

NIGERIA/SAO TOME & PRINCIPE

Joint Development Authority Model Production Sharing Contract Of 2004 (Extract)

CLAUSE 1 DEFINITIONS

CLAUSE 2 BONUSES

2.1 Signature Bonuses

The CONTRACTOR shall pay to the JDA, a Signature Bonus of the amount of _____ million US dollars within thirty (30) days after the signing of this Contract.

2.2 Production Bonus

The CONTRACTOR shall pay to the JDA a Production Bonus of _____ million U.S. Dollars on attainment of cumulative production of _____ million Barrels of Crude Oil in the Contract Area from fields discovered after the Effective Date.

CLAUSE 3 SCOPE

This Contract is a Production Sharing Contract, governed in accordance with the terms and provisions hereof. Petroleum Operations and provision of financial and technical requirements by the CONTRACTOR under this Contract shall be with the prior approval of or in prior consultation with the JDA as required under this Contract. The JDA, as holder of all rights in and to the Contract Area, hereby appoints and constitutes the CONTRACTOR, the exclusive company(ies) to conduct Petroleum Operations in the Contract Area.

CLAUSE 4 TERM

- 4.1 (a) The term of this Contract, subject to clauses 19 and 20 herein, shall be for twenty eight (28) years from the Effective Date, inclusive of eight (8) years Exploration period under an OPL and twenty (20) years of Development and Production Period under an OML.

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- (b) CONTRACTOR is authorized to conduct Exploration Operations for a period of eight (8) years from the Effective Date ("Exploration Period") as follows:
 - (i) CONTRACTOR shall commence Operations not later than thirty (30) days after the Effective Date.
 - (ii) The eight (8) years Exploration Period shall be divided into three separate phases as follows:
 - Phase I - four (4) years from the Effective Date.
 - Phase II - From the end of Phase I until two (2) years after the end of Phase I.
 - Phase III - From the end of Phase II until two (2) years after the end of Phase II.
- (c) Provided CONTRACTOR has fulfilled its obligations relative to the current Phase of the Exploration Period as described in paragraphs 6.2 hereof, CONTRACTOR may enter the next Phase by notifying JDA in writing at least thirty (30) days before the end of the current Phase of its election to enter the next Phase.
- (d) At the end of 20 years of the Development and Production Period, the Contractor may seek renewal of the OML and if granted this contract shall at the option of the contractor be extended for the duration of such renewal.

CLAUSE 5 RELINQUISHMENT OF AREAS

- 5.1 Subject to Clauses 19 and 20, the duration of the OPL relating to this Contract shall be for a period of eight (8) years from the Effective Date.
- 5.2 The following relinquishment provisions shall apply:
 - (a) 25% of the contract area shall be relinquished at the end of phase I of the OPL.

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- (b) A further 25% of the Contract Area shall be relinquished upon converting to an OML.
- 5.3 Any relinquished area shall revert to the JDA.
- 5.4 The fifty percent (50%) of the Contract Area to be relinquished shall be agreed by both Parties.

CLAUSE 6 MINIMUM WORK PROGRAMME AND EXPENDITURE

- 6.1 Within two (2) months after the Effective Date and thereafter at least three (3) months prior to the beginning of each year the contractor shall prepare and submit for review and approval by the Management Committee, pursuant to Clause 7, a Work Programme and Budget for the Contract Area setting forth the Petroleum Operations which the contractor proposes to carry out during the ensuing year, or in case of first Work Programme and Budget, during the remainder of the current year. The Management Committee shall review and approve such Work Programme and Budget in accordance with the provisions of Annex 4 (The Management Committee) prior to submission of the Work Programme and Budget to the JDA.
- 6.2 The Minimum Work Commitments for each Phase are as follows:
 - (a) Phase I - During Phase I, CONTRACTOR shall:
 - (i) Drill _____ Exploration Wells on the Contract Area to the T/D established in the Approved Annual Work Program. Upon approval by the JDA, 3D seismic data equivalent to the cost of one well may be acquired by the contractor as a substitute for a second well.

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- (ii) Acquire and process seismic data within the Contract Area as CONTRACTOR deems necessary; provided that if CONTRACTOR elects to conduct a 3-D seismic survey prior to drilling the Exploration Wells provided in (i) above, then upon CONTRACTOR's notice to JDA of such election, the 3-D seismic survey shall be deemed to be a firm commitment under the Contract and in such case the Exploration Wells provided in (i) above shall be commenced within eighteen (18) months after CONTRACTOR's completion of interpretation of the 3-D seismic survey.
- (iii) In any event all Exploration Wells referred, to in this Section (i) of Clause 6.2 (a) shall be drilled within Phase I of the Exploration Period.
- (b) Phase II - If CONTRACTOR elects to enter Phase II, then during Phase II CONTRACTOR shall drill Exploration Wells on the Contract Area to the T/D established in the Approved Annual Work Program.
- (c) Phase III - If CONTRACTOR elects to enter Phase III, then during Phase III CONTRACTOR shall drill Exploration Wells on the Contract Area to the T/D established in the Approved Annual Work Program.

6.3 Minimum Financial Commitment

- (a) CONTRACTOR shall be obligated to incur the following Minimum Financial Commitment:
 - Phase I - US\$ million
 - Phase II - US\$ million
 - Phase III - US\$ million
- (b) If CONTRACTOR fulfills the Minimum Work Commitment set forth in (a) of Clause 6.2 for each Phase of the Exploration Period, then CONTRACTOR shall be deemed to have satisfied the Minimum Financial Commitment for each such Phase.

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- 6.10 Within thirty (30) days from the execution of this contract, CONTRACTOR shall submit a Performance Bond from a reputable international institution to cover the amount of USD..... million agreed in the Work Programme for up to the fourth (4th) year. Should the CONTRACTOR satisfy the conditions for continuing exploration after the fourth year pursuant to Clause 6.2, another Bond for USD..... million shall be submitted within thirty (30) days from the date of the grant of the extension by the Authority to cover the agreed Work Programme for the 5th to the 6th years. Should the Contractor be accorded to enter a third phase of Exploration, another Bond for USD.....million shall be submitted within thirty (30) days from the date of the grant of the 2nd extension, to cover the agreed Work Programme for the 7th to 8th years. The Performance Bond shall be on a reducing balance basis.
- 6.11 Within thirty days from the execution of this Contract, Contractor shall, where applicable, submit a Parental Guaranty from its mother company valid up to four (4) years after the term of this Contract.

CLAUSE 7 MANAGEMENT COMMITTEE

- 7.1 A Management Committee shall be established within thirty (30) days from the date of execution of this Contract for the purpose of providing orderly direction of all matters pertaining to the Petroleum Operations and Work programme.
- 7.2 The powers and duties of the Management Committee are as stated in Annex 4.

CLAUSE 9 RECOVERY OF OPERATING COSTS AND SHARING OF PETROLEUM PRODUCTION

- 9.1 The allocation of Available Crude Oil shall be on a development area basis for Royalty Oil, Cost Oil and Tax Oil and on a contract area basis for Profit Oil. This allocation of Available Crude shall be in accordance with the Accounting procedure (Annex 1), the Allocation procedure (Annex 2) and this Clause 9 as follows:

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- (a) Royalty Oil shall be allocated to the JDA in such quantum as will generate an amount of proceeds equal to the actual Royalty payable during each month and the Concession Rental payable annually;
- (b) Cost Oil shall be allocated to the contractor in such quantum as will generate an amount of proceeds sufficient for recovery of Petroleum Operations costs in the OPL and any OMLs derived therefrom. All costs will be recovered in U.S. Dollars through Cost Oil allocation.
- (c) Cost Oil shall not be more than 80% of gross proceeds less deduction of Royalty Oil in any accounting period.
- (d) Tax Oil shall be allocated to the JDA in such quantum as will generate an amount of proceeds equal to the Tax liability payable during each month;
- (e) Reasonable seismic acquisition and processing costs incurred on the relevant OPL prior to the Effective Date of this Contract shall be recoverable and count toward satisfying the minimum Work Programme.
- (f) Profit Oil, being the balance of Available Crude Oil after deducting Royalty Oil, Cost Oil, and Tax Oil, shall be allocated to each Party pursuant to the Accounting Procedure (Annex 1). Contractor's share of Profit Oil (P%) shall be calculated in accordance with the following sliding scale:

$R < 1.2$	$P = 80$
$1.2 < R < 2.5$	$P = 25\% + \left\{ \left[\frac{(2.5 - R)}{(2.5 - 1.2)} \right] \cdot (80\% - 25\%) \right\}$
$R > 2.5$	$P = 25$

Where: $R = \frac{\text{Cumulative Cost Recovery} + (\text{Cumulative Investor Profit Share})}{\text{Cumulative Capital Costs} + \text{Cumulative Operating Costs}}$

$P = \text{Contractor's share of profit in \%}$.

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CLAUSE 10 VALUATION OF PETROLEUM PRODUCTION

- 10.1 Petroleum production sold to third parties shall be valued in accordance with the following procedures:
- (a) On the attainment of commercial production, each Party shall engage the services of an independent laboratory of good repute to determine the assay of the new Crude Oil.
 - (b) Each grade or quality of Crude Oil produced and segregated in a given year shall contribute its proportionate share to the total quantity designated in such year as Royalty Oil, Cost Oil, Tax Oil and Profit Oil.

CLAUSE 11 PAYMENT

- 11.1 The contractor shall make all payments to the JDA for which it is liable under this contract in United States dollars or some other currency agreed between the contractor and the JDA. Payments shall be made to a bank designated by the JDA. Where a payment is made in currency other than United States dollars, the exchange rate used to convert the United States dollars liability into that currency shall be the exchange rate set down on the day of payment by a bank designated by the JDA.

CLAUSE 12 TITLE TO EQUIPMENT/ABANDONMENT

- 12.1 The contractor shall finance the cost of purchasing all equipment to be used in Petroleum Operations in the Contract Area pursuant to the Work Programme and such equipment shall become the property of the JDA on arrival in the Zone. The contractor and the JDA shall have the right to use such equipment exclusively for Petroleum Operations in the Contract Area during the Term of this Contract. Should the JDA desire to use such equipment outside the Contract Area, such use shall be subject to terms and conditions agreed by the Parties, provided that it is understood that Petroleum Operations hereunder shall take precedence over such use by

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the JDA. The contractor shall only lease equipment with the approval of the JDA, such approval not to be unreasonably withheld if such lease is in the best interest of the Petroleum Operations.

CLAUSE 13 EMPLOYMENT AND TRAINING OF PERSONNEL

- 13.1 Each calendar year, the contractor shall submit a detailed programme for recruitment and training for the following calendar year in respect of its personnel from Nigeria and Sao Tome e Principe in accordance with the Petroleum Regulations 2003.
- 13.2 Qualified nationals from Nigeria and/or Sao Tome e Principe shall be employed in all non-specialized positions.
- 13.3 Qualified nationals from Nigeria and or Sao Tome e Principe shall also be employed in specialized positions such as those in exploration, drilling, engineering, production, environmental safety, legal and finance etc. The contractor shall have the right, subject to applicable laws, rules and regulations, to employ non-nationals of either of the States Parties in such specialized positions where qualified individuals are not available provided that the contractor shall recruit and train nationals from Nigeria and or Sao Tome e Principe for such specialized positions such that the number of Expatriate staff shall be kept to a minimum.
- 13.4 Pursuant to Clause 8.1(b) competent professionals of the JDA shall be assigned to work with the contractor and such personnel and the contractor's personnel shall not be treated differently with regards to salaries and other benefits. The contractor and JDA shall mutually agree on the numbers of JDA's staff to be assigned to the Petroleum Operations. The costs and expenses of such JDA personnel shall be included in Operating Costs.
- 13.5 The parties shall agree on the organizational chart of the contractor which shall include nationals of Nigeria and Sao Tome e Principe staff in key positions.
- 13.6 No Nigerian or Sao Tomean employed under this Contract shall be disengaged without the prior written approval of the JDA.

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CLAUSE 14 BOOKS AND ACCOUNTS, AUDIT AND OVERHEAD CHARGES

14.3 Home Office Overhead Charges

The contractor shall include the following percentages on total annual capital expenditure as overhead charges in calculating total operating costs.

Expenditure Tranche (\$ Million)	% Capex of Operating Costs
< 200	1.00
= or > 200 and < 400	0.75
= or > 400 and < 500	0.50
= or > 500	0.00

CLAUSE 15 ROYALTY AND TAXES

15.1 Royalty

Royalty rates shall be as provided in the Petroleum Regulations 2003.

15.2 Tax

- (a) Tax shall be in accordance with the Tax Regulations 2003.
- (b) The Tax rate applicable to the Contract Area shall be 50% flat rate of the chargeable profits for the duration of the Contract.

15.3 The contractor shall pay to the JDA, all Royalty, Concession Rentals and Tax out of available Crude Oil allocated to it under Clause 9.1 of this Contract.

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CLAUSE 16 INSURANCE

- 16.1 All property acquired under the provisions of this Contract shall be adequately insured with an insurance company of good repute by the contractor in consultation with the JDA, in the names of the Parties with limits of liability not less than those required by good international petroleum industry practice. The premium for such policies shall be included in Operating Costs. All policies shall name the JDA as a co-insured with a waiver of subrogation rights in favor of the Contractor.

CLAUSE 17 CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS

- 17.1 The contractor and the JDA shall keep information furnished to each other in connection with Petroleum Operations and all plans, maps, drawings, designs, data, scientific, technical and financial reports and other data and information of any kind or nature relating to Petroleum Operations including any discovery of Petroleum as -strictly confidential, for all times, and shall ensure that their entire or partial contents shall under no circumstances be disclosed in any announcement to the public or to any third party without the prior written consent of the other Party.

CLAUSE 18 ASSIGNMENT

- 18.1 The contractor shall not sell, assign, transfer, convey-or otherwise dispose of part or all of its rights and interest under this Contract to other parties, including Affiliates, without a prior written notice to and without prior written consent of the JDA which consent shall not be unreasonably withheld.
- 18.2 If the written consent by the JDA is given, the assigning contractor Party shall be relieved of its liability to the extent of the assignment of its rights and obligations under this Contract.

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- 18.3 Any request for consent to assign or dispose of as, aforesaid, made by the contractor to the JDA shall include the deed of assignment and other relevant information relating to financial and corporate standing of the assignee, and its capability to contribute to the Petroleum Operations under this Contract.

CLAUSE 19 TERMINATION

CLAUSE 20 FORCE MAJEURE

- 20.1 Any failure or delay on the part of either party in the performance of its obligations or duties under this Contract shall be excused to the extent attributable to force majeure. A force majeure situation includes delays, defaults or inability to perform under this contract due to any event beyond the reasonable control of either Party. Such event may be, but is not limited to, any act, event, happening, or occurrence due to natural causes; and acts or perils of navigation, fire, hostilities, war (declared or undeclared), blockage, labor disturbances, strikes riots, insurrection, civil commotion, quarantine restrictions, epidemics, storms, floods, earthquakes, accidents, blowouts, lightning, and, acts of or orders of Government.

CLAUSE 21 LAWS AND REGULATIONS

- 21.1 This Contract shall be governed by and construed in accordance with the applicable Laws in the Joint Development Zone.

CLAUSE 22 NATURAL GAS

- 22.1 If the contractor discovers a commercially viable quantity of Natural Gas, the contractor shall have the right to develop, commercialize, recover the costs and share in the profits of a development on terms to be mutually agreed and which shall be consistent with the principles, mechanics and intent of the Petroleum Regulations, Tax Regulations and this Contract.

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- 22.3 Notwithstanding the provisions of Clause 22.1 hereof, the contractor may utilize, at no cost any proportion of the produced Natural Gas required as fuel for production operations; gas recycling, gas injection, gas lift, or any other Crude Oil enhancing recovery schemes, stimulation of wells necessary for maximum Crude Oil recovery in the field discovered and developed by the contractor and such usage shall be with prior written consent of the JDA, which consent shall not be unreasonably withheld.

CLAUSE 24 CONCILIATION AND ARBITRATION

- 24.1 Should there be a difference or dispute between the parties concerning the interpretation or performance of this contract such that this dispute cannot be resolved by mutual consent, the parties shall refer the matter to an independent expert.
- 24.2 Where an independent expert is used, the JDA and the Contractor shall furnish the expert with all written information which he may reasonably require for his opinion. The cost of the services of the expert, if appointed, shall be shared equally between JDA and the Contractor.
- 24.3 If the difference or dispute cannot be settled by amicable agreement or through an independent expert, then either Party may serve on the other a demand for arbitration.
- 24.4 Within thirty (30) days of such demand being served, each Party shall appoint an arbitrator and the two arbitrators thus appointed shall within a further thirty (30) days appoint a third arbitrator. If the arbitrators do not agree on the appointment of such third arbitrator, or if either Party fails to appoint the arbitrator to be appointed by it, such arbitrator or third arbitrator shall be appointed in accordance with the rules of UNCITRAL Arbitration Rules administered by the AACCL Centre for International Commercial Dispute Settlement, Lagos on the application of the other Party (notice of the intention to apply having been duly given in writing by the applicant Party to the other Party). The third arbitrator when appointed shall convene meetings of the arbitration panel and act as chairman thereat. If an arbitrator refuses or neglects to act or is incapable of acting or dies, a new arbitrator shall be appointed in his place and the above provisions of appointing arbitrators shall govern the appointment of any such new arbitrator or arbitrators.

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**CLAUSE 25
EFFECTIVE DATE**

25.1 This Contract shall come into force and effect on the Effective Date.

**CLAUSE 26
REVIEW/RE-NEGOTIATION OF CONTRACT AND FISCAL TERMS**

- 26.1 The Parties agree that the commercial terms and conditions of this contract are based on the existing fiscal terms in accordance with the provisions of the Petroleum Regulations dated the 4th of April, 2003. If such fiscal terms are changed, the Parties agree subject to Clause 26.3, to review the terms and conditions of this contract affected by such changes to align such terms and conditions with the fiscal terms.
- 26.2 The terms of this contract have been negotiated and agreed having due regard to the terms of the Tax Regulations dated the 4th of April, 2003.
- 26.3 If at any time or from time to time, there is a change in legislation or regulations which materially affect the commercial benefit afforded the Contractor under this Contract, the parties will consult each other and shall agree to such amendments to this contract as are necessary to restore as near as practicable such commercial benefits which existed under the contract as of the effective date.

**CLAUSE 27
OPERATOR**

The contractor under this contract comprises of the following entities whose participating interest is stated below:

.....is the lead Contractor Party and is designated the Operator under the Contract to execute on contractors' behalf, the Petroleum Operations in the Contract Area.

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ANNEX 1

**TO THE PRODUCTION SHARING CONTRACT BETWEEN
THE JDA AND CONTRACTORS**

ACCOUNTING PROCEDURE

ANNEX 2

**TO THE PRODUCTION SHARING CONTRACT BETWEEN
THE JDA AND THE CONTRACTORS**

ALLOCATION PROCEDURE

ANNEX 3

**TO THE PRODUCTION SHARING CONTRACT BETWEEN
THE JDA AND THE CONTRACTORS**

**UNIFORM NOMINATION, SHIP SCHEDULING AND LIFTING
PROCEDURE**

ANNEX 4

**TO THE PRODUCTION SHARING CONTRACT BETWEEN
THE JDA AND CONTRACTORS**

**MANAGEMENT COMMITTEE MEETING
PROCEDURES**

ANNEX 5

**TO THE PRODUCTION SHARING CONTRACT BETWEEN
THE JDA AND CONTRACTORS**

**PROCUREMENT AND PROJECT IMPLEMENTATION
PROCEDURES**