



REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE

**Production Sharing Contract**  
**S-06-05**  
**under the *Petroleum Act***  
**for**  
**Contract Area H**

<b>Article 1</b>	<b>Interpretation.....</b>	<b>7</b>
	1.1 Definitions.....	7
	1.2 Headings.....	11
	1.3 Further Interpretation .....	11
	1.4 Annexes.....	12
	1.5 Joint and Several Liability .....	12
	1.6 Operator .....	12
<b>Article 2</b>	<b>Scope and Term .....</b>	<b>13</b>
	2.1 Scope.....	13
	2.2 Conditions Precedent .....	13
	2.3 Effective Date and Term .....	13
	2.4 Grounds for Termination.....	14
	2.5 Surviving Obligations .....	14
<b>Article 3</b>	<b>Relinquishment of Areas.....</b>	<b>15</b>
	3.1 Periodic Relinquishment of Exploration Area .....	15
	3.2 Final Relinquishment of Exploration Area .....	15
	3.3 Relinquishment of Development Area.....	16
	3.4 Termination of Agreement and Continuing Obligations in respect of Relinquished Area.....	16
	3.5 Gas Retention Area .....	16
<b>Article 4</b>	<b>Work Programmes and Budget .....</b>	<b>17</b>
	4.1 Commitment in Initial Period.....	17
	4.2 Commitment in Second Period .....	17
	4.3 Commitment in Third Period .....	18
	4.4 Performance of Exploration Work Programme and Budget .....	18
	4.5 Consequences of Non-Performance .....	19
	4.6 Work Programmes and Budgets.....	19
	4.7 Emergency and Other Expenditures Outside Work Programmes and Budgets .....	19
	4.8 Exploration.....	20
	4.9 Discovery and Appraisal .....	20
	4.10 Commercial Discovery.....	20
	4.11 Development Plan .....	21
	4.12 Development Work Programmes and Budgets .....	23
	4.13 Approved Contracts .....	23
	4.14 Decommissioning.....	23

	4.15	Decommissioning Security .....	24
<b>Article 5</b>		<b>Conduct of Work.....</b>	<b>24</b>
	5.1	Proper and Workmanlike Manner .....	24
	5.2	Access to Contract Area.....	25
	5.3	Health, Safety and the Environment .....	26
	5.4	Goods, Services, Training and Employment.....	26
	5.5	Flaring .....	26
	5.6	Operator and its Sub-Contractors.....	27
<b>Article 6</b>		<b>Recoverable Costs.....</b>	<b>27</b>
	6.1	Generally .....	27
	6.2	Recoverable Costs.....	27
<b>Article 7</b>		<b>Sharing Of Petroleum .....</b>	<b>27</b>
	7.1	Determination of Shares.....	28
	7.2	Option of Ministry.....	28
	7.3	Lifting.....	28
	7.4	Title and Risk .....	28
	7.5	Payments .....	29
<b>Article 8</b>		<b>State Participation .....</b>	<b>29</b>
	8.1	Election .....	29
	8.2	Participation .....	29
	8.3	Exemptions.....	29
<b>Article 9</b>		<b>Supply of Crude Oil to Timor-Leste Domestic Market .....</b>	<b>30</b>
	9.1	Domestic Market Obligation.....	30
	9.2	Calculation of Domestic Supply Obligation .....	30
<b>Article 10</b>		<b>Valuation of Petroleum .....</b>	<b>30</b>
	10.1	Point of Valuation .....	30
	10.2	Value of Crude Oil.....	30
	10.3	Value of Natural Gas.....	31
	10.4	Price Payable.....	31
<b>Article 11</b>		<b>Payments .....</b>	<b>31</b>
	11.1	Fees .....	31
	11.2	Payment Mechanism .....	31
	11.3	Late Payment.....	31
	11.4	Minimum Payment.....	31
<b>Article 12</b>		<b>Provision of Goods and Services .....</b>	<b>32</b>

12.1	Notice .....	32
12.2	Contracts Not Requiring the Ministry's Approval.....	32
12.3	Tender Invitations .....	32
12.4	Emergencies .....	33
12.5	Other Information to be Provided .....	33
<b>Article 13</b>	<b>Title to Equipment.....</b>	<b>33</b>
13.1	Property .....	33
13.2	Retention .....	33
<b>Article 14</b>	<b>Consultation and Arbitration.....</b>	<b>34</b>
14.1	Arbitration.....	34
14.2	Procedure .....	34
14.3	Obligations Continue During Arbitration .....	34
<b>Article 15</b>	<b>Financial and Technical Data, Records and Reports.....</b>	<b>34</b>
15.1	Ownership .....	34
15.2	Records, Storage, Retrieval and Submission .....	35
15.3	Reports .....	35
15.4	Export of Data and Information .....	35
15.5	Use of Data and Information.....	35
15.6	Confidentiality of Data and Information.....	36
15.7	Trade Secrets.....	36
15.8	Public Announcement .....	36
<b>Article 16</b>	<b>Management of Operations .....</b>	<b>37</b>
16.1	Constitution of Committee .....	37
16.2	Meetings.....	37
<b>Article 17</b>	<b>Third Party Access .....</b>	<b>37</b>
17.1	Third Party Access .....	37
<b>Article 18</b>	<b>Audit .....</b>	<b>37</b>
18.1	Independent Audit.....	37
18.2	Ministry Audit.....	38
18.3	Exceptions .....	38
18.4	Contractor to Assist.....	38
18.5	Affiliates.....	38
<b>Article 19</b>	<b>Indemnity and Insurance.....</b>	<b>38</b>
19.1	Indemnity .....	38
19.2	Insurance .....	38

<b>Article 20</b>	<b>Force Majeure.....</b>	<b>39</b>
	20.1 Force Majeure Relief.....	39
	20.2 Procedure .....	39
	20.3 Consultation .....	39
	20.4 Third Parties .....	39
	20.5 Extension of Time .....	40
<b>Article 21</b>	<b>Restrictions on Assignment and Change in Control .....</b>	<b>40</b>
	21.1 Assignment.....	40
	21.2 Change in Control .....	40
<b>Article 22</b>	<b>Other Provisions .....</b>	<b>41</b>
	22.1 Conduct of the Parties .....	41
	22.2 Notices .....	42
	22.3 Language.....	42
	22.4 Applicable Law .....	42
	22.5 Third Party Rights .....	42
	22.6 Amendments/Modification .....	42
	22.7 Entire Agreement .....	42
	<b>Annex A – Contract Area Description.....</b>	<b>44</b>
	<b>Annex B – Map of the Contract Area .....</b>	<b>45</b>
	<b>Clause 1 – General Provisions .....</b>	<b>46</b>
	<b>Clause 2 – Classification and Allocation .....</b>	<b>46</b>
	<b>Clause 3 – Costs, Expenses and Credits .....</b>	<b>50</b>
	<b>Clause 4 – Inventories .....</b>	<b>55</b>
	<b>Clause 5 – Production Statement .....</b>	<b>55</b>
	<b>Clause 6 – Value of Production and Pricing Statement.....</b>	<b>56</b>
	<b>Clause 7 – Cost Recovery Statement .....</b>	<b>56</b>
	<b>Clause 8 – Statements of Expenditure and Receipt.....</b>	<b>57</b>

## PRODUCTION SHARING CONTRACT

3 November 2006

This Agreement is a Production Sharing Contract made under the *Petroleum Act*

### BETWEEN

the Ministry of Natural Resources, Minerals and Energy Policy, acting on behalf of the Democratic Republic of Timor-Leste (the "Ministry")

### AND

Eni Timor Leste S.p.A (the "Contractor")

(each referred to individually as a "Party" or collectively as the "Parties").

### Whereas:

- A. Petroleum existing within the Territory of Timor-Leste is a resource to be exploited jointly by Timor-Leste and the Contractor;
- B. the Ministry has the power to enter into Petroleum Contracts for the benefit of the people of Timor-Leste;
- C. the Ministry wishes to promote Petroleum Operations in the Contract Area and the Contractor desires to join and assist the Ministry in exploring for, developing and exploiting Petroleum in the Contract Area; and
- D. a Contractor has the financial capability, and the technical knowledge and technical ability, to carry on the Petroleum Operations in a manner wholly consistent with the Act and this Agreement, and does not have a record of non-compliance with principles of good corporate citizenship,

**NOW, THEREFORE**, it is agreed:

## Article 1 Interpretation

### 1.1 Definitions

In this Agreement:

“Access Authorisation” has the meaning given in the Act;

“Accounting Records” has the meaning given in Clause 1.2 of Annex C;

“Act” means the *Petroleum Act*, as amended, varied, modified or replaced from time to time, and regulations made and directions given under it;

“Affiliate” means, in respect of a person, a person that controls, is controlled by, or is under common control with, that person;

“Agreement” means this Production Sharing Contract;

“Appraisal” means any appraisal activities, including appraisal wells, the purpose of which at the time such activity is commenced is to appraise and evaluate the extent or the volume of Petroleum reserves contained in a Discovery (including the commerciality of them), and all related activities;

“Appraisal Costs” has the meaning given in Clause 2.2 of Annex C;

“Approved Contract” means a contract made by a Contractor and approved by the Ministry as a part of a Development Plan;

“Associated Gas” means Natural Gas, commonly known as gas-cap gas, which overlies and is in contact with significant quantities of Crude Oil in a Reservoir, and solution gas dissolved in Crude Oil in a Reservoir;

“Authorisation” has the meaning given in the Act;

“Authorised Person” has the meaning given in the Act;

“Calendar Year” means a period of twelve (12) months commencing with January 1 and ending on the following December 31 according to the Gregorian calendar;

“Capital Costs” has the meaning given in Clause 2.3 of Annex C;

“Commercial Discovery” means a discovery of Petroleum that a Contractor declares commercial as contemplated in Section 4.10;

“Commercial Production” occurs on the first day of the first period of thirty (30) consecutive days during which production is not less than the level of regular production delivered for sale determined by the Ministry as part of the approval of, or amendment to, a Development Plan, averaged over not less than twenty five (25) days in the period;

“Committee” has the meaning given in Section 16.1;

“Contract Area” means the area specified in Annexes A and B, but not any part of it which has been relinquished under Article 3;

“Contract Year” means a period commencing on the Effective Date, or on any anniversary of it, and ending immediately before the next anniversary of it;

“Control” means, in relation to a person, the power of another person to secure:

- (a) by means of the holding of shares or the possession of voting power in or in relation to the first person or any other person; or
- (b) by virtue of any power conferred by the articles of association of, or any other document regulating, the first person or any other person,

that the affairs of the first person are conducted in accordance with the wishes or directions of that other person;

“Cost Recovery Statement” has the meaning given in Clause 7 of Annex C;

“Crude Oil” means crude mineral oil and all liquid hydrocarbons in their natural state or obtained from Natural Gas by condensation or extraction;

“Crude Oil Field” means:

- (a) a single Reservoir; or
- (b) multiple Reservoirs all grouped on, or related to, the same geographical structure, or stratigraphic conditions;

from which Crude Oil and Associated Gas may be produced;

“Decommission” means, in respect of the Contract Area or a part of it, as the case may be, to abandon, decommission, transfer, remove and/or dispose of structures, facilities, installations, equipment and other property, and other works, used in Petroleum Operations in the area, to clean up the area and make it good and safe, and to protect the environment;

“Decommissioning Cost” has the meaning given in sub-paragraph 4.14(e)(i).

“Decommissioning Costs Reserve” has the meaning given in sub-paragraph 4.14(e)(v);

“Decommissioning Plan” means a plan of works, and an estimate of expenditures therefor, for Decommissioning, including environmental, engineering and feasibility studies in support of the plan;

“Decommissioning Security Agreement” means an agreement between the Ministry and the Contractor as mentioned in Section 4.15;

“Development” means any development, including design, construction, installation, drilling, operations and all related activities;

“Development Work Programme and Budget” has the meaning given in Section 4.12;

“Development Area” has the meaning given in Section 4.10;

“Development Plan” means a development plan for a Development Area, as referred to in Section 4.11;

“Discovery” means a discovery of Petroleum in a Reservoir in which Petroleum has not previously been found that is recoverable at the surface in a flow measurable by conventional petroleum industry testing methods;



“Effective Date” has the meaning given in Section 2.3;

“Exploration” means any exploration activities, including geological, geophysical, geochemical and other surveys, investigations and tests, and the drilling of shot holes, core holes, stratigraphic tests, exploration wells and other drilling and testing operations for the purpose of making a Discovery, and all related activities;

“Exploration Costs” has the meaning given in Clause 2.1 of Annex C;

“Exploration Work Programme and Budget” has the meaning in Sections 4.1, 4.2 and 4.3;

“Field” means a Gas Field or a Crude Oil Field from which Petroleum may be produced;

“Field Export Point” means the point at which Petroleum produced pursuant to this Agreement, having gone through field level separation, is made ready for sale, further processing or transportation or such other point as designated in an approved Development Plan;

“Force Majeure” has the meaning given in Article 20;

“Gas Field” means:

- (a) a single Reservoir; or
- (b) multiple Reservoirs grouped on, or related to, the same geographical structure, or stratigraphic conditions;

from which Non-Associated Gas may be produced;

“Gas Retention Area” has the meaning given in Section 3.5;

“Good Oil Field Practice” means such practices and procedures employed in the petroleum industry worldwide by prudent and diligent operators under conditions and circumstances similar to those experienced in connection with the relevant aspect or aspects of the Petroleum Operations, principally aimed at guaranteeing:

- a) conservation of petroleum and gas resources, which implies the utilization of adequate methods and processes to maximize the recovery of hydrocarbons in a technically and economically sustainable manner, with a corresponding control of reserves decline, and to minimize losses at the surface;
- b) operational safety, which entails the use of methods and processes that promote occupational security and the prevention of accidents;
- c) environmental protection, that calls for the adoption of methods and processes which minimise the impact of the Petroleum Operations on the environment;

“Ineligible Costs” has the meaning given in Clause 2.8 of Annex C;

“Joint Operating Agreement” means any agreement or contract among all of the Contractors with respect to their respective rights or obligations under the Agreement, as such agreement or contract may be amended or supplemented from time to time;

“Loan Facility” means any overdraft, loan or other financial facility or accommodation (including any acceptance credit, bond, note, bill of exchange or commercial paper, finance lease, hire purchase agreement, trade bill, forward sale or purchase agreement, or conditional sale agreement, or other transaction having the commercial effect of a borrowing);

“Ministry” means the ministry or other agency, from time to time, responsible for the administration of the Act;

“Miscellaneous Receipts” has the meaning given in Clause 2.7 of Annex C;

“Natural Gas” means all gaseous hydrocarbons and inerts, including wet mineral gas, dry mineral gas, casing head gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas, but not Crude Oil;

“Non-Associated Gas” means Natural Gas which is not Associated Gas;

“Operating Costs” has the meaning given in Clause 2.4 of Annex C;

“Operator” means the person appointed from time to time to organize and supervise Petroleum Operations;

“Petroleum” means:

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid, or solid state;
- (b) any mixture of naturally occurring hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any mixture of one or more naturally occurring hydrocarbons, whether in a gaseous, liquid or solid state, as well as other substances produced in association with such hydrocarbons;

and includes any petroleum as defined by paragraphs (a), (b) or (c) that has been returned to a natural Reservoir;

“Petroleum Operations” means any activity authorised by the Ministry hereunder, and includes:

- (a) the exploration for, development and exploitation of Petroleum in the Contract Area, and the export of that Petroleum from the Contract Area;
- (b) the construction, installation and operation of structures, facilities, installations, equipment and other property, and the carrying out of other works, necessary for the purposes mentioned in paragraph (a) above;
- (c) Decommissioning;
- (d) the marketing of that Petroleum; and
- (e) planning and preparation for the activities mentioned in paragraphs (a), (b), (c) and (d) above;

“Production” means any exploitation or export activities, but not Development;

“Production Statement” has the meaning given in Clause 5.1 of Annex C;

“Quarter” means a period of three months beginning on January 1, April 1, July 1 or October 1 of each Calendar Year;

“Recoverable Costs” has the meaning given in Article 6;

“Reservoir” means a porous and permeable underground formation containing an individual and separate natural accumulation of producible hydrocarbons (oil and/or gas) that is confined by

impermeable rock and/or water barriers and is characterized by a single natural pressure system;

“Security” means:

- (a) a standby letter of credit issued by a bank;
- (b) an on-demand bond issued by a surety corporation;
- (c) a corporate guarantee; or
- (d) any other financial security acceptable to the Ministry;

and issued by a bank, surety or corporation acceptable to the Ministry and having a credit rating indicating that it has sufficient worth to pay its obligations in all reasonably foreseeable circumstances;

“State-Owned Contractor” means a Contractor incorporated under the laws of Timor-Leste that is wholly owned, whether directly or indirectly, by Timor-Leste;

“Territory of Timor-Leste” consists of the territory of Timor-Leste, including its territorial sea, together with its exclusive economic zone and continental shelf where, by international law, Timor-Leste has sovereign rights for the purposes of exploring for and exploiting its natural resources;

“Timor-Leste” means the Democratic Republic of Timor-Leste;

“United States Dollars” means the lawful currency of the United States of America;

“Uplift” has the meaning given in Clause 2.6 of Annex C;

“Value of Production and Pricing Statement” has the meaning given in Clause 6 of Annex C; and

“Work Programme and Budget” means a work programme for Petroleum Operations and budget therefor approved in accordance with this Agreement.

## **1.2 Headings**

As used herein, headings are for convenience and do not form a part of, and shall not affect the interpretation of, this Agreement.

## **1.3 Further Interpretation**

In this Agreement, unless the context otherwise requires:

- (a) the words “including” and “in particular” shall be construed as being by way of illustration or emphasis only, and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words;
- (b) a reference to an Article, Section, paragraph, sub-paragraph or to an Annex, is to an Article, Section, paragraph, sub-paragraph of or to an Annex to, this Agreement;
- (c) a reference to an agreement (including this Agreement) or instrument, is to the same as amended, varied, novated, modified or replaced from time to time;
- (d) “person” includes a corporation or other legal entity, even if without juridical personality;
- (e) the singular includes the plural, and vice versa;

- (f) any gender includes the other;
- (g) an agreement includes an arrangement, whether or not having the force of law;
- (h) a reference to the consent or approval of the Ministry means the consent or approval, in writing, of the Ministry and in accordance with the conditions of that consent or approval;
- (i) "law" includes the Act and any other applicable legislation;
- (j) "contiguous area" means a block, or a number of blocks each having a point in common with another such block; and
- (k) where a word or expression is defined, cognate words and expressions shall be construed accordingly;

and this Agreement shall inure to the benefit and burden of the Parties, their respective successors and permitted assigns.

#### **1.4 Annexes**

If there is a conflict, the main body of this Agreement prevails over an Annex.

#### **1.5 Joint and Several Liability**

The obligations and liabilities of each Contractor under this Agreement except the State-Owned Contractor are the obligations and liabilities of them all except the State-Owned Contractor, jointly and severally.

#### **1.6 Operator**

- (a) The appointment of an Operator by the Contractors shall be subject to prior approval by the Ministry where:
  - (i) there is more than one Authorised Person in respect of a particular Authorisation and the person appointed as Operator is one of those Authorised Persons, and
  - (ii) the person appointed as Operator is not an Authorised Person.
- (b) Except with the prior approval of the Ministry as required under paragraph 1.6(a), the Contractors shall not permit any person to exercise any function of an Operator.
- (c) For all purposes of this Agreement, the Operator shall represent the Contractors, and the Ministry may deal with, and rely on, the Operator. The obligations, liabilities, acts and omissions of the Operator are, additionally, the obligations, liabilities, acts and omissions of the Contractors.
- (d) The Operator shall operate under this Agreement from an office located in Timor-Leste.
- (e) Any change in Operator shall be subject to the prior approval of the Ministry.
- (f) Where the Ministry determines that an Operator is no longer competent to be an Operator, the Ministry may, by written notice to the Operator and to the Contractors, revoke its approval.

The Ministry shall provide reasons for its decision pursuant to this Article 1.6 (f) if so requested by the Operator

## **Article 2 Scope and Term**

### **2.1 Scope**

- (a) This Agreement, and the rights, interests and benefits of the Contractors, and the obligations and liabilities of the Ministry, under it, are subject to the Act. A Contractor shall, at all times and in regard to all things, comply with its obligations under the Act. No provision of this Agreement shall excuse a Contractor from so complying, nor derogate from any right or privilege of the Ministry thereunder.
- (b) Subject to this Agreement, and thereunder, the Contractors:
  - (i) shall, and have the exclusive right to, carry on Petroleum Operations at their sole cost, risk and expense;
  - (ii) shall provide all human, financial and technical resources therefor; and
  - (iii) shall share in Petroleum from the Contract Area.
- (c) The Contractors are not authorised to carry on Petroleum Operations in any part of Timor-Leste outside the Contract Area, other than in accordance with an Access Authorisation granted to a Contractor by the Ministry under Article 11 of the Act.
- (d) This Agreement does not authorise the Contractors to process Petroleum beyond the Field Export Point and no expenditure in respect of further processing shall be a Recoverable Cost.

### **2.2 Conditions Precedent**

- (a) This Agreement is conditional on:
  - (i) the appointment of an Operator in accordance with Section 1.6;
  - (ii) if there is more than one Contractor, the conclusion of a Joint Operating Agreement, and such agreement coming into full force and effect (subject only to satisfaction of this condition);
  - (iii) each Contractor providing the Ministry with a Security (in form and content satisfactory to the Ministry) for the performance of the Contractor's minimum work and expenditure obligations in accordance with Sections 4.1, 4.2 and 4.3; and
  - (iv) each Contractor demonstrating, to the satisfaction of the Ministry, that it has complied with its obligations under Section 19.2 in regard to insurance.
- (b) If the conditions mentioned in paragraph 2.2(a) are not fulfilled before the sixtieth (60<sup>th</sup>) day after the date of this Agreement, this Agreement shall terminate and be of no further force or effect.

### **2.3 Effective Date and Term**

- (a) The effective date of this Agreement is the date on which all of the conditions precedent set

out at Section 2.2 have been satisfied ("Effective Date").

- (b) This Agreement shall terminate on the first to occur of:
  - (i) all of the Contract Area being relinquished pursuant to Article 3;
  - (ii) the Parties so agreeing; or
  - (iii) termination pursuant to Section 2.4 .

#### **2.4 Grounds for Termination**

The Ministry may terminate this Agreement:

- (a) forthwith, if:
  - (i) a Contractor is insolvent, is adjudged bankrupt or makes any assignment for the benefit of its creditors, or is adjudged to be unable to pay its debts as the same fall due;
  - (ii) a petition is filed in a court having jurisdiction or an order is made, or an effective resolution is passed, for the dissolution, liquidation or winding up of a Contractor;
  - (iii) a receiver is appointed or an encumbrancer takes possession of a majority of the assets or undertaking of a Contractor; or
  - (iv) a Contractor ceases or threatens to cease to carry on its business or execution is forced against all or a majority of a Contractor's property and is not discharged within fourteen (14) days.
- (b) on thirty (30) days notice to the Contractor if the Contractor is in material default under this Agreement and does not, within that thirty (30) days, remedy the default to the satisfaction of the Ministry; and
- (c) as provided in Article 21.

#### **2.5 Surviving Obligations**

- (a) Termination of this Agreement for any reason, in whole or in part, shall be without prejudice to rights and obligations expressed in the Act or this Agreement to survive termination, or to rights and obligations accrued thereunder prior to termination, including Decommissioning, and all provisions of this Agreement reasonably necessary for the full enjoyment and enforcement of those rights and obligations shall survive termination for the period so necessary.
- (b) If there is more than one Contractor and circumstances arise in which the Ministry may terminate an Authorisation, the Ministry may, on such conditions as it may decide, terminate this Agreement only in respect of those persons whose acts or omissions (or in relation to whom acts, omissions or events have occurred which) have led to such circumstances arising, if:
  - (i) it is satisfied that the other Contractors did not connive in such acts, omissions or events, and could not reasonably have been expected to prevent them occurring; and

(ii) it is satisfied that it is fair and reasonable to do so in all the circumstances;  
and the other Contractors agree (including as to such conditions).

### **Article 3 Relinquishment of Areas**

#### **3.1 Periodic Relinquishment of Exploration Area**

- (a) The Contractors shall relinquish:
- (i) at the end of the third (3<sup>rd</sup>) Contract Year, not less than twenty five percent (25%) of the original Contract Area;
  - (ii) at the end of the fifth (5<sup>th</sup>) Contract Year, not less than a further twenty five percent (25%) of the original Contract Area.
- (b) At the end of any Contract Year, and subject to paragraph 3.1(e), the Contractors may relinquish some, or all, of the Contract Area. Any area so relinquished will be credited against the next relinquishment obligation of the Contractors under paragraph 3.1(a).
- (c) The Contractors shall consult with and give not less than thirty (30) days notice to the Ministry of the areas which, at any time, it wishes to relinquish. Except with the consent of the Ministry,
- (i) those relinquished areas must form one discrete area; and
  - (ii) the areas not relinquished must form one or more discrete areas;
- all of sufficient size and convenient shape to enable Petroleum Operations to be conducted thereon.
- (d) If the Contractors do not relinquish a portion of the Contract Area at the time and in the manner required by this Section 3.1, all of the Contract Area shall be deemed relinquished at the end of the Contract Year concerned.
- (e) Without the consent of the Ministry, and notwithstanding paragraph 3.1(b), the Contractors may not relinquish all of the Contract Area if it has not then fulfilled their obligations under Sections 4.1, 4.2 and 4.3, or are then in breach of any provision of this Agreement.

#### **3.2 Final Relinquishment of Exploration Area**

At the end of the seventh (7<sup>th</sup>) Contract Year, the Contractors shall relinquish all of the Contract Area other than such part thereof as is a Development Area.

- (a) If, at the end of the seventh (7<sup>th</sup>) Contract Year, a Discovery has been made but there has been insufficient time for the Contractors (acting, and having acted, in accordance with this Agreement) to Appraise it, the obligation of the Contractors under Section 3.2 shall be postponed:
- (i) for such area as the Contractors may propose and the Ministry may determine to be reasonably necessary for Appraisal of the Discovery;
  - (ii) for such period as is reasonably necessary to permit the Contractors to Appraise (or

to complete the Appraisal of) the Discovery; and

- (iii) as a consequence of that Appraisal, for the Contractors to decide whether to declare a Commercial Discovery and, if it does so, for the Ministry to declare a Development Area in respect of it.

### **3.3 Relinquishment of Development Area**

- (a) Except with the consent of the Ministry, a Development Area shall be deemed to be relinquished on the first to occur of:
  - (i) production from the Development Area ceasing permanently or for a continuous period of twelve (12) months (or, if because of Force Majeure, twenty four (24) months or such greater period as determined by the Ministry, in consultation with the Contractors under Section 20.2); and
  - (ii) the twenty fifth (25<sup>th</sup>) anniversary of the date on which the first (1<sup>st</sup>) Development Plan in respect of the Development Area was approved by the Ministry.
- (b) Without the consent of the Ministry, the Contractors may not otherwise relinquish all or any part of a Development Area.

### **3.4 Termination of Agreement and Continuing Obligations in respect of Relinquished Area**

- (a) This Agreement shall terminate in respect of a part of the Contract Area which is relinquished.
- (b) Relinquishment of all or a part of the Contract Area is without prejudice to the obligations of the Contractors to Decommission.

### **3.5 Gas Retention Area**

- (a) If the Appraisal of a Discovery of Non-Associated Gas demonstrates that the Discovery, although substantial, is not then, either alone or in combination with other Discoveries, commercially viable, but is likely to become so within five (5) years, the Ministry may, at the request of the Contractors, declare a Gas Retention Area in respect of it for that period.
- (b) This Article 3 (but not Section 3.3) applies to and in respect of a Gas Retention Area as it does to and in respect of a Development Area for as long as, during that period, the Contractors diligently seek to make it commercially viable, and demonstrate to the Ministry that they are doing so.
- (c) The Gas Retention Area consists of a single contiguous area that encompasses the Gas Field, plus a reserve margin sufficient to cover the probable and possible extent of it, but the Ministry may exclude deeper formations in which no Discovery has been made. The Ministry, at any time and from time to time, and whether of its own volition or at the request of the Contractors, may:
  - (i) increase;
  - (ii) decrease; or
  - (iii) vary the depth within the Contract Area of;



a Gas Retention Area as may be required to ensure that it encompasses the Gas Field. The Contractors shall relinquish any part of the Contract Area removed from a Gas Retention Area as a consequence of such decrease or other variation if it occurs after the time for the relinquishment provided for in paragraph 3.2(a).

- (d) The Gas Retention Area shall be deemed to have been relinquished on the earlier of:
- (i) expiry of the period mentioned in paragraph 3.5(a) and 3.5(e);
  - (ii) the Contractors ceasing to meet their obligations under paragraph 3.5 (b); and
  - (iii) the Contractors declaring a Commercial Discovery in respect of it and the Ministry declaring a Development Area as a consequence thereof.
- (e) Upon request of the Contractor the Ministry may in its sole discretion extend the period for the Gas Retention Area for another period of maximum five (5) years.

## **Article 4 Work Programmes and Budget**

### **4.1 Commitment in Initial Period**

In each Contract Year mentioned below, the Contractors shall carry out an Exploration Work Programme and Budget of not less than the amount of work specified for that Contract Year:

<b>Contract Year</b>	<b>Data Evaluation</b>	<b>Surveys</b>	<b>Wells</b>
1	Fieldwork	Acquisition, processing and interpretation of 1000 km 2D seismic data	N/A
2	N/A	Sea-bed coring	N/A
3	N/A	Acquisition, processing and interpretation of 800 sq. km 3D seismic data.	N/A

### **4.2 Commitment in Second Period**

In each Contract Year mentioned below, and unless the Contractors have relinquished all of the Contract Area (not being a Development Area or a Gas Retention Area) before the start of the fourth (4<sup>th</sup>) Contract Year, the Contractors shall carry out an Exploration Work Programme and Budget of not less than the amount of work specified for that Contract Year.

<b>Contract Year</b>	<b>Data Evaluation</b>	<b>Surveys</b>	<b>Wells</b>
4	Technical studies	N/A	N/A
5	Technical studies	N/A	N/A

### 4.3 Commitment in Third Period

In each of the sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) Contract Years, and unless the Contractors have relinquished all of the Contract Area (not being a Development Area or a Gas Retention Area) before the start of the Contract Year concerned, the Contractors shall carry out such Exploration Work Programme and Budget of not less than the amount of work specified for that Contract Year.

<b>Contract</b>	<b>Data</b>		
<b>Year</b>	<b><u>Evaluation</u></b>	<b><u>Surveys</u></b>	<b><u>Wells</u></b>
6	N/A	N/A	1
7	Technical studies	N/A	N/A

### 4.4 Performance of Exploration Work Programme and Budget

- (a) If any well forming part of the Exploration Work Programme and Budget provided for in this Article 4 is abandoned for any reason other than a reason specified in paragraph 4.4(b) before reaching the defined objectives of such well, the Contractors shall drill a substitute well. In this event, the first, second or third Exploration period, as the case may be, shall be extended by a period of time equal in length to the time spent in preparing for and drilling the substitute well, including mobilisation and demobilisation of the drilling rig, if applicable.
- (b) Unless otherwise agreed by the Ministry, any well which forms part of the Exploration Work Programme and Budget provided for in this Article 4 shall be drilled to such depth as is necessary for the evaluation of the geological formation established by the available data as the target formation and which Good Oil Field Practices would require the Contractors to attain, unless before reaching such depth:
- (i) a formation stratigraphically older than the deepest target formation is encountered;
  - (ii) basement is encountered;
  - (iii) further drilling would present an obvious danger, such as but not limited to the presence of abnormal pressure or excessive losses of drilling mud;
  - (iv) impenetrable formations are encountered;
  - (v) Petroleum-bearing formations are encountered which require protecting, thereby preventing planned depths from being reached; or
  - (vi) the Contractors and the Ministry agree to terminate the drilling operation; and
  - (vii) the Ministry confirms that the drilling obligation has been fulfilled.

In such circumstances the drilling of any such well may be terminated at a lesser depth and shall be deemed to have satisfied the Contractors' obligations in respect of that well.

- (c) Where a well which forms part of the Exploration Work Programme and Budget provided for in this Article 4 results in a Discovery and the Contractors inform the Ministry pursuant to Section 4.9 that the Discovery merits Appraisal, that well will be deemed to have met its objective and to have satisfied the Contractors' obligations in respect of that well.

#### **4.5 Consequences of Non-Performance**

- (a) If, in a Contract Year, the Contractors carry out less Exploration than is required of them under the Exploration Work Programme, the Ministry may:
- (i) terminate this Agreement and require payment by way of liquidated damages of the estimated cost of the Exploration Work Programme and Budget not carried out;
  - (ii) require payment by way of liquidated damages of the estimated cost of the Exploration not carried out; or
  - (iii) require that the shortfall be added to the Exploration Work Programme and Budget to be carried out in the next Contract Year.

The Parties agree that the amount payable under this paragraph 4.5(a) is a reasonable estimate of the loss which would be suffered by the Ministry.

- (b) If, in a Contract Year, the Contractors carry out more Exploration than is required of them, the excess shall be credited against Exploration to be carried out in the following Contract Year and, to the extent in excess of that Exploration, shall be further carried forward.
- (c) For the purposes of the foregoing provisions of this Article 4, Article 6 and Annex C, and except with the consent of the Ministry, no work in a Development Area will be regarded as Exploration except in respect of a formation deeper than the Field concerned and in which no Discovery has been made.

#### **4.6 Work Programmes and Budgets**

Subject to Section 4.7, the Contractors shall carry out Petroleum Operations substantially in accordance with Work Programmes and Budgets approved by the Ministry. Such an approval by the Ministry is without prejudice to any other obligations or liabilities of the Contractors under this Agreement.

#### **4.7 Emergency and Other Expenditures Outside Work Programmes and Budgets**

- (a) Without further approval by the Ministry, the Contractors may over-expend, by the lesser of fifty thousand United States Dollars (USD \$50,000) or ten percent (10%) on any line item in an approved Work Programme and Budget for a Contract Year.
- (b) Without further approval by the Ministry, the total of all over-expenditures under paragraph 4.7(a) under that Work Programme and Budget for that Contract Year shall not exceed the lesser of one million (USD \$1,000,000) United States Dollars or five percent (5%) of the total expenditures in that Work Programme and Budget.
- (c) The Contractors shall promptly inform the Ministry if they anticipate (or should reasonably anticipate) that any such limit in paragraph 4.7(b) will be exceeded and seek, in the manner provided in this Article 4, an amendment to the appropriate Work Programme and Budget.
- (d) In determining whether to approve the over-expenditures contemplated at paragraphs 4.7(a) and 4.7(b), the Ministry shall consider whether such increases are necessary to complete the programme of works, provided that such increase is not the result of any failure of the Contractors to fulfil their obligations under this Agreement.
- (e) Nothing in Section 4.6 or paragraph 4.7(a) precludes or excuses the Contractors from taking all necessary and proper measures for the protection of life, health, the environment and property if there is an emergency (including a significant fire, explosion, Petroleum release,

or sabotage; incident involving loss of life, serious injury to an employee, contractor or third party, or serious property damage; strikes and riots; or evacuation of the Operator's personnel). As soon as reasonably practicable, the Operator will inform the Ministry of the details of the emergency and of the actions it has taken and intends to take.

#### **4.8 Exploration**

- (a) The Contractors shall submit annually, for the approval of the Ministry, the Exploration Work Programmes and Budgets required by Sections 4.1, 4.2 and 4.3 for each Contract Year.
  - (i) Exploration Work Programme and Budget for the first Contract Year shall be submitted to the Ministry within forty-five (45) days from Effective Date.
  - (ii) Exploration Work Programmes and Budgets for any subsequent Contract Year shall be submitted to the Ministry at least ninety (90) days prior to the end of each current Contract Year.
- (b) From time to time, the Contractors may submit, for the approval of the Ministry, amendments to the Exploration Work Programme and Budget.
- (c) The Contractors are not obliged to carry out more Exploration in a Contract Year than is required by Sections 4.1, 4.2 and 4.3.

#### **4.9 Discovery and Appraisal**

- (a) The Contractors shall notify the Ministry of a Discovery and shall provide the Ministry with such information in respect of it as the Act requires.
- (b) As soon as reasonably practicable after a Discovery is made, the Contractors shall advise the Ministry whether or not, having regard to paragraph 4.9(e), the Discovery merits Appraisal.
- (c) At such time and in such manner as the Ministry requires, the Contractors shall submit, for the approval of the Ministry, an Appraisal Work Programme and Budget for each Calendar Year.
- (d) From time to time the Contractors may submit, for the approval of the Ministry, amendments to the Appraisal Work Programme and Budget.
- (e) An Appraisal Work Programme and Budget for a Calendar Year will be such as would be undertaken by a person seeking diligently to Appraise (in accordance with this Agreement) a Discovery with a view to determining if it is, either alone or in combination with other Discoveries, a Commercial Discovery.

#### **4.10 Commercial Discovery**

- (a) The Contractors may, at any time and having regard to paragraph 4.10(b), declare that a Commercial Discovery has been made.
- (b) The declaration is to be made in such manner, and be accompanied by such supporting data and information, as the Ministry requires, and as the State-Owned Contractor requires to make its election under Section 8.1, including the Contractors' proposal as to that part of

the Contract Area to be declared a Development Area.

- (c) The Ministry shall declare a single contiguous area encompassing the Field in which the Commercial Discovery has been made, to be a Development Area, but may exclude deeper formations in which no Discovery has been made.
- (d) The Ministry, at any time and from time to time, may:
  - (i) increase;
  - (ii) decrease; or
  - (iii) vary the depth within the Contract Area of;

a Development Area as may be required to ensure that it encompasses the Field concerned, but not, unless the Ministry and the Contractors otherwise agree, after the first Development Plan in respect of the Development Area has been approved. The Contractors shall relinquish any part of the Contract Area removed from a Development Area as a consequence of such decrease or other variation, if it occurs after the time for the relinquishment provided for in paragraph 3.2(a).

#### **4.11 Development Plan**

- (a) Not more than twelve (12) months after the declaration of a Development Area, and in the manner required by the Ministry, the Contractors shall submit, for the approval of the Ministry, a Development Plan for the Development Area.
- (b) From time to time, and in like manner, the Contractors may submit, for the approval of the Ministry, amendments to the Development Plan.
- (c) A Development Plan will be such as would be undertaken by a person seeking diligently to develop and exploit (in accordance with this Agreement) the Petroleum in the Development Area in the long term, best interests of the Parties.
- (d) Except with the consent of the Ministry, and without prejudice to the generality of paragraph 4.11(a), a Development Plan shall include:
  - (i) a description of the proposed reservoir development and management programme;
  - (ii) details of:
    - (aa) the geological and the reservoir work done, together with the production profiles simulated, in order to reach the best depletion alternative;
    - (bb) the production, treatment and transportation facilities to be located in Timor-Leste;
    - (cc) facilities for transporting the Petroleum from the Contract Area and Timor-Leste; and
    - (dd) facilities, wherever located, which are connected to any such facilities as aforesaid and which (or the operation of which) might affect the integrity, management or operation thereof;
  - (iii) the production profiles for all hydrocarbon products, including possible injections

for the life of the Development, the commencement of Production and the specific rates of Petroleum production, and the level of production and of deliveries which the Contractors submit, should constitute the start of Commercial Production;

- (iv) the Decommissioning Plan, in such detail as the Ministry requires, including a calculation of the Decommissioning Costs, the annual Decommissioning Cost Reserve, and the Contractors' proposal for the Decommissioning Security Agreement;
  - (v) an environmental impact statement, and proposals for environmental management covering the life of the Development;
  - (vi) the Contractors' proposals for ensuring the safety, health and welfare of persons in or about the proposed Petroleum Operations;
  - (vii) the Contractors' proposals for:
    - (aa) the use of Timor-Leste goods and services;
    - (bb) training and employment of Timor-Leste nationals; and
    - (cc) processing Petroleum in Timor-Leste;
  - (viii) the estimated capital expenditure covering the feasibility, fabrication, installation, commissioning and pre-production stages of the Development;
  - (ix) an evaluation of the commerciality of the Development, including a full economic evaluation;
  - (x) each Contractor's proposals for financing;
  - (xi) summary details and copies of:
    - (aa) all contracts and arrangements made or to be made by each Contractor for the sale of Natural Gas;
    - (bb) all contracts and arrangements made or to be made by persons in respect of that Natural Gas downstream of the point at which it is to be sold by the Contractors and which are relevant to the price at which (and other terms on which) it is to be sold by the Contractors or are otherwise relevant to the determination of the value of it for the purposes of this Agreement, but not beyond the point at which it is first disposed of in an arm's length transaction; and
    - (cc) all contracts and arrangements made or to be made by the Contractors in respect of facilities downstream of the Field Export Point for transporting, processing, liquefying, storing, handling and delivering that Natural Gas; and
  - (xii) such other data and information (including in respect of insurance to be obtained by the Contractors, and buyers and shippers of Petroleum) as the Act requires and as the Ministry otherwise requires.
- (e) In determining whether to approve a Development Plan or an amendment to it properly submitted by the Contractors, the Ministry shall give consideration to a Decommissioning Security Agreement concluded in respect of the Development Area.

- (f) The Ministry shall specify its reasons for not approving a Development Plan or an amendment to it.

#### **4.12 Development Work Programmes and Budgets**

- (a) At such time and in such manner as the Act requires, and as the Ministry otherwise requires, the Contractors shall submit, for the approval of the Ministry, a Development Work Programme and Budget for each Development Area for each Calendar Year. At any time and from time to time, the Contractor may submit, for approval, amendments to it.
- (b) A Development Work Programme and Budget for a Calendar Year shall be substantially in accordance with the Development Plan for the Development Area.

#### **4.13 Approved Contracts**

- (a) The Contractors may not sell or otherwise dispose of Natural Gas from the Contract Area other than pursuant to an Approved Contract or as otherwise may be provided in the Development Plan or in this Agreement.
- (b) The Contractors may not use any facilities downstream of the Field Export Point for transporting, processing, treating, liquefying, storing, handling or delivering Petroleum other than under the terms of an Approved Contract.
- (c) The Contractors may not amend, waive or fail to enforce, any provision of an Approved Contract without the approval of the Ministry.

#### **4.14 Decommissioning**

- (a) The Contractors shall submit to the Ministry, for its approval, pursuant to sub-paragraph 4.11(d)(iv), a Decommissioning Plan for the Development Area and a schedule of provisions for the Decommissioning Costs Reserve.
- (b) The Decommissioning Plan shall be revised and resubmitted to the Ministry for its approval at such times as are reasonable having regard to the likelihood that the Decommissioning Plan (including cost estimates thereunder) may need to be revised.
- (c) The Ministry may give opportunity to persons likely to be affected to make representations to it in respect of the Decommissioning Plan.
- (d) The Contractors shall carry out the Decommissioning Plan substantially in accordance with its terms.
- (e) Estimates of the monies required for the funding of the Decommissioning Plan shall be charged as Recoverable Costs beginning in the Calendar Year following the Calendar Year in which Commercial Production first occurs. The amount charged in each Calendar Year shall be calculated as follows:
  - (i) The total Decommissioning Costs at the expected date of Decommissioning shall first be calculated.
  - (ii) There shall be deducted from such total Decommissioning Costs the provisions for Decommissioning Costs made, and taken as Recoverable Costs, in all previous Calendar Years together with interest on such Recoverable Costs calculated to the approved date of Decommissioning at the actual or forecast rate of Uplift

(whichever is applicable).

- (iii) The residual Decommissioning Costs, resulting from the calculations under subparagraphs 4.14(e)(i) and 4.14(e)(ii), shall then be discounted to the Calendar Year in question at the forecast rate of Uplift for each Calendar Year remaining until the Calendar Year of Decommissioning.
- (iv) The discounted total of residual Decommissioning Costs shall then be divided by the total number of Calendar Years remaining prior to the Calendar Year of Decommissioning itself, including the Calendar Year in question.
- (v) The resultant amount shall be the addition to the Decommissioning Costs Reserve for the Calendar Year in question.
- (vi) It is the intention of this provision that the total accumulated provision allowed, including interest calculated to the Calendar Year of Decommissioning at the rate of Uplift, will equal the total Decommissioning Costs.
- (vii) If the amount in sub-paragraph 4.14(d)(v) is a negative amount, then such amount shall be treated as a reduction of Recoverable Costs for the Calendar Year in question.

#### **4.15 Decommissioning Security**

- (a) Security pursuant to the Decommissioning Security Agreement shall be provided in an amount equal to the sum of provisions for Decommissioning Costs made, and taken as Recoverable Costs, in all previous years together with interest on such Recoverable Costs calculated to the end of the previous Calendar Year at the actual rate of Uplift.
- (b) Failure of each Contractor to provide Security and otherwise to fulfil its obligations under the Decommissioning Security Agreement, shall be a breach of this Agreement.

### **Article 5 Conduct of Work**

#### **5.1 Proper and Workmanlike Manner**

- (a) The Contractors shall carry on Petroleum Operations, and shall procure that they are carried on, in a proper, efficient and workmanlike manner, and in accordance with the Act, this Agreement and Good Oil Field Practice.
- (b) In particular, the Contractors shall carry on Petroleum Operations, and procure that they are carried on, in such a manner as is required by paragraph 5.1(a) to:
  - (i) protect the environment and ensure that Petroleum Operations result in minimum ecological damage or destruction;
  - (ii) ensure the safety, health and welfare of persons in or affected by Petroleum Operations;
  - (iii) manage the resources in a way which has long-term benefits to Timor-Leste and the Contractors;
  - (iv) maintain in safe and good condition and repair, the Contract Area and all structures, facilities, installations, equipment and other property, and other works, used or to be



used in Petroleum Operations;

(v) on the earlier of:

(aa) termination of this Agreement; and

(bb) when no longer required for Petroleum Operations;

and, in either case:

(cc) except with the consent of the Ministry; or

(dd) unless this Agreement otherwise provides;

abandon, decommission, remove or dispose of the property and other works mentioned in sub-paragraph 5.1(b)(iv), clean up the Contract Area and make it good and safe, and protect and restore the environment;

(vi) control the flow and prevent the waste or escape of Petroleum, water or any product used in or derived by processing Petroleum;

(vii) prevent the escape of any mixture of water or drilling fluid with Petroleum unless otherwise approved by the relevant government authority or in applicable laws or regulation;

(viii) prevent damage to Petroleum-bearing strata in or outside the Contract Area;

(ix) except with the consent of the Ministry, keep separate:

(aa) each Reservoir discovered in the Contract Area; and

(bb) such of the sources of water discovered in the Contract Area as the Ministry directs;

(x) prevent water or any other matter entering any Reservoir through wells in the Contract Area, except when required by, and in accordance with, the Development Plan and Good Oil Field Practice;

(xi) minimise interference with pre-existing rights and activities; and

(xii) to remedy in a timely fashion any damage caused to the environment.

## **5.2 Access to Contract Area**

(a) Subject to law and to this Agreement, the Contractors may enter and leave the Contract Area at any time for the purposes of Petroleum Operations.

(b) Except with the consent of the Ministry, the Contractors shall ensure that persons, equipment and goods do not enter the Contract Area without meeting the lawful entry requirements of Timor-Leste, and shall notify the Ministry of all persons, vessels, aircraft, vehicles and structures entering or leaving the Contract Area for the purposes of Petroleum Operations.

### **5.3 Health, Safety and the Environment**

- (a) The Contractors shall employ in regard to:
- (i) health, safety and welfare of persons in or affected by Petroleum Operations; and
  - (ii) the protection of the environment (including the marine environment and the atmosphere and the prevention of pollution);

such standards, practices, methods and procedures, and shall do (and refrain from doing) all such other things, as are the most stringent of such standards, practices, methods, procedures and things as:

- (iii) are employed by others exploring for, developing or exploiting Petroleum in Timor-Leste, with due and proper consideration for special circumstances;
- (iv) are employed by each Contractor or any of its Affiliates in a comparable place in comparable circumstances, with due and proper consideration for special circumstances;
- (v) accompanied its application, under Article 13 of the Act, for this Agreement; and
- (vi) are otherwise required by the Act or this Agreement;

in order to reduce the risks to personnel and the environment so they are as low as reasonably practicable.

- (b) Within three (3) months of the Effective Date, the Contractors shall submit to the Ministry, for its approval, plans in all respects in compliance with paragraph 5.3(a). The plans shall be reviewed annually and amended from time to time as may be necessary to ensure its continuing compliance with paragraph 5.3(a), but not so that any standard, practice, method, procedure or thing shall thereby become less stringent without the consent of the Ministry.
- (c) Notwithstanding anything elsewhere contained in this Agreement, the Contractors shall clean up pollution resulting from Petroleum Operations to the satisfaction of the Ministry, and meet the costs of so doing to the extent done by anyone else (including the Ministry).

### **5.4 Goods, Services, Training and Employment**

Each Contractor shall comply with the proposals which accompanied its application under Article 13 of the Act for this Agreement in respect of training, employment and the acquisition of goods and services, and otherwise shall:

- (a) give preference to the acquisition of goods and services from persons based in Timor-Leste, provided they are offered on competitive terms and conditions;
- (b) with due regard to occupational health and safety requirements, give preference in employment in Petroleum Operations to nationals of Timor-Leste; and
- (c) within thirty (30) days of the end of each calendar year, submit to the Ministry a report demonstrating compliance with the above obligations.

### **5.5 Flaring**

Except with the consent of the Ministry, or in an emergency, the Contractors shall not flare Natural

Gas.

### **5.6 Operator and its Sub-Contractors**

- (a) The Operator, and only the Operator, may carry out Petroleum Operations, and may do so by itself, its agents and sub-contractors.
- (b) This Section 5.6 does not relieve the Contractors of any obligation or liability under this Agreement, and the carrying out of Petroleum Operations by its agents or sub-contractors does not relieve the Operator (or the Contractors) of any obligation or liability under this Agreement.

## **Article 6 Recoverable Costs**

### **6.1 Generally**

- (a) Each Contractor's accounts shall be prepared and maintained in accordance with Annex C.
- (b) Only costs and expenses incurred by the Operator in carrying on Petroleum Operations, and (unless there is only one Contractor and the Contractor is the Operator) properly charged to the Contractors under an agreement made between them and consented to by the Ministry, are Recoverable Costs, but without prejudice to any other provision of this Agreement which would result in any such cost or expense not being a Recoverable Cost.

### **6.2 Recoverable Costs**

In any Calendar Year, Recoverable Costs are, subject as further provided in Annex C, the sum of those of the following that are not Ineligible Costs:

- (a) the sum of:
  - (i) recoverable Exploration Costs;
  - (ii) recoverable Appraisal Costs;
  - (iii) recoverable Capital Costs; and
  - (iv) recoverable Operating Costs;
- (b) Decommissioning Costs Reserve allowable in that year;
- (c) Recoverable Costs in the previous Calendar Year, to the extent in excess of the value of the Contractor's share of Petroleum under sub-paragraph 7.1(b)(i) in that previous Calendar Year; and
- (d) a Quarterly amount equal to the product of the rate of Uplift and the Quarterly balance of outstanding Recoverable Costs,

less Miscellaneous Receipts and less any deductions pursuant to paragraph 7.4(a).

## **Article 7 Sharing Of Petroleum**

## **7.1 Determination of Shares**

In each Calendar Year, the Parties shall take and receive the following shares of every grade and quality of Petroleum as and when it is delivered at the Field Export Point:

- (a) the Ministry:
  - (i) five (5) percent; plus
  - (ii) its share of any balance as mentioned in paragraph 7.1(c);
- (b) the Contractor:
  - (i) ninety five (95) percent but not more than is equal in value to Recoverable Costs for the Calendar Year concerned; plus
  - (ii) its share of any balance as mentioned in paragraph 7.1(c);
- (c) any Petroleum not taken by the Contractor under sub-paragraph 7.1(b)(i) shall be shared as to forty (40) percent by the Ministry and as to sixty (60) percent by the Contractor.

## **7.2 Option of Ministry**

- (a) Unless the Ministry elects otherwise pursuant to paragraph 7.2(b), the Contractors shall take and receive, and dispose of, in common stream with their own share and on terms no less favourable to the Ministry than the Contractors receives for their own share, all of Timor-Leste's share of Petroleum.
- (b) The Ministry may make an election to take and separately dispose of Timor-Leste's share of Petroleum. Unless the Contractors otherwise agree, which agreement will not be unreasonably withheld, the Ministry may not so elect other than:
  - (i) in respect of all, or the same percentage of all, of Timor-Leste's shares of Crude Oil for and throughout each Calendar Year, on not less than ninety (90) days prior written notice to the Contractors before the start of the Calendar Year concerned, and
  - (ii) in respect of Timor-Leste's share of Natural Gas, in connection with its approval of the Development Plan.

## **7.3 Lifting**

- (a) Subject to this Agreement, each Contractor may lift, dispose of and export from Timor-Leste its share of Petroleum and retain the proceeds from the sale or other disposition of that share.
- (b) The Contractors and the Ministry shall, from time to time, make such agreements between them as are reasonably necessary, in accordance with Good Oil Field Practice and the commercial practices of the international petroleum industry, for the separate lifting of their shares of Petroleum.

## **7.4 Title and Risk**

- (a) Petroleum shall be at the risk of the Contractor until it is delivered at the Field Export Point. Without prejudice to any obligation or liability of the Contractors as a consequence of a

failure of the Contractors to comply with their obligations under this Agreement (including Section 5.1), Petroleum which is lost after it is recovered at the well-head, and before it is delivered at the Field Export Point, shall be deducted from each Contractor's Recoverable Costs under Section 6.2.

- (b) Title in the Contractor's share of Petroleum shall pass to it when (and risk therein shall remain with the Contractor after) it is delivered at the Field Export Point.
- (c) Title in the Ministry's share of Petroleum taken by a Contractor pursuant to Section 7.2 shall pass to the Contractor when (and risk therein shall remain with the Contractor after) it is delivered at the Field Export Point.
- (d) Each Contractor shall defend, indemnify and hold harmless the Ministry from all claims and demands asserted in respect of Petroleum wherein the risk is with the Contractor.

### **7.5 Payments**

- (a) Unless the Ministry has made an election under paragraph 7.2(b), the Contractor shall pay to the Ministry an amount equal to the Ministry's share of all amounts received by the Contractor for the Petroleum within thirty six (36) hours of receipt.
- (b) In the event that the Contractor has not received payment for Petroleum within sixty (60) days of production, it nonetheless will make a provisional payment to the Ministry of the estimated value of the Ministry's share of such Petroleum.

## **Article 8 State Participation**

### **8.1 Election**

- (a) Timor-Leste may, within sixty (60) days of a declaration under Section 4.10, decide to participate in the Development of Petroleum through a State-Owned Contractor.
- (b) The decision under paragraph 8.1(a) shall specify the percentage of the participation, up to a maximum of twenty (20) percent.

### **8.2 Participation**

- (a) From the date of the decision under Section 8.1(a), the State-Owned Contractor shall contribute, in the percentage specified under paragraph 8.1(b), to expenditures under an approved Development Work Programme and Budget.
- (b) The Contractors agree to revise the Joint Operating Agreement to take into account the decision under Section 8.1(a).

### **8.3 Exemptions**

Paragraphs 5.3(b) and 5.4 do not apply to the State-Owned Contractor.

## **Article 9 Supply of Crude Oil to Timor-Leste Domestic Market**

### **9.1 Domestic Market Obligation**

- (a) Notwithstanding paragraph 7.3(a), if, in the event of national need declared by the Prime Minister of Timor-Leste, it is necessary to limit exports of Crude Oil, the Ministry may, with thirty (30) days advance written notice, require the Contractors to meet the needs of the local market with Crude Oil that it has produced and received pursuant to this Agreement.
- (b) Each Contractor's participation referred to in Section 9.1(a) will be made, each month, in proportion to its participation in the national production of Crude Oil in the preceding month.

### **9.2 Calculation of Domestic Supply Obligation**

- (a) The Contractors' obligation to supply Crude Oil for domestic purposes shall be calculated in any Calendar Year as follows:
  - (i) the total quantity of Crude Oil produced from the Contract Area is multiplied by a fraction the numerator of which is the total quantity of Crude Oil to be supplied pursuant to 9.1(a) and the denominator is the entire Timor-Leste production of Crude Oil from all Contract Areas;
  - (ii) twenty-five (25) percent of the total quantity of Crude Oil produced from the Contract Area is calculated;
  - (iii) the lower quantity computed under either sub-paragraph 9.2(a)(i) or sub-paragraph 9.2a(ii) is multiplied by the percentage of production from the Contract Area to which the Contractors are entitled as provided under Article 7 of this Agreement.
- (b) The quantity of Crude Oil computed under sub-paragraph 9.2(a)(iii) shall be the maximum quantity to be supplied by the Contractors in any Calendar Year pursuant to this Article. Deficiencies, if any, shall not be carried forward to any subsequent Calendar Year. If for any Calendar Year, Recoverable Costs exceed the difference of total sales proceeds from Crude Oil produced and saved hereunder minus the royalty as provided under Article 7.1(a)(i) hereof, the Contractors shall be relieved from this supply obligation for such Calendar Year.
- (c) The price at which such Crude Oil shall be delivered and sold under this Article shall be the price as determined under Section 10.2.
- (d) The Contractors shall not be obliged to transport such Crude Oil beyond the Field Export Point, but upon request by the Ministry, the Contractors shall assist in arranging transportation and such assistance shall be without cost or risk to the Contractors.

## **Article 10 Valuation of Petroleum**

### **10.1 Point of Valuation**

Petroleum is valued f.o.b (free on board), or equivalent, at the Field Export Point.

### **10.2 Value of Crude Oil**

The value of Crude Oil,

- (a) sold f.o.b. (or equivalent) at the Field Export Point in an arm's length transaction is the price payable for it;
- (b) sold other than f.o.b., or equivalent, at the Field Export Point in an arm's length transaction is the price payable for it, less such fair and reasonable proportion of such price that relates to the transportation and delivery of the Petroleum downstream of the Field Export Point; or
- (c) sold other than as mentioned in paragraphs 10.2(a) and 10.2(b) is the fair and reasonable market price thereof having regard to all relevant circumstances.

### **10.3 Value of Natural Gas**

The value of Natural Gas is the price payable under Approved Contracts or as otherwise may be provided in the Development Plan or in this Agreement, with such fair and reasonable adjustments as required to reflect the point of valuation in Section 10.1.

### **10.4 Price Payable**

In this Article 10, the price payable is the price that is (or would be) payable by the buyer if the Petroleum were delivered by the Contractors and taken by the buyer, without set off, counterclaim or other withholding of any nature.

## **Article 11 Payments**

### **11.1 Fees**

The Contractors shall pay to the Ministry fees and other payments as provided for in the Act, in accordance with the laws of Timor-Leste.

### **11.2 Payment Mechanism**

All payments under this Agreement shall be made in United States Dollars, unless otherwise agreed, and within ten (10) days after the end of the month in which the obligation to make the payment is incurred to a bank specified by the Party to whom the payment is due.

### **11.3 Late Payment**

Any amount not paid in full when due shall bear interest, compounded on a monthly basis, at a rate per annum equal to one (1) month term, LIBOR (London Interbank Offer Rate) for United States Dollar deposits, as published in London by the Financial Times or, if not so published, then as published in New York by The Wall Street Journal, current from day to day, plus five (5) percentage points, on and from the due date for payment until the amount, together with interest thereon, is paid in full.

### **11.4 Minimum Payment**

If this Agreement is terminated for any reason before the end of the third (3<sup>rd</sup>) Contract Year, the Contractor shall, on such termination, pay, to the Ministry, those fees and payments which it would have so paid under Section 11.1 if termination had not occurred until the end of the third (3<sup>rd</sup>) Contract Year.

## **Article 12 Provision of Goods and Services**

### **12.1 Notice**

- (a) Except with the consent of the Ministry, the Contractors shall draw to the attention of suppliers based in Timor-Leste, in such manner as the Ministry agrees, all opportunities for the provision of goods and services for Petroleum Operations.
- (b) Subject to Section 12.2, the Contractors shall, before awarding any contract for goods or services, obtain the written approval of the Ministry. Ministerial approval shall be deemed thirty (30) days after written notice of a planned award is given by the Contractors, unless otherwise notified in writing to the Contractors.
- (c) The Contractors shall provide the Ministry, for information, with the full financial details of all contracts for goods and services, irrespective of the amount of the expenditure involved.

### **12.2 Contracts Not Requiring the Ministry's Approval**

The Contractors may make contracts for goods and services for Petroleum Operations without the Ministry's consent (but not if for property to be leased to the Contractors) where:

- (a) the contract (or related series of contracts) is expected to involve expenditure of less than two million United States Dollars (USD \$2,000,000) or such other amount that may be specified by regulation; or
- (b) the contract (or related series of contracts) is expected to involve expenditure of less than five million United States Dollars (USD \$5,000,000) or such other amount that may be specified by regulation, and the goods or services are required in respect of a Development Plan, the cost of which is expected to exceed one hundred million United States Dollars (USD \$100,000,000) or such other amount that may be specified by regulation.

### **12.3 Tender Invitations**

- (a) All invitations to tender made for the purpose of procuring goods and services shall be published in two (2) of the newspapers with broadest circulation in Timor-Leste or as agreed with the Ministry.
- (b) Notwithstanding Section 12.2, and except with the consent of the Ministry, all goods and services shall be procured on an arm's length basis by competitive tendering, and the Contractors, before inviting any tender for goods or services, shall consult with the Ministry in respect of:
  - (i) the list of bidders which the Contractors propose to invite to tender; and
  - (ii) the bid package to accompany the invitation, which shall include:
    - (aa) a draft contract;
    - (bb) the scope of work;
    - (cc) a technical proposal form;
    - (dd) a commercial proposal form; and
    - (ee) the basis upon which bids will be evaluated.



In addition, the Contractors shall submit a statement to the Ministry regarding the need for the goods or services concerned, and their relationship to the approved Work Programme and Budget, the estimated value of the contract and the contracting schedule.

- (c) If the Ministry grants an exception to the obligation at paragraph 12.2(a), it shall publish its reasons for so doing.
- (d) Costs for goods and services procured on other than an arm's length basis the price payable for which is in excess of one hundred thousand United States Dollars (USD \$100,000) shall be established in accordance with the provisions of Annex C.

#### **12.4 Emergencies**

The foregoing provisions of this Article 12 do not apply in the circumstances mentioned in paragraph 4.7(e) to the extent they would hinder the Contractor from taking all necessary and proper measures as therein mentioned.

#### **12.5 Other Information to be Provided**

- (a) The Contractors shall submit to the Ministry copies of all contracts for the supply of goods and services promptly after their execution.
- (b) The Contractors shall, promptly after awarding a contract following a tender as mentioned in Section 12.3, provide the Ministry with a detailed report on the reasons for the award.
- (c) From time to time, if requested by the Ministry, the Contractors shall, upon completion of a contract, the price payable under which is in excess of one hundred thousand United States Dollars (USD \$100,000), submit to the Ministry an appraisal and completion report covering details of the actual expenditures made, and of the manpower, goods and services utilised, in the performance of the contract.
- (d) From time to time, if requested by the Ministry, the Contractors shall, within sixty (60) days after such request, submit to the Ministry, details of goods and services actually procured both from suppliers based inside and outside Timor-Leste.

### **Article 13 Title to Equipment**

#### **13.1 Property**

- (a) Except with the consent of the Ministry, and subject to Section 13.2, all structures, facilities, installations, equipment and other property, and other works, used or to be used in Petroleum Operations, shall be and remain the property of the Contractors while so used or held for use.
- (b) Paragraph 13.1(a) does not apply to property leased to the Contractors, or leased by or belonging to third parties providing services, but without prejudice to Article 12.

#### **13.2 Retention**

- (a) The Ministry may, upon termination of this Agreement in respect of all or a part of the Contract Area, elect to acquire any property or other works as mentioned in paragraph 13.1(a) installed on, or used exclusively in respect of that area, by giving the Contractors a notice to that effect.

- (b) The Contractors shall have no further obligation or liability in respect of any property or other works acquired by the Ministry pursuant to paragraph 13.2(a) (but without prejudice to obligations and liabilities accrued prior thereto), and will repay, to the Ministry, all amounts included in the Decommissioning Costs Reserve and claimed by the Contractors under Article 6 in respect of it before the acquisition, and shall claim no further such amounts in respect of it. Subject thereto, the Ministry shall pay to the Contractors an amount equal to the unrecovered actual costs of the property.

## **Article 14 Consultation and Arbitration**

### **14.1 Arbitration**

- (a) If a dispute arises between the Ministry and a Contractor relating to the interpretation or implementation of the terms of this Agreement, the parties shall attempt to resolve that dispute by means of negotiation.
- (b) If such a dispute cannot be resolved by negotiation, it shall be submitted to arbitration.

### **14.2 Procedure**

Any arbitration between the Ministry and a Contractor shall be conducted in accordance with:

- (a) the 1965 Washington Convention, or the regulations and rules, of the International Centre for the Settlement of Investment Disputes (ICSID) between States and Nationals of other States;
- (b) the rules set out in the ICSID Additional Facility adopted on 27 September 1978 by the Administrative Council at the ICSID between States and Nationals of other States, whenever the foreign entity does not meet the requirements provided for in Article 25 of the Convention; or
- (c) the rules of such other international instances of recognised standing, (as agreed by the Parties, in respect of the conditions for implementation, including the method for the designation of the arbitrators and the time limit within which the decision must be made).

### **14.3 Obligations Continue During Arbitration**

The obligations of the Parties under the Agreement shall continue pending the resolution of any matter submitted to arbitration.

## **Article 15 Financial and Technical Data, Records and Reports**

### **15.1 Ownership**

- (a) The Ministry shall have title to all technical data and information acquired in the carrying on, or as a result, of Petroleum Operations.
- (b) Paragraph 15.1(a) includes all data and information, whether raw, derived, processed, interpreted or analysed (including cores, cuttings, samples, and all geological, geophysical, geochemical, drilling, well, production and engineering data and information) that the

Contractors collect and compile.

### **15.2 Records, Storage, Retrieval and Submission**

- (a) Each Contractor shall keep full, complete and accurate books, accounts and other records of Petroleum Operations and of the sale or other disposition of Petroleum, of the data and information mentioned in Section 15.1 and of all other financial, commercial, legal, operational, technical and other data and information acquired or generated for, or resulting, directly or indirectly, from, Petroleum Operations (including that relating to marketing and otherwise to the sale of Petroleum).
- (b) Each Contractor shall make the originals or copies of all such data, information and records available to the Ministry (or as it shall direct) at reasonable times at the Operator's offices in Timor-Leste, and shall promptly deliver the same to the Ministry (or as it directs) as and when, and in such manner as, the Ministry directs.
- (c) Without prejudice to paragraph 15.2(b), each Contractor shall store all such data and information as the Ministry, after consultation with the Contractor, reasonably directs, and otherwise in accordance with Good Oil Field Practice.
- (d) Each Contractor may retain copies of all such data and information and records delivered to the Ministry (or as it shall direct) for use in or in relation to Petroleum Operations in compliance with obligations under law, but not otherwise without the consent of the Ministry.
- (e) Except with the consent of the Ministry, or as required by law or the rules of a recognised stock exchange, a Contractor may not sell or disclose any such data, information and records.

### **15.3 Reports**

The Contractors shall provide the Ministry with such reports as are mentioned in Annex C and as the Ministry otherwise directs.

### **15.4 Export of Data and Information**

No such data, information and records shall be taken out of, or transmitted from or stored outside, Timor-Leste without the consent of the Ministry. Such consent shall not be withheld if resources for the processing, interpretation or analysis thereof are not available in Timor-Leste, if the data, information and records are promptly returned to Timor-Leste and accurate copies (or useable and representative samples) are retained in Timor-Leste.

### **15.5 Use of Data and Information**

- (a) The Ministry may make such use as it wishes of the data and information mentioned in this Article 15, and nothing in Sections 15.6 or 15.7 prevents the Ministry using data and information for the purposes of general statistical and other general reporting (publicly or otherwise) on its activities.
- (b) Except with the consent of the Ministry, the Contractors may only use the data and information mentioned in Section 15.1 for its Petroleum Operations or for an application for an Authorisation.

## **15.6 Confidentiality of Data and Information**

- (a) The Ministry shall not publicly disclose or make available, other than as required by the Act or for the purpose of the resolution of disputes under this Agreement, any data or information mentioned in Section 15.1 until the earlier of:
  - (i) five (5) years after it was acquired by the Contractors; and
  - (ii) this Agreement ceasing to apply in respect of the point at or in respect of which it was acquired.
- (b) Except with the consent of the Ministry, a Contractor shall not disclose the data or information mentioned in Section 15.1 other than:
  - (i) to its employees, agents, contractors and affiliates to the extent necessary for the proper and efficient carrying on of Petroleum Operations;
  - (ii) as required by law;
  - (iii) for the purpose of the resolution of disputes under this Agreement; or
  - (iv) as required by a recognised stock exchange.

The Contractors shall procure that a person mentioned in sub-paragraph 15.6(b)(i) maintains the data and information disclosed to it confidential in the terms of this Article 15.

## **15.7 Trade Secrets**

- (a) Notwithstanding Section 15.6, the Ministry shall not publicly disclose or make available, other than as required by the Act or for the purpose of the resolution of disputes under this Agreement, any data or information submitted to it by a Contractor, which:
  - (i) is a trade secret of, or data and information the disclosure of which would, or could reasonably be expected to, adversely affect, the Contractor in respect of its lawful business, commercial or financial affairs; and
  - (ii) was clearly marked as such when it was submitted to the Ministry.
- (b) Without prejudice to sub-paragraph 15.7 (a)(i):
  - (i) the Ministry may, at any time and from time to time, serve notice on a Contractor requiring it to show cause, within the time specified for the purpose in the notice, why the data and information which it has marked pursuant to sub-paragraph 15.7 (a)(ii) should still be considered a trade secret or other information as mentioned in that paragraph; and
  - (ii) if the Contractor does not show cause within that time, the data and information shall no longer be a trade secret or other such information for the purposes of this Section 15.7.

## **15.8 Public Announcement**

Except with the consent of the Ministry, or as required by law or the rules of a recognised stock exchange, an Operator or Contractor shall not make any public statement about this Agreement or the Petroleum Operations. In no event shall such a public statement state or imply that the Ministry

approves or agrees with its contents.

## **Article 16 Management of Operations**

### **16.1 Constitution of Committee**

For the purpose of this Agreement, and before any Petroleum Operations take place a committee shall be established consisting of three (3) representatives from the Ministry, one of whom shall be the chairman, and the same number of representatives from the Contractors, and if more than one Contractor, at least one representative from each Contractor, as nominated by the Ministry and the Contractors, respectively. For each of its representatives, the Ministry and the Contractors may nominate an alternate to act in the absence of the representative.

### **16.2 Meetings**

- (a) The Committee will meet at least twice in each year in the Ministry's offices or such other place as the Ministry may advise upon the chairman giving thirty (30) days notice thereof. There shall be at least one meeting of the Committee for each of the following purposes:
  - (i) examining the Work Programmes and Budgets for the following year which the Contractors are required to submit under Article 4; and
  - (ii) reviewing any proposed or agreed amendments to a Work Programme and Budget; reviewing the progress of Petroleum Operations under the current Work Programmes and Budgets; and discussing any other matter relating to Petroleum Operations.
- (b) The Contractors or the Ministry may request a meeting of the Committee at any time by giving written notice to the chairman. Such notice shall include a full description of the purpose of the meeting. The chairman shall thereupon call such meeting by giving thirty (30) days notice thereof.

## **Article 17 Third Party Access**

### **17.1 Third Party Access**

- (a) The Contractors shall provide for third party access to the structures, facilities, installations, equipment and other property within the Contract Area on reasonable terms and conditions.
- (b) The Contractors shall use all reasonable efforts to negotiate a satisfactory agreement for third party access, and where mutual agreement can not be reached, the Ministry shall set the terms for such third party access in accordance with internationally accepted principles.

## **Article 18 Audit**

### **18.1 Independent Audit**

The Ministry may require, at the Contractor's cost, an independent audit (starting, except in the case of manifest error or fraud, within twenty four (24) months after the end of the Calendar Year, and concluding within twelve (12) months of this start) of the Contractor's books and accounts relating to this Agreement for any Calendar Year. The Contractor shall forward a copy of the independent auditor's report to the Ministry within sixty (60) days following the completion of the audit.

## **18.2 Ministry Audit**

The Ministry may inspect and audit (by itself or as it directs), and at its own cost, the Contractor's books and accounts relating to this Agreement for any Calendar Year (starting within twenty four (24) months after the end of the Year, and concluding within twelve (12) months of this start).

## **18.3 Exceptions**

- (a) All audit exceptions shall be raised by the Ministry within six (6) months after receipt of the independent auditor's report by the Ministry or completion of the audit by the Ministry (or as it directed), as the case may be, failing which the Contractor's books and accounts shall be conclusively deemed correct except in the case of manifest error or fraud.
- (b) The Contractor shall fully respond to an audit exception within sixty (60) days of its being raised, failing which the exception shall be deemed accepted.
- (c) Adjustments required among the Parties as a consequence of an audit shall be made promptly.

## **18.4 Contractor to Assist**

The Contractors shall fully and expeditiously assist and cooperate with audits.

## **18.5 Affiliates**

The foregoing provisions of this Article 18 apply in respect of Affiliates of the Contractors. The Contractors shall use its best endeavours to procure that its Affiliates comply with them (at the Contractor's expense in regard to an audit as mentioned in Section 18.1).

# **Article 19 Indemnity and Insurance**

## **19.1 Indemnity**

The Contractors shall defend, indemnify and hold harmless the Ministry from all claims of whatsoever nature which are brought against the Ministry by any third party directly or indirectly in respect of Petroleum Operations, and all costs, expenses and liabilities incurred by the Ministry as a consequence thereof. The Ministry shall give the Contractors prompt notice of any such claim and shall not settle it without the prior consent of the Contractors.

## **19.2 Insurance**

- (a) The Contractors shall take out and maintain insurance on a strict liability basis in respect of its obligations under Section 19.1 and in respect of such other matters as the Ministry requires (including in respect of pollution), for such amounts as the Ministry requires from time to time and otherwise as required by Good Oil Field Practice.
- (b) All such insurances shall name Timor-Leste as co-insured, and shall contain waivers of subrogation in its favor.

## Article 20 Force Majeure

### 20.1 Force Majeure Relief

- (a) Subject to the further provisions of this Article 20, a Party shall not be liable for any failure to perform an obligation under this Agreement to the extent such performance is prevented, hindered or delayed by events or circumstances which are beyond its reasonable control and the effects of which could not (including by reasonable anticipation) and cannot reasonably be avoided or overcome by it ("Force Majeure").
- (b) Notwithstanding paragraph 20.1(a), the following shall not be Force Majeure:
  - (i) failure to pay money;
  - (ii) in the case of the Contractors, the law, or any action or inaction of the government, of a place other than Timor-Leste (or of a political subdivision thereof);
  - (iii) in the case of the Ministry, the law, or any action or inaction of the government, of Timor-Leste;
  - (iv) in the case of the Contractors, any failure to deliver and maintain a Security or to obtain and maintain insurance as required by this Agreement; and
  - (v) in the case of the Contractors, strikes, lockouts and other industrial disturbances of the Operator's (or of its agents' and sub-contractors') employees and not part of a wider industrial dispute materially affecting other employers.

### 20.2 Procedure

A Party claiming Force Majeure shall:

- (a) notify the other Party as soon as reasonably practicable of the event or circumstance concerned, and of the extent to which performance of its obligations is prevented, hindered or delayed thereby;
- (b) keep the other Party fully informed as to the actions taken, or to be taken, by it to overcome the effects thereof, and, from time to time, provide it with such information and permit it such access, as it may reasonably require for the purpose of assessing such effects and the actions taken or to be taken; and
- (c) resume performance of its obligations as soon as reasonably practicable after the event or circumstance no longer exists.

### 20.3 Consultation

The Parties shall consult with each other and take all reasonable steps to minimise the losses of either Party and to minimise any overall delay or prejudice to Petroleum Operations as a result of Force Majeure.

### 20.4 Third Parties

Where a Party enters into an agreement in relation to this Agreement with a third party, a failure by the third party to perform an obligation under that agreement shall be Force Majeure affecting that Party only if performance of that obligation was prevented, hindered or delayed by events or circumstances which (if the third party were party to this Agreement in the capacity of the Party

concerned) would (in accordance with the provisions of this Article 20) be Force Majeure affecting it.

## **20.5 Extension of Time**

If Force Majeure materially prevents, hinders or delays Petroleum Operations for more than three (3) consecutive months, the Parties shall discuss, in good faith, amendments regarding the term of, and the periods of time in which Petroleum Operations are to be carried out under, this Agreement.

## **Article 21 Restrictions on Assignment and Change in Control**

### **21.1 Assignment**

- (a) Except with the consent of the Ministry, no assignment or other dealing by a Contractor in respect of this Agreement shall be of any force or effect.
- (b) Paragraph 21.1(a) includes any assignment, transfer, conveyance, novation, merger, encumbering or other dealing in any manner whatsoever or howsoever (whether legally, beneficially or otherwise, and whether conditionally or not) by a Contractor with:
  - (i) this Agreement, or all or any part of its rights, interests, benefits, obligations and liabilities under it;
  - (ii) Petroleum which has not then been, but might be, recovered in the Contract Area, or any proceeds of sale of such Petroleum; and
  - (iii) anything whereby this Agreement, that Petroleum or any of those rights, interests and benefits would, but for this Section 21.1, be held for the benefit of, or be exercisable by or for the benefit of, any other person.
- (c) Paragraph 21.1(a) does not apply to an agreement for the sale of Crude Oil under which the price therefor is payable (or such Crude Oil is exchanged for other Petroleum) after title thereto has passed to the Contractor.
- (d) If, notwithstanding paragraphs 21.1(a) and (b), any assignment or other dealing is effective by the laws of Timor-Leste, or any other place without that consent, the Ministry may terminate this Agreement.
- (e) The Ministry may not consent to a dealing which would result in a person other than a limited liability corporation, or an entity with limited liability, specifically established for the sole purposes of this Agreement, becoming a Contractor, and any consent otherwise is of no force or effect.
- (f) For the purposes of the foregoing, encumbrance includes any mortgage, charge, pledge, hypothecation, lien, assignment by way of security, title retention, option, right to acquire, right of pre-emption, right of set off, counterclaim, trust arrangement, overriding royalty, net profits interest, or any other security, preferential right, equity or restriction, any agreement to give or to create any of the foregoing and any transaction which, in legal terms, is not a secured borrowing but which has an economic or financial effect similar to that of a secured borrowing.

### **21.2 Change in Control**

- (a) Except with the consent of the Ministry, if:



- (i) there is a change in control of a Contractor;
- (ii) within thirty (30) days after a Contractor has advised the Ministry in reasonable detail of the change in control, the Ministry serves notice on the Contractor that it will terminate this Agreement unless such a further change in control of the Contractor as is specified in the notice takes place within the period specified in the notice; and
- (iii) that further change in control does not take place within that period;

the Ministry may terminate this Agreement.

- (b) Paragraph 21.2(a) does not apply if the change in control is the direct result of an acquisition of shares or other securities listed on a recognised stock exchange.
- (c) For the purposes of paragraph 21.2(a), "change in control" includes a person ceasing to be in Control (whether or not another person becomes in Control), and a person obtaining Control (whether or not another person was in Control).

## **Article 22 Other Provisions**

### **22.1 Conduct of the Parties**

- (a) Each Party warrants that it and its Affiliates have not made, offered, or authorized and will not make, offer, or authorize with respect to the matters which are the subject of this Agreement, 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 (i.e., any person holding a legislative, administrative or judicial office, including any person employed by or acting on behalf of a public agency, a public enterprise or a public international organization) or any political party or political party official or candidate for office, where such payment, gift, promise or advantage would violate (i) the applicable laws of Timor-Leste; (ii) the laws of the country of incorporation of such Party or such Party's ultimate parent company and of the principal place of business of such ultimate parent company; or (iii) the principles described in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on December 17, 1997, which entered into force on February 15, 1999, and the Convention's Commentaries. Each Party shall defend, indemnify and hold the other Parties harmless from and against any and all claims, damages, losses, penalties, costs and expenses arising from or related to, any breach by such first Party of such warranty. Such indemnity obligation shall survive termination or expiration of this Agreement. Each Party shall in good time (i) respond in reasonable detail to any notice from any other Party reasonably connected with the above-stated warranty; and (ii) furnish applicable documentary support for such response upon request from such other Party.
- (b) Each Party agrees to (i) maintain adequate internal controls; (ii) properly record and report all transactions; and (iii) comply with the laws applicable to it. Each Party must rely on the other Parties' system of internal controls, and on the adequacy of full disclosure of the facts, and of financial and other data regarding the Petroleum Operations undertaken under this Agreement. No Party is in any way authorized to take any action on behalf of another Party that would result in an inadequate or inaccurate recording and reporting of assets, liabilities or any other transaction, or which would put such Party in violation of its obligations under the laws applicable to the operations under this Agreement.

## **22.2 Notices**

- (a) Any notices required to be given by any Party to another Party shall be served in accordance with the Act.
- (b) All notices to be served on a Contractor shall be addressed to its office.

## **22.3 Language**

This Agreement has been drawn up in the Portuguese and English languages and three (3) originals of each text have been prepared for signature by the Ministry and the Contractors. Both the Portuguese and English text are binding. However, the Portuguese text will prevail in the case of conflict.

## **22.4 Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of Timor-Leste.

## **22.5 Third Party Rights**

Unless specifically provided in this Agreement (including in Article 17), the Parties do not intend that any term of this Agreement be enforceable by any person who is not a Party to this Agreement.

## **22.6 Amendments/Modification**

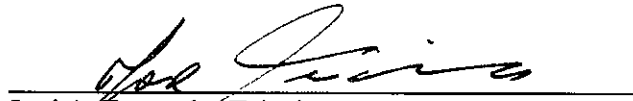
This Agreement shall not be amended or modified in any respect, unless the Parties agree in writing.

## **22.7 Entire Agreement**

This Agreement sets out the entire agreement and understanding of the Parties in connection with the subject matter of this Agreement and supersedes any other prior agreements, understanding or arrangements whether written or otherwise relating thereto.

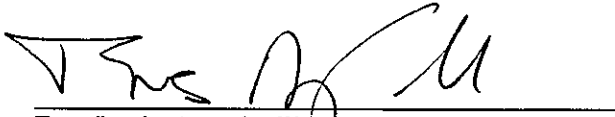
IN WITNESS WHEREOF, the Parties have executed this Agreement.

**For the Democratic Republic of Timor-Leste**



José A. Fernandes Teixeira  
Minister for Natural Resources, Minerals and Energy Policy

**For Eni Timor Leste S.p.A**



Eros Lucio Agostinelli  
President

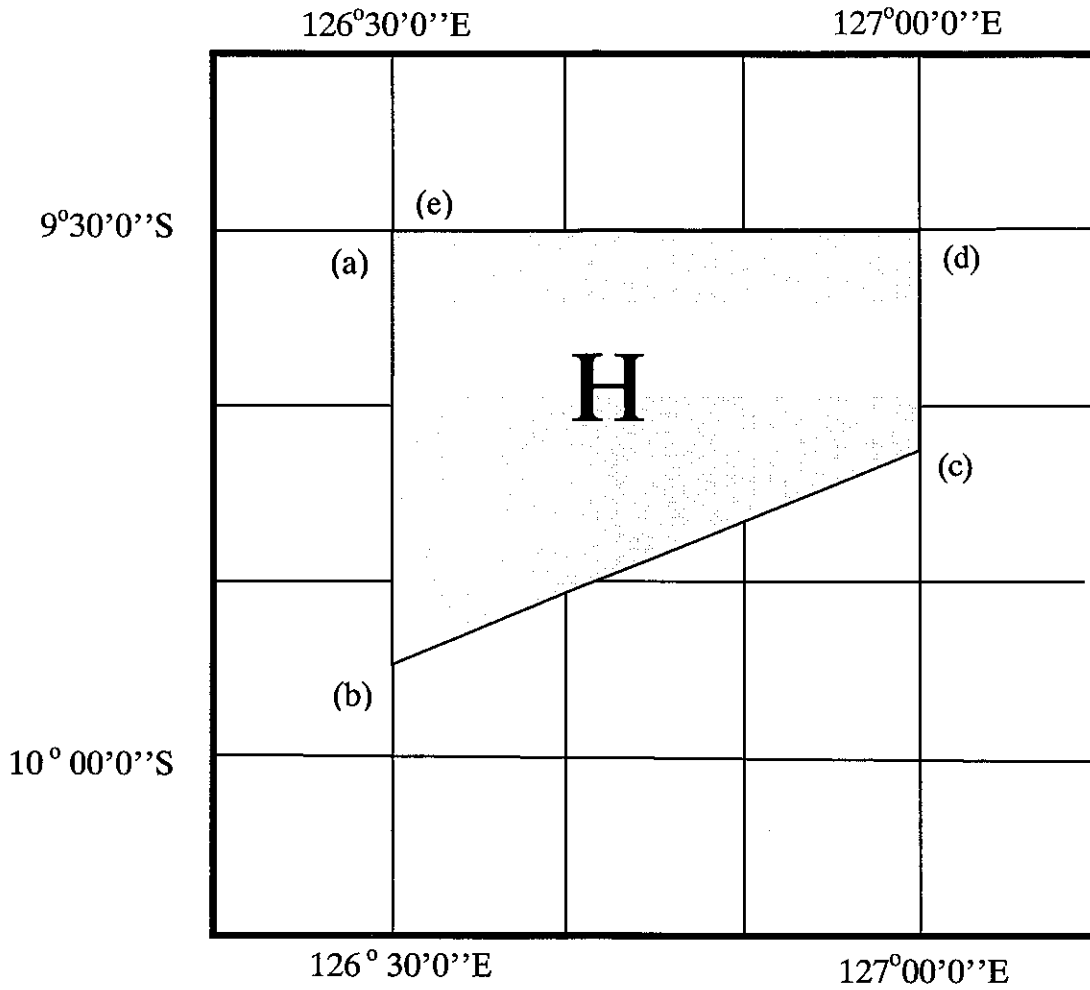
## Annex A – Contract Area Description

### Contract Area H

Area	Definition
H	The area bounded by the line- (a) commencing at the point of Latitude 9 deg. 30'00.00" South, Longitude 126 deg. 30'00.00" East; (b) running thence southly along the geodesic to the point of Latitude 9 deg. 54'43.69" South, Longitude 126 deg. 30'00.00" East; (c) thence north-eastly along the geodesic of the outline of JPDA** to the point of Latitude 9 deg. 42'36.97" South, Longitude 127 deg. 00'00.00" East; (d) thence northly along the geodesic to the point of Latitude 9 deg. 30'00.00" South, Longitude 127 deg. 00'00.00" East; (e) thence westly along the geodesic to the point of commencement.

\*\* Refer the definition of JPDA in Annex A of the Timor Sea Treaty 20 May 2002.

Annex B – Map of the Contract Area



## Clause 1 – General Provisions

### 1.1 Purpose and Definitions

- (a) The purpose of this Annex C is to further define the manner in which the costs and expenses of Petroleum Operations will be recorded, Recoverable Costs will be determined, and each Contractor's books and accounts will be prepared and maintained, and ancillary matters.
- (b) A reference to a Clause or paragraph is to a clause or paragraph of this Annex C unless the contrary is stated.
- (c) A reference to an Article is to an article of the Agreement to which this Annex C is attached.

### 1.2 Accounting Records

- (a) Each Contractor shall maintain complete accounts, books and records, on an accruals basis, of all costs, expenses and revenues of, or relating to, Petroleum Operations, and the sale or other disposition of Petroleum, on an accurate basis and in accordance with generally accepted accounting procedures and standards of the international petroleum industry and in accordance with the charts of accounts mentioned in paragraph 1.2(b).
- (b) Within sixty (60) days after the Effective Date, each Contractor shall submit to the Ministry, for its approval, an outline of charts of accounts, books, records and reports to be used for the purposes of paragraph 1.2(a) and for reporting to the Ministry thereon.

### 1.3 Language and Units of Account

- (a) The *International System of Units* (metric units) and barrels shall be employed for measurements and quantities under this Agreement.
- (b) The Accounting Records, and all reports to the Ministry, will be in one of the official languages of Timor-Leste. These records and reports may be in English, if an official translation in one of the official languages of Timor-Leste is provided.
- (c) The Accounting Records, and all reports to the Ministry, will be in United States Dollars. Costs and revenues in another currency will be translated at the exchange rate set on the day the cost is incurred, or the revenue realised, at a time and by a financial institution designated by the Contractor and approved by the Ministry.
- (d) Exchange gains or losses will be credited or charged to the Accounting Records.

## Clause 2 – Classification and Allocation

### 2.1 Exploration Costs

Exploration Costs are those costs, whether of a capital or operating nature, which directly relate to Exploration and are incurred in respect of activities carried out substantially in accordance with an approved Exploration Work Programme and Budget, but without prejudice to Section 4.7 of the Agreement, including costs of:

- (a) drilling wells (and related abandonment and site remediation thereof);
- (b) surveys, including labour, materials and services (including desk studies and analysis of survey data) used in aerial, geological, geochemical, geophysical and seismic surveys, and core hole drilling;
- (c) auxiliary or temporary facilities;
- (d) workshops, power and water facilities, warehouses, site offices, access and communication facilities;
- (e) floating craft, automotive equipment, furniture and office equipment; and
- (f) if approved by the Ministry, employee and welfare housing, recreational, educational, health and meals facilities, and other similar costs necessary for Exploration.

## **2.2 Appraisal Costs**

Appraisal Costs are those Exploration Costs that directly relate to Appraisal.

## **2.3 Capital Costs**

Capital Costs are:

- (a) in respect of a Development Area, and before the start of Commercial Production from it, those costs, whether of a capital or operating nature, which directly relate to the Development of it; and
- (b) in respect of a Development Area, and after the start of Commercial Production from it, those costs of a capital nature which directly relate to the Development of it, or to the production of Petroleum from it;

and are incurred in respect of activities carried out substantially in accordance with an approved Development Work Programme and Budget, but without prejudice to Section 4.7 of the Agreement, including costs of:

- (c) workshops, power and water facilities, warehouses, site offices, access and communication facilities;
- (d) production facilities including offshore platforms (including the costs of labour, fuel hauling and supplies for both the offsite fabrication and onsite installation of platforms, and other construction costs in erecting platforms), wellhead production tubing, sucker rods, surface pumps, flow lines, gathering equipment, storage facilities, all other equipment, facilities and modules on platforms, treating plants and equipment, secondary recovery systems;
- (e) pipelines and other facilities for transporting Petroleum produced in the Contract Area to the Field Export Point;
- (f) movable assets and subsurface drilling and production tools, equipment and instruments, and miscellaneous equipment;
- (g) floating craft, automotive equipment, furniture and office equipment; and
- (h) if approved by the Ministry, employee and welfare housing, recreational, educational, health and meal facilities, and other similar costs necessary for the Development.

## **2.4 Operating Costs**

Operating Costs are, in respect of a Development Area and after the start of Commercial Production from it, those costs of an operating nature which directly relate to the Development thereof, or to the production of Petroleum therefrom, and are incurred in respect of activities carried out substantially in accordance with an approved Development Work Programme and Budget, but without prejudice to Section 4.7 of the Agreement.

## **2.5 Decommissioning Costs Reserve**

Decommissioning Costs Reserve is the amount determined in accordance with Article 4.12(d).

## **2.6 Uplift**

Uplift is the amount which, when compounded quarterly, is equal to the average for the business days of the Quarter of the annual yield on long-term United States Treasury Bonds (thirty-year (30) bonds) plus an annual margin of eleven (11) percentage points.

## **2.7 Miscellaneous Receipts**

Miscellaneous Receipts are:

- (a) all monies received by each Contractor, other than for the sale or other disposal of Petroleum from a Development Area, which are directly related to the conduct of Petroleum Operations, including:
  - (i) amounts received from the sale or other disposal of Petroleum from production testing activities undertaken in Exploration and Appraisal wells;
  - (ii) amounts received for the disposal, loss, or destruction of property, the cost of which is a Recoverable Cost;
  - (iii) amounts received by the each Contractor under an insurance policy, the premiums of which are Recoverable Costs, in respect of damage to or loss of property;
  - (iv) amounts received as insurance (the premiums of which are Recoverable Costs), compensation or indemnity in respect of Petroleum lost or destroyed prior to the Field Export Point;
  - (v) amounts received from the hiring or leasing of property, the cost of which is a Recoverable Cost;
  - (vi) amounts received from supplying information obtained from Petroleum Operations;
  - (vii) amounts received as charges for the use of employee amenities, the costs of which are Recoverable Costs; and
  - (viii) amounts received in respect of expenditures which are Recoverable Costs, by way of indemnity or compensation for the incurring of the expenditure, refund of the expenditure, or rebate, discount or commission in respect of the expenditure; and
- (b) the value of property, the cost of which is a Recoverable Cost, when that property ceases to be used in Petroleum Operations;

## **2.8 Ineligible Costs**



Ineligible Costs are:

- (a) interest (or any payment in the nature of, in lieu of, or having the commercial effect of, interest) or other cost under, or in respect of, a Loan Facility;
- (b) foreign exchange and currency hedging costs;
- (c) costs relating to formation of corporations or of any partnerships or joint venture arrangements, other than in respect of a unitisation as required by the Act;
- (d) payments of dividends or the cost of issuing shares;
- (e) repayments of equity or loan capital;
- (f) payments of private override royalties, net profits interests and the like;
- (g) all expenditure (including professional fees, publicity and out-of-pocket expenses) incurred in connection with the negotiation, signature or ratification of this Agreement and payments associated with the acquisition of an interest under this Agreement;
- (h) payments of taxes under the taxation law of Timor-Leste, and all other taxes on income, profit or gain wherever arising;
- (i) payments of administrative accounting costs, and other costs indirectly associated with Petroleum Operations;
- (j) except with the consent of the Ministry, costs incurred in respect of Petroleum after it has passed the Field Export Point;
- (k) costs incurred as a result of non-compliance by a Contractor with the law or this Agreement, including costs incurred as a result of any negligent act or omission, or wilful misconduct, of a Contractor, its agents or sub-contractors, including any amount paid in settlement of any claim alleging negligence or wilful misconduct, whether or not negligence or misconduct is admitted or whether such sum is stated to be paid on an ex-gratia or similar basis;
- (l) payment of compensation or damages under this Agreement;
- (m) costs relating to the settlement of disputes, which are not approved in advance by the Ministry, including all costs and expenses of arbitration or litigation proceedings under this Agreement;
- (n) Decommissioning Costs actually incurred which have been taken into account for the purposes of determining the Decommissioning Costs Reserve;
- (o) payments under Article 11 of this Agreement;
- (p) audit fees and accounting fees (excluding fees and expenses incurred for the conduct of audit and accounting services required by this Agreement) incurred pursuant to the auditing and accounting requirements of any law and all costs and expenses incurred in connection with intra-group corporate reporting requirements (whether or not required by law);
- (q) except with the consent of the Ministry and in accordance with the conditions of the consent, any expenditure in respect of the hiring or leasing of structures, facilities, installations; equipment or other property, or of other works;

- (r) except with the consent of the Ministry, costs, including donations, relating to public relations or enhancement of the Party's corporate image and interests;
- (s) costs associated with local offices and local administration, including staff benefits, which are excessive;
- (t) costs which are not adequately supported and documented;
- (u) except with the consent of the Ministry, but subject to Section 4.7 of the Agreement, costs not included in a budget for the relevant year;
- (v) costs not falling within any of the above items which are stated elsewhere in this Agreement not to be recoverable (including in Article 2.1(d)), or costs incurred without the consent or approval of the Ministry (where such is required).

## **2.9 Other Matters**

- (a) The methods mentioned in this Clause 2.9 will be used to calculate Recoverable Costs.
- (b) Depreciation is not a Recoverable Cost.
- (c) General and administration costs, other than direct charges, allocable to Petroleum Operations shall be determined by a detailed study, and, subject to approval by the Ministry, the method determined by such a study shall be applied each Calendar Year consistently.
- (d) Inventory levels shall be in accordance with Good Oil Field Practice. The value of inventory items not used in Petroleum Operations, or sold, the cost of which has been recovered as an Operating Cost, shall be treated as Miscellaneous Receipts. The cost of an item purchased for inventory shall be a Recoverable Cost at such time as the item is incorporated in the works.
- (e) Where the cost of anything, or a receipt (or value) in respect of anything, relates only partially to the carrying out of Petroleum Operations, only that portion of the cost or the receipt (or value) which relates to the carrying out of Petroleum Operations will be a Recoverable Cost or assessed as a Miscellaneous Receipt. Where any cost or related receipt (or value) relates to more than one of Exploration, Appraisal, Capital and Operating Costs, or to more than one Development Area, the cost or related receipt (or value) will be apportioned in an equitable manner.

## **Clause 3 – Costs, Expenses and Credits**

Subject as otherwise provided in this Agreement, the following costs, charges and credits shall be included in the determination of Recoverable Costs.

### **3.1 Surface Rights**

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

### **3.2 Labour and Associated Labour Costs**

- (a) Costs of the Contractor's locally recruited employees based in Timor-Leste. Such costs shall include the costs of employee benefits and state benefits for employees and levies imposed on the Contractor as an employer, transportation and relocation costs within Timor-Leste of the employee and such members of the employee's family (limited to

spouse and dependent children) as required by law or customary practice therein. If such employees are also engaged in other activities, the cost of such employees shall be apportioned on a time sheet basis according to sound and acceptable accounting principles.

- (b) Costs of salaries and wages including bonuses of the Contractor's employees directly and necessarily engaged in the conduct of the Petroleum Operations, whether temporarily or permanently assigned, irrespective of the location of such employees, it being understood that in the case of those personnel only a portion of whose time is wholly dedicated to Petroleum Operations under the Agreement, only that pro-rata portion of applicable salaries, wages, and other costs as delineated in paragraphs 3.2(c), 3.2(d), 3.2(e), 3.2(f) and 3.2(g) shall be charged and the basis of such pro-rata allocation shall be specified.
- (c) The Contractor's costs regarding holiday, vacation, sickness and disability benefits and living and housing and other customary allowances applicable to the salaries and wages chargeable under paragraph 3.2(b).
- (d) Expenses or contributions made pursuant to assessments or obligations imposed under the laws of Timor-Leste which are applicable to the Contractor's cost of salaries and wages chargeable under paragraph 3.2(b).
- (e) The Contractor's cost of established plans for employees' group life insurance, hospitalisation, pension, stock purchases, savings, bonus and other benefit plans of a like nature customarily granted to the Contractor's employees, provided however that such costs are in accordance with generally accepted standards in the international petroleum industry, applicable to salaries and wages chargeable to Petroleum Operations under paragraph 3.2(b).
- (f) Reasonable transportation and travel expenses of employees of the Contractor, including those made for travel and relocation of the expatriate employees, including their families and personal effects, assigned to Timor-Leste whose salaries and wages are chargeable to Petroleum Operations under paragraph 3.2(b).

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

- (g) Reasonable personal expenses of personnel whose salaries and wages are chargeable to Petroleum Operations under paragraph 3.2(b) and for which expenses such personnel reimbursed under the Contractor's standard personnel policies. In the event such expenses are not wholly attributable to Petroleum Operations, the Petroleum Operations shall be charged with only the applicable portion thereof, which shall be determined on an equitable basis.

### **3.3 Transportation and Employee Relocation Costs**

The cost of transportation of employees, equipment, materials and supplies other than as provided in Clause 3.2 necessary for the conduct of the Petroleum Operations along with other related costs, including import duties, customs fees, unloading charges, dock fees, and inland and ocean freight charges.

### **3.4 Charges for Services**

For purposes of this Clause 3.4, Affiliates which are not wholly owned by the Contractor or the Contractor's ultimate holding company shall be considered third parties.

#### **(a) Third Parties**

The actual costs of contract services, services of professional consultants, utilities, and other services necessary for the conduct of the Petroleum Operations performed by third parties other than an Affiliate of the Contractor.

#### **(b) Affiliates of the Contractor**

- (i) Professional and Administrative Services Expenses:** cost of professional and administrative services provided by any Affiliates of the Contractor for the direct benefit of Petroleum Operations, including services provided by the production, exploration, legal, financial, insurance, accounting and computer services, divisions other than those covered by paragraph 3.4(b)(ii) or Clause 3.6 or 3.8(b) which the Contractor may use in lieu of having its own employees. Charges shall reflect the cost of providing their services and shall not include any element of profit and shall be no less favourable than similar charges for other operations carried on by the Contractor and its Affiliates. The charge-out rate shall include all costs incidental to the employment of such personnel. Where the work is performed outside the home office base of such personnel, the daily rate shall be charged from the date such personnel leave the home office base where they usually work up to their return thereto, including days which are not working days in the location where the work is performed, excluding any holiday entitlements derived by such personnel from their employment at their home office base.
- (ii) Scientific or Technical Personnel:** cost of scientific or technical personnel services provided by any Affiliate of the Contractor for the direct benefit of Petroleum Operations, which cost shall be charged on a cost of service basis and shall not include any element of profit. Unless the work to be done by such personnel is covered by an approved Work Programme and Budget, the Contractor shall not authorise work by such personnel.
- (iii) Equipment and Facilities:** use of equipment and facilities owned and furnished by the Contractor's Affiliates, at rates commensurate with the cost of ownership and operation; provided, however, that such rates shall not exceed those currently prevailing for the supply of like equipment and facilities on comparable terms in the area where the Petroleum Operations are being conducted. The equipment and facilities referred to herein shall exclude major investment items such as (but not limited to) drilling rigs, producing platforms, oil treating facilities, oil and gas loading and transportation systems, storage and terminal facilities and other major facilities, rates for which shall be subject to separate agreement with the Ministry.

### **3.5 Communications**

Costs of acquiring, leasing, installing, operating, repairing and maintaining communication systems including radio and microwave facilities between the Contract Area and the Contractor's base facility in Timor-Leste.

### **3.6 Office, Storage and Miscellaneous Facilities**

Net cost to the Contractor of establishing, maintaining and operating any office, sub-office, warehouse, data storage, housing or other facility in Timor-Leste directly serving the Petroleum

Operations.

### 3.7 Ecological and Environment

- (a) Costs incurred in the Contract Area as a result of legislation for archaeological and geophysical surveys relating to identification and protection of cultural sites or resources.
- (b) Costs incurred in environmental or ecological surveys required by this Agreement or regulatory authorities.
- (c) Costs to provide or have available pollution containment and removal equipment.
- (d) Costs of actual control and cleanup of oil spills, and of such further responsibilities resulting therefrom as may be required by applicable laws and regulations.
- (e) Costs of restoration of the operating environment.

### 3.8 Material Costs

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

- (a) Components of costs, arm's length transactions – except as otherwise provided in paragraph 3.8(c), material purchased by the Contractor in arm's length transactions in the open market for use in the Petroleum Operations shall be valued to include invoice price less trade and cash discounts, purchase and procurement fees plus freight and forwarding charges between point of supply and point of shipment, freight to port of destination, insurance, taxes, customs duties, consular fees, excise taxes, other items chargeable against imported materials and, where applicable, handling and transportation expenses from point of importation to warehouse or operating site. Where an Affiliate of the Contractor has arranged the purchase, coordinated the forwarding and expediting effort, a fee equal to four (4) percent of the value of the materials may be added to the cost of the materials purchased.
- (b) Accounting – such material costs shall be charged to the Accounting Records and books in accordance with the “First in, First out” (FIFO) method.
- (c) Material purchased from or sold to Affiliates of the Contractor or transferred from other activities of the Contractor to or from Petroleum Operations shall be valued and charged or credited at the prices specified in paragraphs 3.8(c)(i), 3.8(c)(ii) and 3.8(c)(iii).
  - (i) New material, including used new material moved from inventory (Condition “A”), shall be valued at the current international net price which shall not exceed the price prevailing in normal arm's length transactions in the open market.
  - (ii) Used material (Conditions “B”, “C” and “D”):
    - a. Material which is in sound and serviceable condition and is suitable for re-use without reconditioning shall be classified as Condition “B” and priced at seventy-five per cent (75%) of the current price of new material defined in paragraph 3.8(c)(i);
    - b. Material which cannot be classified as Condition “B”, but which after reconditioning will be further serviceable for its original function, shall be classified as Condition “C” and priced at not more than fifty per cent (50%) of the current price of new material as defined in paragraph 3.8(c)(i); the

cost of reconditioning shall be charged to the reconditioned material provided that the value of Condition "C" material plus the cost of reconditioning does not exceed the value of Condition "B" material;

- c. Material which cannot be classified as Condition "B" or Condition "C" shall be classified as Condition "D" and priced at a value commensurate with its use by the Contractor. If material is not fit for use by the Contractor it shall be disposed of as junk.
- (iii) Material involving erection costs shall be charged at the applicable condition percentage of the current knocked-down price of new material as defined in paragraph 3.8(c)(i).
- (iv) When the use of material is temporary and its service to the Petroleum Operations does not justify the reduction in price as provided for in paragraph 3.8(c)(ii)(b), such material shall be priced on a basis that will result in a net charge to the accounts under this Agreement consistent with the value of the service rendered.
- (v) Premium prices – whenever material is not readily obtainable at published or listed prices because of national emergencies, strikes or other unusual causes over which the Contractor has no control, the Contractor may charge Petroleum Operations for the required material at the Contractor's actual cost incurred in providing such material, in making it suitable for use, and in moving it to the Contract Area; provided notice in writing is furnished to the Ministry of the proposed charge prior to charging Petroleum Operations for such material and the Ministry shall have the right to challenge the transaction on audit.
- (vi) Warranty of material furnished by the Contractor – the Contractor does not warrant the material furnished. In case of defective material, credit shall not be passed to Petroleum Operations until adjustment has been received by the Contractor from the manufacturers of the material or their agents.

### **3.9 Rentals, Duties and Other Assessments**

All rentals, levies, charges, fees, contributions and other charges of every kind and nature levied by any Timor-Leste governmental authority in connection with the Petroleum Operations and paid directly by the Contractor (save where the contrary is expressly provided in this Agreement).

### **3.10 Insurance and Losses**

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

### **3.11 Legal Expenses**

All reasonable costs and expenses resulting from the handling, investigating, asserting, defending, or settling of any claim or legal action necessary or expedient for the procuring, perfecting, retention and protection of the Contract Area, and in defending or prosecuting lawsuits involving the Contract Area or any third party claim arising out of the Petroleum Operations, or sums paid in respect of legal services necessary for the protection of the joint interest of the Ministry and the Contractor shall be allowable. Such expenditures shall include, attorney's fees, court costs, costs of

investigation, and procurement of evidence and amounts paid in settlement or satisfaction of any such litigation and claims. Where legal services are rendered in such matters by salaried or regularly retained lawyers of the Contractor or an Affiliate of the Contractor, such compensation shall be included instead under Clause 3.2 or 3.4(b) as applicable.

### **3.12 Claims**

Expenditures made in the settlement or satisfaction of any loss, claim, damage, judgement or other expense arising out of or relating to Petroleum Operations.

### **3.13 Training Costs**

All costs and expenses incurred by the Contractor in the training of its employees engaged in Petroleum Operations, and such other training as is required by this Agreement.

### **3.14 General and Administrative Costs**

The costs described in Clause 2.9(c).

### **3.15 Other Expenditures**

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

### **3.16 Duplication**

There shall be no duplication of charges and credits.

## **Clause 4 – Inventories**

Inventories of property in use in Petroleum Operations shall be taken at reasonable intervals but at least once a year with respect to movable assets and once every three years with respect to immovable assets. The Contractor shall give the Ministry at least thirty (30) days written notice of its intention to take such inventory and the Ministry shall have the right to be represented when such inventory is taken. The Contractor shall clearly state the principles upon which valuation of the inventory has been based. The Contractor shall make every effort to provide to the Ministry a full report on such inventory within thirty (30) days of the taking of the inventory. When an assignment of rights under this Agreement takes place, the Contractor may, at the request of the assignee, take a special inventory provided that the costs of such inventory are borne by the assignee.

## **Clause 5 – Production Statement**

### **5.1 Production Information**

From the start of production from the Contract Area, the Contractor shall submit a monthly Production Statement to the Ministry showing the following information separately for each producing Development Area and in aggregate for the Contract Area:

- (a) the quantity of Crude Oil produced and saved;
- (b) the quality characteristics of such Crude Oil produced and saved;
- (c) the quantity of Natural Gas produced and saved;
- (d) the quality characteristics of such Natural Gas produced and saved;

- (e) the quantities of Crude Oil and Natural Gas used for the purposes of carrying on drilling and production operations and pumping to field storage;
- (f) the quantities of Crude Oil and Natural Gas unavoidably lost;
- (g) the quantities of Natural Gas flared and vented;
- (h) the size of Petroleum stocks held at the beginning of the month in question;
- (i) the size of Petroleum stocks held at the end of the month in question;
- (j) the quantities of Natural Gas reinjected into the Reservoirs; and
- (k) in respect of the Contract Area as a whole, the quantities of Petroleum transferred at the Field Export Point.

All quantities shown in this statement shall be expressed in both volumetric terms (barrels of Crude Oil and cubic meters of Natural Gas) and in weight (metric tonnes).

## **5.2 Submission of Production Statement**

The Production Statement for each month shall be submitted to the Ministry no later than ten (10) days after the end of such month.

## **Clause 6 – Value of Production and Pricing Statement**

### **6.1 Value of Production and Pricing Statement Information**

The Contractor shall, for the purposes of Article 7 of the Agreement, prepare a Value of Production and Pricing Statement providing calculations of the value of Crude Oil and Natural Gas produced and saved during each Quarter. This Value of Production and Pricing Statement shall contain the following information:

- (a) the quantities and the price payable in respect of sales of Natural Gas and Crude Oil delivered to third parties during the Quarter in question; and
- (b) the quantities and price payable in respect of sales of Natural Gas and Crude Oil delivered during the Quarter in question, other than to third parties.

### **6.2 Submission of Value of Production and Pricing Statement**

The Value of Production and Pricing Statement for each Quarter shall be submitted to the Ministry not later than twenty-one (21) days after the end of such Quarter.

## **Clause 7 – Cost Recovery Statement**

### **7.1 Quarterly Statement**

Each Contractor shall prepare with respect to each Quarter a Cost Recovery Statement containing the following information:

- (a) Recoverable Costs carried forward from the previous Quarter;
- (b) Recoverable Costs for the Quarter in question;



- (c) Credits under the Agreement for the Quarter in question;
- (d) Total Recoverable Costs for the Quarter in question (paragraphs 7.1(a) plus 7.1(b) less 7.1(c));
- (e) quantity and value of the Contractor's share of Petroleum under Article 7 of the Agreement in the Quarter in question; and
- (f) amount of Recoverable Costs to be carried forward into the next Quarter (paragraph 7.1(d) less paragraph 7.1(e)).

## **7.2 Preparation and Submission of Cost Recovery Statements**

- (a) Provisional Cost Recovery Statements, containing estimated information where necessary, shall be submitted by the Contractor on the last day of each Quarter.
- (b) Final Quarterly Cost Recovery Statements shall be submitted within thirty (30) days after the end of the Quarter in question.

## **7.3 Annual Statement**

An Annual Cost Recovery Statement shall be submitted within ninety (90) days after the end of each Calendar Year. The annual statement shall contain the categories of information listed in Article 7.1 for the Calendar Year in question, separated into the Quarters of the Calendar Year in question, and showing the cumulative positions at the end of the Calendar Year in question.

## **Clause 8 – Statements of Expenditure and Receipt**

### **8.1 Quarterly Statement**

The Operator shall prepare with respect to each Quarter a Statement of Expenditure and Receipts. The statement will distinguish between Exploration, Appraisal, Capital and Operating Costs and will identify major items within these categories. The statement will show the following:

- (a) actual expenditures and receipts for the Quarter in question;
- (b) cumulative expenditure and receipts for the Calendar Year in question;
- (c) latest forecast cumulative expenditures at the Calendar Year end;
- (d) variations between budget forecast and latest forecast and explanations thereof.

The Statement of Expenditure and Receipts of each Quarter shall be submitted to the Ministry no later than fifteen (15) days after the end of such Quarter.

### **8.2 Annual Statement**

Each Contractor shall prepare a final end-of-year statement. The statement will contain information as provided in the production statement, Value of Production and Pricing Statement, Cost Recovery Statement and Statement of Expenditure and Receipts, but will be based on actual quantities of Petroleum produced and costs incurred. This statement will be used to make any adjustments that are necessary to the payments made by the Contractor under this Agreement. The final end-of-year statement of each Calendar Year shall be submitted to the Ministry within ninety (90) days of the end of such Calendar Year.