

PRODUCTION SHARING CONTRACT

FOR THE

**JOINT PETROLEUM
DEVELOPMENT AREA**

[Insert Date]

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PRODUCTION SHARING CONTRACT

[Dated]

This Agreement, which has been approved by the Joint Commission, is a Production Sharing Contract and is subject to the Treaty and the Petroleum Mining Code

BETWEEN

the Timor Sea Designated Authority;

AND

[•] and [•] (collectively, the "Contractor")

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

Whereas:

- A. petroleum existing within the Joint Petroleum Development Area is a resource to be exploited jointly by Timor-Leste and Australia;
- B. the Designated Authority, with the Joint Commission's approval, has the power to enter into Production Sharing Contracts;
- C. the Designated Authority wishes to promote Petroleum Operations in the Contract Area and the Contractor desires to join and assist the Designated Authority in exploring for, developing and exploiting Petroleum in the Contract Area for the benefit of the people of Timor-Leste and Australia; and
- D. the 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 Treaty, the Code and this Agreement, and has a record of compliance with principles of good corporate citizenship.

NOW, THEREFORE, it is agreed:

Article 1 Interpretation

1.1 Definitions

In this Agreement:

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

"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, volume or the quality 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 the Contractor and approved by the Designated Authority 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;

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

"Code" means the Petroleum Mining Code agreed and adopted by Timor-Leste and Australia pursuant to Article 7(a) of the Treaty, as amended, varied, modified or replaced from time to time, and regulations made and directions given under it;

"Commercial Discovery" means a discovery of Petroleum that the Contractor declares commercial as contemplated in sub-Article 4.10;

"Commercial Production" commences when commissioning and test production having been concluded, the first day of the first period of thirty (30) consecutive days during which the average level of regular production delivered for sale on the twenty five (25) highest production days in the thirty-day period reaches a level of regular production delivered for sale determined by the Designated Authority;

"Committee" has the meaning given in sub-Article 14.1;

"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;

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

"Crude Oil Field" means:

- (a) a single Reservoir; or

- (b) multiple Reservoirs all grouped on, or related to, the same geological structure, or stratigraphic conditions,

which contain hydrocarbons in a liquid state in the Reservoir with or without Associated Gas and 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 Costs Reserve" means the cumulative amount of monies provided in each Calendar Year for the funding of the Decommissioning Plan pursuant to paragraph 4.14(d);

"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 Designated Authority and the Contractor as mentioned in sub-Article 4.15;

"Development" means operations designed to recover Petroleum from a Reservoir for commercial purposes and includes design, construction, installation, drilling (but excludes drilling for the purposes of Exploration or Appraisal), and all related activities;

"Development Work Programme and Budget" has the meaning in sub-Article 4.12;

"Development Area" has the meaning given in sub-Article 4.10;

"Development Plan" means a development plan for a Development Area, as referred to in sub-Article 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 sub-Article 2.3;

"Exploration" means, any exploration activities, including geological, geophysical, geochemical and other surveys, investigations and tests, and the drilling of, 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 sub-Articles 4.1, 4.2 and 4.3;

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

"Force Majeure" has the meaning given in Article 18;

"Gas Retention Area" has the meaning given in sub-Article 3.5;

"ICC" means the International Chamber of Commerce;

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

"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);

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

"Natural Gas Field" means:

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

in which Non-Associated Gas exists naturally under Reservoir conditions of temperature and pressure;

"Non-Associated Gas" means Natural Gas which is not Associated Gas;

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

"Production" means any Petroleum 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;

"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 Designated Authority,

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

"Treaty" means the Timor Sea Treaty between the Government of Timor-Leste and the Government of Australia signed on 20th May 2002;

"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 contrary intention appears:

- (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, sub-Article, paragraph, sub-paragraph or to a Clause or an Annex, is to an Article, sub-Article, paragraph, sub-paragraph of or to a Clause or 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;
- (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 Designated Authority means the consent or approval, in writing, of the Designated Authority and in accordance with the conditions of that consent or approval;
- (i) "law" includes the Treaty and the Code;
- (j) reference to any English legal concept, term, action, remedy, method of judicial proceeding, legal document, legal status, court or official is, in any jurisdiction other than England and Wales, a reference to what most nearly approximates in that jurisdiction to that reference;
- (k) "contiguous area" means a Sub-Block, or a number of Sub-Blocks each having a point in common with another such Sub-Block;
- (l) where a word or expression is defined, cognate words and expressions shall be construed accordingly;
- (m) terms have the meaning defined in the Code;

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

If the Contractor is more than one person, the obligations and liabilities of the Contractor under this Agreement are the obligations and liabilities of them all, jointly and severally.

1.6 Operator

- (a) The appointment of an Operator by the Contractor shall be subject to prior approval by the Designated Authority 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; or
 - (ii) the person appointed as Operator is not an Authorised Person.
- (b) Except with the prior approval of the Designated Authority as required under paragraph 1.6(a), the Contractor shall not permit any person to exercise any function of an Operator.
- (c) For all purposes of this Agreement, the Operator shall represent the Contractor, and the Designated Authority 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 Contractor.
- (d) The operator shall establish its head operations office in Timor-Leste.
- (e) Any change in Operator shall be subject to the prior approval of the Designated Authority.
- (f) Where the Designated Authority determines that an Operator is no longer competent to be an Operator, the Designated Authority, with the approval of the Joint Commission, may, by written notice to the Operator and to the Contractor, revoke its approval.

Article 2 Scope and Term

2.1 Scope

- (a) This Agreement, and the rights, interests and benefits of the Contractor, and the obligations and liabilities of the Designated Authority, under it, are subject to the Treaty and the Code. The Contractor and the Designated Authority shall comply

with the terms of the Treaty, the Code, Regulations and Directions made in accordance with the Code, and this Agreement.

- (b) Subject to this Agreement, the Contractor:
 - (i) shall, and has the exclusive right to, carry on Petroleum Operations at its sole cost, risk and expense;
 - (ii) shall provide all human, financial and technical resources therefor; and
 - (iii) shall, as further provided in this Agreement, share in Petroleum from the Contract Area.
- (c) The Contractor is not authorised to carry on Petroleum Operations in any part of the JPDA outside the Contract Area, other than in accordance with an Access Authorisation granted to it by the Designated Authority under Article 9 of the Code.
- (d) This Agreement does not authorise the Contractor 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 sub-Section 4.5 of the Code;
 - (ii) if the Contractor is more than one person, the conclusion of a Joint Operating Agreement, and such agreement coming into full force and effect (subject only to satisfaction of this condition);
 - (iii) the Contractor providing the Designated Authority with a Security (in form and content satisfactory to the Designated Authority) for the performance of the Contractor's minimum work and expenditure obligations in accordance with sub-Articles 4.1, 4.2 and 4.3; and
 - (iv) the Contractor demonstrating, to the satisfaction of the Designated Authority, that it has complied with its obligations under sub-Article 17.2 in regard to insurance.
- (b) If the conditions mentioned in paragraph 2.2(a) are not fulfilled before the sixtieth (60th) 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 sub-Article 2.2 have been satisfied ("Effective Date"). The Designated Authority shall notify the Contractor in writing that the conditions precedent have been satisfied.
- (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;
- (iii) termination pursuant to sub-Article 2.4; or
- (iv) the Treaty ceasing to be in force.

2.4 Grounds for Termination

- (a) Where a Contractor:
 - (i) has not complied with any plan, approval, condition or term to which this Agreement is subject;
 - (ii) has not complied with the Code;
 - (iii) has knowingly provided false information to the Designated Authority in connection with this Agreement;
 - (iv) has not paid any amount payable by it under the Code or under this Agreement within a period of three (3) months after the day on which the amount became payable; or
 - (v) is subject to or commits an Insolvency Event,the Designated Authority may, with the approval of the Joint Commission, on that ground, by instrument in writing served on the Contractor terminate this Agreement.
- (b) The Designated Authority shall not terminate this Agreement due to one or more of the relevant grounds identified in sub-paragraphs 2.4(a)(i)-(iv) unless there has been a material breach by the Authorised Person of one of those grounds.
- (c) Where this Agreement expressly grants the Designated Authority a right to terminate this Agreement, that right shall be exercised in accordance with the requirements of sub-Articles 2.4 and 2.5.

2.5 Designated Authority to give Notice

Except in relation to an Insolvency Event, in which case the Designated Authority may terminate this Agreement forthwith, the Designated Authority shall not terminate this Agreement unless:

- (a) it has, by instrument in writing served on the Contractor, given not less than thirty (30) days notice of its intention to so terminate this Agreement;
- (b) it has, in the instrument, specified a date on or before which the Contractor may submit in writing to the Designated Authority any matters that it wishes to be considered; and
- (c) it has taken into account any information provided under paragraph 2.5 (b) and any action taken by the Contractor or other parties to remove that ground or to prevent the recurrence of similar grounds.

2.6 Surviving Obligations

- (a) Termination of this Agreement for any reason (including the passage of time), in whole or in part, shall be without prejudice to rights and obligations expressed in the Code 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 the Contractor is more than one person and circumstances arise in which the Designated Authority may terminate an Authorisation, the Designated Authority may, on such conditions as it may decide, elect to 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 persons 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 persons agree (including as to such conditions).

Article 3 Relinquishment of Blocks

3.1 Periodic Relinquishment of Exploration Area

- (a) The Contractor shall relinquish:
 - (i) at the end of the third (3rd) Contract Year, not less than twenty five (25) percent of the Sub-Blocks in the original Contract Area; and
 - (ii) at the end of the fifth (5th) Contract Year, not less than a further twenty five (25) percent of the Sub-Blocks in the original Contract Area.
- (b) At the end of any Contract Year, and subject to paragraph 3.1(e), the Contractor may relinquish some or all, of the Sub-Blocks in the Contract Area. Any Sub-Blocks so relinquished will be credited against the next relinquishment obligation of the Contractor under paragraph 3.1(a).
- (c) The Contractor shall consult with and give not less than thirty (30) days notice to the Designated Authority of the Sub-Blocks which, at any time, it wishes to relinquish. Except with the consent of the Designated Authority:
 - (i) those Sub-Blocks must form one discrete area; and
 - (ii) the Sub-Blocks 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 Contractor does not relinquish Sub-Blocks at the time and in the manner required by this sub-Article 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 Designated Authority, and notwithstanding sub-Article 3.1, the Contractor may not relinquish all of the Sub-Blocks in the Contract Area if it has not then fulfilled its obligations under sub-Articles 4.1, 4.2 and 4.3, or is then in breach of any provision of this Agreement.

3.2 Final Relinquishment of Exploration Area

- (a) At the end of the seventh (7th) Contract Year, the Contractor shall relinquish all of the Contract Area other than such part thereof as is a Development Area.
- (b) If, at the end of the seventh (7th) Contract Year, a Discovery has been made but there has been insufficient time for the Contractor (acting, and having acted, in accordance with this Agreement) to Appraise it, the obligation of the Contractor under sub-Article 3.2 shall be postponed:
 - (i) for such Sub-Blocks, and to such depths as the Designated Authority may determine to be reasonably necessary to encompass the Field, plus a reserve margin sufficient to cover the probable extent of the field;
 - (ii) for such period as is reasonably necessary to permit the Contractor to Appraise (or to complete the Appraisal of) the Discovery; andas a consequence of that Appraisal, for the Contractor to decide whether to declare a Commercial Discovery and, if it does so, for the Designated Authority to declare a Development Area in respect of it.

3.3 Relinquishment of Development Area

- (a) Except with the consent of the Designated Authority and subject to paragraph 3.3(b) below, 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, as is determined by the Designated Authority in consultation with the Contractor under sub-Article 18.2); and
 - (ii) the twenty fifth (25th) anniversary of the date on which the first (1st) Development Plan in respect of the Development Area was approved by the Designated Authority.
- (b) Where the Contractor has entered into contracts for the sale of Natural Gas, which have been approved as part of a Development Plan, then relinquishment shall be no earlier than the expiry date of those contracts.
- (c) Without the consent of the Designated Authority, the Contractor 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 Contractor 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 Designated Authority may, at the request of the Contractor, declare a Gas Retention Area in respect of it for that period. On request of the Contractor, and after demonstration that the grant of an extended period is likely to result in the declaration of a Commercial Discovery, the Designated Authority may extend the period of the Gas Retention Area for such longer period, and on such conditions, as is considered appropriate by the Designated Authority.
- (b) This Article 3 (but not sub-Article 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 Contractor diligently seeks to make it commercially viable, and demonstrates to the Designated Authority that it is doing so.
- (c) The Gas Retention Area consists of those Sub-Blocks (forming a single contiguous area) that encompass the Gas Field, plus a reserve margin sufficient to cover the probable and possible extent of it, but the Designated Authority may exclude deeper formations in which no Discovery has been made. The Designated Authority, at any time and from time to time, and whether of its own volition or at the request of the Contractor, may:
 - (i) add Sub-Blocks then in the Contract Area to;
 - (ii) remove Sub-Blocks from; or
 - (iii) vary by depth within the Contract Area,a Gas Retention Area as may be required to ensure that it encompasses the Gas Field. The Contractor shall relinquish any part of the Contract Area removed from a Gas Retention Area as a consequence of such removal 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);
 - (ii) the Contractor ceasing to meet its obligations under paragraph 3.5 (b); and
 - (iii) the Contractor declaring a Commercial Discovery in respect of it and the Designated Authority declaring a Development Area as a consequence thereof.

3.6 Oil Retention Area

If the Appraisal of a Discovery of a Crude Oil Field 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 Designated Authority may in its absolute discretion, at the request of the Contractor, declare an Oil Retention Area in respect of it, or any part thereof, for that period on such terms and conditions as the Designated Authority considers appropriate.

Article 4 Work Programmes and Budget

4.1 Commitment in Initial Period

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

| Contract Year | Data Evaluation | Surveys | Wells |
|----------------------|------------------------|----------------|--------------|
| 1 | [•] | [•] | [•] |
| 2 | [•] | [•] | [•] |
| 3 | [•] | [•] | [•] |

4.2 Commitment in Second Period

In each Contract Year mentioned below, and unless the Contractor has relinquished all of the Contract Area (not being a Development Area, Oil Retention Area or a Gas Retention Area) before the start of the fourth (4th) Contract Year, the Contractor shall carry out an Exploration Work Programme and Budget of not less than the amount of work specified for that Contract Year:

| Contract Year | Data Evaluation | Surveys | Wells |
|----------------------|------------------------|----------------|--------------|
| 4 | [•] | [•] | [•] |
| 5 | [•] | [•] | [•] |

4.3 Commitment in Third Period

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

| Contract Year | Data Evaluation | Surveys | Wells |
|----------------------|------------------------|----------------|--------------|
| 6 | [•] | [•] | [•] |
| 7 | [•] | [•] | [•] |

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 Contractor 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 Designated Authority, 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 Contractor 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;
 - (vi) the Contractor and the Designated Authority agree to terminate the drilling operation; or
 - (vii) the Designated Authority 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 Contractor's 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 Contractor informs the Designated Authority pursuant to sub-Article 4.9 that the Discovery merits Appraisal, that well will be deemed to have met its objective and to have satisfied the Contractor's obligations in respect of that well.

4.5 Consequences of Non-Performance

- (a) If, in a Contract Year, the Contractor carries out less Exploration than is required of it under the Exploration Work Programme and Budget, the Designated Authority may:
 - (i) require that the shortfall be added to the Exploration to be carried out in the next Contract Year;

- (ii) require payment of the estimated cost of the Exploration not carried out in that Contract Year; or
 - (iii) terminate this Agreement and require payment of the estimated cost of the Exploration not carried out in that Contract Year.
- (b) If, in a Contract Year, the Contractor carries out more Exploration than is required of it, 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, and of Article 6 and Annex C and except with the consent of the Designated Authority, no work in a Development Area will be regarded as Exploration except to the extent 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 sub-Article 4.7, the Contractor shall carry out Petroleum Operations substantially in accordance with Work Programmes and Budgets approved by the Designated Authority. Such an approval by the Designated Authority is without prejudice to any other obligation or liability of the Contractor under this Agreement.

4.7 Emergency and Other Expenditures Outside Work Programmes and Budgets

- (a) Without further approval by the Designated Authority, the Contractor may overexpend, by ten percent (10%) on any line item in an approved Work Programme and Budget for a Contract Year.
- (b) Without further approval by the Designated Authority, the total of all over-expenditures under paragraph 4.7(a) under that Work Programme and Budget for that Contract Year shall not exceed ten percent (10%) of the total expenditures in that Work Programme and Budget.
- (c) The Contractor shall promptly inform the Designated Authority if it anticipates (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 (b), the Designated Authority 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 Contractor to fulfill its obligations under this Agreement.
- (e) Nothing in sub-Article 4.6 or paragraph 4.7(a) precludes or excuses the Contractor 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 Designated Authority of the details of the emergency and of the actions it has taken and intends to take.

4.8 Exploration

- (a) The Contractor shall submit, for the approval of the Designated Authority, an Exploration Work Programme and Budget for each Calendar Year.
- (b) From time to time, the Contractor may submit, for the approval of the Designated Authority, amendments to the Exploration Work Programme and Budget.
- (c) The Contractor is not obliged to carry out more Exploration in a Contract Year than is required by sub-Articles 4.1, 4.2 and 4.3.

4.9 Discovery and Appraisal

- (a) The Contractor shall notify the Designated Authority of a Discovery and shall provide the Designated Authority with such information in respect of it as the Code requires.
- (b) As soon as reasonably practicable after a Discovery is made, the Contractor shall advise the Designated Authority whether or not, having regard to paragraph 4.9(e), the Discovery merits Appraisal.
- (c) At such time and in such manner as the Designated Authority requires, the Contractor shall submit, for the approval of the Designated Authority, an Appraisal Work Programme and Budget for each Calendar Year.
- (d) From time to time, the Contractor may submit, for the approval of the Designated Authority, 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 Contractor 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 Designated Authority requires, including the Contractor's proposal as to that part of the Contract Area to be declared a Development Area.
- (c) The Designated Authority shall declare those Sub-Blocks which encompass the Field in which the Commercial Discovery has been made plus a reserve margin sufficient to cover the probable extent of the Field, to be a Development Area, but may exclude deeper formations in which no Discovery has been made. The Designated Authority, at any time and from time to time, of its own volition or that of the Contractor, may:

- (i) add Sub-Blocks then in the Contract Area to;
- (ii) remove Sub-Blocks from; or
- (iii) vary by depth within the Contract Area,

a Development Area as may be required to ensure that it encompasses the Field concerned, but not, unless the Designated Authority and the Contractor otherwise agree, after the first Development Plan in respect of the Development Area has been approved. The Contractor shall relinquish any part of the Contract Area removed from a Development Area as a consequence of such removal 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 Designated Authority, the Contractor shall submit, for the approval of the Designated Authority, a Development Plan for the Development Area.
- (b) From time to time, the Contractor may submit, for the approval of the Designated Authority, amendments to the Development Plan.
- (c) A Development Plan will be assessed on the basis of whether it would be undertaken by a person seeking diligently to develop and exploit (in accordance with this Agreement) the Petroleum in the Development Area in accordance with Good Oil Field Practice and in a way that promotes further investment and contributes to the long term development of Timor-Leste and Australia.
- (d) Except with the consent of the Designated Authority, 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 the JPDA;
 - (cc) facilities for transporting the Petroleum from the Contract Area and the JPDA; and
 - (dd) facilities, wherever located which are connected to any facilities mentioned in sub-paragraphs (bb) and (cc) above 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 including the commencement of Production and the specific rates of Petroleum production;
- (iv) the projected start of Commercial Production;
- (v) the Decommissioning Plan, in such detail as the Designated Authority requires, including a calculation of the Decommissioning costs, the annual contribution to the Decommissioning Cost Reserve, and the Contractor's proposal for the Decommissioning Security Agreement;
- (vi) an environmental impact statement and proposals for environmental management covering the life of the Development;
- (vii) a Contractor's proposal for ensuring the safety, health and welfare of persons in or about the proposed Petroleum Operations;
- (viii) the Contractor's proposals for:
 - (aa) the use of Timor-Leste goods and services;
 - (bb) training and employment of nationals and permanent residents of Timor-Leste; having regard to occupational health and safety requirements; and
 - (cc) processing Petroleum;
- (ix) the estimated capital expenditure covering the feasibility, fabrication, installation, commissioning and pre-production stages of the Development;
- (x) an evaluation of the commerciality of the Development, including a full economic evaluation;
- (xi) the Contractor's (and if more than one person, each such person's) proposals for financing;
- (xii) summary details and copies of
 - (aa) all contracts and arrangements made or to be made by the Contractor for the sale of Natural Gas;
 - (bb) (for information purposes only) 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 Contractor and which are relevant to the price at which (and other terms on which) it is to be sold by the Contractor 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 Contractor in respect of facilities downstream of the Field Export Point for transporting, processing, liquefying, storing, handling and delivering that Natural Gas; and

- (xiii) such other data and information (including in respect of insurance to be obtained by the Contractor, and buyers and shippers of Petroleum) as the Code requires and as the Designated Authority otherwise requires and is relevant to the Development Plan.
- (e) The Designated Authority shall not approve a Development Plan, or an amendment to it unless:
 - (i) a Decommissioning Security Agreement has been concluded in respect of the Development Area; and
 - (ii) the Designated Authority has consulted with the Joint Commission in relation to the Development Plan or amendment.

4.12 Development Work Programmes and Budgets

- (a) At such time and in such manner as the Code requires, and as the Designated Authority otherwise requires, the Contractor shall submit, for the approval of the Designated Authority, 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 that 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.
- (c) The Designated Authority may not unreasonably withhold its approval of a Development Work Programme and Budget properly submitted by the Contractor.

4.13 Approved Contracts

- (a) The Contractor 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 Contractor 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 Contractor may not amend, waive, or fail to enforce, any provision of an Approved Contract without the approval of the Designated Authority.

4.14 Decommissioning

- (a) The Contractor shall submit to the Designated Authority, for its approval, pursuant to sub-paragraph 4.11(d)(v), 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 Designated Authority 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 Contractor shall carry out the Decommissioning Plan substantially in accordance with its terms.
- (d) 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 additions made to the Decommissioning Costs Reserve 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 sub-paragraph 4.14(d)(i) and (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) Prior to Decommissioning, Security pursuant to the Decommissioning Security Agreement shall be provided by the Contractor in an amount equal to the sum of provisions made to the Decommissioning Costs Reserve, 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) After Decommissioning commences, the Designated Authority shall at the end of each Calendar Year review the amount of Security required for the outstanding Decommissioning and shall take into consideration any Decommissioning costs that have already been incurred.

- (c) Failure of the Contractor to provide Security and otherwise to fulfill 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 Contractor shall carry out Petroleum Operations, and shall procure that they are carried out, in a proper, efficient and workmanlike manner, and in accordance with the Code, this Agreement and Good Oil Field Practice.
- (b) In particular, the Contractor shall carry out Petroleum Operations, and procure that they are carried out, in such a manner as is required by paragraph 5.1(a) to:
 - (i) protect the environment, ensure that Petroleum Operations result in minimum ecological damage or destruction, and clean up pollution;
 - (ii) ensure the safety, health and welfare of persons in or about the Petroleum Operations;
 - (iii) maintain in safe and good condition and repair all structures, facilities, installations, equipment and other property, and other works, used or to be used in Petroleum Operations;
 - (iv) 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 Designated Authority; or
 - (dd) unless this Agreement otherwise provides,

abandon, decommission, transfer, remove and/or dispose of all structures, facilities, installations, equipment and other property, clean up the Contract Area and make it good and safe, and protect the environment, to the satisfaction of the Designated Authority.
 - (v) control the flow and prevent the waste or escape of Petroleum, water or any product used in or derived by processing Petroleum;
 - (vi) prevent the escape of any mixture of water or drilling fluid with Petroleum or any other matter;
 - (vii) prevent damage to Petroleum-bearing strata in or outside the Contract Area;
 - (viii) except with the consent of the Designated Authority, 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 Designated Authority directs;
- (ix) 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;
- (x) minimise interference with navigation and fishing; and
- (xi) remedy in a timely fashion any damage caused to the environment.

5.2 Access to Contract Area

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

5.3 Health, Safety and the Environment

- (a) Within three (3) months of the Effective Date, the Contractor shall submit to the Designated Authority, for its approval, plans in regard to:
 - (i) the 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),

in order to reduce the risks to the personnel and the environment so they are as low as reasonably practicable. The plans shall be reviewed annually and amended from time to time as may be necessary to ensure its continuing compliance with Good Oil Field Practice.

- (b) Notwithstanding anything elsewhere contained in this Agreement, the Contractor shall clean up pollution resulting from Petroleum Operations to the satisfaction of the Designated Authority, and meet the costs of so doing to the extent done by anyone else (including the Designated Authority).

5.4 Goods, Services, Training and Employment

The Contractor shall take reasonable steps to comply with the proposals which accompanied its application under sub-Section 5.4 of the Code for this Agreement in respect of training, employment and the acquisition of goods and services, and shall:

- (a) give persons based in Timor-Leste a real opportunity to compete for delivery of goods and services, 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 and permanent residents of Timor-Leste; and

- (c) within thirty (30) days of the end of each calendar year, submit to the Designated Authority a report demonstrating compliance with the above obligations.

5.5 Flaring

Except with the consent of the Designated Authority, or in an emergency, the Contractor shall not flare Petroleum.

5.6 Operator and its Sub-Contractors

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

Article 6 Recoverable Costs

6.1 Generally

- (a) The 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, including additions to the Decommissioning Costs Reserve, and (unless the Contractor is only one person and the Contractor and the Operator are that person) properly charged to the Contractor under an agreement made between them and consented to by the Designated Authority, 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) additions to the Decommissioning Costs Reserve, if any, 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; plus
- (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 Designated Authority:
 - (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 Designated Authority and as to sixty (60) percent by the Contractor.

7.2 Option of Designated Authority

- (a) Unless the Designated Authority elects otherwise as per paragraph 7.2(b), the Contractor shall take and receive, and dispose of, in common stream with its own share and on terms no less favourable to the Designated Authority than the Contractor receives for its own share, the Designated Authority's entire share of Petroleum.
- (b) The Designated Authority may make an election to take and separately dispose of the Designated Authority's share of Petroleum. Unless the Contractor otherwise agrees, which agreement will not be unreasonably withheld, the Designated Authority may not so elect other than:
 - (i) in respect of all, or the same percentage of all, of the Designated Authority's shares of Crude Oil for and throughout each Calendar Year, on not less than ninety (90) days prior written notice to the Contractor before the start of the Calendar Year concerned; and

- (ii) in respect of the Designated Authority's share of Natural Gas, in connection with its approval of Approved Contracts.

7.3 Lifting

- (a) Subject to this Agreement, the Contractor may lift, dispose of and export from the JPDA its share of Petroleum and retain the proceeds from the sale or other disposition of that share.
- (b) The Contractor and the Designated Authority 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 Contractor as a consequence of a failure of the Contractor to comply with its obligations under the Code and this Agreement (including sub-Article 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 the Contractor's Recoverable Costs under sub-Article 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 Designated Authority's share of Petroleum taken by the Contractor pursuant to sub-Article 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) The Contractor shall defend, indemnify and hold harmless the Designated Authority and/or the members of the Joint Commission from all claims and demands asserted in respect of Petroleum wherein the risk is with the Contractor.

7.5 Payment on Account

- (a) Unless the Designated Authority has made an election under paragraph 7.2(b), the Contractor shall pay to the Designated Authority an amount equal to the Designated Authority'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 Designated Authority of the estimated value of the Designated Authority's share of such Petroleum.

Article 8 Valuation of Petroleum

8.1 Point and type of Valuation

Petroleum shall be valued as if it were sold in an arm's length transaction f.o.b. (or equivalent) at the Field Export Point.

8.2 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 in an arm's length transaction other than f.o.b. (or equivalent) at the Field Export Point is the price payable for it, less such fair and reasonable proportion of such price that relates to the transportation, processing and delivery of the petroleum downstream of the Field Export Point up to the actual point of sale; or
- (c) Sold other than as mentioned in paragraphs 8.2(a) and (b) shall be the fair and reasonable market price thereof having regard to all relevant circumstances.

8.3 Value of Natural Gas

The value of Natural Gas shall be the price payable under the Approved Contract 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 and type of valuation in sub-Article 8. 1, or where a Contractor enters into a sale other than at arm's-length.

8.4 Price Payable

In this Article 8, the price payable is the price that is (or would be) payable by the buyer if the Petroleum were delivered by the Contractor and taken by the buyer, without set off, counterclaim or other withholding of any nature.

Article 9 Payments

9.1 Fees

The Contractor shall pay to the Designated Authority fees and other payments as provided for in the Code.

9.2 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.

9.3 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 month term, London Interbank Offer Rate (LIBOR) 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 percentage points, on and from the due date for payment until the amount, together with interest thereon, is paid in full.

9.4 Minimum Payment

If this Agreement is terminated for any reason before the end of the third Contract Year, the Contractor shall, on such termination, pay, to the Designated Authority, those fees which it would have paid under sub-Article 9.1 if termination had not occurred until the end of the third Contract Year.

Article 10 Provision of Goods and Services

10.1 Notice

- (a) Except with the consent of the Designated Authority, the Contractor shall draw to the attention of suppliers based in Timor-Leste and Australia, in such manner as the Designated Authority agrees, all opportunities for the provision of goods and services for Petroleum Operations.
- (b) Subject to sub-Article 10.2, the Contractor shall, before awarding any contract for goods or services, obtain the written approval of the Designated Authority. Approval from the Designated Authority shall be deemed thirty (30) days after written notice of an award is given by the Contractor, unless otherwise notified in writing to the Contractor.

10.2 Contracts Not Requiring Designated Authority's Approval

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

- (a) the contract (or related series of contracts) is expected to involve expenditure of less than two million (2,000,000) United States Dollars or such higher 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 (5,000,000) United States Dollars 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 (100,000,000) United States Dollars or such higher amount that may be specified by regulation.

10.3 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 and Australia or as agreed with the Designated Authority.
- (b) Notwithstanding sub-Article 10.2, and except with the consent of the Designated Authority, all goods and services shall be procured on an arm's length basis by competitive tendering, and the Contractor, before inviting any tender for goods or services, shall consult with the Designated Authority, in respect of:
 - (i) the list of bidders which the Contractor proposes 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;
 - (ee) the use of Timor-Leste content; and
 - (ff) the basis upon which bids will be evaluated.

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

- (c) If the Designated Authority grants an exception to the obligation at paragraph 10.3(b), it shall publish its reasons for doing so.
- (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 (100,000) United States Dollars, shall be established in accordance with the provisions of Annex C.

10.4 Emergencies

The foregoing provisions of this Article 10 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.

10.5 Other Information to be Provided

- (a) The Contractor shall submit to the Designated Authority copies of all contracts for the supply of goods and services for use in relation to Petroleum Operations promptly after their execution.
- (b) The Contractor shall, promptly after awarding a contract for the supply of goods and services in relation to Petroleum Operations following a tender as mentioned in sub-

Article 10.3, provide the Designated Authority with a detailed report on the reasons for the award.

- (c) From time to time, if requested by the Designated Authority, the Contractor shall, upon completion of a specific contract relating to the provision of goods and services in relation to Petroleum Operations, the price payable under which is in excess of one hundred thousand dollars (100,000) United States Dollars, submit to the Designated Authority 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 Designated Authority, the Contractor shall, within sixty (60) days after such request, submit to the Designated Authority, details of goods and services actually procured both from suppliers based inside and outside Timor-Leste and Australia.

Article 11 Title to Equipment

11.1 Property

- (a) Subject to sub-Article 11.2, 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 Contractor while so used or held for use, unless Contractor requests and obtains approval from the Designated Authority for an alternative arrangement.
- (b) Paragraph 11.1(a) does not apply to property leased to the Contractor, or leased by or belonging to third parties providing services.

11.2 Retention

- (a) The Designated Authority 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 11.1(a) installed on, or used exclusively in respect of, that area, by giving the Contractor a notice to that effect.
- (b) The Contractor shall have no further obligation or liability in respect of any property or other works acquired by the Designated Authority pursuant to paragraph 11.2(a) (but without prejudice to obligations and liabilities accrued prior thereto), and will repay, to the Designated Authority, all amounts included in the Decommissioning Costs Reserve claimed by the Contractor under Article 6 in respect of it before the acquisition, and shall, subject to paragraph 11.2(c), claim no further such amounts in respect of it.
- (c) In respect of any property which has not been fully cost recovered, the Designated Authority shall upon electing to acquire such property pursuant to this sub-Article pay, to the Contractor, an amount equal to the un-recovered costs of the property, including Uplift, calculated at the date of the election. For the purposes of this sub-Article it is assumed that costs are recovered in the order in which they were incurred.

Article 12 Consultation and Arbitration

12.1 Arbitration

- (a) If a dispute arises between the Designated Authority and the Contractor relating to the interpretation and performance of this Agreement and relevant provisions of the Treaty and the Code, the parties shall attempt to resolve that dispute by means of negotiation.
- (b) If such a dispute cannot be resolved by negotiation within a period of ninety (90) days of notification by either party of a dispute, either party may submit that dispute to arbitration in accordance with the terms set out in this Article 12.

12.2 Procedure

- (a) Arbitration shall be conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC).
- (b) The Designated Authority and the Contractor shall each appoint one arbitrator and those two arbitrators shall appoint a third. If either Party fails to appoint an arbitrator within thirty (30) days after receipt of a written request to do so, such arbitrator shall, at the other Party's request, if the Parties do not otherwise agree, be appointed upon application to ICC. If the first two arbitrators appointed fail to agree on a third within thirty (30) days of the second arbitrator being appointed, the third arbitrator shall, if the Parties do not otherwise agree, be appointed, at the request of either Party, upon application to ICC. If an arbitrator fails or is unable to act, that arbitrator's successor shall be appointed in the same manner as the arbitrator who is replaced.
- (c) The majority decision of the arbitrators shall be final and binding on the Parties. An award made may be enforced in any court having jurisdiction for the purpose.

12.3 Location and Language

The place of arbitration shall be Singapore. The language of the arbitration shall be English.

12.4 Commercial Arrangement: Waiver of Sovereign Immunity

- (a) This Agreement is a commercial agreement.
- (b) Both the Designated Authority and the Contractor waive any claim to sovereign immunity which they may have, both as to process and execution.

12.5 Obligations Continue During Arbitration

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

Article 13 Financial and Technical Data, Records and Reports

13.1 Ownership

- (a) The Designated Authority shall have title to all technical data and information acquired in respect of
 - (i) the sea bed or subsoil in the JPDA;
 - (ii) Petroleum therein; and
 - (iii) the superjacent waters,in the course of, or as a result, of Petroleum Operations.
- (b) Paragraph 13.1(a) includes all raw data and information (including cores, cuttings, samples, and all geological, geophysical, geochemical, drilling, well, production and engineering data and information) that the Contractor collects and compiles through Petroleum Operations. It does not include data obtained from special studies carried out by or for the Contractor that uses special proprietary software or procedures. It also does not include interpretations that have particular commercial or regional significance to a Contractor (over and above that which is necessary for the commercial evaluation and development of a Contract Area) and in respect of which the eligible recoverable cost attributable to the Contract Area is a small proportion of the total cost of the interpretations.

13.2 Records, Storage, Retrieval and Submission

- (a) The 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 sub-Article 13.1 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) The Contractor shall make the originals or copies of all such data, information and records available to the Designated Authority (or as it shall direct) at reasonable times at the Operator's offices in Timor-Leste, and shall promptly deliver the same to the Designated Authority (or as it directs) as and when, and in such manner as, the Designated Authority specifies.
- (c) Without prejudice to paragraph 13.2(b), the Contractor shall store all such data and information as the Designated Authority, after consultation with the Contractor, reasonably directs, and otherwise in accordance with Good Oil Field Practice.
- (d) The Contractor may retain copies of all such data and information and records delivered to the Designated Authority for use in or in relation to Petroleum Operations and its complying with obligations under law, but not otherwise without the consent of the Designated Authority.
- (e) Except with the consent of the Designated Authority, or as required by law or the rules of a recognised stock exchange, the Contractor may not sell or disclose any

such data, information and records without the consent of the Designated Authority or as otherwise provided in this Agreement.

13.3 Reports

The Contractor shall provide the Designated Authority with such reports as are mentioned in Annex C and as the Designated Authority directs.

13.4 Export of Data and Information

No such data, information and records shall be taken out of, or transmitted from or stored outside, Timor-Leste or Australia without the consent of the Designated Authority, which 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 or Australia and accurate copies (or useable and representative samples) are retained in Timor-Leste or Australia.

13.5 Use of Data and Information

- (a) The Designated Authority may make such use as it wishes of the data and information mentioned in this Article 13, and nothing in sub-Articles 13.6 or 13.7 prevents the Designated Authority 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 Designated Authority, the Contractor may only use the data and information mentioned in sub-Article 13.1 for its Petroleum Operations or for an application for an Authorisation or for reporting information to its Affiliates provided that the Authorised Person first procures that any such Affiliates agree to be bound by this paragraph 13.5(b).

13.6 Confidentiality of Data and Information

- (a) Except as otherwise provided in this Agreement or with the consent of the Contractor, the Designated Authority shall not publicly disclose or, other than for the purpose of the administration of the Treaty or the Code, or as otherwise required by the Treaty or the Code or for the purpose of the resolution of disputes under this Agreement, make available to any person, any data or information mentioned in sub-Article 13.1 until the earlier of
 - (i) five (5) years after the data or information was acquired by the Contractor; and
 - (ii) this Agreement ceasing to apply;
- (b) Except with the consent of the Designated Authority, and in accordance with the conditions (if any) of the consent, the Contractor shall not disclose the data or information mentioned in sub-Article 13.1 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 Contractor shall procure that a person mentioned in sub-paragraph 13.6(b)(i) maintains the data and information disclosed to it confidential in the terms of this Article 13.

13.7 Trade Secrets

- (a) Except with the consent of the Contractor, and notwithstanding sub-Article 13.6, the Designated Authority shall not publicly disclose or, other than for the purpose of the administration of the Treaty or the Code, or as otherwise required by the Treaty or the Code or for the purpose of the resolution of disputes under this Agreement, make available to any person, any data or information submitted to it by the Contractor which:
 - (i) is a trade secret of, or other 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 Designated Authority.
- (b) Without prejudice to sub-paragraph 13.7(a)(i):
 - (i) the Designated Authority 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 information which it has marked pursuant to sub-paragraph 13.7(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 sub-Article 13.7.

Article 14 Management of Operations

14.1 Constitution of Committee

For the purpose of this Agreement there will be a committee consisting of [•] representatives of the Designated Authority, one of whom shall be the chairperson, and the same number of representatives of the Contractor, as nominated by the Designated Authority and the Contractor respectively. For each of its representatives, the Designated Authority and the Contractor may nominate an alternate to act in the absence of the representative.

14.2 Meetings

- (a) The Committee will meet at least twice in each year in the Designated Authority's offices or such other place as the Designated Authority may advise upon the chairperson 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 Contractor is required to submit under Article 14; 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 Contractor or the Designated Authority may request a meeting of the Committee at any time by giving written notice to the chairperson. Such notice shall include a full description of the purpose of the meeting. The chairperson shall thereupon give notice and call such a meeting.

Article 15 Third Party Access

15.1 Third Party Access

- (a) The Contractor 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 Contractor shall use all reasonable efforts to negotiate a satisfactory agreement for third party access, and where mutual agreement can not be reached, the Designated Authority after consultation with the Joint Commission, shall set the terms for such third party access after taking into account internationally accepted principles, Good Oil Field Practice and operational requirements and standards.

Article 16 Audit

16.1 Independent Audit

The Designated Authority 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 Designated Authority within sixty (60) days following the completion of the audit. There shall be a period of at least twelve (12) months between independent audits except in the case of manifest error or fraud.

16.2 Designated Authority Audit

The Designated Authority 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).

16.3 Exceptions

- (a) All audit exceptions shall be raised by the Designated Authority within six (6) months after receipt of the independent auditor's report by the Designated Authority or completion of the audit by the Designated Authority (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.

16.4 Contractor to Assist

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

16.5 Affiliates

The foregoing provisions of sub-Article 16.1 apply in respect of Affiliates of the Contractor. The Contractor shall use its best endeavours to procure that its Affiliates comply with them.

Article 17 Indemnity and Insurance

17.1 Indemnity

The Contractor shall at all times defend, keep effectually indemnified and hold harmless the Designated Authority and the members of the Joint Commission against all actions, suits, proceedings, costs charges, claims and demands whatsoever (including for economic loss) which may be made or brought against the Designated Authority and/or the members of the Joint Commission wheresoever by any third party in relation to or in connection with this Agreement or resulting, directly or indirectly, from Petroleum Operations under this Agreement or any other matter or thing done or purported to be done in pursuance of this Agreement or in the conduct of Petroleum Operations, notwithstanding that the Designated Authority and/or the members of the Joint Commission may have approved in any manner or form whatsoever thereof or that such may have been permitted or required by the terms of the Treaty, the Code (including any regulation made or direction given thereunder) or this Agreement, or that the Designated Authority and/or the members of the Joint Commission could have exercised, but did not exercise, any power, function, right or authority to prohibit the same. The Designated Authority and/or the members of the Joint Commission shall give

the Contractor prompt notice of any such claim and shall not settle it without the prior consent of the Contractor.

17.2 Insurance

- (a) The Contractor shall:
 - (i) unless the Designated Authority is satisfied from time to time, after consultation with the Contractor, that the potential liability under sub-Article 17.1 can be covered by other means, including self-insurance, maintain insurance in respect thereof for such amount and on such terms as the Designated Authority requires from time to time; and
 - (ii) take out and maintain insurance in respect of such other matters as the Designated Authority requires (including in respect of pollution), for such amounts as the Designated Authority requires from time to time and otherwise as required by Good Oil Field Practice, unless the Designated Authority is satisfied from time to time, after consultation with the Contractor, that the potential liability can be covered by other means, including self-insurance.
- (b) All such insurances shall name the Designated Authority and the members of the Joint Commission as co-insured, and shall waive all rights of subrogation against the Designated Authority and the members of the Joint Commission.

Article 18 Force Majeure

18.1 Force Majeure Relief

- (a) Subject to the further provisions of this Article 18, 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 18.1(a), the following shall not be Force Majeure:
 - (i) failure to pay money;
 - (ii) in the case of the Contractor, the law, or any action or inaction of the government, of a place other than Timor-Leste or Australia (or of a political subdivision thereof);
 - (iii) in the case of the Designated Authority, the law, or any action or inaction of the government, of Timor-Leste or Australia;
 - (iv) in the case of the Contractor, 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 Contractor, 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.

18.2 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.

18.3 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.

18.4 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 18) be Force Majeure affecting it.

18.5 Extension of Time

If Force Majeure materially prevents, hinders or delays Petroleum Operations for more than one (1) month, 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 19 Restrictions on Assignment and Change in Control

19.1 Assignment

- (a) Except with the consent in writing of the Designated Authority, and unless in accordance with the conditions of the consent, where the Contractor assigns or

otherwise deals with this Agreement, the Designated Authority may terminate this Agreement.

- (b) Paragraph 19.1(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 sub-Article 19.1, be held for the benefit of, or be exercisable by or for the benefit of, any other person.
- (c) Paragraph 19.1(a) does not apply to an agreement for the sale or exchange of Crude Oil where the sale or exchange occurs after title thereto has passed to the Contractor.
- (d) If, notwithstanding paragraphs 19.1(a) and (b), any assignment or other dealing is effective by the laws of Timor-Leste, Australia or any other place without that consent, the Designated Authority may terminate this Agreement.
- (e) The Designated Authority 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.

19.2 Change in Control

- (a) Except with the consent of the Designated Authority, if:
 - (i) there is a Change in Control of the Contractor (or, if more than one person, any such person);
 - (ii) within thirty (30) days after the Contractor has advised the Designated Authority in reasonable detail of the Change in Control, the Designated Authority 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 Designated Authority may terminate this Agreement.

- (b) Paragraph 19.2(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 19.2(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 20 Other Provisions

20.1 Notices

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

20.2 Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of England.

20.3 Third Party Rights

Unless specifically provided in this Agreement, the Parties do not intend that any term of this Agreement be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 (UK) by any person who is not a Party to this Agreement.

20.4 Amendments/Modification

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

20.5 Entire Agreement

This Agreement in conjunction with the provisions of the Treaty and the Code 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.

The Designated Authority

BY:

[Insert Date]

BY:

BY:

[CONTRACTOR]

Annex A Contract Area Description

Annex B Map of The Contract Area

Annex C Accounting Procedure

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 the 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) The 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, the Contractor shall submit to the Designated Authority, 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 Designated Authority thereon.

1.3 Language and Units of Account

- (a) Metric units and barrels shall be employed for measurements and quantities under this Agreement.
- (b) The Accounting Records, and all reports to the Designated Authority, will be in English.
- (c) The Accounting Records, and all reports to the Designated Authority, 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 Designated Authority.
- (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 sub-Article 4.7 of this 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 Designated Authority, 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 sub-Article 4.7 of this Agreement, including costs of:

- (a) workshops, power and water facilities, warehouses, site offices, access and communication facilities;
- (b) 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, and secondary recovery systems;

- (c) pipelines and other facilities for transporting Petroleum produced in the Contract Area to the Field Export Point;
- (d) movable assets and subsurface drilling and production tools, equipment and instruments, and miscellaneous equipment;
- (e) floating craft, automotive equipment, furniture and office equipment; and
- (f) if approved by the Designated Authority, employee and welfare housing, recreational, educational, health and meals 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 and Production Work Programme and Budget, but without prejudice to sub-Article 4.7 of this Agreement.

2.5 **Decommissioning Costs Reserve**

Decommissioning Costs Reserve is the amount determined in accordance with paragraph 4.14(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 the 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 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 as determined by the Designated Authority, 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 Code;
- (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 either Timor-Leste or Australia made in accordance with Article 5 of the Treaty and Annex G of the Treaty, 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 Designated Authority, costs incurred in respect of Petroleum after it has passed the Field Export Point;

- (k) costs incurred as a result of non-compliance by the Contractor with the law or this Agreement, including costs incurred as a result of any negligent act or omission, or willful misconduct, of the Contractor, its agents and sub-contractors, including any amount paid in settlement of any claim alleging negligence or willful 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 Designated Authority, 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, if any, under Article 9 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 intragroup corporate reporting requirements (whether or not required by law);
- (q) except with the consent of the Designated Authority 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 Designated Authority, costs, including donations, relating to public relations or enhancement of the Contractor'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 Designated Authority, but subject to sub-Article 4.7 of this Agreement, costs not included in a Budget for the relevant Year; and
- (v) costs not falling within any of the above items which are stated elsewhere in this Agreement not to be recoverable (including in paragraph 2.1(d) of Article 2), or costs incurred without the consent or approval of the Designated Authority (where such is required).

2.9 Other Matters

- (a) The methods mentioned in this 2.9 will be used to calculate Recoverable Costs.
- (b) Depreciation is not a Recoverable Cost.
- (c) The method for the allocation of general and administration costs, other than direct charges, allocable to Petroleum Operations proposed by the Contractor shall be

subject to approval by the Designated Authority, and 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.
- (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) The Contractor's locally recruited employees based in Timor-Leste or Australia: Costs of all locally recruited employees who are directly engaged in the conduct of Petroleum Operations in the JPDA, Timor-Leste or Australia. 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 and Australia 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) Assigned Personnel: Costs of salaries and wages including bonuses of the Contractor's employees directly and necessarily engaged in the conduct of the Petroleum Operations, 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 or Australia 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 or Australia 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 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 sub-paragraph 3.4(b)(ii) or Clause 3.6 or paragraph 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 chargeout 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 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 Designated Authority.

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.

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) Acquisition – the Contractor shall only supply or purchase materials for use in Petroleum Operations that may be used in the foreseeable future. The accumulation of surplus stocks and inventory shall be avoided so far as is reasonably practical and consistent with efficient and economical operations. Inventory levels shall, however, take into account the time lag for replacement, emergency needs, weather conditions affecting operations and similar considerations.
- (b) Components of costs, arm's length transactions – except as otherwise provided in paragraph 3.8(d), 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) per cent of the value of the materials may be added to the cost of the materials purchased.
- (c) Accounting – such material costs shall be charged to the Accounting Records and books in accordance with the "First in, First out" (FIFO) method.
- (d) Material purchased from or sold to Affiliates of the Contractor or transferred from other activities of the Contractor to or from Petroleum Operations shall be valued and charged or credited at the prices specified in sub-paragraphs 3.8(d)(i), 3.8(d)(ii) and 3.8(d)(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"):
 - (aa) 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 sub-paragraph 3.8(d)(i).
 - (bb) Materials which cannot be classified as Condition "B" but which are 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 sub-paragraph 3.8(d)(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.
 - (cc) 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 sub-paragraph 3.8(d)(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 sub-paragraph 3.8(d)(ii)(bb), 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 Designated Authority of the proposed charge prior to charging Petroleum Operations for such material and the Designated Authority 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 or Australian 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 Designated Authority 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 3.4(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 (3) years with respect to immovable assets. The Contractor shall give the Designated Authority at least thirty (30) days written notice of its intention to take such inventory and the Designated Authority 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 Designated Authority 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 Designated Authority 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 re-injected 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 Designated Authority 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 therefor by the Contractor 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 Designated Authority not later than twenty one (21) days after the end of such Quarter.

Clause 7 Cost Recovery Statement

7.1 Quarterly Statement

The 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

Quarterly Cost Recovery Statements shall be submitted within fifteen (15) working 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 Year. The Annual Statement shall contain the categories of information listed in Clause 7.1 for the Year in question, separated into the Quarters of the Year in question, and showing the cumulative positions at the end of the Year in question.

Clause 8 Statements of Expenditure and Receipt

8.1 Quarterly Statement

The Contractor 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 Year in question;
- (c) latest forecast cumulative expenditures at the 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 Designated Authority no later than fifteen (15) days after the end of such Quarter.

8.2 Annual Statement

The 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 Designated Authority within ninety (90) days of the end of such Calendar Year.