing Licensee, shall also have the right to make disclosures to:
 - (a) an Affiliate or agent;
 - (b) any Government agency of The Gambia when required under the Licence or the Act;
 - (c) a *bona fide* prospective transferee or joint venturer; and
 - (d) a bank or other financial party in the context of arranging for funding of Petroleum Operations.
- 21.9.7 Disclosure pursuant to Articles 21.9.6(a), and 21.9.6(c) to 21.9.6(d) shall not be made unless the disclosing Party has obtained a written undertaking from the recipient that provides for rights and obligations substantially in accordance with Article 21.9.1.
- 21.9.8 Subject to the foregoing, subject to the provisions of Section 38 of the Act and Applicable Laws, all data and information and any interpretation thereof submitted by the Licensee to the Minister or Commissioner pursuant to this Licence or the Act shall so long as it relates to an area which is a part of the Licence Area be treated as confidential and shall not be disclosed by the Government to any other person without the consent of the Licensee, which consent shall not be unreasonably withheld or delayed.
- 21.10 **Surrender of Records on Relinquishment**
- 21.10.1 Subject to Article 21.10.2, where the Licence Area is relinquished on termination or expiry of the Licence or surrender of the Licence pursuant to Article 28 (*Surrender and Termination*), or where the Licensee otherwise relinquishes any part of the Licence Area, the Licensee shall forthwith deliver to the Minister at the Licensee's expense:
 - (a) all the records which were maintained hereunder with respect to the relinquished Licence Area;
 - (b) all plans or maps of the relinquished Licence Area which were prepared by or on the instructions of the Licensee or which the Licensee otherwise acquired;

- (c) all tapes, diagrams, profiles and charts which were so prepared;
- (d) all geological and geophysical data and studies including digital data in raw and final forms, copies of all interpretations in workstation backup format, and reports and logs in digital and paper form relating to the relinquished Licence Area;
- (e) all engineering data studies and records including drawings, plans, designs and evaluations, relating to the relinquished Licence Area;
- (f) any other data then in the possession of the Licensee or to which the Licensee has access that is based on or derived from the foregoing; and
- (g) such other documents relating to Petroleum Operations under this Licence as the Minister may, by notice given to the former Licensee, require the former Licensee to so deliver,

(together the “**Intellectual Property Rights**”) and the Parties acknowledge that all such Intellectual Property Rights shall at all times be owned by the Government.

- 21.10.2 Notwithstanding Article 21.10.1, the Government hereby grants to the Licensee a perpetual, non-exclusive, royalty free, irrevocable and non-transferable licence to use the Intellectual Property Rights without geographic restrictions but subject to confidentiality pursuant to Article 21.9.

22 **AUDITS**

22.1 **Accounting Procedure Audit Rights**

- 22.1.1 Without prejudice to the Government’s statutory audit rights, the Government shall have the right to audit the Licensee’s accounts and records maintained hereunder with respect to each year within six (6) years from the end of each such year. Notice of any exception to the Licensee’s accounts for any year shall be submitted to the Licensee within one hundred and twenty (120) days of receipt by Government of the report of its auditors.

- 22.1.2 For purposes of audits, the Government may examine and verify, at reasonable times, all charges and credits relating to the Licensee’s activities under the Licence and all books of accounts, accounting entries, material records and inventories, vouchers, payrolls, invoices and any other documents, correspondences and records necessary to audit and verify the 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 Licensee directly or indirectly serving its activities under this Licence.

- 22.1.3 Where the Government requires verification of charges made by an Affiliate of the Licensee it shall have the right to obtain at the Licensee’s cost an audit certificate from a recognised firm of public accountants acceptable to both the Government and the Licensee.

22.2 **Statutory Audit Rights**

Nothing in this Article 22 shall be construed as limiting in any way the right of the Government or any officer of the Government pursuant to any statutory power to audit or cause to be audited the books and accounts of the Licensee.

23 ASSIGNMENT AND CHANGE OF CONTROL

23.1 No Assignment Without Consent

- 23.1.1 The Licensee may not assign to any Person (including any Affiliate(s)), in whole or in part, any of its rights, privileges, duties or obligations under this Licence without the prior written consent of the Minister, which consent may be withheld on reasonable grounds, including if the Minister has reasonable concerns regarding the technical or financial capabilities and resources of the proposed assignee (having given due regard to the technical and financial capabilities of the assignor in the case of a partial assignment). The Minister shall respond within sixty (60) days to any requests for consent to an assignment.
- 23.1.2 The request for consent to an assignment made by the Licensee shall be accompanied by all the documents which are necessary to facilitate the consent of the relevant assignment request.
- 23.1.3 The Licensee shall furnish to the Minister copies of all agreements and deeds related to an assignment. Any assignment pursuant to this Article 23 shall be fully disclosed by the assignor to the Gambian tax authorities.
- 23.1.4 Subject to the provisions of this Licence, any tax arising from any assignment pursuant to Applicable Law shall be paid by the assignor in the manner specified in such Applicable Law.
- 23.1.5 The Licensee shall promptly and in any event, within three (3) days of receipt by the Licensee, report and provide to the Minister:
- (a) any agreement or other document of a preliminary nature (such as, for example, any memorandums of understanding or term sheets) entered into by the Licensee or otherwise concerning the proposed assignment;
 - (b) any material changes in the corporate structure, ownership and financial position of the Licensee and/or its parent company; and
 - (c) any change in Control in its corporate structure arising by acquisition or exchange of shares, where the transaction value of the acquisition or exchange of shares is less than four (4) times the value of the Licensee's Gambian assets under this or any Additional Licence(s), or, where the acquisition or exchange of shares solely involves the Licensee's Senegal and Gambian assets, shall be deemed and treated as an assignment for the purposes of Article 23.1.1. Such change in Control shall be subject to the prior consent of the Minister (such consent not to be unreasonably withheld, delayed or conditioned).
- 23.1.6 An assignment made pursuant to the provisions of this Article 23 shall bind the assignee to all the terms and conditions hereof and, as a condition to any assignment, the Licensee or the assignor shall provide an unconditional undertaking by the assignee to assume all obligations of the assignor under this Licence.
- 23.1.7 An assignment under this Article 23 means any assignment, transfer, sale, merger, conveyance, novation or other dealing, directly or indirectly, including by way of change in Control, of any right, power or interest in the Licence Area and/or the Licence and/or the Petroleum which has not been, but might be, recovered in the Licence Area or any proceeds from sale of such Petroleum and/or anything whereby this Licence, those Petroleum or all or any part of the Licensee's rights,

interests, benefits, obligations and liabilities under it would, but for this Article 23 be held for the benefit of, or be exercisable by or for the benefit of, any other Person.

23.1.8 At any time which the Licensee is constituted by more than one entity, references to the "**Licensee**" in Article 23 shall be construed as a reference to each one of those entities.

23.1.9 In case of a proposed assignment in Article 23.1.1, the Minister may, amongst other things, require the following for its consent to be given:

- (a) proof of technical and financial capacity and professional skills in respect of a proposed assignee;
- (b) a proposed assignee to provide a Financial Guarantee for the performance of its obligations under this Licence;
- (c) an undertaking from the assignor to be responsible for any reasonable legal and professional costs incurred by or on behalf of the Government in connection with the proposed assignment including any costs of due diligence in respect of a proposed assignee whether or not the proposed assignment is proceeds to completion; and
- (d) to the extent that there are any amounts to be paid by Licensee under this Licence which are outstanding, including the payment of capital gains tax or any other taxes or levies due hereunder, an undertaking from the assignee to pay, in accordance with this Licence, such outstanding amounts due by the assignor.

23.1.10 Notwithstanding the foregoing provisions, for the purpose of financing the Petroleum Operations, it is expressly acknowledged that the Licensee may obtain such financing from lenders and for that purpose the Licensee, with the prior consent of the Commissioner (such consent not to be unreasonably withheld) may assign to, or grant a security interest of any kind in favour of, such lenders of any and all of its rights and interests under or pursuant to the Licence. The Licensee shall notify the Government of the creation of such security over its rights and interests under the Licence at least thirty (30) days prior to the execution of any such assignment or security interest. The grant of security rights and interests of any kind by the Licensee over any and all of its rights and interests under or pursuant to this Licence in all other circumstances is subject to prior written approval of the Minister, which approval shall be granted within thirty (30) days of request. If the Minister has good cause for refusal (such to be notified to the Licensee), the Minister may refuse grant of approval within the same period of time.

23.2 **Assignment and Cumulative Resource Expense**

The cumulative Resource Expense shall be calculated accordingly for any amounts received or receivable by the Licensee or the assignor pursuant to the Tax Schedule.

24 **RIGHTS OF PRE-EMPTION**

24.1 **Rights of Pre-emption**

24.1.1 Subject to Article 20.6 (*Government Assignment Rights*), Article 20.7 (*Repayment of Development Loan*) and Article 23 (*Assignment and Change of Control*), if any Party receives a *bona fide* offer for the purchase of all or a portion of an offeree

Party's participating interest in the Licence Area which the offeree Party is willing to accept, the offeree Party shall give notice thereof in writing to the other Parties:

- (a) such notice shall set forth the identity of the offeror, the terms and conditions (including monetary and other considerations) offered in good faith, and all other relevant particulars;
- (b) for a 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;
- (c) if more than one (1) 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;
- (d) if within such a period of thirty (30) days, none of the other Parties shall exercise its rights to purchase said interest, the sale to said offeror may be made under the terms and conditions set forth in the notice given, provided that the sale shall be consummated within six (6) months from the date of such notice and that the sale and any transfer shall be in accordance with the Licence and Applicable Law;
- (e) for the purposes of this Article 24.1.1, an offer to purchase shall also include an acceptance of an entity's offer to sell.

24.1.2 The limitations of Articles 24.1.1 shall not apply to any transfer of a participating interest by the Government to an Appointee, from an Appointee to another Appointee or from the Licensee to any Affiliate of the Licensee.

24.1.3 Every transfer of a participating interest in the Licence Area shall be made expressly subject to this Licence and shall include a corresponding interest in jointly acquired equipment and facilities.

24.1.4 No transfer of an interest hereunder shall be effective unless made by an instrument in writing duly executed by the Parties in accordance with Applicable Law, and until the same has received all consents required under this Licence.

24.1.5 In this Article, "transfer" means a transfer, assignment, sale or other disposal of the interest of a Party.

25 MEASUREMENT OF PETROLEUM

25.1 Measurement of and Title to Petroleum

25.1.1 The Licensee shall, prior to installation, submit to the Commissioner for approval the processes, procedures, systems and technologies for determining the volume and quality of Petroleum Produced from the Licence Area.

25.1.2 The Licensee shall measure the volume and quality of Petroleum Produced from the Licence Area by the use of the methods and equipment customarily used in Best Industry Practice, and approved by the Commissioner in accordance with Article 25.1.1.

- 25.1.3 The quantity of Crude Oil (if any) delivered to the Government pursuant to Article 8.4.1 shall be measured at the Delivery Point and title to that Crude Oil shall not pass to the Government until the Crude Oil passes the Delivery Point.

25.2 **Changes in Measurement Methods**

The Licensee shall not make any alteration in the method or methods of measurement or weighing used by it or in any appliances used for such purpose without the consent in writing of the Commissioner and the Commissioner may in any case require that no alteration shall be made save in the presence of a person authorised by the Commissioner.

25.3 **Verification of Measurement Methods**

The Commissioner may, from time to time, direct that any weighing or measuring appliance shall be tested or examined in such manner, on such occasions or at such intervals, and by such means as may be specified in the direction.

25.4 **Consequences of Inaccurate Measurement Methods**

If any measuring or weighing appliance is, upon any test or examination pursuant to Article 25.3, found to be inaccurate, the appliance shall be deemed to have existed in that condition:

- (a) during the period commencing on the date that the Commissioner determines (acting reasonably) was the date on which the appliance became inaccurate and ending on the date when the appliance was found to be inaccurate; or
- (b) if the Commissioner is unable to make a determination under Article 25.4(a), during a period that is represented by half of the period from the last occasion upon which the appliance was tested or examined pursuant to Article 25.3 to the date when the appliance was found to be inaccurate. Any royalty or other amounts payable under this Licence or the Act affected by the inaccurate measuring or weighing appliance shall be adjusted accordingly for the applicable period.

25.5 **Pressure of Natural Gas**

For the purposes of measuring Natural Gas Produced from the Licence Area the volume of the Natural Gas shall be calculated at an absolute pressure of one atmosphere and at a temperature of 60°F.

26 **DOMESTIC UNITIZATION AND JOINT DEVELOPMENT**

26.1 **Domestic Unitization Order**

26.1.1 If:

- (a) the Commissioner is satisfied that a Field within the Licence Area extends into one or more other licence areas (either held by the Licensee or another licensee(s), but in any event existing entirely within the international borders of The Gambia), in circumstances where the Licensee in the Licence Area and another licensee(s) in one or more licence areas in respect of the same Field has each drilled a well resulting in a Discovery and the Commissioner agrees that each such Discovery is a Discovery Warranting Appraisal;

- (b) the Licensee has submitted a Proposed Development and Production Plan under Article 7.6 in regard to such Field; and
- (c) the Commissioner considers it desirable, in order to maximise the ultimate economic recovery of Petroleum in accordance with this Article 26.1, and in order to avoid unnecessary drilling, that the Field be Developed and Produced as a unit in cooperation by all licensees who have licences into which such Field extends,

then, notwithstanding Articles 7.6 and 7.7, the following provisions of this Article 26.1 shall apply.

- 26.1.2 Upon being so required by written notice of the Commissioner, the Licensee shall cooperate with such other licensee(s) to attempt to prepare a scheme (a "**Unit Development Scheme**") for the Development and Production of the Field as a unit, and shall use best reasonable efforts jointly with the other licensees to submit such Unit Development Scheme to the Minister for approval by the date provided for in such written notice (which shall not be less than twelve (12) months from the date on which the Commissioner issued the notice under this Article 26.1.2). Such Unit Development Scheme shall be designed to develop and produce the subject Field with the objective of maximising economically recoverable Petroleum, while at the same time meeting the requirements of Best Industry Practice in terms of engineering, health, safety and the environment, and shall otherwise be in accordance with the criteria described in Article 7.6, mutatis mutandis.
- 26.1.3 In the event that the Licensee has not submitted to the Minister a proposed Unit Development Scheme within the time provided under Article 26.1.2, then, within six (6) months of the date that the Licensee was to submit a proposed Unit Development Scheme, the Commissioner shall propose to the Licensee, and the other licensee(s), a Unit Development Scheme as provided for in Article 26.1.2, mutatis mutandis, and which is equitable to the Licensee and the other licensee(s).
- 26.1.4 If there is a dispute over any such Unit Development Scheme proposed by the Commissioner in accordance with Article 26.1.3, then the provisions of Article 26.1.8 shall apply.
- 26.1.5 Within sixty (60) days of the submission of a Unit Development Scheme under Article 26.1.2 the Commissioner shall:
 - (a) if the Unit Development Scheme is in accordance with the criteria described in Article 26.1.2, approve such Unit Development Scheme; or
 - (b) if it believes that the Unit Development Scheme is not in accordance with the criteria described in Article 26.1.2, reject such Unit Development Scheme,

and in either case the Commissioner shall provide the Licensee with written notice of its decision, and in the case of Article 26.1.5(b) shall provide details of why it has rejected the Unit Development Scheme.

- 26.1.6 Provided, however, that in regard to any Unit Development Scheme that is in accordance with the criteria described in Article 26.1.2, the Commissioner may also provide to the Licensee, and the other licensee(s) (along with such written notice of approval and within the time period specified in Article 26.1.5) with modifications to such Unit Development Scheme that are reasonably required by the Government, and which are in accordance with Best Industry Practice, provided that such required modifications do not increase the budget for such Unit Development

Scheme by more than ten percent (10%), do not substantially alter the general objectives of the Unit Development Scheme (such as the general location of facilities or the general route of a pipeline) and are otherwise fair and equitable to the Licensee and the other licensee(s).

26.1.7 In any case where the Commissioner does not provide any written notice to the Licensee as provided in Article 26.1.5, or does not provide any required modifications as provided in Article 26.1.6, within the time provided for in Articles 26.1.5 or 26.1.6, respectively, then the Government shall be deemed to have waived its rights under Articles 26.1.5 or 26.1.6, as applicable, and the applicable Unit Development Scheme shall be deemed approved.

26.1.8 If there is a dispute over:

- (a) whether any Unit Development Scheme is in accordance with the criteria described in Article 26.1.2 or 26.1.3 (as applicable); or
- (b) whether any modifications provided by the Commissioner are in accordance with the criteria described in Article 26.1.6,

then within thirty (30) days of such disagreement arising, the Parties shall use best endeavours to meet and shall attempt to agree in good faith any matters which are in dispute. If the Parties are unable to agree on such matters within ninety (90) days of their first meeting under this Article 26.1.8, either Party may refer the matter to an expert for determination in accordance with Article 31, according to the applicable criteria described in Articles 26.1.2, 26.1.3 and 26.1.6, respectively.

26.1.9 Where the expert determines that a Unit Development Scheme proposed by the Licensee (and to which the Commissioner has not provided any modifications in accordance with Article 26.1.6) is in accordance with the criteria described in Article 26.1.2 then within thirty (30) days of receiving the expert's determination the Commissioner shall, by written notice to the Licensee, approve the Unit Development Scheme.

26.1.10 Where the expert determines that:

- (a) a Unit Development Scheme proposed by the Government is in accordance with the criteria described in Article 26.1.3; and
- (b) that modifications provided by the Commissioner are in accordance with the criteria described in Article 26.1.6,

the Parties shall within thirty (30) days from receipt of the expert's determination use best endeavours to meet and shall attempt to agree in good faith the proposed Unit Development Scheme and/or any modifications provided by the Commissioner, as applicable. If the Parties are unable to agree such matters within a period of twenty-four (24) months of their first meeting under this Article 26.1.10, then unless otherwise agreed in writing by the Government, the Licensee shall relinquish that area of the Licence Area subject to the Unit Development Scheme.

26.1.11 Where the expert determines that a Unit Development Scheme is not in accordance with the criteria described in Article 26.1.2 or Article 26.1.3, as applicable, and/or the modifications provided by the Commissioner are not in accordance with the criteria described in Article 26.1.6, then such expert shall be instructed to make recommendations (as part of its determination) as to those amendments to the Unit Development Scheme and/or modifications provided by the Commissioner

which are required in order to meet the applicable criteria (the "**Expert's Recommendations**").

26.1.12 Within a period of twenty-four (24) months from the date of receipt of the expert's determination, the Licensee shall, either:

- (a) make any necessary amendments to the proposed Unit Development Scheme which are required to give effect to the Expert's Recommendations and submit this to the Commissioner for approval; or
- (b) unless otherwise agreed by the Government in writing, relinquish its rights to any discovered Petroleum Accumulations in the relevant Discovery Area and which are the subject of the proposed Unit Development Scheme.

26.1.13 Within thirty (30) days of receiving a revised Unit Development Scheme which gives effect to the Expert's Recommendations in accordance with Article 26.1.12, the Commissioner shall, by written notice to the Licensee approve such revised Unit Development Scheme.

26.1.14 If there are any common matters to be referred to an expert in accordance with this Article 26 and also under the terms of any other licences or agreements with other licensee(s) or persons referred to in Article 26.1.1(a) (each being an "**Interested Person**"), then without prejudice to the provisions of Article 31, the Parties agree that any such matters shall be consolidated and referred to a single expert for determination. To the extent that any time periods referred to in this Article 26 for submitting proposals, agreeing or determining matters, as applicable, differ from the periods which the Government has agreed with any Interested Person, whichever agreement or licence provides for the longest period in each case shall prevail. The Commissioner shall procure that any Interested Person(s) also consents to such consolidation of expert determination on the terms of this Article 26.1.14 and Article 31.

26.2 **Joint Development of Infrastructure**

If there is a:

- (a) Field within the Licence Area; and
- (b) separate Field located in one or more other Licence areas (either held by the Licensee or another licensee(s), but in any event existing entirely within the international borders of The Gambia),

then the Commissioner may, in order to ensure efficient and secure Petroleum Operations, require the relevant Fields to be developed and produced in a coordinated manner between the Licensee(s) and any other third party licensees operating within The Gambia in order to maximise economic recovery of Petroleum and optimum use of the relevant Petroleum infrastructure and in such cases, Development and Production Plans shall be proposed and approved in accordance with Articles 7.6, 7.7 and 7.8 which shall apply mutatis mutandis.

27 **DIRECTIONS REGARDING PETROLEUM ACCUMULATIONS ACROSS BOUNDARIES**

27.1 **Cross-Border Unitization**

Where the Minister is satisfied that any discovered Field in the Licence Area extends into an area to which the Minister's powers to grant Licences pursuant to the Act do not apply and the Minister considers that it should be developed as a

unit in cooperation by the Licensee and all other Persons having an interest in any part of the Field (a "**Cross-Border Unitization**"), the Minister may, subject to Articles 27.4 to 27.6 (inclusive), from time to time by notice in writing give to the Licensee such directions as the Minister may think fit and which are consistent with the principles of Best Industry Practice as to the manner in which the rights conferred by this Licence shall be exercised (a "**Government Direction**"), but without prejudice to the Licensee's rights under Article 34 (*Economic Stabilisation*).

27.2 **Observation of Cross-Border Unitization Scheme**

Subject to Articles 27.4 to 27.6 (inclusive), the Licensee shall observe and perform all such requirements in relation to the Licence Area as may be specified in any Government Direction.

27.3 **Amendments to Domestic Unitization Scheme**

Subject to Articles 27.4 to 27.6 (inclusive), any Government Direction may add to, vary or revoke the provisions of a Unit Development Scheme referred to in Article 25 (*Measurement of Petroleum*) in the event that a Field that is previously the subject of Article 25 (*Measurement of Petroleum*) is determined to be a cross-border Field but without prejudice to the Licensee's rights under Article 34 (*Economic Stabilisation*).

27.4 If the Licensee, acting reasonably, disagrees with any Government Direction or other instruction, requirement or decision of the Government pursuant to this Article 27, the Licensee shall notify the Government in writing (and provide reasonable details of its objection(s)) as soon as reasonably practicable following receipt of such Government Direction.

27.5 Within thirty (30) days of the Government receiving such notice, the Parties shall meet and attempt to agree in good faith the matters which are referred to in the Licensee's notice and implementation of the relevant Government Direction(s) shall be suspended pending agreement between the Parties, but without prejudice to any other rights or obligations of the Parties under this Licence.

27.6 If the Parties are able to agree such matters then the Government shall amend and re-issue, if applicable, the relevant Government Direction(s) to the Licensee. If the Parties are unable to agree such matters within a period of thirty-six (36) calendar months of their first meeting, then unless otherwise agreed in writing by the Government, the Licensee shall relinquish its rights to any discovered Petroleum Accumulations in the relevant Discovery Area and which are the subject of Cross-Border Unitization.

28 **SURRENDER AND TERMINATION**

28.1 **Surrender of Rights**

The Licensee, by giving to the Minister not less than thirty (30) days' notice in writing, may:

- (a) if its obligations in respect of the Initial Exploration Period and any Extension Exploration Period have been fulfilled, at any time thereafter during the relevant period surrender its rights and subject to Article 28.5 be relieved of further obligations in respect of the entire Licence Area; and
- (b) at any time after the Effective Date, surrender its rights and be relieved of its obligations in respect of any area forming part of the Licence Area

provided however, that no surrender by the Licensee of its rights over any part of the Licence Area shall relieve the Licensee of its work obligations set out in Article 4 (*Work Obligations*) or its rehabilitation obligations under Section 50 of the Act.

28.2 Termination

28.2.1 The Minister may terminate this Licence on written notice to the Licensee in the following events:

(a) Subject to Articles 28.3 and 28.4, if the Licensee is in material default of any material obligation under this Licence, or any obligation under an Additional Licence, or any requirements of the Act, including (but not limited to) any failure by the Licensee to comply with its obligations under Article 3.5.1, Article 4.1, Article 5 (*Work Programmes and Budgets*), Article 7.1, Article 7.3, Article 7.6, Article 8 (*Royalties, Bonuses, Rentals Taxes and Levies*), Article 9 (*Conduct of Petroleum Operations*), or Article 19 (*Financial Guarantee*), or Article 36.1 (*Anti-Bribery and Corruption*) or its obligations under the Tax Schedule which shall be deemed to be material defaults entitling the Minister to terminate this Licence under this Article 28.2.1(a); or

(b) if one or more of the following occur:

(i) an order is made or a resolution is passed by a court of competent jurisdiction for the winding up, dissolution, liquidation or reorganization under any bankruptcy law of a Person constituting the Licensee unless it is for the purpose of amalgamation or reconstruction and the Minister has been notified of the amalgamation or reconstruction in advance;

(ii) a Person constituting the Licensee becomes insolvent or bankrupt, or makes an assignment for the benefit of creditors; or

(iii) a receiver is appointed for a substantial part of the assets of a Person constituting the Licensee,

and, in respect of this Article 28.2.1(b), the Licence shall terminate with immediate effect following the Licensee's receipt of the Minister's termination notice.

28.2.2 With regard to the right to terminate this Licence in accordance with Article 28.2.1 the Minister may either:

(a) terminate the entire Licence;

(b) terminate part of the Licence only with effect to a defaulting Licensee, if a default has occurred under Article 28.2.1(a), in which event the Licence shall continue to be in full force and effect in relation to the non-defaulting Licensee(s); or

(c) terminate part of the Licence only with effect to that Licensee in relation to whom the events listed in Article 28.2.1(b) occurred, in which event the Licence shall continue to be in full force and effect in relation to the remaining Licensee(s).

28.2.3 Either Party may terminate this Licence upon written notice to the other Party in the following events:

- (a) Subject to Articles 28.3 and 28.4, if the other Party fails to comply with any arbitration award given as a result of arbitration pursuant to Article 30 (*Arbitration*) or, subject to the provisions of Article 31.6, any decision of an expert pursuant to Article 31 (*Expert Determination*); or
- (b) If as a result of a Suspension Period pursuant to Article 29.3.3.

28.2.4 The Licensee may, at any time during the Exploration Period, terminate the Licence on written notice to the Commissioner, provided however that if the Licensee has failed to complete the minimum work obligations set out in Schedule 1 it shall pay the Government the relevant payment as set out in Article [4.1.2] or Article [4.1.3]

28.3 **Notice of Termination**

Before terminating this Licence pursuant to Article 28.2.1(a) or Article 28.2.3, the non-defaulting Party shall, by written notice to the defaulting Party, give not less than ninety (90) days' notice of its intention to terminate this Licence stating in detail the grounds of the intended termination.

28.4 **Cure Rights**

The non-defaulting Party shall not terminate this Licence under Article 28.2.1(a) or Article 28.2.3 if the defaulting Party remedies or removes the grounds for termination to the reasonable satisfaction of the non-defaulting Party within the time period specified pursuant to Article 28.3.

28.5 **Consequences of Surrender or Termination or Expiry of Term**

Notwithstanding the termination of this Licence pursuant to Article 28.2, the termination of the Licence pursuant to Article 28.2.4, the surrender of rights by the Licensee pursuant to Article 28.1(a) or the expiry of the Term, the terms of this Licence shall remain in full force and effect in respect of:

- (a) unperformed obligations that arose prior to that termination, surrender or expiry;
- (b) liabilities that accrued prior to the termination, surrender or expiry;
- (c) liabilities arising out of or in connection with circumstances, acts or omissions that occurred prior to the termination, surrender or expiry; and
- (d) Decommissioning obligations in accordance with the Act and this Licence.

29 **FORCE MAJEURE**

29.1 **Definition of Force Majeure Event**

29.1.1 The term "**Force Majeure Event**", as used in this Licence, shall mean and is limited to the following events or circumstances:

- (a) national or industry-wide strikes, lockouts, labour or other industrial disturbances (including sabotage) and civil disturbances unless such actions were provoked by the unreasonable action of the management of the affected Party or were, in the reasonable judgement of the affected

Party, capable of being resolved in a manner not contrary to such Party's commercial interests;

- (b) epidemics, plagues and quarantine restrictions;
- (c) landslides, lightning, earthquakes, volcanic eruptions, meteorite impacts, fires, floods, storms, fog, tsunamis, tidal waves, cyclones, typhoons, tornadoes, explosions, shipwrecks and perils to navigation and other acts of God; and
- (d) acts of war including blockades, invasions, armed conflict or act of foreign enemy, insurrections, riots, arrests and restraints of rulers and peoples, or conditions arising out of or attributable to war (declared or undeclared).

29.1.2 provided always that the event is:

- (a) any event, circumstance or combination of events or circumstances beyond the reasonable control of, and without the fault or negligence of, a Party;
- (b) that occurs on or after the date of this Licence that materially and adversely affects the performance by that Party of its obligations under or pursuant to this Licence; and
- (c) provided that such material and adverse effect could not have been prevented, overcome or remedied in whole or in part by the affected Party through the exercise of diligence, reasonable care and Best Industry Practice.

29.2 **Exclusions from Force Majeure**

Notwithstanding anything in Article 29.1, the following events or circumstances shall not be treated as Force Majeure:

- (a) lack of money or credit, lack of markets, economic hardship, changes in market conditions, including changes which directly or indirectly affect the demand for or price of Petroleum, including the demand for, or price of, any commodity used in the pricing thereof or the ability to make a profit or to receive a satisfactory rate of return from the Production, sale or consumption of Petroleum;
- (b) the imposition of sanctions by any government or governmental authority due solely to the failure of the Licensee to comply with any law or regulation;
- (c) the withdrawal or expiration of, or failure to obtain, any necessary consent, confirmation, authorization or other approval of any government or governmental authority which the Licensee, having acted in accordance with Best Industry Practice, can apply for and obtain, maintain or extend or could have applied for and obtained, maintained or extended;
- (d) the breakdown, failure or non-operation of machinery comprising the Licensee's facilities:
 - (i) caused by normal wear and tear;
 - (ii) caused by the non-availability of any part or parts of the machinery; and

(iii) which has been caused by a design or manufacturing defect;

- (e) strikes or other industrial action solely affecting employees of the affected Party or its subcontractors; or
- (f) any event affecting a subcontractor, Affiliate or associated Person of the affected Party, unless that event is itself a Force Majeure Event.

29.3 **Effect of a Force Majeure Event**

29.3.1 Where a Party is (wholly or partially) unable to perform its obligations (other than an obligation to pay or expend money) under the Licence due to a Force Majeure Event:

- (a) the affected Party shall promptly give written notice to the other Party of the occurrence of the Force Majeure Event and shall, upon cessation of the Force Majeure event, promptly notify the other Party thereof;
- (b) the affected Party shall use all reasonable endeavours to mitigate the effects of a Force Majeure Event; and
- (c) so long as the affected Party has at all times since occurrence of the Force Majeure Event complied with the obligations of this Article 29 and continues to so comply, then the obligations of the affected Party shall be suspended for the duration of the Force Majeure Event.

29.3.2 If the non-affected Party disputes the existence of Force Majeure, such dispute shall be referred to arbitration in accordance with Article 30 (*Arbitration*).

29.3.3 If the occurrence of a Force Majeure Event shall prevent or delay either Party from performing their obligations under the Licence for a period of time that is equal to or greater than the Suspension Period, then either Party may terminate the Licence by notice in writing to the other Party, without further obligation. Without limiting the generality of any other provision of the Licence, nothing in this Article 29 however shall relieve a Party of the obligations and liabilities which arose or accrued prior to the occurrence of the Force Majeure Event.

29.3.4 When the Licence is terminated in accordance with Article 29.3.3 the Licensee shall conclude the Petroleum Operations in the area in relation to which the Licence terminated in an orderly manner, by minimising disruption and harm to the Government and any third parties.

29.3.5 Subject to Articles 29.3.1(c) and 29.3.3, the term of the Licence shall be automatically extended for the period during which that Party was relieved from performing a material obligation pursuant to this Article 29.3.

30 **ARBITRATION**

30.1 **Amicable Settlement Efforts**

30.1.1 In the event of a disagreement between the Parties in relation to any matter arising out of or in connection with this Licence or the interpretation thereof (each a "**Dispute**") the Parties shall use their best efforts to reach an amicable solution satisfactory to both Parties.

- 30.1.2 If either party refuses or fails to participate in the negotiation process or if settlement is not reached within 14 days of the Dispute arising, any party may refer the matter to arbitration in accordance with the provisions of Article 30.2 below.

30.2 **Arbitration**

- 30.2.1 Subject to Article 30.1, any Dispute, controversy or claim arising out of or relating to this Licence, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules.

- (a) The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration at The Hague.
- (b) The number of arbitrators shall be three (3).
- (c) The place of arbitration shall be London, UK.
- (d) The language to be used in the arbitration proceedings shall be English.

- 30.2.2 The arbitrators shall not be of the same nationality as either of the Parties or their ultimate parent companies.

- 30.2.3 The arbitrators shall hear and determine the matter within ninety (90) days of the appointment of the third arbitrator. The decision of the majority of the arbitrators shall be final and binding on the Parties and shall be enforceable under the laws of the Republic of The Gambia. Any Party may apply to a court of competent jurisdiction for enforcement of such award. The arbitration award may take the form of an order to pay a sum of money, or to perform an act, or to refrain from an act, or any combination of such orders. Notwithstanding the foregoing, a Party is entitled to seek injunctive relief and/or other interim or conservatory measures from any court of competent jurisdiction.

- 30.2.4 This Licence is governed by the laws of the Republic of The Gambia. The Parties agree that any Dispute, controversy or claim arising out of or relating to this Licence shall be exclusively governed by and determined in accordance with laws of the Republic of The Gambia.

- 30.2.5 Each Party shall bear its own legal and other costs in relation to the arbitration, however, the other costs of the arbitration including (without limitation) the fees and expenses of the arbitral tribunal, any costs and expenses of any expert advice and other assistance required by the arbitral tribunal and any fees and expenses of the appointing authority shall be fixed and allocated by the arbitral tribunal having regard to the outcome of the arbitration.

- 30.2.6 The Parties shall continue to perform their respective obligations under this Licence during any sole expert or arbitration proceedings.

- 30.2.7 The right to arbitrate Disputes shall survive the termination of this Licence.

31 **EXPERT DETERMINATION**

- 31.1 In the event of a Dispute arising out of or in connection with the Licence which is expressly stated in this Licence to be referable to expert determination, the Parties agree to submit the Dispute to ad hoc expert proceedings. The expert shall be appointed by the ICC International Centre for ADR in accordance with the Rules for the Appointment of Experts and Neutrals of the International Chamber of Commerce (the "**ICC Expert Rules**").

- 31.2 The expert, once appointed, shall have no ex parte communications with any of the Parties concerning the expert determination or the underlying Dispute.
- 31.3 All Parties agree to cooperate fully in the expeditious conduct of such expert determination and to provide the expert with access to all facilities, books, records, documents, information and personnel reasonably necessary to make a fully informed decision in an expeditious manner.
- 31.4 The expert shall endeavour to resolve the Dispute within thirty (30) days (but no later than ninety (90) days) after his or her appointment, taking into account the circumstances requiring an expeditious resolution of the matter in Dispute.
- 31.5 The expert's fees and any costs properly and reasonably incurred by them in arriving at their determination (including any fees and costs of any advisers appointed by the expert) shall be borne by the Parties equally or in such other proportions as the expert shall reasonably direct, taking into account all relevant circumstances of the case.
- 31.6 Subject to Article 7.7 (*Approval of Proposed Development and Production Plan*) and Article 26 (*Domestic Unitization and Joint Development*), the expert's decision shall be final and binding on the Parties and not subject to any rights of appeal, unless challenged in an arbitration within ninety (90) days of the date the expert's final decision is received by the Parties to the Dispute. Such arbitration shall be limited to disputes regarding: (a) the scope of the expert's jurisdiction; (b) whether there was a material breach of the expert to follow the procedures in accordance with this Licence; (c) whether the expert determination was affected by fraud; or (d) for enforcement of an expert determination. In such arbitration, the expert determination on the specific matter shall be entitled to a rebuttable presumption of correctness, and the expert shall not (without the written consent of the Parties to the dispute) be appointed to act as an arbitrator or as adviser to the Parties to the dispute.
- 31.7 **Waiver of Sovereign Immunity**
- 31.7.1 Any Party that now or hereafter has a right to claim sovereign immunity for itself or any of its assets hereby waives any such immunity to the fullest extent permitted by the laws of any applicable jurisdiction. This waiver includes immunity from:
- (a) any expert determination, mediation, or arbitration proceeding commenced pursuant to this Licence;
 - (b) any judicial, administrative or other proceedings to aid the expert determination, mediation or arbitration commenced pursuant to this Licence; and
 - (c) any effort to confirm, enforce or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from an expert determination, mediation, arbitration or any judicial or administrative proceedings commenced pursuant to this Licence.
- 31.7.2 Each Party acknowledges that its rights and obligations hereunder are of a commercial and not a government nature.

31.8 Government's Dispute Resolution Financing Option

- 31.8.1 If there is a Dispute prior to the first payment by the Licensee of a royalty pursuant to Article 8.2, the Government may by written notice to the Licensee require that the Licensee promptly reimburse the Government for out-of-pocket costs reasonably incurred by the Government in relation to the conduct of that Dispute, including in relation to the retention by the Government of international and domestic legal counsel and one or more experts.
- 31.8.2 The aggregate amount of costs for which the Government may be reimbursed pursuant to Article 31.8.1 during the Term shall be limited to four million United States Dollars (USD 4,000,000).
- 31.8.3 Subject to any confidentiality obligations and except to the extent that it would prejudice its right to claim legal or other privileges, the Government shall provide invoices and other reasonable supporting documents in relation to any claim for reimbursement under Article 31.8.
- 31.8.4 The Licensee's obligation to pay the royalty under Article 8 (*Royalties, Bonuses, Rentals Payroll Tax and Development Levy*) shall not commence until the royalty amount that the Licensee would otherwise have paid under Article 7 (*Discovery, Appraisal and Development*) is equal to two hundred percent (200%) of the aggregate amount (if any) that the Licensee paid to the Government under Article 31.8.1.
- 31.8.5 The arbitrator(s) or expert that finally determines a Dispute pursuant to Article 30 (*Arbitration*) or this Article 31 may as part of the related award require the Government to promptly repay to the Licensee some or all of the costs paid by the Licensee to the Government under Article 31.8.1, with such interest thereon as the arbitrator(s) or expert determines are appropriate. Any costs repaid by the Government under this Article 31.8.5 shall not be included in the calculation of amounts paid to the Government for the purpose of Article 31.8.4.

31.9 Confidentiality of Dispute Resolution Proceedings

The Parties shall keep confidential and not use for any collateral or ulterior purpose the subject matter of an arbitration or expert determination hereunder and all information (whether given orally, in writing or otherwise) produced for, or arising in relation to, the arbitration or expert determination hereunder including any award arising out of it except insofar as is necessary to implement and enforce any award or otherwise as required by law.

32 INDEMNITY

- 32.1 The Licensee(s) shall indemnify the Government from and against all claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses) ("**Claim**") incurred by the Government or any of its Affiliates, or any of their respective employees, officers, agents and subcontractors as a result of or in connection with any third party claim, demand or action (including any alleged infringement of third party rights) to the extent that such Claim been made against the Government as a result of the actions of the Licensee(s), or any of its Affiliates, under this Licence in carrying out the Petroleum Operations.
- 32.2 The Government shall notify the Licensee of any matters likely to give rise to a Claim under the indemnity in Article 32.1, and shall not settle or admit liability in

respect of any claim without the agreement in writing of the Licensee (not to be unreasonably withheld or delayed) and the Licensee may direct the Government to defend or challenge any Claim.

32.3 Where the Licensee directs the Government to defend or challenge any Claim:

- (a) the Licensee shall indemnify the Government for any reasonable costs incurred in defending or challenging such Claim from the date of such direction by the Licensee; and
- (b) the Licensee shall indemnify the Government for any Claims upon such Claim being determined or settled in accordance with Article 32.2.

32.4 The indemnity set out in Article 32.1 shall not apply to:

- (a) any act or omission of the Licensee which occurred prior to the Effective Date;
- (b) any third party claim, demand or action which relates to legal rights to the Licence Area or to the terms of or the status of the Licence; or
- (c) any Claim resulting solely as a result of any act or omission of the Government.

32.5 Notwithstanding Articles 32.1 and 32.3, in the event that a Claim arises in part due to the actions of the Government (or any of its Affiliates, or any of their respective employees, officers, agents and subcontractors), or arises (in whole or in part) due to the Licensee acting in accordance with the lawful instructions of the Government (or any of its Affiliates, or any of their respective employees, officers, agents and subcontractors), or in the event it is finally determined or agreed that the Parties are jointly the cause of or are liable for a Claim, then Licensee shall only be liable to indemnify the Government under Articles 32.1 and 32.3 in proportion to its respective portion of liability in relation to such Claim.

33 **NOTICES**

33.1 **Method of Notice**

33.1.1 All references to notices in this Licence shall mean written notice and save where expressed to the contrary where either Party is required to communicate any matter or thing to the other such communications shall be in writing and in English and for the purposes of this Article 33 "**notice**" shall include such communications.

33.1.2 All notices shall be served by mail, hand, fax or email to the address for service of each Party shown below. Each Party may change its address for service on giving the other seven (7) days' notice.

- (a) If to the Government, or the Minister, to:

The Republic of The Gambia
Attn: Minister of Petroleum and Energy
Ministry of Petroleum and Energy
Petroleum House
Brusubi Roundabout
Bijilo
The Gambia

with a copy to the Commissioner.

- (b) If to the Commissioner, to:
Attn: Commissioner for Petroleum and Energy
Ministry of Petroleum and Energy
Petroleum House
Brusubi Roundabout
Bijilo
The Gambia

and

- (c) If to the Licensee, to:
[♦]

33.2 Unless the contrary is provided, time of service shall be:

- (a) in the case of service by fax, the time of transmission provided that if the time of transmission shall be outside the ordinary business hours of the recipient, time of service shall be deemed to be 10.00am on the next following Business Day;
- (b) in the case of service by email, the time of transmission provided that if the time of transmission shall be outside the ordinary business hours of the recipient, time of service shall be deemed to be 10.00am on the next following Business Day;
- (c) in the case of service by hand, the date of delivery at the place of receipt provided that if the time of delivery shall be outside the ordinary business hours of the recipient, time of service shall be deemed to be 10.00am on the next following Business Day;
- (d) in the case of service by mail by way of recorded delivery, two (2) Business Days after the time of posting; and
- (e) in the case of service by any other form of mail other than by way of recorded delivery, five (5) Business Days after posting.

33.3 For the purposes of Articles 33.2(d) and 33.2(e), the Party serving the notice shall use the fastest reasonable means of mail available, provided that the Party shall always serve by mail by way of recorded delivery if this is the fastest reasonable means of mail available.

34 **ECONOMIC STABILISATION**

34.1 Without prejudice to any other rights of the Licensee under the Licence, in the event of a Change in Law, Lapse of Consent or a Government Direction (as defined in Article 27 (Cross-Border Unitization)) that has a Material Adverse Effect, subject to the remainder of this Article 34, the Government shall pay to the Licensee such compensation as may be necessary to put the Licensee in the same economic position as the Licensee would have been in had such Change in Law, Lapse of Consent or Government Direction not occurred or otherwise not been made.

34.2 Payment of such compensation shall be due on and from ninety (90) days from the date of notification of a claim made by the Licensee to the Government in respect of such Change in Law, Lapse of Consent or Government Direction.

- 34.3 No obligation shall arise under Articles 34.1 and 34.2 unless the relevant Change in Law, Lapse of Consent or Government Direction (whether alone or together) cause a cumulative Material Adverse Effect in excess of five million United States Dollars (USD 5,000,000) (the "**Threshold Amount**"). If the Threshold Amount are exceeded only the portion of the economic impact in excess of the Threshold Amount shall be compensated.
- 34.4 Upon either Party's request, the Government and the Licensee shall endeavour in good faith for a period of ninety (90) days after notification by the Licensee to the Government under Article 34.2 ("**Notification Date**") to agree on any amount of compensation required to restore the economic position of the Licensee.
- 34.5 If agreement is not reached by the Parties (acting in good faith and reasonably) on such disputed amount of compensation within the ninety (90) day period from the Notification Date, then:
- (a) the Government shall pay any undisputed sum forthwith and thereafter pay such amount as is agreed or determined payable in respect of the disputed sum within ninety (90) days of:
 - (i) the date on which the Parties resolve the disputed sum; or
 - (ii) the date of determination by an arbitrator, if the Parties fail to reach agreement, and the matter has been referred for arbitration; and
 - (b) either Party may pursue resolution of the dispute in accordance with the dispute resolution procedure set out herein.
- 34.6 Once compensation has been agreed pursuant to Article 34.4 or Article 34.5, the Parties shall agree in good faith any appropriate amendment to the Licence that may be necessary to reflect the altered economic position of the Licensee as a result of the Change in Law, Lapse of Consent or Government Direction.
- 34.7 Notwithstanding Article 34.3, Article 34.1 shall not apply in the event that a Change in Law enacted by the Government in the interest of health, safety, conservation or the protection of the environment, reflects what the Licensee has done, or would have done, to comply with its obligations under Article 9 of this Licence, provided that the Change in Law is in accordance with Best Industry Practice and would not result in a direct or indirect payment of any tax or levy or any similar obligation by the Licensee to the Government.

35 **APPLICABLE LAW**

This Licence shall be governed by, interpreted and construed in accordance with the laws of the Republic of The Gambia.

36 **MISCELLANEOUS**

36.1 **Anti-bribery and Corruption**

- 36.1.1 The Licensee shall establish and implement anti-bribery and anti-corruption policies and measures that are consistent with the requirements of Applicable Law, the provisions of the Licence and complimentary to any other relevant anti-corruption laws and obligations.

- 36.1.2 The Licensee shall implement necessary systematic measures in order to ensure that any person who undertakes activities that are relevant to the Licence (including work, services, delivering of goods) will not make, offer or authorise any payment, gift, promise or other advantage (whether directly or through any other person or entity) to or for the use or benefit of any public official, any political party, political party official or candidate for office or any other individual or entity, where such payment, gift, promise or advantage would violate Applicable Law or other anti-corruption laws and obligations applicable to the Licensee.
- 36.1.3 The Licensee (including its directors, officers, employees and personnel) shall comply with Applicable Law and any other laws and obligations applicable to it. The Licensee shall ensure that its Affiliates (including their respective directors, officers, employees and personnel) comply with Applicable Law and any other laws and obligations applicable to the Licensee.
- 36.1.4 Each Party shall as soon as possible notify and keep informed the other Party of any investigation or proceeding relating to an alleged violation of Applicable Law or other anti-corruption laws and obligations applicable to such Party.
- 36.1.5 Neither Party shall:
- (a) use any of the funds related to the Licence for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity;
 - (b) make any direct unlawful payment to any foreign or domestic government official or employee using funds related to the Licence; or
 - (c) do anything, in connection with this Licence, which would violate in any way the anti-bribery laws and obligations applicable to such Party.
- 36.2 **Waivers**
- No failure or delay by any Party in exercising any of its rights under the Licence shall operate as a waiver thereof, nor shall any single or partial exercise preclude any other or further exercise of such rights. Any waiver expressly given by a Party in relation to any obligation or provision of this Licence shall be in writing.
- 36.3 **Amendments**
- No variation of this Licence shall be effective unless in writing and signed by the Minister and the Licensee.
- 36.4 **Payments**
- Except as expressly indicated otherwise, all sums of money referred to in this Licence are expressed and shall be payable in United States Dollars. All payments shall be in immediately available funds.
- 36.5 **Entire Agreement**
- This Licence constitutes the entire agreement between the Parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof.

36.6 **Successors and Assigns**

This Licence shall be binding upon the Parties hereto and their respective administrators, successors and assigns.

36.7 **Severability**

Wherever possible, this Licence, and all documents contemplated hereunder, shall be construed and interpreted so as to be effective and valid under Applicable Laws. If any provision of this Licence, or any document contemplated hereunder, for any reason shall be deemed invalid or prohibited under Applicable Laws, such provision shall be invalid or prohibited only to the extent of such invalidity or prohibition, which shall not invalidate the remainder of such provision or the remaining provisions of this Licence.

36.8 **Conflict**

36.8.1 Subject to Article 36.8.2, in the event that any provision of this Licence is not consistent with any Applicable Law at any time during the Term (a "**Conflict**"), the provisions of this Licence shall prevail.

36.8.2 In the event of a Conflict where, pursuant to Applicable Law, the Licensee must adhere to the provisions of such Applicable Law and this causes a Material Adverse Effect, the provisions of Article 34 (*Economic Stabilisation*) shall apply.

IN WITNESS WHEREOF the Parties have executed this Licence by their proper officers duly authorised on their behalf on the first date above written.

THE REPUBLIC OF THE GAMBIA

SIGNED AND SEALED with the Seal of the
Ministry of Petroleum and Energy and
delivered by:

Minister for Petroleum and Energy

in the presence of:

Permanent Secretary

Executed by

[♦]

)

)

)

on being signed by:

)

)

in the presence of:

Duly Authorised Signatory

Signature of witness:

Name of witness:

Address:

Occupation:

Schedule 1
Minimum Work Obligations

The Licensee shall have the following minimum work requirements:

1 INITIAL EXPLORATION PERIOD

Well	No.
Exploration Well / Appraisal Well	1

2 FIRST EXTENSION EXPLORATION PERIOD

Well	No.
Exploration Well / Appraisal Well	1

3 SECOND EXTENSION EXPLORATION PERIOD

Well	No.
Exploration Well / Appraisal Well	1

Schedule 2
Royalties, Bonuses, Rentals

Part 1
Royalties in respect of Crude Oil and Associated Gas

- 1 In respect of Article 8.3.1 the royalty payable on Crude Oil (Ad Valorem) by the Licensee shall be calculated in accordance with the following formula:

$$\text{Oil Royalty Rate } R = 0.3 \times e^{(0.03 \times P)}$$

Where

e is the mathematical constant approximately equivalent to 2.71828

P is the average price per barrel determined under Article 10.1 in US dollars.

The royalty payable shall be the percentage calculated by the formula multiplied by the valuation under Article 10, unless that percentage falls below 2.5% (**Royalty Floor**), or above 35% (**Royalty Ceiling**). In such cases the royalty payable will be at the defined rates of the Royalty Floor or Royalty Ceiling.

- 2 In respect of Article 8.5, the royalty payable on the realised price of Associated Gas (Ad Valorem) by the Licensee shall be calculated in accordance with the following formula:

$$\text{Gas Royalty Rate } R = 0.3 \times e^{(0.03 \times 10 P)}$$

Where:

- e is the mathematical constant approximately equivalent to 2.71828
- P is the average price per million British Thermal Units (MMBTU) determined under Article 10 in US dollars.

The royalty payable shall be the percentage calculated by the formula multiplied by the valuation under Article 10, unless that percentage falls below the Royalty Floor, or above the Royalty Ceiling. In such cases the royalty payable will be at the defined rates of the Royalty Floor or Royalty Ceiling.

Below is a table indicative of royalty rates at given prices.

OIL		GAS	
Price (\$ / bbl)	%	Price (\$ / mmbTU)	%
30	2.5000	3.0	2.5000
35	2.5000	3.5	2.5000
40	2.5000	4.0	2.5000

45	2.5000	4.5	2.5000
50	2.5000	5.0	2.5000
55	2.5000	5.5	2.5000
60	2.5000	6.0	2.5000
65	2.5000	6.5	2.5000
70	2.5000	7.0	2.5000
75	2.8463	7.5	2.8463
80	3.3070	8.0	3.3070
85	3.8421	8.5	3.8421
90	4.4639	9.0	4.4639
95	5.1863	9.5	5.1863
100	6.0257	10.0	6.0257
105	7.0008	10.5	7.0008
110	8.1338	11.0	8.1338
115	9.4501	11.5	9.4501
120	10.9795	12.0	10.9795
125	12.7563	12.5	12.7563
130	14.8207	13.0	14.8207
135	17.2192	13.5	17.2192
140	20.0059	14.0	20.0059
145	23.2435	14.5	23.2435

150	27.0051	15.0	27.0051
155	31.3755	15.5	31.3755
160	35.0000	16.0	35.0000

- 3 The royalty payable in respect of Crude Oil Produced from a Satellite Development in accordance with Article 8.3.2 shall be a royalty rate (Ad Valorem) of twenty five percent (25%).
- 4 The royalty payable in respect of Crude Oil Produced from each Development and Production Area prior to completion of permanent Production facilities in that Development and Production Area in accordance with Article 8.3.3 shall be the same as that indicated in Schedule Two Part One 1-2 above, except that **The pre-Permanent Facility Royalty Floor** shall be established at 5%.

Below is a table indicative of royalty rates at given prices.

OIL		GAS	
Price (\$ / bbl)	%	Price (\$ / mmBTU)	%
30	5.0000	3.0	5.0000
35	5.0000	3.5	5.0000
40	5.0000	4.0	5.0000
45	5.0000	4.5	5.0000
50	5.0000	5.0	5.0000
55	5.0000	5.5	5.0000
60	5.0000	6.0	5.0000
65	5.0000	6.5	5.0000
70	5.0000	7.0	5.0000
75	5.0000	7.5	5.0000
80	5.0000	8.0	5.0000
85	5.0000	8.5	5.0000
90	5.0000	9.0	5.0000
95	5.1863	9.5	5.1863
100	6.0257	10.0	6.0257

105	7.0008	10.5	7.0008
110	8.1338	11.0	8.1338
115	9.4501	11.5	9.4501
120	10.9795	12.0	10.9795
125	12.7563	12.5	12.7563
130	14.8207	13.0	14.8207
135	17.2192	13.5	17.2192
140	20.0059	14.0	20.0059
145	23.2435	14.5	23.2435
150	27.0051	15.0	27.0051
155	31.3755	15.5	31.3755
160	35.0000	16.0	35.0000

Part 2

Rental Payments

- 1 Payable per annum for every square kilometre of the Licence Area retained during the following periods:
 - 1.1 Initial Exploration Period: Two hundred and fifty United States Dollars per square kilometre (USD 250 / sq km)
 - 1.2 First Extension Exploration Period: Two hundred and fifty United States Dollars per square kilometre (USD 250 / sq km)
 - 1.3 Second Extension Exploration Period: Two hundred and fifty United States Dollars per square kilometre (USD 250 / sq km)
 - 1.4 Subsequent Extension Exploration Period(s): Two hundred and fifty United States Dollars per square kilometre (USD 250 / sq km)
 - 1.5 Subject to paragraph 1.6 below:

In the Development and Production Period: One thousand United States Dollars (USD 1,000 sq km)
 - 1.6 The amount in United States Dollars referred to in paragraph 1.5 above shall be adjusted annually by multiplying them by an inflation factor "I", where "I" is calculated as follows:

$$I = D \div C$$

where :

"C" is the United States Producer Price Index on Crude petroleum and natural gas extraction industry (publish by Bureau of Labor Statistics, U.S.A. with Series Id: PCU21111121111) for the year and the month in which the Effective Date falls; and

"D" is the same index as published for the first time for the month in which the first and any subsequent anniversary of the Effective Date falls.

Part 3

Signature Bonus

In respect of Article 8.11.1 the signature bonus to be paid by the Licensee shall be:

Signature Bonus	Two million dollars (USD 2 Million)
-----------------	-------------------------------------

Part 4

Development and Production Plan Bonuses

Two million United States Dollars (USD 2,000,000) within thirty (30) days of the date when the Commissioner approves the first Proposed Development and Production Plan in accordance with Article 7.7.

Two million United States Dollars (USD 2,000,000) within thirty (30) days after each date on which the Commissioner approves a subsequent and separate Proposed Development and Production Plan in accordance with Article 7.7.

If an Approved Development and Production Plan is amended to incorporate a Satellite Development, then within thirty (30) days thereafter, a separate two million United States Dollars (USD 2,000,000) Development and Production Plan Bonus in respect of that Satellite Development.

Part 5

Production Bonuses

Within sixty (60) days of first reaching each of the following production levels from that Development and Production Area or Satellite Development (as applicable):

Production Threshold Achieved	Production Bonus Payable when Production Threshold is First Achieved
Completion and commissioning of sufficient infrastructure to commence Production of Crude Oil in commercial quantities from that Development and Production Area or Satellite Development	Ten million United States Dollars (USD 10,000,000)
Production above fifty thousand (50,000) Barrels of oil per day ("bopd")	Ten million United States Dollars (USD 10,000,000)
Production above one hundred thousand (100,000) bopd	Ten million United States Dollars (USD 10,000,000)
Production above one hundred and fifty thousand (150,000) bopd	Ten million United States Dollars (USD 10,000,000)
Production above two hundred thousand (200,000) bopd	Ten million United States Dollars (USD 10,000,000)

Production Threshold Achieved	Production Bonus Payable when Production Threshold is First Achieved
Production above two hundred and fifty thousand (250,000) bopd	Ten million United States Dollars (USD 10,000,000)
Each production increase of fifty thousand (50,000) bopd over the last production threshold that triggered a production bonus payment hereunder	Ten million United States Dollars (USD 10,000,000)

Part 6 Additional Profits Payment

- 1 The Additional Profits Payment is equal to the Additional Profits Payment Rate multiplied by the Licensee's Net Income from Petroleum Operations for each tax year, where the Additional Profits Payment Rate means, for
 - (a) Return on Capital Factor exceeding one hundred and fifty percent (150%), five percent (5.00%);
 - (b) Return on Capital Factor exceeding two hundred percent (200%), ten percent (10.00%);
 - (c) Return on Capital Factor exceeding two hundred and fifty percent (250%), fifteen percent (15.00%); and
 - (d) Return on Capital Factor exceeding three hundred percent (300%), twenty percent (20.00)%.

- 2 For the purposes of paragraph 1 above, the "**Return on Capital Factor**" means, at any time, the amount obtained from performing the following calculation:

$$R = (1A - 1B) / 1C$$

where: "R" is the Return on Capital Factor;

"1A" is the aggregate of the Licensee's Net Income from Petroleum Operations;

"1B" is the aggregate of the Licensee's Income Tax and Additional Profits Payment paid pursuant to the Licensee from the Effective Date until the end of the last tax year; and

"1C" is the aggregate of the Licensee's Resource Expenses in respect of the Licence from the Effective Date until the end of the last tax year.

Schedule 3
Well Commitment Penalty

1 WELL COMMITMENT PENALTY

- 1.1.1 In the event that the Licensee does not complete the minimum work obligations for the Initial Exploration Period as set out Schedule 1, the Licensee shall be required to pay, in accordance with Article 4, a proportion of the Well Commitment Penalty as set out in the table below depending upon at which point it exits the Licence.

Where, for the purpose of this Schedule 3, a 'quarter' means a period of three (3) consecutive months starting on the Effective Date.

Where the Licensee exits the Licence at any time during:	Proportion of Well Commitment Penalty to be paid upon exit (%)
(i) The first year of the Initial Exploration Period	33.3
(ii) The first quarter of the second year of the Initial Exploration Period	41.67
(iii) The second quarter of the second year of the Initial Exploration Period	50.00
(iv) The third quarter of the second year of the Initial Exploration Period	58.3
(v) The fourth quarter of the second year of the Initial Exploration Period	66.67
(vi) The first quarter of the third year of the Initial Exploration Period	75.00
(vii) The second quarter of the third year of the Initial Exploration Period	83.3
(viii) The third quarter of the third year of the Initial Exploration Period	91.67
(ix) The fourth quarter of the third year of the Initial Exploration Period	100.00

Appendix 1 **Description of Licence Area**

Coordinate Reference System

The coordinate reference system (CRS) shall be defined as WGS 84 / UTM zone 28N (EPSG code 32628).

The Well Know Text (WKT) for WGS 84 / UTM zone 28N (EPSG code 32628) is as follows:–

```
PROJCRS["WGS 84 / UTM zone 28N",
  BASEGEODCRS["WGS 84",
    DATUM["World Geodetic System 1984",
      ELLIPSOID["WGS 84",6378137,298.257223563,LENGTHUNIT["metre",1.0]]],
    CONVERSION["UTM zone 28N",
      METHOD["Transverse Mercator",ID["EPSG",9807]],
      PARAMETER["Latitude of natural origin",0,ANGLEUNIT["degree",0.01745329252]],
      PARAMETER["Longitude of natural origin",-15,ANGLEUNIT["degree",0.01745329252]],
      PARAMETER["Scale factor at natural origin",0.9996,SCALEUNIT["unity",1.0]],
      PARAMETER["False easting",500000,LENGTHUNIT["metre",1.0]],
      PARAMETER["False northing",0,LENGTHUNIT["metre",1.0]]],
    CS[cartesian,2],
    AXIS["easting (E)",east,ORDER[1]],
    AXIS["northing (N)",north,ORDER[2]],
    LENGTHUNIT["metre",1.0],
    ID["EPSG",32628]]
```

Boundary Definition

The boundary turning/corner points shall be defined by geographic coordinates (latitude and longitude) in the defined CRS.

The lines between the turning/corner points shall be defined on the ellipsoid as a projected curve including parallels (line of equal latitude), meridians (line of equal longitude) and geodesic (shortest distance on the ellipsoid).

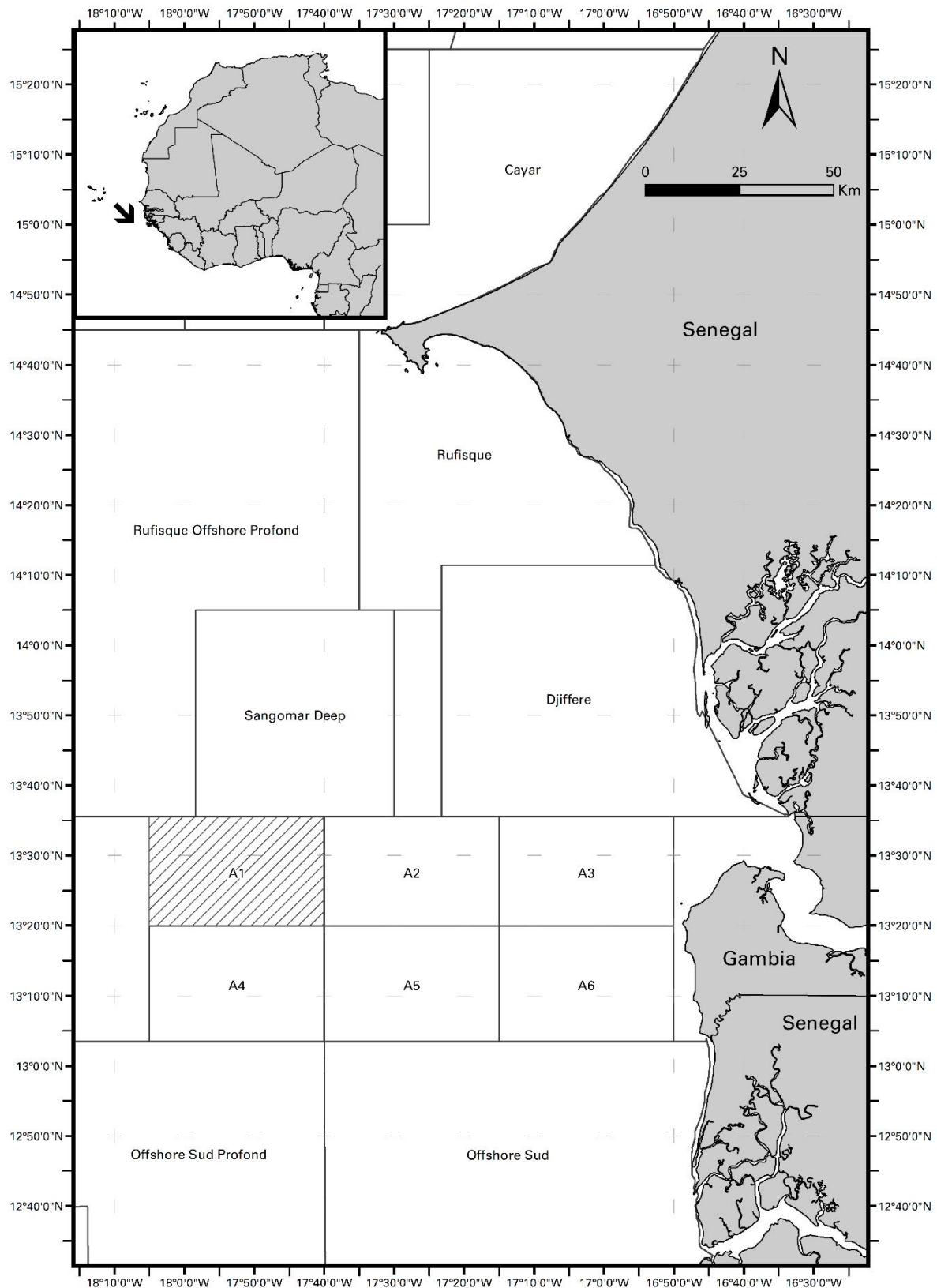
Boundary Turning/Corner Point Coordinates

WGS 84 / UTM zone 28N (EPSG code 32628)				
Corner	Latitude	Longitude	Easting (X)	Northing (Y)
NE	13° 35' 36" N	17° 40' 00" W	211,432.10	1,504,330.86
SE	13° 20' 00" N	17° 40' 00" W	211,119.99	1,475,549.42
SW	13° 20' 00" N	18° 05' 00" W	165,945.92	1,476,072.62
NW	13° 35' 36" N	18° 05' 00" W	166,307.00	1,504,863.49

The northern block Licence boundary, between the northeast and northwest corner points, is aligned with the international maritime boundary between The Gambia and Senegal.

Appendix 2 Map of Licence Area

(For purposes of illustration only)



Appendix 3
Form of Parent Company Guarantee

[♦]
as Guarantor

THE REPUBLIC OF THE GAMBIA
as The Gambia

DEED OF GUARANTEE

DATED [●]

PARTIES

- (1) [◆] ("Guarantor");
- (2) **THE REPUBLIC OF THE GAMBIA**, represented for these purposes by the Minister responsible for Petroleum matters ("**The Gambia**"),
- (each a "**Party**" and together the "**Parties**")

BACKGROUND

WHEREAS The Gambia and [◆] have entered into the Licence.

WHEREAS Under the Licence the Licensee must provide a parent company guarantee to The Gambia for the performance of its obligations.

WHEREAS The Licensee is an Affiliate of the Guarantor and the Guarantor has agreed to enter into this deed and guarantee all present and future indebtedness, liabilities and obligations of the Licensee to The Gambia under the Licence;

NOW THEREFORE, the Parties hereto hereby agree as follows:

1 INTERPRETATION

1.1 Definitions

Capitalised terms used in this Guarantee shall have the following meanings. Capitalised terms used in this Guarantee and not defined below shall have the meanings ascribed to them in the Licence. In the event of any conflict or inconsistency between the Capitalised terms used in this Guarantee and the Licence, the provisions of this Guarantee shall prevail.

"**Act**" means The Gambia's Petroleum (Exploration, Development and Production) Act 2004, which is amended by the Petroleum (Exploration, Development and Production) (Amendment) Act, 2007.

"**Business Day**" means any day other than a Saturday, Sunday or public holiday in the Republic of The Gambia and/or England.

"**Drawdown Event**" means the occurrence of any default by the Licensee under the Licence or the Act, any other event that gives rise to a right by The Gambia to claim under this Guarantee and/or, without limitation, a default by the Licensee in respect of any of the Guaranteed Obligations.

"**Guaranteed Obligations**" has the meaning set forth in Clause 3.

"**Licence**" means the licence dated _____ between the Licensee and The Gambia, as amended, supplemented or restated from time to time and includes any agreement entered into in replacement or substitution thereof;

"**Licensee**" means [◆] a corporation incorporated under the laws of The Gambia and its successors and permitted assigns.

"**this Guarantee**", "**herein**", "**hereby**", "**hereof**", "**hereto**", "**hereunder**" and similar expressions mean or refer to this Guarantee as amended, supplemented or restated from time to time,

and, except as otherwise specifically stated, the expression "Clause" followed by a number or letter mean and refer to the specified clause of this Guarantee.

1.2 The insertion of headings is for convenience of reference only and shall not affect the construction or interpretation hereof.

1.3 Whenever the context so requires, words importing the singular number only shall include the plural and vice versa and words importing any one gender shall include all other genders.

2 **TERM**

This Guarantee shall be effective from the date of this Guarantee and shall expire upon issuance of the last Closure Certificate relating to the Licence Area, by the Minister to the Licensee pursuant to Section 51 of the Act, provided that in any event this Guarantee shall expire no later than 31 December 2070.

3 **GUARANTEE**

The Guarantor hereby irrevocably and unconditionally guarantees, as principal debtor and not merely as a surety, to and in favour of The Gambia the due and punctual payment and performance by the Licensee to The Gambia of all indebtedness, liabilities and obligations (including any payments of interest), direct or indirect, absolute or contingent, present or future, matured or not matured, of the Licensee to The Gambia under or in connection with the Licence or the Act if and when such indebtedness, liabilities and obligations become payable or performable, as applicable, under the Licence or the Act including, without limitation, any of the Licensee's minimum work obligations, indemnity obligations, rehabilitation obligations and obligations in respect of environmental liabilities, (such indebtedness, liabilities and obligations of the Licensee being herein referred to as the "**Guaranteed Obligations**"); provided however, that the aggregate liability of the Guarantor under this Guarantee shall not exceed the liabilities of the Licensee to The Gambia under the Licence or the Act, and in no event shall exceed:

- (a) the Licensee's participating interest share (excluding from such calculation any participating interest held by the Government or the Appointee) of thirty-five million United States Dollars (USD 35,000,000) during the Exploration Period, as may be extended in accordance with the terms of the Licence; and
- (b) the Licensee's participating interest share (excluding from such calculation any participating interest held by the Government or its Appointee) of two hundred and fifty million United States Dollars (USD 250,000,000) during the Development and Production Period.

4 **WAIVER BY GUARANTOR**

4.1 The Guarantor hereby waives any right it may have to require The Gambia (or any Affiliate) first to proceed against or to pursue any other remedy whatsoever (including enforcing security) or to claim payment from any person before claiming from the Guarantor under this Guarantee. This waiver applies irrespective of any law or any provisions of the Licence to the contrary.

5 **NO RELEASE OF GUARANTOR**

5.1.1 The Guarantor hereby irrevocably and unconditionally guarantees that the Guaranteed Obligations will be paid or performed, as the case may be, strictly in

accordance with the terms of the Licence and the Act regardless of any law, rule, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of The Gambia with respect thereto and regardless of any defence, counterclaim, right of set-off or equities which the Guarantor may have.

5.1.2 The Guarantor shall not be released from any of its obligations under this Guarantee as a consequence of, and this Guarantee shall be effective and binding on the Guarantor notwithstanding:

- (a) any legal limitation, or any immunity, disability or incapacity, or lack of power, authority or legal personality of the Licensee or the directors, Affiliates or agents thereof;
- (b) any unenforceability, illegality, invalidity, irregularity, defect, or informality of the Licence or any other agreement between the Licensee and The Gambia or any provision thereof, or of any other document or instrument relating thereto or hereto;
- (c) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature) or replacement of the Licence or any other agreement or security;
- (d) any change in the time, or extension in time, manner or place of payment of, or in any other term of any of the Guaranteed Obligations, or any other amendment or waiver of, or any consent to or departure from any of the terms of the Guaranteed Obligations, the Licence, or of any other document or instrument relating thereto or hereto, or any indulgence which The Gambia may from time to time grant to the Licensee, the Guarantor or any other Person;
- (e) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over any assets of, the Licensee or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (f) any limitation at any time upon any remedy available to The Gambia under the Licence or any other document relating thereto;
- (g) the lack of validity or enforceability or the avoidance or subordination of all or any part of the Guaranteed Obligations;
- (h) any winding-up, dissolution, receivership or bankruptcy of the Guarantor, the Licensee or any other Person, any amalgamation, merger reorganization or fundamental corporate change (including any change of name) affecting the Guarantor, the Licensee or any other Person, any reorganization of any or all of the obligations of the Guarantor, the Licensee or any other Person, or any transaction including any amalgamation, merger, consolidation, arrangement, transfer, sale, lease or other disposition, whereby all or any part of the undertaking, property and assets of the Guarantor, the Licensee or any other person become the property of any other person or persons; and
- (i) any other circumstance which might otherwise constitute a defence available to, or a discharge of, the Guarantor, the Licensee or any other

person in respect of the Guaranteed Obligations, the Licence or any documents relating thereto or to this Guarantee.

6 ACKNOWLEDGEMENT BY GUARANTOR

The Guarantor acknowledges that The Gambia shall be entitled without in any way prejudicing or affecting any of its rights hereunder and without in any way limiting or lessening the liability of the Guarantor under this Guarantee to, without limitation:

- (a) give up, vary, exchange, renew or release, discharge, fail to perfect, take up or enforce, or otherwise deal with or fail to deal with any security, over any asset (including any other guarantee) relating to the Guaranteed Obligations or this Guarantee all as The Gambia considers appropriate;
- (b) grant extension of time for payment or any other indulgence in respect of the Guaranteed Obligations, this Guarantee or any other obligation or guarantee relating thereto or arising thereunder;
- (c) accept or make any compositions, arrangements or plans or reorganization with any person as The Gambia considers appropriate;
- (d) agree to any change in, amendment to, waiver of, or departure from, any term of the Guaranteed Obligations or the Licence including, without limitation, any renewal, extension, release, discharge, compromise or settlement of any of the foregoing; and
- (e) abstain from taking, protecting, securing, registering, filing, recording, renewing, perfecting, insuring or realizing upon any security or other guarantee, exercising any remedy or pursuing or exhausting any other right, action or recourse against the Licensee, any other person or any security or other guarantee before exercising its rights under this Guarantee, and no loss in respect of any security received or held for and on behalf of The Gambia, whether occasioned by fault, omission or negligence of any kind, whether of The Gambia or any other Person, shall in any way limit or lessen the liability of the Guarantor under this Guarantee.

7 REINSTATEMENT

Any release, discharge or settlement between the Guarantor and The Gambia shall be conditional upon no security, disposition or payment to The Gambia by the Licensee or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to bankruptcy, liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled The Gambia shall be entitled to enforce this Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

8 DEMAND

8.1 Demand Upon Drawdown Event

If a Drawdown Event has occurred and is continuing for not less than thirty (30) days following written notice to the Licensee under Article 28.3 (*Notice of Termination*) of the Licence and the expiry of any opportunity available under the Licence or Act to cure the circumstances giving rise to the Drawdown Event, The

Gambia may (in its absolute discretion) make a written demand upon the Guarantor for the payment and/or performance in full of the Guaranteed Obligations and the Guarantor shall pay such amount to The Gambia within a period of ten (10) Business Days from such written demand in full, without any set-off or counterclaim whatsoever and free and clear of any deductions or withholdings, in immediately available funds, to The Gambia in Banjul, The Gambia or such other place as The Gambia may designate by notice to the Guarantor. The Gambia may make multiple demands under this Guarantee.

8.2 Remedies

After the making of a demand pursuant to Clause 8.1 and the failure of the Guarantor to make payment within the period specified in Clause 8.1, The Gambia may proceed directly and at once, without further notice, against the Guarantor to collect and recover the full amount, or any portion of, the Guaranteed Obligations. The Gambia shall have the exclusive right to determine the application of payments and credits, if any, from the Guarantor or from any other person on account of the Guaranteed Obligations.

9 NO WAIVER BY THE GAMBIA

No failure on the part of The Gambia to exercise and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

10 DEDUCTIONS OR WITHHOLDINGS

If at any time the Guarantor is required to make any deduction or withholding in respect of any taxes, duties or other charges or withholdings from any payment due under this Guarantee for the account of The Gambia, the sum due from the Guarantor in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, The Gambia receives on the due date for such payment (and retains, free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made.

11 EXPENSES

The Guarantor shall pay for or reimburse The Gambia for any and all out-of-pocket costs or expenses, including all fees and disbursements of counsel (located in a jurisdiction outside of The Gambia or otherwise), reasonably incurred or suffered by The Gambia in connection with any successful enforcement by The Gambia of its rights under this Guarantee, such costs or expenses to bear interest at the rate of 4% per annum above HSBC Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the date on which the relevant costs or expenses are paid by The Gambia until the date they are paid or reimbursed by the Guarantor.

12 CURRENCY INDEMNITY

United States Dollars is the sole currency of account and payment for all sums payable by the Guarantor or Licensee under or in connection with this Guarantee, including damages. Any amount received or recovered in a currency other than United States Dollars (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up of the Licensee or the

Guarantor or otherwise) by The Gambia in respect of any sum expressed to be due to it from the Licensee or Guarantor under this Guarantee shall only discharge the Licensee and Guarantor to the extent of the United States Dollar amount which The Gambia is able, in accordance with its usual practice, to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that United States Dollar amount is less than the United States Dollar amount expressed to be due to The Gambia under this Guarantee, the Guarantor shall indemnify The Gambia against the cost of making any such purchase. For the purpose of this Clause 12, it will be sufficient for The Gambia to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

13 **SUBROGATION**

The Guarantor will not exercise any rights which it may acquire by way of subrogation under this Guarantee by any payment made hereunder or otherwise, until all the Guaranteed Obligations shall have been paid in full or otherwise satisfied.

14 **CONTINUING GUARANTEE**

This Guarantee shall:

- (a) remain in full force and effect until its expiry pursuant to Clause 2;
- (b) be binding upon the Guarantor and its successors; and
- (c) ensure, together with the rights and remedies of The Gambia hereunder, to the benefit of and be enforceable by The Gambia and its successors and permitted assigns.

15 **ADDITIONAL GUARANTEE**

This Guarantee is in addition to and not in substitution for any other guarantee of the Guaranteed Obligations or any other securities by whomsoever given or at any time held by The Gambia in respect of the Guaranteed Obligations and The Gambia shall at all times have the right to proceed against or realise upon all or any portion of any other guarantees or securities or any other moneys or assets to which The Gambia may become entitled or have a claim in such order and in such manner as The Gambia in its sole discretion may deem fit, all without any obligation to marshal any of such securities.

16 **NOT USED**

17 **NO ESCROW**

Possession of this Guarantee by The Gambia shall be conclusive evidence against the Guarantor that this Guarantee was not delivered in escrow or pursuant to any agreement that it should not be effective until any conditions precedent or subsequent had been complied with.

18 **NOTICES**

18.1 **Method of Notice**

18.1.1 Any and all notices required under this Guarantee shall mean written notice and save where expressed to the contrary where either Party is required to communicate any matter or thing to the other such communications shall be in English and in writing.

18.1.2 All notices shall be served by mail by way of recorded delivery, hand, fax or email to the address for service of each Party shown below.

(a) If to The Gambia:

The Republic of The Gambia
Attn: Minister of Petroleum and Energy
Ministry of Petroleum and Energy
Petroleum House
Brusubi Roundabout
Bijilo
The Gambia

with a copy to the Commissioner:

(b) Commissioner for Petroleum and Energy
Ministry of Petroleum and Energy
Petroleum House
Brusubi Roundabout
Bijilo
The Gambia

and

(c) If to the Guarantor, to:

[♦]

18.2 Unless the contrary is provided, time of service shall be:

(a) in the case of service by fax, the time of transmission provided that if the time of transmission shall be outside the ordinary business hours of the recipient, time of service shall be deemed to be 10.00am on the next following Business Day;

(b) in the case of service by email, the time of transmission provided that if the time of transmission shall be outside the ordinary business hours of the recipient, time of service shall be deemed to be 10.00am on the next following Business Day;

(c) in the case of service by hand, the date of delivery at the place of receipt provided that if the time of delivery shall be outside the ordinary business hours of the recipient, time of service shall be deemed to be 10.00am on the next following Business Day;

- (d) in the case of service by mail by way of recorded delivery, two (2) Business Days after the time of posting.

18.3 For the purposes of Clause 18.2(d) the Party serving the notice shall use the fastest means of mail available.

18.4 **Change of Address**

Each party may change its address for service by 15 days prior written notice, given in the manner provided in Clause 18.1, to the other party.

19 **GOVERNING LAW**

19.1 This Guarantee and any non-contractual obligations arising in connection with it are governed by and construed in accordance with the law of England and Wales.

19.2 Any dispute arising out of or in connection with this Guarantee shall be exclusively and finally resolved through final and binding arbitration, and for this purpose Article 30 of the Licence shall be deemed to be incorporated in this Guarantee *mutatis mutandis*.

20 **ASSIGNMENT**

20.1 The Guarantor shall not, assign, transfer, grant any security interest over or hold on trust any of its rights or obligations under this Guarantee or any interest in them without the prior written consent of the Minister.

20.2 The Gambia shall not (without the prior written consent of the Guarantor, such consent not to be unreasonably withheld or delayed) assign, novate or transfer to any entity its rights or obligations under this Guarantee, except The Gambia shall, by giving prior written notice to the Guarantor, assign, novate or transfer its rights or obligations under this Guarantee to a Person to whom all its rights with respect to the Guaranteed Obligations have also been transferred in accordance with the Licence.

21 **AMENDMENTS**

No amendment, variation or waiver of any provision of this Guarantee, nor any consent by The Gambia to any departure there from, shall in any event be effective unless the same shall be in writing and signed by both Parties and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

22 **SEVERABILITY**

In the event that any provision of this Guarantee shall be invalid, illegal or unenforceable in any respect in any jurisdiction or in relation to any portion of the Guaranteed Obligations, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Guarantee or the validity, legality or enforceability of this Guarantee in relation to the balance of the Guaranteed Obligations.

23 **ENTIRE AGREEMENT**

This Guarantee is the entire agreement between the Parties, and replaces all previous agreements and understandings between them, relating to its subject matter.

24 **RELATIONSHIP OF THE PARTIES**

Nothing in this Guarantee is intended to or shall operate to create a partnership or joint venture of any kind between the parties. No party shall have the authority to bind the other party or to contract in the name of, or create a liability against, the other party in any way or for any purpose.

25 **THIRD PARTIES**

The Parties do not intend any third party to have the right to enforce any provision of this Guarantee under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

26 **ACKNOWLEDGEMENT**

The Guarantor acknowledges that no representations have been made to the Guarantor affecting its liability hereunder.

27 **RECEIPT**

The Guarantor acknowledges receipt of a true copy hereof and of the Licence.

28 **COUNTERPARTS**

This Guarantee may be executed in one or more counterparts, either in original or telecopy form, each of which shall constitute an original or all of which together shall constitute one and the same agreement.

This Guarantee has been executed as a deed and delivered on the date stated at the beginning of this Guarantee.

GUARANTOR

Executed as a deed by
[♦]

)
)
)
)
)
)

on being signed by:

in the presence of:

Duly Authorised Signatory

Signature of witness:

Name of witness:

Address:

Occupation:

THE REPUBLIC OF THE GAMBIA

Represented for these purposes by
the Minister responsible for
Petroleum matters

Per: _____

Signed: _____

Appendix 4 **Form of Bank Guarantee**

[This Bank Guarantee is to be issued by a First Class International Bank acceptable to The Gambia]

[Date]

BENEFICIARY: The Republic of The Gambia

APPLICANT:

AMOUNT:

Dear Sir or Madam:

This guarantee is provided pursuant to the licence between The Republic of The Gambia ("**The Gambia**") and _____ (the "**Licensee**"), dated [____], (the "**Licence**"). Under Article 19 of the Licence, the Licensee is required to provide The Gambia with a bank guarantee to guarantee the payment by the Licensee of all amounts due to The Gambia by the Licensee under the Licence and the Petroleum (Exploration, Development and Production) Act 2004 (the "**Act**"), including without limitation in respect of the Licensee's minimum work obligations, indemnity obligations, rehabilitation obligations and obligations in respect of environmental liabilities (the "**Guaranteed Obligations**").

- 1 The [____] Bank hereby agrees to act as guarantor of the payment by the Licensee of all amounts due to The Gambia by the Licensee under the Licence and the Act.
- 2 The obligation assumed by [____] Bank under this bank guarantee shall be limited to the payment to The Gambia of the amounts claimed in any demands for payment delivered by The Gambia pursuant to Section 4 below, provided that the amount of any such payment shall not, when aggregated with any other payments previously made to The Gambia under this bank guarantee, exceed [____] United States Dollars during the Exploration period and [____] United States Dollars during the Development and Production Period (the "**Maximum Aggregate Liability**"). The [____] Bank's liability to pay The Gambia in respect of expenses pursuant to Section 10 or in respect of interest pursuant to Section 11 shall not be subject to the limitation on liability set forth in this Section 2.
- 3 This bank guarantee is irrevocable, unconditional and automatically enforceable.
- 4 Our payment obligations under this bank guarantee are due and owing upon presentation, prior to the expiry of this bank guarantee, of a letter addressed to the bank by The Gambia:
 - (a) claiming the payment of an amount not exceeding the Maximum Aggregate Liability (when aggregated with all previous claims made and paid hereunder) together with any amounts due under Sections 10 and 11 of this bank guarantee; and
 - (b) declaring that the Licensee has failed to perform one or more of its Guaranteed Obligations and that the amount claimed is therefore due and payable to The Gambia.
- 5 The Gambia may make multiple claims under this bank guarantee.

- 6 We hereby waive diligence, presentment, demand for payment, protest, any requirement that The Gambia exhaust any right or power or take any action against the Licensee, all notices (whether of non-payment by the Licensee, dishonour, protest or otherwise) and all demands whatsoever. Our obligations hereunder are continuing, absolute and unconditional, and will not be in any way affected by giving of time or any forbearance by The Gambia, the waiver or consent by The Gambia with respect to any provision of the Licence, and irrespective of the validity, regularity, enforceability or value of the Licence, or by any other circumstances which might otherwise constitute a legal or equitable discharge or defence of a surety or guarantor, all of which are hereby expressly waived.
- 7 Our obligations hereunder shall be paid in United States Dollars to the bank account designated by The Gambia, free and clear of and without reduction by reason of any and all present and future taxes, levies, imposts, deductions, assessments, charges of withholdings whatsoever levied, assessed, imposed or collected with respect thereto by any governmental authority in any jurisdiction. We shall bear and pay any and all fees and expenses in relation to or in connection with any demand for payment under this bank guarantee.
- 8 We hereby waive all and any of the rights as surety which may at any time be inconsistent with any of the above provisions.
- 9 This bank guarantee shall be effective immediately and expire on the first to occur of:
- (a) our receipt from The Gambia of written confirmation that it has issued to the Licensee that final Closure Certificate relating to the Licence Area; and
 - (b) our payment to The Gambia of amounts that are, in aggregate, equal to the Maximum Aggregate Liability plus any interest and expenses payable by us pursuant to Sections 10 and 11.
- 10 The [____] Bank shall pay for or reimburse The Gambia for any and all out-of-pocket costs or expenses, including all fees and disbursements of counsel (located in jurisdiction outside of The Gambia or otherwise), reasonably incurred or suffered by The Gambia in connection with any enforcement by The Gambia of its rights under this bank guarantee, such costs or expenses to bear interest calculated at the rate set out in Section 56 of the Act.
- 11 The Guaranteed Obligations or the unpaid portion thereof from time to time shall bear interest payable by the [____] Bank to The Gambia from the date of demand pursuant to Section 4 to the date of payment (and both before and after judgment) at the rate set out in Section 56 of the Act.
- 12 This bank guarantee shall be governed by the laws of England (without regard to the conflict of laws rules thereof).

Yours truly,

The Bank