

REPUBLIC OF SEYCHELLES

2013 MODEL PETROLEUM AGREEMENT

JUNE 2013

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SCHEDULES

FIRST SCHEDULE	Agreement Area
SECOND SCHEDULE	Minimum Exploration Work Programme
THIRD SCHEDULE	Accounting Procedure
FOURTH SCHEDULE	Parent Company Performance Guarantee

THIS Agreement (the “Agreement”) is made effective the day of in the year (“Effective Date”) **BETWEEN** the Minister of [INSERT RELEVANT MINISTER RESPONSIBLE FOR PETROLEUM] and PETROSEYCHELLES on behalf of the Government of the Republic of Seychelles (“the Government”) on the one part **AND** _____, a company incorporated under the laws of and registered in the Republic of the Seychelles..... (in this Agreement called "the Company" which expression shall, where the context allows, include its assigns) of the second part;

WHEREAS: -

- (a) All Petroleum existing in its natural state within Seychelles is the property of Seychelles and held in trust by the State;
- (b) The discovery and exploitation of Petroleum are important for the long term sustainable economic development of the country and the people of Seychelles;
- (c) The Company wishes to undertake Petroleum Operations in respect of the Agreement Area;
- (d) The Government enjoys sovereignty and sovereign rights under international law with respect to Petroleum exploration and exploitation in Seychelles;
- (e) The Government wishes to promote the development of Petroleum exploration and exploitation and the Company wishes to assist in the exploration for and production of Petroleum resources which may be discovered within the Agreement Area;
- (f) The Company represents that it has the financial resources, the technical competence, expertise and management structure and organisational capacity necessary to carry out the Petroleum Operations specified in this Agreement;
- (g) The Company has made an application under the Petroleum Mining Act, 1976, for a Petroleum Agreement in respect of the Agreement Area referred to in the First Schedule to this Agreement; and,
- (h) The Company has agreed to enter into this Agreement under the terms, and with the benefits, but subject to the provisions, of this Agreement:

THE PARTIES TO THIS AGREEMENT AGREE AS FOLLOWS:

1. **Definitions**

(1) In this Agreement, unless the context otherwise requires -

"Affiliate" means a company or any other entity which directly or indirectly controls or is controlled by a company or entity which itself directly or indirectly controls any entity constituting the Company. Such "control" means direct or indirect ownership by a company or any other entity of holding fifty per-cent (50%) or more of the shares, conferring voting rights, forming the stock of another company;

"Agreement Area" means the area described in the First Schedule to this Agreement, and thereafter, in accordance with Clause 4 the whole or any part of such area in respect of which the Company continues to have rights and obligations under this Agreement;

"Annual Plan" means the Annual Plan referred to in Clause 6 of this Agreement;

"Appraisal Programme" means a programme carried out following a discovery of Petroleum for the purpose of delineating the accumulation of Petroleum to which that discovery relates in terms of thickness and lateral extent and estimating the quantity of recoverable Petroleum therein;

"Appraisal Well" means a well drilled after the discovery of Petroleum to delineate the limits of the field on the same geological entity within the same structural or stratigraphic level of closure as the discovery;

"Arm's Length" shall have the meaning as set out in subsection 7(4) of the Petroleum (Taxation) Act;

"Associated Natural Gas" means Natural Gas produced from any well in the Agreement Area the predominant production of which is Crude Oil and which is separated from Crude Oil in accordance with Best International Petroleum Industry Practice, including the free gas cap, but shall exclude any liquid hydrocarbons extracted from such natural gas either in normal field of separation, dehydration or in a gas plant;

“Barrel” means a U.S. barrel, i.e., 42 U.S. gallons measured at a temperature of 60 degrees Fahrenheit and under an atmospheric pressure of 14.65 psia.

“Best International Petroleum Industry Practice(s)” means all those uses and practices that are, at the time in question, generally accepted in the international petroleum industry as being good, safe, economical, environmentally sound and efficient concerning the exploration, development, production, recovery, processing and transportation of Petroleum. These uses and practices should reflect standards of service and technology that are either state-of-the-art or otherwise appropriate to the operations in question and be applied using standards in all matters that are no less rigorous than those in use by the petroleum industry in other jurisdictions;

"Calendar Month" or "Month" means any of the twelve (12) months of the Calendar Year;

“Calendar Quarter” or “Quarter” means a period of three (3) consecutive months beginning on January 1, April 1 July 1, October 1 and ending on the following March 31st, June 30th, September 30th or December 31st respectively, according to the Gregorian calendar;

“Calendar Year” or “Year” means a period of twelve (12) consecutive months beginning on January 1st and ending on the following December 31st, according to the Gregorian calendar;

“Commercial Discovery” means a discovery of a Petroleum Field which is declared commercial by the Company pursuant to Clause 8 of this Agreement taking into account all technical and financial data collected from works under an Appraisal Programme or similar operations, including but not limited to, recoverable reserves of Petroleum, sustainable regular production levels and, other material technical and economic parameters considered in accordance with Best International Petroleum Industry Practice;

"Condensate" means a naturally occurring mixture consisting chiefly of pentane and other heavier hydrocarbons, which may contain other substances, which is extracted or is extractable from a deposit through normal exploitation drilling and which, although even if found in the gaseous state in a deposit, is present in liquid state under normal conditions or pressure and temperature;

"Contract Year" means a period of 365 days (or 366 days in a leap year) commencing on the Effective Date or on any anniversary of that date;

“Company” means _____ [*list all corporate entities when the Company is constituted by more than a company*] and any of its successors and permitted assigns that shall act hereunder for Company and shall conduct Petroleum Operations;

"Crude Oil" means crude mineral oil, asphalt, ozokerite, and other petroleum hydrocarbons in either liquid or solid form at the well head or gas/oil separator or which is extracted from the gas or casing head gas in a plant including distillate, Condensate and Natural Gas Liquids produced from the Agreement Area;

"Decommissioning Plan" means a plan that encompasses measures to be taken by the Company upon cessation of production operations of a Petroleum Field to remove or otherwise deal with all wells, installations, equipment, pipelines and other facilities, whether on-shore or off-shore, erected or used for purposes of such operations and to rehabilitate land disturbed by way of such operations that has been approved in accordance with Clause 28 of this Agreement;

"Decommissioning Fund" means a fund referred to in Clause 28 of this Agreement;

“Delivery Point” means the place after extraction, specified in this Agreement as part of an approved Development Plan of a Petroleum Field, at which the Crude Oil and/or Natural Gas is ready to be taken and disposed of, consistent with Best International Petroleum Industry Practice, or such other point agreed by the Parties;

"Development Expenditures" means the expenditures so categorized in Section 2 of the Accounting Procedure;

“Development Area” means the area encompassing a Petroleum Field as approved by the Parties under the Development Plan of the relevant Field;

“Development Operations” means all development operations or works conducted in accordance with a Development Plan with a view to developing a Petroleum Field in which a Commercial Discovery has been made, including but not limited to: drilling of wells; primary and subsequent recovery projects and pressure maintenance; survey, engineering, building and erecting or laying of production plants and facilities (including but not limited to: separators; compressors; generators; pumps and tankage; gathering lines; pipelines and all facilities required to be installed for

production, pressure maintenance, and treatment, storage and transportation of Petroleum and loading Petroleum in tankers, up to the approved Delivery Point for the Petroleum Field; obtaining of such materials, equipment, machinery, items and supplies as may be required or expedient for the foregoing activities; and all auxiliary operations and activities required or expedient for the better conduct or result of production of Petroleum in the subsurface of the Agreement Area;

"Development Phase" means the Development Phase of this Agreement in respect of a Petroleum Field, including development and production, as defined in Clause 3 of this Agreement;

"Development Plan" means the plan referred to in Clause 8 of this Agreement;

"Development Well" means a well drilled within the presently known productive area of a Petroleum Field as is indicated by appropriate interpretation of sub-surface data, drilled to the depth of the stratigraphic horizon within the known productive reservoir with the objective of obtaining Petroleum from that reservoir;

"Effective Date" means the date on which this Agreement enters into force;

"Exploration Expenditures" means the expenditures so categorised in Section 2 of the Accounting Procedure;

"Exploration Phase" means the Exploration Phase of this Agreement as defined in Clause 3;

"Exploratory Well" means a well, other than an Appraisal Well, drilled in an Exploration Phase with the object of exploring for undiscovered hydrocarbons on a geological entity (be it of structural, stratigraphic, facies or pressure nature) penetrating all prospective horizons at a particular location that are within the terms of the work programme, or a well other than an Appraisal Well or Development Well drilled for exploration purposes in a Development Area;

"FANCP" has the meaning specified in Clause 13 of this Agreement;

"Force Majeure" means an exceptional event or circumstance that renders the performance of obligations under this Agreement impossible:

- (a) which is beyond a Party's control;

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- (b) which such Party could not reasonably have planned for or provided against before entering into this Agreement;
 - (c) which, having arisen, such Party could not reasonably have avoided or overcome; and,
 - (d) which is not substantially attributable to the other Party.

"Marginal Petroleum Field" means a Field containing estimated Crude Oil proved and probable reserves not exceeding 25 million barrels of Crude Oil and limited to a maximum cumulative production of 25 million barrels of Crude Oil extracted from all Marginal Petroleum Fields located within the Agreement Area;

"Minister" means the Minister responsible for Petroleum exploration, development and production in the Republic of Seychelles;

"Ministry" means the ministry in the Government that exercises responsibility for matters related to Petroleum exploration, development and production;

"Natural Gas" means methane, ethane, propane, butane and wet or dry gaseous hydrocarbons as recovered at the well head, including gaseous products extracted in association with Petroleum, such as nitrogen, hydrogen sulfide, carbon dioxide and helium, but excluding water and foreign substances;

"Net Cash Receipts" or "NCR" has the meaning specified in Clause 13 of this Agreement;

"Non-associated Natural Gas" means free Natural Gas not produced in contact with or dissolved in Crude Oil and obtained from any well the predominant production of which is Natural Gas;

"Operating Expenditures" means the expenditures so categorised in Section 2 of the Accounting Procedure;

"Operator" means the entity appointed by the Company, with the approval of the Government, to conduct the Petroleum Operations on behalf of the Company;

"PAPT" means Petroleum Additional Profits Tax as set out in the provisions of the Petroleum (Taxation) Act and calculated in the manner specified in Clause 13 of this Agreement;

"Parties" means the signatories to this Agreement and any permitted assignees and successors;

"Petroleum" means Crude Oil (including Natural Gas Liquids and Condensate) and/or Natural Gas;

"Petroleum Agreement" means this Agreement concluded in accordance with the Petroleum Mining Act, 1976, as amended;

"Petroleum Field" or "Field" means all reservoir horizons above crystalline basement within any geological entity of structural, facies or stratigraphic closure within which petroleum is deposited and retained as determined in accordance with this Agreement;

"Petroleum Operations" means all activities undertaken by the Company including exploration, appraisal, development, marketing, abandonment, decommissioning, drilling, production, exploitation, processing, storage, transport, sale and other operations up to the approved Delivery Point(s) in or in connection with the Agreement Area pursuant to this Agreement;

"Petroleum Operations Information" has the meaning specified in Clause 30 of this Agreement;

"PIT" means the petroleum income tax as set out in the Petroleum (Taxation) Act;

"Quality" has the meaning specified in sub-clause 14(2)(a) of this Agreement;

"SANCP" has the meaning specified in Clause 13 of this Agreement;

"Sole Expert" means a person appointed by agreement between the Company and the Government to resolve a difference referred to in sub-clause 39(3);

"Petroleum (Taxation) Act" means the Petroleum (Taxation) Act, 2008, as amended from time to time;

"Third Party Sales" has the meaning specified in sub-clause 14 (3)(a) of this Agreement;

"USIGIPPI" means the United States Industrial Goods Producer Price Index as reported for the first time in the monthly publication "International Financial Statistics" of the International Monetary Fund.

(2) Any expression which is defined in the Petroleum Mining Act, 1976, or in the Petroleum (Taxation) Act, 2008, as amended from time to time, shall, unless the context otherwise requires, have the same meaning when used in this Agreement.

(3) A reference in this Agreement to Agreement Area:

(a) does not include a reference to any part of Agreement Area that is relinquished in accordance with this Agreement following such relinquishment; but,

(b) includes any area added to or included in the Agreement Area pursuant to this Agreement.

(4) The following islands within the Agreement Area, including their foreshores and surrounding seas to a distance ofkilometres from the low water line, are excluded from the Agreement Area:

.....

2. **GENERAL GRANT**

- (1) In consideration of the covenants and agreements on the part of the Company hereinafter contained, the Government hereby grants to the Company the exclusive rights to conduct Petroleum Operations in the Agreement Area subject to the provisions of this Agreement.
- (2) Subject to the Petroleum Mining Act, 1976, as amended, the Company shall have and may exercise in accordance with and subject to this Agreement the rights referred to in the Act.

3. **TERM OF AGREEMENT**

- (1) This Agreement shall, subject to sub-clauses 3(3) and 3(9), and unless sooner terminated by the Minister, or by the Company, be in force for the term of thirty-five (35) Contract Years from the Effective Date thereof, unless extended under sub-clauses 4(10), 4(11) and 4(12) of this Agreement.
- (2) This Agreement establishes a minimum exploration work commitment that governs the activity of the Company and comprises an Exploration Phase and, in relation with each Petroleum Field, a Development Phase, as defined in this Clause.

Exploration Phase

- (3) The Exploration Phase shall extend over a period of nine (9) Contract Years starting from the Effective Date and shall be subdivided into three periods as follows:
 - an initial period of three (3) Contract Years;
 - an optional second period of three (3) Contract Years;
 - an optional third period of three (3) Contract Years.

It is agreed that the term of the Exploration Phase may be extended in accordance with this Agreement and that the optional right of the Company to accede to the next period shall be subject to fulfilment of its obligations during the previous period.

- (4) In the event that the Company decides not to enter into either the second or third period of the Exploration Phase referred to in sub-clause 3(3), as the case may be, it shall notify the Minister at least thirty (30) days prior to the expiry of the then current period.

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- (5) Where the Company requires additional time to complete the minimum exploration work commitments in respect of a period of the Exploration Phase for justified operational reasons, the Company may request an extension of the relevant period for a maximum of [INSERT PERIOD OF EXTENSION] months or Contract Years. The justification for such extension and its duration shall be submitted in writing to the Minister at least thirty (30) days prior to the end of the current period and include a statement of the status of the current work, the outstanding work to be completed to meet the minimum work obligations of the Company and the justification for the extension.
- (6) Where the Company has fulfilled its minimum exploration work obligations in respect of any period of the Exploration Phase, but considers that additional work is required prior to the commencement of the next period, the Company may request an extension of the relevant period for a maximum of [INSERT PERIOD OF EXTENSION] months or Contract Years. The justification for such extension and its duration shall be submitted in writing to the Minister at least thirty (30) days prior to the end of the current period and include a statement of the additional work to be undertaken and the justification for the extension.
- (7) Upon expiry of the Exploration Phase, if it considers it has not completed its Appraisal of a Discovery in the Agreement Area, or requires additional time to prepare a Development Plan in respect of a proposed Development Area and have it approved, the Company shall be entitled to request extension of the Exploration Phase in respect of the concerned Appraisal area or Development Area provided it so requests the Minister in writing with the justification for the extension at least thirty (30) days prior to the end of the Exploration Phase. Any such extension shall not exceed [INSERT PERIOD OF EXTENSION] Contract Years.
- (8) At any time during the Exploration Phase, upon at least thirty (30) days prior notice to the Minister, the Company shall have the right to withdraw from this Agreement, which shall automatically terminate, provided that any outstanding minimum exploration obligations have been duly completed.
- (9) This Agreement shall terminate automatically if no Commercial Discovery is made pursuant to Clause 8 by the end of the Exploration Phase.

Development Phase

(10) In the event that the Company considers that a Crude Oil discovery is a Commercial Discovery, the Company shall have the exclusive right to develop and produce such Crude Oil discovery. The Development Phase for a Crude Oil discovery shall be [INSERT NUMBER] years [up to twenty-five (25) years] from the date of approval of the relevant Development Plan, with a right to application for a ten (10) year extension at least two (2) years before the expiration of the Development Phase for that Field.

Where the Company makes a discovery of Non-associated Natural Gas, it shall have the right to retain the area in respect of which the discovery has been made for a period not exceeding five (5) years from the grant by the Minister of the relevant gas retention area under the Exploration Phase, to enable the Company determine whether it is a Commercial Discovery.

(11) Where the Company considers that a Natural Gas discovery is a Commercial Discovery, the Company shall have the exclusive right to develop and produce such discovery.

(12) The Development Phase for a Natural Gas discovery shall be [INSERT NUMBER] years [up to thirty (30) years], with a right to apply for a ten (10) year extension at least two (2) years before the expiration of the Development Phase for that Field.

(13) In the event that commercial production from a given Development Area remains possible at the end of its term as defined in sub-clauses 3(10) or (12), the Company may request an extension of such Development Phase at least two (2) years before the end of the said Development Phase.

(14) The term of any Development Phase that has been extended in accordance with sub-clause 3(13) shall be:

- [X] years for Crude Oil Field; or
- [X] years for Natural Gas Field.

(15) The Company shall have the right to terminate Production Operations in respect of any part of the Development Area at any time during the term of this Agreement, subject to the requirement that the Company give at least three hundred and sixty-five (365) days' notice to the Minister of its decision to terminate Production Operations.

(16) This Agreement shall terminate on the date of the final expiry of the last Development Area or when Production Operations for all Development Areas have terminated, whichever is earlier in time.

4. **RELINQUISHMENT**

Mandatory Relinquishment

- (1) At the end of the third Contract Year the Company shall relinquish a portion of the Agreement Area that amounts, together with any part of the Agreement Area relinquished under sub-clause 4(5), to forty per cent (40%) of the Agreement Area that was held by the Company at the Effective Date of this Agreement.
- (2) At the end of the sixth Contract Year, the Company shall relinquish a further portion of the Agreement Area to provide that following such relinquishment together with areas relinquished under sub-clauses 4(1) and (5), result in the Company retaining a maximum of thirty per cent (30%) of the Agreement Area that was held by the Company at the Effective Date.
- (3) Nothing in sub-clauses 4(1) and 4(2) shall be taken as requiring the Company to relinquish any part of the Agreement Area that has been determined as a Petroleum Field and any reference in this Clause to the Agreement Area to be relinquished shall be interpreted as a reference to portions of the Agreement Area that occur outside the Development Area.
- (4) The Company shall, at the expiry of the Exploration Phase, relinquish any remaining part of the Agreement Area that is not within a Development Area.
- (5) The Company may voluntarily relinquish any part of the Agreement Area at any time by giving not less than sixty (60) days' notice to the Minister.
- (6) The relinquishment of any part of Agreement Area in accordance with this Clause shall be without prejudice to any obligation incurred by the Company in respect of the area relinquished prior to the date of relinquishment.

Consultation on Areas to be Relinquished

- (7) Every part of the Agreement Area relinquished under this Agreement shall be bounded by lines of longitude and parallels of latitude expressed in whole degrees, and whole minutes. No boundary line shall be drawn less than five (5) minutes of latitude and five (5) minutes of longitude except with the prior approval of the Minister.

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- (8) As far as practicable, each relinquished area of the Agreement Area shall form one continuous area and be contiguous with any previously relinquished area of the Agreement Area.
 - (9) Subject to sub-clause 4(10), no single relinquished area of the Agreement Area shall be less than nine hundred (900) square kilometres or twenty-five per-cent (25%) of any continuous area within the Agreement Area, whichever is the lesser.
 - (10) The Minister may, authorise the relinquishment of a lesser portion of the Agreement Area than the area specified in sub-clause 4(9) where the Minister considers that such a reduction in the area to be relinquished is the national interest and is consistent with ensuring the most efficient and effective use of the Agreement Area.
 - (11) No part of the Agreement Area shall be relinquished by the Company unless the obligations assumed by the Company in respect of that part of the Agreement Area have been performed and completed to the satisfaction of the Minister.
 - (12) The Company shall consult with the Minister in order to ensure compliance by the Company with all of the requirements of this Clause before the Company seeks to relinquish any part of the Agreement Area.

5. MINIMUM EXPLORATION WORK PROGRAMME

- (1) Subject to the other relevant provisions of this Agreement, the Company shall carry out with expedition and due diligence in the Agreement Area the minimum exploration programme of work specified in any period referred to or identified in Part I of the Second Schedule to this Agreement.
 - (2) Where the Company fails to carry out any part of the minimum exploration work programme specified in Part I of the Second Schedule to this Agreement for a period, Part II of that Schedule
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shall apply for the purpose of determining the amount (if any) payable by the Company to the Government at the end of such period for that failure, it being agreed that it shall be without prejudice to any other right which the Government may have under this Agreement in respect of that failure and that the amount so payable represents the loss to the Government by reason of the failure and is not a mere penalty.

- (3) For so long as the Exploration Phase continues, the Company shall, within thirty (30) days after the end of each month of that phase, submit to the Minister a detailed written report giving particulars of the exploration carried out in that month.
- (4) Where any portion(s) of the minimum exploration work programme obligations relating to the Exploration Phase remains outstanding at the time of the commencement of the Development Phase, any such outstanding portions of the work programme shall pertain to acreage outside the Development Area.

6. **ANNUAL WORK PLAN AND BUDGET**

- (1) The Company shall submit an Annual Plan and budget (also referred to in Section 11 of the Accounting Procedure) by the thirtieth (30th) day of October of each Year giving:-
 - (a) a detailed forecast of annual Exploration, Development and Operating Expenditures during the Exploration and Development Phases on a per Agreement Area and per Development Area basis;
 - (b) a detailed plan relating to work to be completed in each period of expenditure forecasts during the Exploration and Development Phases, and per Development Area;
 - (c) separate production profiles for Crude Oil, Natural Gas and Condensate during the Development Phase, per Development Area and Field; and,
 - (d) such other matters as the Minister shall request the Company to include in an Annual Plan.

7. **WORK PRACTICES**

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- (1) The Company shall maintain all apparatus, appliances, equipment, physical infrastructure and all wells in the Agreement Area that are not abandoned under this Agreement in good repair and working condition.
 - (2) The Company shall execute all Petroleum Operations in or in connection with the Agreement Area in a proper and workman-like manner in accordance with Best International Petroleum Industry Practice.
 - (3) The Company shall procure and maintain at all times during the term of this Agreement, insurance in relation to Petroleum Operations in accordance with Clause 20 of this Agreement.
 - (4) Without prejudice to the generality of sub-clauses 7(1) and 7(2), the Company shall be responsible for and take all steps necessary to:
 - (a) control the flow and prevent the escape or waste of Petroleum discovered in or obtained from the Agreement Area;
 - (b) conserve the Agreement Area for productive operations;
 - (c) prevent damage to producing or adjoining Petroleum-bearing strata;
 - (d) prevent the fortuitous entrance of water through wells to Petroleum-bearing strata;
 - (e) prevent the escape of Petroleum into any waters in or in the vicinity of the Agreement Area; and,
 - (f) perform such other tasks as reasonably requested by the Minister.
 - (5) The Company shall comply with any written instructions given by the Minister from time to time concerning the matters referred to in sub-clause 7(2). In event that the Company objects to any such instructions and the matter cannot be resolved expeditiously, the matter shall be resolved in accordance with the procedures set out in Clause 39 of this Agreement.
 - (6) Notwithstanding the referral of a matter referred to in sub-clause 7(5) to resolution in accordance with Clause 39 of this Agreement, the Company shall continue to perform and comply in all respects with the relevant written instructions unless those instructions are withdrawn or suspended or, the matter referred for settlement is determined in accordance with Clause 39. Any
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such objection by the Company must be substantiated by documentation acceptable to the Minister, including supporting documents and legal authorities.

- (7) The Company shall notify the Minister within twenty-four (24) hours of discovery of any event that has resulted in the escape or waste of Petroleum, damage to Petroleum-bearing strata, or to the entrance of water through wells to Petroleum-bearing strata (except for the purposes of secondary recovery).
- (8) The Company shall not flare any gas from the Agreement Area, except with the advance written consent of the Minister and in accordance with the conditions, if any, specified in the consent.
- (9) To the extent that the Company considers that re-injecting such excess Associated Natural Gas is not justified technically and economically and provided the Minister decides not to take such Associated Natural Gas, the Company shall obtain authorisation from the Minister to flare any excess Associated Natural Gas.
- (10) Before deciding to grant or to withhold consent pursuant to sub-clauses 7(8) and 7(9), the Minister shall afford the Company an opportunity to make written representation to the Minister concerning any technical or financial factors that the Company considers are relevant to the matter. Such report must be in writing and delivered to the Minister not later than thirty (30) days from the date the Minister requests such information.
- (11) No written consent shall be required under this Agreement in respect of any flaring which arises as a result of an unforeseen event or events and is, or becomes, necessary in order to:
 - (a) remove or reduce the risk of injury to persons in the vicinity of the well in question; or,
 - (b) maintain a flow of petroleum from that or any other well,

but, when the Company does any flaring under the circumstances set out above, it shall promptly notify the Minister of the flaring and shall, in the case of flaring to maintain a flow of petroleum, cease such flaring where directed to do so by the Minister.

8. **DISCOVERY OF PETROLEUM**

Appraisal Programme

- (1) The Company shall provide a written report to the Minister within twenty-four (24) hours in respect of any of the following matters:
 - (a) where a well shows the presence of Petroleum, or the wire-line log or logs indicate the presence of Petroleum;
 - (b) when a drill-stem test has been carried out on a well from which Petroleum flows; or,
 - (c) any other circumstance which could reasonably be inferred by the Company to constitute the presence of Petroleum.
- (2) Following the making of a report pursuant to sub-clause 8(1), the Company shall submit a detailed report to the Minister within sixty (60) days. The report shall contain a statement indicating whether or not in the opinion of the Company the presence of Petroleum is of potential commercial interest and the detailed reasons for such determination.
- (3) Where appropriate, the report prepared under sub-section 8(2) shall also contain:
 - (a) all the relevant geological information including the log evaluation;
 - (b) basic reservoir data, including drill-stem tests data;
 - (c) the Company's estimate as to the potential of the reservoir; and,
 - (d) chemical and physical analyses.
- (4) This Clause shall apply *mutatis mutandis* to the discovery of quantities of Natural Gas, irrespective of whether such discovery is Associated Natural Gas or Non-associated Natural Gas.
- (5) Where the Company is of the opinion that the presence of Petroleum is of potential commercial interest, it shall submit within ninety (90) days of the discovery an Appraisal Programme and the estimated corresponding budget for the approval of the Minister, including drilling of Appraisal Wells, or a reasonable explanation for any delay in submission of such programme without exceeding twelve (12) months.
- (6) The Company shall diligently carry out the approved Appraisal Programme. The Company shall, within six (6) months after the end of the carrying out of the Appraisal Programme or such longer

period as the Minister may allow, submit a full report of the results of the Appraisal Programme, including an evaluation study of the discovery concluding if the Company considers it as a Commercial Discovery. The Minister may require the Company to supply such further information with respect to the report as the Minister considers appropriate.

- (7) Within three (3) months of the submission of the report referred to in sub-clause 8(6), or such longer period as the Minister may allow, the Company shall meet with and discuss the report with the Minister in sufficient detail with a view to arriving at a decision on the commercial viability, or otherwise, of the Field.
- (8) For the purpose of this Clause, a discovery of Petroleum shall be treated as a discovery that is commercially viable where, the production of Petroleum in the area concerned would be technically possible and, having regard to relevant commercial considerations including, but not limited to, the quantity, quality and gravity of the Petroleum present, the place and depth of its location, the potential development and production costs and potential market, such production would be economic.
- (9) Notwithstanding the other provisions of this Clause, if after having carried out an Appraisal Programme, the Company determines that a discovery of Petroleum is not presently commercially viable due to existing economic and/or technical reasons, but may become commercially viable within a reasonable time, the Minister may, allow the Company to retain the Agreement Area relating to the discovery for a period determined by the Minister, provided that:
- (a) The determination by the Company of whether a discovery of Petroleum is presently commercially viable shall be set out in a detailed report submitted to the Minister, which shall outline and verify the economic and/or technical impediments to commercial field development, including but not limited to, potential production rates, Petroleum prices, development costs, operating costs as well as any other relevant criteria;
 - (b) The Company shall, within twelve (12) months of the date of the submission of the report specified in paragraph (a), submit a further report to the Minister that reassesses the commercial viability of the discovery, and thereafter, shall submit further reports

every two (2) years, based on the same economic and/or technical criteria, until the normal expiry of the Exploration Phase;

- (c) If as a result of the Company's reassessment under paragraph (b), the Company considers that the discovery has become commercially viable, the Company shall move expeditiously to submitting a field Development Plan in accordance with the provisions of this Agreement.

Development Plan

(10) The Company shall submit to the Minister as soon as practicable and, in any event, not later than six (6) months after the declaration of a commercial Petroleum Field, a Development Plan for approval that relates to the development and production of the Petroleum Field prior to the commencement of the development of the said Field. The Development Plan shall be approved within six (6) months of its submission and the Minister shall specify its reasons for asking any change to the Plan submitted.

- (11) The Development Plan referred to in sub-clause 8(10) shall contain *inter alia*, the following:
- (a) a detailed and substantiated technical and economic appraisal of the alternatives to development of the Field and transporting the petroleum, with a justification for the methods proposed and the relevant economic studies;
 - (b) details of the proposed drilling programme, including the type of wells, drilling equipment intended for use, number, location, and completion methods;
 - (c) details of the proposed production facilities, including production platforms, if any, and production, separation and storage facilities, and measurement facilities;
 - (d) details of the proposed transport system, with the proposed Delivery Point;
 - (e) details of onshore installations such as terminal and office facilities;

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- (f) a detailed scheme for the protection of the environment, along with an environmental and social impact assessment study and an environmental management plan covering the life of the Field;
 - (g) a report outlining the Company's considerations for a Decommissioning Plan;
 - (h) details of any proposed injection of Natural Gas or Associated Natural Gas;
 - (i) A proposed determination of the Petroleum Field Development Area corresponding to the boundaries of the area occupied by the Petroleum Field;
 - (j) An estimate of reserves per category, and annual production profile per product;
 - (k) A detailed enhanced oil recovery study ranking the recovery processes;
 - (l) an estimate of annual Development and Operating Expenditures; and,
 - (m) a forecast of organisational structure, manpower requirements, and local content.
- (12) The Development Plan shall not be altered in any material way by the Company subsequent to its approval by the Minister without prior written approval.
- (13) Following the approved determination of a Petroleum Field Development Area pursuant to sub-clause 8(11) , any subsequent discovery of Petroleum in the Agreement Area that is outside the boundaries of the Petroleum Field Development Area shall be treated as a separate Petroleum Field or Fields and the provisions of this Clause shall apply *mutatis mutandis* to such discoveries.

Natural Gas

- (14) Where the Company decides to develop and exploit the Natural Gas deposit, the Government and the Company shall endeavour in good faith to reach agreement on the terms and conditions governing the development and exploitation other than those defined in this Agreement, including, the location of the Natural Gas Delivery Point(s) and processing facilities, the uses for Natural Gas in Seychelles or abroad, the valuation of the Natural Gas for royalty and tax purposes.
- (15) The Company shall have the right to use Natural Gas associated with Crude Oil produced for oilfield operations, including for pressure maintenance in the oil Fields covered by the Agreement Area.
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- (16) Subject to sub-clause 8(15) and when the Company considers that the sale of Associated Natural Gas is not commercial, the Government shall be entitled to take at the downstream flange of the separator on the production platform or, failing the existence of such a separator, at a point of delivery mutually agreed upon at the collecting and inlet system, and utilize without any payment therefor to the Company, any Associated Natural Gas which is in excess of the quantity of Natural Gas required for Petroleum Operations. The costs and risks of taking and utilizing such Associated Natural Gas by the Government hereunder will be borne solely by the Government, unless the Company decides to co-operate with the Government's activities.
- (17) Natural Gas produced from the Agreement Area, except in the case of short-term flaring necessary for testing or other operational reasons, may be flared only with the prior written approval of the Minister. Any plans for the long term flaring of Natural Gas shall be submitted for approval in accordance with the provisions of a Development Plan pursuant to Clause 8 of this Agreement.
- (18) The royalty rate for Natural Gas shall be five per cent (5%) and other terms concerning royalty under Clause 11 of this Agreement shall apply *mutatis mutandis* to Natural Gas, with the exception of the right to take the royalty in kind, which shall not apply to Natural Gas.
- (19) The PAPT terms in respect of a Field under Clause 13 shall apply *mutatis mutandis* to Natural Gas and when a Petroleum Field produces Crude Oil and Natural Gas, the determination of the PAPT for a Field will be performed globally, with the exception of the right to take the PAPT in kind, which shall not apply to Natural Gas.
- (20) In the case of a liquefied natural gas (LNG) plant being required for the sale of Associated and/or Non-associated Natural Gas, the Parties shall agree to the terms and conditions for its construction and operation, considering that the construction, operation and use of such LNG plant, shall be governed by a separate agreement and a different tax regime from the one applicable to Petroleum Operations under this Agreement, to be mutually agreed.
- (21) The provisions of sub-clause 8(20) shall apply *mutatis mutandis* to any required gas transportation pipeline project beyond the Delivery Point.
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- (22) The Parties to this Agreement shall give priority to gas plant projects, LNG plants, transportation pipelines and facilities jointly coordinated with other companies active in Seychelles for their construction, exploitation and/or use of such facilities, providing for appropriate third party access.

9. **TECHNICAL ADVISORY COMMITTEE**

- (1) The Minister and the Company shall, within thirty (30) days of the Effective Date, establish a committee to be known as the Technical Advisory Committee, which shall be composed as follows:
- (a) a Chairperson and two (2) other Members appointed by the Minister; and,
 - (b) three (3) Members appointed by the Company.
- (2) The Minister and the Company may appoint any person to act as an Alternate Member in the place of any appointed Member of the Technical Advisory Committee due to absence or incapacity, by notice in writing and with due regard to the terms of sub-clause 9(1). Any such substitution by the Company shall be approved in advance by the Minister in writing.
- (3) Where an Alternate Member properly acts in the place of any Member, he/she shall have exercise the same powers and be subject to the same duties of the Appointed Member.
- (4) Without prejudice to the rights and obligations of the Company in relation to the management of its operations, the functions of the Technical Advisory Committee shall include, but not be limited to the following:
- (a) review all Petroleum Operations carried out by the Company;
 - (b) review of any proposed exploration work programme and budgets submitted by the Company and to propose any modifications to the Company;
 - (c) review any Appraisal Programmes submitted by the Company, to propose any modifications to it for the Company's consideration and to monitor the implementation of such appraisal programme;
 - (d) review any Development Plan which the Company submits for approval and to propose any modifications to it for consideration of the Minister;

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- (e) review Annual Plans and budgets; and,
 - (f) ensure that the accounting of expenditures and the maintenance of operating records and reports kept in connection with the Petroleum Operations are made in accordance with this Agreement and the accounting principles and procedures generally accepted in the international petroleum industry.
- (5) The Technical Advisory Committee shall meet at least twice in every Contract Year during the Exploration Phase and at least four (4) times in every Calendar Year during the Development Phase and all meetings of the Technical Advisory Committee shall be held in Seychelles, unless the Committee decides otherwise.
- (6) Three (3) members of the Technical Advisory Committee shall form a quorum for a meeting of the Committee, of which at least two members shall be Members appointed by the Minister.
- (7) The Minister and the Company shall have the right to call any expert to any meeting of the Technical Advisory Committee to advise on any matter of a technical nature requiring expert advice.
- (8) The Technical Advisory Committee may, by unanimous vote, make recommendations to the Government or the Company, as the case may be. Such recommendations shall be given full and proper consideration by all Parties to this Agreement, without limiting the approval power of the Minister under this Agreement.

10. **ANNUAL RENTALS**

- (1) The Company shall pay to the Seychelles Revenue Commission an annual rental ("Rental") determined as provided in sub-clauses 10(2) and 10(4).
- (2) The Rental to be paid by the Company in respect of each Contract Year of the Exploration Phase of this Agreement shall be determined as follows:
- (a) US\$10 in respect of the first period
 - (b) US\$ 15 in respect of the second period; and,
 - (c) US\$ 20 in respect of the third period.

for each square kilometre of the Agreement Area held by the Company on the Effective Date or its anniversary, multiplied by a factor of A divided by B, where:

"A" is the value of the USIGIPPI for the Month during which the anniversary of the Effective Date of this Agreement on which the rental is payable occurs; and

"B" is the value of the USIGIPPI as reported for the first time in the said publication for the Month of the Effective Date.

(3) Payment of the Rental during the Exploration Phase shall be made by the Company annually in advance, the first such payment being made on the Effective Date and subsequent payments being made no later than each anniversary of the Effective Date.

(4) The Rental to be paid annually in advance by the Company in respect of the Development Area related to a Petroleum Field in each year of the Development Phase shall be an amount of US\$ 1,000 for each square kilometre of this the Development Area held by the Company on the date of approval of the relevant Development Plan or its anniversary, multiplied by a factor of A divided by B, where:

"A" is the value of the USIGIPPI for the Month during which the anniversary of the date of Approval of the relevant Development Area on which the rental is payable occurs; and,

"B" is the value of the USIGIPPI as reported for the first time in the said publication for the Month of the Effective Date.

(5) Where an amount of Rental under this Agreement is not paid on the due date, there shall be payable to the Seychelles Revenue Commission by the Company an additional amount determined in accordance with Section 1.5 of the Accounting Procedure, contained at the Third Schedule to this Agreement, upon the amount of Rental from time to time remaining unpaid, to be computed from the time when the Rental became payable until it is paid.

(6) The Minister may terminate this Agreement subject to a thirty (30) day written notice period where an amount of Rental due under this Agreement remains unpaid for a period of thirty (30) days after the expiration of the due date for the relevant Rental.

11. **ROYALTY**

Liability for Royalty

- (1) Subject to this Agreement, the Company shall pay to the Seychelles Revenue Commission in respect of each Month during which Petroleum is produced under this Agreement a royalty (“Royalty”) as provided in this Clause in respect of all Petroleum produced and saved in the Agreement Area in that period.
- (2) The Royalty payable on Crude Oil shall be calculated in the manner specified in this Clause and shall be based on the total Crude Oil produced and saved under this Agreement, valued in accordance with Clause 14 at the approved Delivery Point.
- (3) The Royalty payable in respect of the production of Natural Gas shall be as determined pursuant to the rate and the terms stated in sub-clause 8(18), based on the total Associated and Non-associated Natural Gas produced and saved under this Agreement, valued in accordance with Clause 15 at the approved Delivery Point.
- (4) Where the Company is constituted by more than one company, the liability for payment of Royalty under this Agreement shall be joint and several.

Statement with Respect to Royalty

- (5) The Company shall, within thirty (30) calendar days after the end of each Month in which the Royalty is due, deliver to the Seychelles Revenue Commission a Royalty Statement per Field and product containing the particulars stipulated in Section 7 of the Accounting Procedure.

Payment of Royalty

- (6) Royalty under this Agreement in respect of a Month is payable by the Company not later than thirty (30) calendar days after the end of the Month. Subject to sub-clause 11(12), the Royalty shall be paid to the Government by wire transfer to an account(s) designated by the Government in United States Dollars.

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- (7) Where an amount of Royalty is not paid as provided by sub-clause 11(6), there shall be payable to the Government by the Company an additional amount determined in accordance with Section 1.5 of the Accounting Procedure contained at the Third Schedule to this Agreement, upon the amount of Royalty from time to time remaining unpaid, to be computed from the time when the Royalty became payable until it is paid.
- (8) The Minister may terminate this Agreement subject to a thirty (30) day written notice period where a Royalty payment due under this Agreement remains unpaid for a period of thirty (30) days after the expiration of the due date for the relevant Royalty payment.

Determination of Royalty Payable on Crude Oil

- (9) In respect of Crude Oil produced and saved from each Petroleum Field in the Agreement Area, Royalty shall be payable at the rate of ten per-cent (10%) of the Market Value, determined pursuant to Clause 14, of such Crude Oil produced and saved from each Field in the relevant Month.
- (10) In respect of Crude Oil obtained from each Marginal Petroleum Field in the Agreement Area, Royalty shall be payable at the rate of five per-cent (5%) of the Market Value of such Crude Oil produced and saved in the relevant Month from each Marginal Petroleum Field as defined in sub-clause 1(1).
- (11) If for any Month the Market Value of the Crude Oil produced and saved from each Field has not been determined by the time the payment of Royalty is due, the market price for the last Month for which the price has been determined shall be used in the interim in valuing the quantity of Crude Oil produced and saved from each Field in the Month, and any adjustment to the amount of Royalty ultimately due for that Month shall be made as soon as the Market Value for the Month has been established. This sub-clause shall apply *mutatis mutandis* to the value of Natural Gas.

Royalty in Kind

- (12) The Government shall have the right, in its sole discretion, to direct the Company to discharge its obligation to pay Royalty in accordance with this Clause by requiring it to deliver in kind to the

Government a proportion of the Crude Oil, including Natural Gas Liquids or Condensate, produced and saved from each Petroleum Field equivalent to the amount of Crude Oil Royalty due under this Clause. In the event that the Government exercises this option it shall do so, on each occasion, for a period of at least one (1) year and shall notify the Company of its intention to require payments of Royalty in kind giving at least six (6) months' notice and stating the Field or Fields to which the option will relate. Promptly after receipt of the Government's notification the Company and the Government shall agree on the specific lifting or off-take arrangements to enable the Government to give effect to its option.

Royalty Not Payable in Certain Cases

- (13) Royalty under this Agreement is not payable in respect of Petroleum that:
- (a) The Minister is satisfied was unavoidably lost before the quantity of that Petroleum was ascertained;
 - (b) is used by the Company for the purpose of its Petroleum Operations, including any testing operations or operations for the recovery of Petroleum; or,
 - (c) with the prior written approval of the Minister, is flared or vented in connection with operations for the recovery of Petroleum.

Dispute as to Amount of Royalty Payable

- (14) In the event that the Minister and the Company cannot agree on the Market Value of Crude Oil or the value of Natural Gas and the matter is referred to a Sole Expert under the provisions of sub-clause 39(3) of this Agreement, the Company shall remain liable to pay Royalty in accordance with this Clause, calculated on the basis of the then-current Market Value of the Crude Oil or value of Natural Gas that the Minister considers to be the correct then-current Market Value or value, but in the event that a lesser Market Value of the Crude Oil or value of Natural Gas is ultimately determined by the Sole Expert so appointed, the amount of any excess royalty paid by the Company shall be set off against the liability of the Company to make future payments of Royalty under this Agreement or, if no such liability can arise or arises, shall be paid to the Company.

12. TAXATION

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- (1) The Company shall pay PIT in respect of its activities under this Agreement in accordance with the provisions of the Petroleum (Taxation) Act at the rate of thirty five per cent (35%).
 - (2) Where the Company consists of more than one company, the liability of the relevant companies to pay PIT shall be individual in accordance with the provisions of the Petroleum (Taxation) Act.
 - (3) The Company shall pay PAPT in accordance with the provisions of the Petroleum (Taxation) Act as supplemented by Clause 13 of this Agreement.
 - (4) Other taxes, duties, fees or levies shall be imposed under the laws of Seychelles on the Company, and including on its non-resident contractors and sub-contractors and any expatriate personnel engaged by the Company or its non-resident contractors and sub-contractors on Petroleum Operations in respect of income derived from Petroleum Operations in terms of this Agreement or in respect of any property held, money received, or thing done for purpose authorised or contemplated in terms of this Agreement, unless exemptions are otherwise provided for by law. In particular, the following tax, duty, fee or levy shall be applicable:
 - (a) non-discriminatory stamp duties, transfer fees, licence fees and any other tax or other impost of general application in the Seychelles payable to the Government or any governmental or quasi-governmental body established by or under the Law of the Seychelles;
 - (b) taxes, duties, fees, levies or other imposts for specific services provided by the Government or any agency of the Government which are rendered on request of the Company;
 - (c) rent due to the Government in respect of any land rights granted or assigned to the Company.

13. PETROLEUM ADDITIONAL PROFITS TAX (PAPT)

- (1) The Company shall be liable to pay to the Government PAPT In each Calendar Year, in accordance with the Petroleum (Taxation) Act, in respect of each separate Petroleum Field, determined on the
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basis of the rate of return (ROR) that the Company has achieved from the Effective Date with respect to such Field as of the end of that Calendar Year.

- (2) PAPT for the purposes of sub-clause 13(1) shall consist of a two-tier PAPT imposed at different tax rates, which are referred to in this Agreement as the “First PAPT Rate” and the “Second PAPT Rate” respectively, which are triggered by a distinct ROR threshold, referred to as the “First ROR Threshold” and the “Second ROR Threshold” respectively.
- (3) The Company's ROR shall be calculated on the basis of Net Cash Receipts ("NCR") of the Company. In cases where the Company consists of more than one company, the liability to pay PAPT shall be joint and several in accordance with the Petroleum (Taxation) Act, and at each relevant date only one ROR and NCR shall be computed for the Petroleum Field, combining all of the interests held by the relevant companies in the relevant Field.
- (4) The Company's ROR, NCR and liability to pay PAPT shall be determined separately for each Field at the end of each Calendar Year in accordance with the following sub-clauses.

Definitions for PAPT determination

- (5) For the purposes of this Agreement, "NCR" means the Company's net cash receipts (which may be a positive or negative amount) derived from the Field during the Calendar Year for which the calculation is being made, and shall be computed in accordance with the following formula:

$$\text{NCR} = \text{INCOME} - \text{TAXES} - \text{COSTS} - \text{DEDUCTIONS}$$

where:

"INCOME" represents all income received by or attributed to the Company from the Field during the Calendar Year. This amount shall be taken to be the Company's assessable income arising from the disposal of Petroleum produced from the Field during the Calendar Year as defined as defined in Section 7 in the Petroleum (Taxation) Act, together with miscellaneous assessable income accruing to the Company during such Calendar Year from Petroleum Operations in respect of the Field as defined in Section 8 in the Petroleum

(Taxation) Act (excluding sub-section 8(1)(a)) supplemented by Section 3.4 of the Accounting Procedure to this Agreement;

"TAXES" represents payments of Royalty and PIT made by the Company to the Government in the Calendar Year in respect of the Field, excluding any tax that applies to the transfer or assignment of an interest. Where PIT is paid by the Company on taxable income accruing to the Company from two or more Petroleum Fields in a Calendar Year under this Agreement, the Company shall, for the purposes of calculating TAXES in respect of the Field, determine the amount of the total PIT paid by the Company in the Calendar Year that is attributable to each such Field in a principled, fair and consistent manner, and the amount so determined for a particular Field shall be allowed as the relevant PIT component of TAXES for the Field;

"COSTS" represents the total of Exploration Expenditures, Development Expenditures and Operating Expenditures related to the Agreement Area incurred by the Company up to the Delivery Point during such Calendar Year on or with respect to the Field, as defined and categorised in, and allowed in accordance with the provisions of, Section 2 and Section 3 of the Accounting Procedure; provided that any such Expenditures not directly attributable to a specific Field shall, for the purposes of this calculation, be apportioned between all Fields in respect of this Agreement then in production or being developed in which the Company has an interest, in a principled, fair and consistent manner; and provided further that, for the purpose of determining the amount of PAPT due, such total Expenditures shall not include any amounts in respect of interest, charges or fees on loans or other financing obtained, whether from affiliated companies or from banks or other third party sources, for the purpose of carrying out Petroleum Operations, nor any consideration paid for acquiring an interest in this Agreement ; and

"DEDUCTIONS" represents any amounts determine as allowable deductions in the computation of PAPT from the Field in the Calendar Year, in respect of bad debts and decommissioning provisions, and, for this purpose, the provisions of Sections 17 and 14(1)(d) of the Petroleum (Taxation) Act shall be applied for PAPT as they are for PIT;

Application of FANCP and SANCP to the determination of PAPT

(6) For the purposes of determining PAPT, the following definitions of FANCP and SANCP shall be applied under this Agreement:

(a) "FANCP" is the first accumulated net cash position of the Company in respect of a particular Field, and refers to the amounts determined by the formula in paragraph (c) below at the end of a given Year; and

(b) "SANCP" is the second accumulated net cash position of the Company in respect of a particular Field, and refers to the amounts determined by the formula in paragraph (d) below at the end of a given Year.

(c) FANCP in respect of a Petroleum Field for any Calendar Year shall be calculated according to the following formula:

$$\text{FANCP} = A_1(100\% + B_1) + \text{NCR}$$

where:

"A₁" equals the FANCP at the end of the Calendar Year preceding the Calendar Year for which the calculation is being made. If for any Calendar Year the FANCP is a positive amount, the FANCP at the end of that Calendar Year shall be deemed to be zero for the purpose of calculating the FANCP for the subsequent Calendar Year; and

"B₁" equals fifteen per cent (15%) and corresponds to the First ROR Threshold.

(d) SANCP in respect of any Petroleum Field for any Calendar Year shall be calculated according to the following formula:

$$\text{SANCP} = A_2(100\% + B_2) + \text{NCR} - \text{PAPT}_1$$

where:

"A₂" equals the SANCP at the end of the Calendar Year preceding the Calendar Year for which the calculation is being made. Where the SANCP is a positive amount in any

Calendar Year, the SANCP at the end of that Calendar Year shall be deemed to be zero for the purpose of calculating the SANCP for the subsequent Calendar Year;

"B₂" equals ___ per-cent [INSERT THE PERCENTAGE] and corresponds to the Second ROR Threshold.

PAPT₁ is the amount paid in each Year as First PAPT, equal to the value of any PAPT due to the Government in that Year in relation only to the FANCP.

(e) In the calculation of the FANCP and SANCP for the first Calendar Year of this Agreement, "A₁" and "A₂" in the formula for FANCP and SANCP shall be respectively deemed to be zero.

Determination of First and Second PAPT payable

- (7) The amounts of PAPT payable to the Government in respect of each Field in any Calendar Year, shall be determined as follows:
- (a) If the FANCP and SANCP are both negative, the PAPT for the Calendar Year in question shall be zero.
 - (b) If the FANCP is positive but the SANCP is negative, the PAPT for the Calendar Year in question shall be equal to twenty-five (25) per cent [the First PAPT Rate] of the FANCP for that Year
 - (c) If the FANCP and SANCP are both positive, PAPT for the Calendar Year shall be equal to the aggregate of twenty-five (25) per cent of the FANCP for that Year plus _____per-cent [INSERT THE PERCENTAGE for the Second PAPT Rate] of the SANCP for that Year.

Calculations, Returns, Payments and Instalments

- (8) Calculations of the NCR, FANCP and SANCP shall be made in United States (US) Dollars, with all non-dollar expenditures converted to US Dollars on the basis of the exchange rates specified in Section 1.4 of the Accounting Procedure.
- (9) In accordance with Part IV of the Petroleum (Taxation) Act, provisional estimates and final return of PAPT due in respect of each Field for a Calendar Year shall be made by the Company and

submitted to the Seychelles Revenue Commission at the prescribed dates. Instalments and payments of PAPT in respect of a Year shall be made in United States Dollars at the prescribed dates pursuant to Part IV of the Petroleum (Taxation) Act.

- (10) Where a group of adjoining Petroleum Fields are exploited by the Company under a common Development Plan jointly approved by the Minister, the PAPT payable shall be determined globally for the group of Petroleum Fields, and not distinctly in respect of each Petroleum Field.
- (11) Where a Petroleum Field or group of Fields extends beyond the Agreement Area, PAPT shall be determined by the Company in respect of the part of the Field or group of Fields located within the Agreement Area and in respect of the incomes and costs arising from that portion only.
- (12) The Government may determine in its discretion that the obligation of the Company to pay PAPT in any Calendar Year may be discharged by the Company making available to the Government an amount of Petroleum equivalent to the monetary value of the PAPT due and valued in accordance with Clause 14 and Clause 15 of this Agreement. In the event that the Government wishes to exercise this option, it shall so notify the Company, giving at least three (3) months' notice of its intention to do so and stating the period and Field(s) to which the option will relate. The Government and the Company shall seek expeditiously to agree on the specific lifting or off-take arrangements to enable the Government to give effect to its option.

14. **VALUATION OF CRUDE OIL**

- (1) Crude Oil produced and saved from the Agreement Area shall be sold or otherwise disposed of at competitive international market prices determined at the time of sale or disposition.
- (2) The market value ("Market Value") of Crude Oil produced and saved from the Agreement Area sold or otherwise disposed of in any Month shall be determined as follows for the purposes of the Company's liability to pay Royalty, PIT and PAPT:
 - (a) Within ten (10) days after the end of each Month in which Crude Oil has been produced and saved from any Petroleum Field, an average price (expressed in US\$ per barrel), assessed at the Delivery Point, for each separate volume of Crude Oil of the same

specific gravity, sulphur and metal content, pour point, product yield and other relevant characteristics, ("Quality") shall be determined in respect of production during that Month.

(b) It is understood that production from different Fields may be of differing Quality and that separate average prices and Market Prices may accordingly be appropriate for any Month in respect of production from each Field.

(3) The prices of Crude Oil referred to in sub-clause 14(2) shall be determined on the basis of international fair market value, interpreted and applied as follows:

(a) In the event of thirty per-cent (30%) or more of the total volume of sales of Crude Oil of a given Quality produced and saved by the Company during the Month being by third party Arm's Length sales transacted in foreign exchange ("Third Party Sales"), the Market Value for all Crude Oil of that Quality shall be taken to be the simple arithmetic average price, calculated by dividing the total receipts from all such Third Party Sales by the total number of barrels of Crude Oil sold in such sales, actually realised in such sales.

(b) In the event of less than thirty per-cent (30%) of the total volume of sales of Crude Oil of a given Quality produced and saved by the Company during the Month being by Third Party Sales, the Market Value for all Crude Oil of that Quality shall be determined by the arithmetic weighted average of:

(i) the simple arithmetic average price actually realised in such Third Party Sales during the Month, calculated by dividing the total receipts from all such sales by the total number of barrels of Crude Oil in the such sales; and,

(ii) the simple arithmetic average price, adjusted for differences in Quality, quantity, transportation costs, delivery time, payment and other contract terms, at which a selection, determined in accordance with the terms of sub-clause 14(3) by mutual agreement between the Parties, of major competitive crude oils of generally similar quality to that of Crude Oil produced and saved were sold in

international markets during the same period. The arithmetic weighted average aforesaid shall be determined by the percentage volume of sales of Crude Oil by the Company referred to above which are Third Party Sales during the Month in question and such sales referred above which are not Third Party Sales during the Month in question.

- (iii) All prices referred to in this Clause shall be assessed at the Delivery Point.
- (iv) For the purposes of this Clause, Third Party Sales of Seychelles Crude Oil made by the Company shall exclude:
 - (aa) sales, whether direct, indirect, through a broker or otherwise, by any seller to any Affiliate of such seller; and,
 - (bb) crude oil exchanges, barter deals, or restricted or distress transactions and generally any Crude Oil transaction which is motivated in whole or part by considerations other than the usual economic incentives for commercial Arm's Length crude oil sales, as determined by the Minister.
- (c) In the event of:
 - (i) less than thirty per cent (30%) of the total volume of sales by the Company during the Month of Crude Oil of a given Quality produced and saved being Third Party Sales, the Government may elect to accept determination of the fair market valuation of all Crude Oil of that Quality based on actual Third Party Sales during that Month calculated in accordance with the terms of sub-paragraph 14(3)(b)(i);
 - (ii) the percentage volume of sales being less than thirty per-cent (30%) as aforesaid, the Company shall promptly notify the Government; but if the Minister does not notify the Company of its election pursuant to sub-paragraph 14(3)(c)(i) within ten (10) days of receipt of such notification from the Company, the fair market valuation of the aforesaid Crude Oil shall be determined in accordance with the terms of sub-paragraph 14(3)(b)(ii).

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- (4) The selection of crude oils referred to in sub-paragraph 14(3)(c)(ii)(bb) shall be determined by mutual agreement between the Company and the Minister in advance for each Calendar Year and, in making the selection, preference will be given to those crude oils of similar quality to Crude Oil which are produced in other countries and which are sold regularly in the same markets as Crude Oil produced from the Agreement Area is normally sold.
- (5) The Company shall:
- (a) be responsible for establishing the relevant average prices for Crude Oil in accordance with this Clause and such prices shall be subject to agreement by the Minister before they shall be deemed to have been finally determined; and,
 - (b) provide the Minister with all relevant information (including all requested substantiating documentation) to establish that the average price determined by the Company is fair.

Where the Parties fail to agree on the average price for any Month within thirty (30) days following the end of such Month the calculation of the relevant average price shall be referred to a Sole Expert appointed in accordance with the terms of Clause 39(3) for determination in accordance with this Clause. The determination of the Sole Expert shall be final and binding on the Parties.

- (6) During the first Calendar Year in which Crude Oil is produced from the Agreement Area, the Parties shall meet in order to establish a provisional selection of the major competitive crude oils and an appropriate mechanism for the purposes of giving effect to sub-clause 14(3)(b)(ii). The selection of crude oils shall be reviewed annually and modified if necessary.
- (7) In the event of any differences of view between the Company and the Minister concerning the selection of the reference crude oils or more generally about the manner in which the prices are determined according to the terms of this Clause, any matter in dispute shall finally be resolved by a Sole Expert.

15. **VALUATION OF NATURAL GAS**

- (1) For Natural Gas sold on an Arm's Length basis, the realised price of Natural Gas determined at the Delivery Point shall be the value in United States Dollars for the relevant Month in respect of that

gas for the purposes of the Company's liability to pay Royalty, PIT and PAPT. It corresponds to the price at which an independent third party would be prepared to buy at the particular time such Natural Gas, on an Arm's Length basis, taking into account the quality, volume, cost of transportation, terms of payment, and any other relevant conditions, including the then prevailing market conditions for Natural Gas at the final sales destination and shall be based on the higher of actual realised prices or the prices calculated under the relevant gas sales contract for Natural Gas approved by Minister for deliveries of that Natural Gas during the Calendar Month.

- (2) (3) For Natural Gas sales transactions that are non-Arm's Length, the following considerations shall apply in determining the value of Natural Gas at the Delivery Point to reflect pricing at Arm's Length conditions for the purposes of the Company's liability to pay Royalty, PIT and PAPT for a relevant Month:
- (a) the market destination of the Natural Gas;
 - (b) the price of the Natural Gas at the final destination;
 - (c) regasification costs;
 - (d) shipping costs;
 - (e) liquefaction costs;
 - (f) pipeline transport costs;
 - (g) publicly available values outside Seychelles; or for domestic sales, values in Seychelles for similar gas markets; and,
 - (h) other relevant considerations as agreed by the Company and the Minister, when the gas valuation clause of the concerned gas sales contract is approved.
- (3) The Minister shall have the right to review and approve any Natural Gas sales contracts both for Arm's Length and non-Arm's Length sales. The Company may apply to the Minister for advance pricing arrangements in respect of the gas valuation under such contracts.
- (4) In the event of any differences of view between the Company and the Minister concerning the valuation of Natural Gas or concerning the manner in which prices are determined according to the terms of this Clause, any matter in dispute shall finally be resolved by a Sole Expert.

16. **EXEMPTION FROM IMPORT AND EXPORT TAXES**

- (1) In accordance with Part VI of the Petroleum (Taxation) Act, the Customs Management Act and VAT Act, the Company and its contractors and sub-contractors engaged in Petroleum Operations shall be permitted to import, free of duty or other taxes on imports, machinery, equipment, vehicles, materials, supplies, consumable items (other than foodstuffs, alcoholic beverages or other products so designated by the Government) and moveable property where imports in any of the said categories have been certified by the Minister to be for use solely in carrying out Petroleum Operations. A differed payment procedure shall be implemented with the Minister in respect of the corresponding VAT on inputs that would be payable in relation with Petroleum Operations, in order to allow the Company and its contractors to enjoy the right awarded under Part VI of the Petroleum (Taxation) Act and this sub-clause 16(1).
- (2) Subject to Clause 37 of this Agreement, where items that have been imported into Seychelles for the Petroleum Operations are no longer required, such items may be freely exported at any time by the importing party without payment of any export duty, or impost, subject to the requirement that upon the sale or transfer by the importer of any such items to any person in Seychelles, import duty or tax shall be payable by the importer on the value thereof at the date of such sale or transfer, unless the sale is to another company for the purposes of its Petroleum Operations in Seychelles.
- (3) Each expatriate employee of the Company, and of its contractors and sub-contractors, shall be permitted to import into Seychelles their personal and household effects including one automobile free of import duty and other taxes on first arrival subject to the condition that no property imported shall be resold in Seychelles, except in strict conformity with the Law of the Republic of Seychelles.

17. **FOREIGN EXCHANGE**

- (1) In accordance with the legislation, the Company shall have the right during the term of this Agreement:
 - (a) to open and maintain bank accounts in Seychelles;
 - (b) to open and keep bank accounts in any foreign currency outside Seychelles which may be credited with the proceeds of the sale of Petroleum from the Agreement Area, and

with any other proceeds arising from Petroleum Operations, provided that all such proceeds are declared and brought into account for the purposes of Clauses 11, 12 and 13 of this Agreement and provided that the Company shall provide funds for Petroleum Operations and payment of taxes; and,

- (c) to purchase and sell Seychelles Rupees, through the commercial banks in Seychelles, without discrimination, at the rate of exchange generally available.

18. **EMPLOYMENT, TRAINING AND LOCAL PURCHASES**

- (1) The Company shall, to the maximum extent practicable, employ nationals of Seychelles for petroleum-related work in each phase of its Petroleum Operations.
- (2) Subject to the law in force from time to time relating to entry into Seychelles, the Company shall be permitted to bring the skilled workers and experts (including their spouses and dependent children) into Seychelles for the purpose of Petroleum Operations only to the extent that the local supply of manpower with the necessary experience and qualifications may be inadequate.
- (3) The Company shall use best efforts to train nationals of Seychelles with respect to and in each Year of its Petroleum Operations, concerning petroleum-related work including technical, administrative, executive and management positions.
- (4) The Company shall implement a programme of on-the-job training for nationals of Seychelles in the Company's Petroleum Operations in Seychelles and at its offices and operations overseas. The Company shall provide to the Minister full details of such training programmes which it runs in-house. The Minister and the Company shall agree annually in advance on the particular on-the-job training to be conducted by the Company.
- (5) At the commencement of each Contract Year of its Petroleum Operations the Company shall make available to the Minister an annual contribution of US\$100,000 during the Exploration Phase and of US\$200,000 during the Development Phase for the purposes of:
 - (a) sending suitable nationals of Seychelles selected by the Minister on petroleum and energy-related courses at universities, colleges or other training institutions;

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- (b) attending petroleum and energy-related conferences and workshops;
 - (c) purchasing for PetroSeychelles and the Government technical and professional publications, scientific instruments or other equipment required by PetroSeychelles and the Government for the purpose of implementing this Agreement; and/or
 - (d) supervising/monitoring of Petroleum Operations.
- (6) The Company shall provide to the Minister, on each Calendar Year anniversary of the Effective Date, a report demonstrating the evolution of local content involvement in its Petroleum Operations and a plan of action to increase the level of local content.
- (7) The Company shall, to the greatest extent possible, engage local firms in Seychelles (including companies incorporated in Seychelles) to carry out any works for, or supply materials to, or provide services for, the Company but nothing in this sub-clause shall be taken as requiring the Company to engage local firms at an uneconomic rate or to engage local firms which are not competitive with non-local firms in terms of costs and standards of workmanship.

19. **ACCOUNTS AND AUDITING**

- (1) The Company shall, at all times during the term of this Agreement, keep physically located in Seychelles full and correct accounts, in a form which is in accordance with the provisions of the Petroleum (Taxation) Act supplemented by the Accounting Procedure to this Agreement. The accounts shall contain true, complete and accurate entries relating to the Company's Petroleum Operations and shall include detailed information covering production, receipts, credits and expenditures with entries shown separately, for each Agreement Area and Petroleum Field.
- (2) The various statements required to be submitted by the Company to the Government pursuant to Sections 1.3.2 and 5 to 11 of the Accounting Procedure shall, unless the Parties later agree otherwise, be prepared in the format and submitted at the times specified in the Accounting Procedure.
- (3) The Minister and other Government departments and agencies shall have the right from time to time to appoint any independent and qualified auditors to inspect and audit, for the purposes of Government revenue and compliance with this Agreement, the books, records and accounts of the

Company with respect to its Petroleum Operations in accordance with the following provisions of this Clause and Section 1.6 of the Accounting Procedure.

- (4) The Minister and other Government departments and agencies may choose to exercise its rights under sub-clause 19(3) within forty-eight (48) Months from the end of a Calendar Year, or within such longer period as the Company may agree with the Minister, provided that in exceptional circumstances, details of which shall be given to the Company, the Government shall have the right to audit the books, records and accounts of the Company for a period of five (5) Calendar Years prior to the Year in which, in the opinion of the Government, the event or events giving rise to the exceptional circumstances first occurred.
- (5) The costs of audits pursuant to sub-clauses 19(3) and (4) shall be borne by the Company and shall be deemed an allowable expenditure in the computation of PIT and PAPT.
- (6) For the purposes of making conversions between foreign and Seychelles currencies in order to determine the Company's liability to royalty, PIT and PAPT, and for preparing the various statements required pursuant to the Accounting Procedure, income accruing or expenditure incurred in a currency other than United States Dollars shall be converted into US Dollars, at the exchange rates specified in Section 1.4 of the Accounting Procedure.

20. **INSURANCE**

Required Insurance

- (1) As of the Effective Date and thereafter at all times throughout the term of this Agreement, the Company shall obtain from reputable insurers and maintain in full force and effect, at its expense, insurance with respect to its properties and operations under this Agreement of the types, in amounts, on policy terms and with limits at least as favourable to the Company and the Government as is customary under Best International Petroleum Industry Practice.
- (2) The Company shall provide the Minister with copies of all such insurance policies and contracts, as well as any further change, as soon as is practicable.
- (3) The insurance maintained by the Company shall indemnify the Company against:

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- (a) loss or damage to any or all of its assets being used in connection with Petroleum Operations;
 - (b) loss or damage including environmental damage caused by pollution in the course of, or as a result of, Petroleum Operations;
 - (c) loss of property or damage or bodily injury suffered by any third party in the course of, or as a result of, Petroleum Operations for which the Company may be liable;
 - (d) any claims for which the Government, the Minister or the State may be liable relating to the loss of property or damage suffered or bodily injury suffered by any third party in the course of, or as a result of, Petroleum Operations, in so far as the Company is liable to indemnify the State; and,
 - (e) any other risk as is customary to insure against in the international petroleum industry in accordance Best International Petroleum Industry Practice.

Modifications of Insurance Coverage

- (4) All insurance policies required by this Agreement shall provide that the same shall not be modified or terminated without at least sixty (60) days prior written notice to the Minister. Within 60 days of each third anniversary of the Effective Date, the Company shall provide the Minister with a report of an independent insurance consultant reasonably acceptable to the Minister to the effect that insurance complies with the requirements of this Clause.

General Insurance Requirements

- (5) All required insurance policies required under this Agreement shall:
 - (a) provide that the same shall not be modified or terminated without contemporaneous notice to the Government through the Minister;
 - (b) with respect to policies insuring against loss or damage to property, cover the full replacement cost of such property;
 - (c) with respect to all liability insurance, name the Minister and its ministers, officers, agents and employees as joint insured's;

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- (d) with respect to all policies insuring against loss or damage to property, name the Government as an additional insured; and,
 - (e) with respect to any additional insured, provide that such insurance will not be invalidated by any action or inaction of each such insured.
 - (f) The Company shall ensure that its insurers provide the Minister with immediate written notice of any cancellation, termination, suspension, revocation or material amendment in cover of all insurances obtained by the Company under this Clause.

Re-insurance

- (6) Where insurance is obtained from insurers in Seychelles, reinsurance shall be obtained for the greatest proportion of the risk that Applicable Law or insurance regulation will allow with reinsurers of international standing with a minimum rating of “A” with A.M. Best or “AA” with ISI Standard & Poor’s. The Company shall use its reasonable efforts to ensure that, to the extent from time to time available in the international reinsurance market at a reasonable cost and on commercially reasonable terms and to the extent permitted from time to time [under the Applicable Law], its insurers in Seychelles and their international re-insurers agree to arrangements such that the Company or the Government, as the case may be, shall be permitted to make claims under such reinsurance policies directly against such re-insurers.

Failure to Maintain Insurance

- (7) A breach of any of the Company’s obligations under this Clause shall be deemed a material breach of this Agreement if it has a material adverse effect on the Government or on the performance of the Company’s obligations under this Agreement.

Contractor Insurance

- (8) The Company shall require its contractors and sub-contractors to obtain and maintain such insurance coverage as an operator in the position of Company would require as a matter of Best International Petroleum Industry Practice. The failure of any contractor or sub-contractor to obtain such coverage shall not excuse the Company from any liabilities that it may have under this Agreement or from any failure to carry insurance required by this Clause.

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- (9) The Company shall use reasonable efforts to include the Minister as an additional named insured under any third party liability policies entered into by the Company's contractors or sub-contractors performing services on or adjacent to the Agreement Area, and shall include the Government as beneficiary of any waiver of subrogation included in such policies.

No Duty to Verify or Review

- (10) Any failure on the part of the Minister to pursue or obtain the evidence of insurance required by this Agreement or failure of the Government to inform the Company of any non-compliance with a request to provide evidence of insurance shall not constitute a waiver of any of the insurance requirements in this Agreement.

21. PROTECTION OF THE ENVIRONMENT

- (1) The Company shall act in accordance with the relevant provisions of environmental laws and regulations in force from time to time in the Seychelles, including with respect to requirements for the conduct of Environmental Impact Assessment Studies ('EIAs') and the terms and conditions of any approval or authorisation granted to the Company under the relevant environmental laws and regulations. In the absence of such laws and regulations, or when such laws and regulations are inconsistent with Best International Petroleum Industry Practice, the Company shall act pursuant to sub-clause 21(2).
- (2) The Company shall employ techniques, practices and methods of operation and take other steps as are necessary and adequate in accordance with Best International Petroleum Industry Practice, in order to:
- (a) protect the environment and the living resources of the sea and prevent pollution;
 - (b) ensure the protection from contamination of strata containing potable water or treatable water;
 - (c) provide an effective and safe method for the disposal and discharge of drill cuttings and drilling muds generated during drilling operations;

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- (d) provide an effective and safe method for the disposal of waste materials generated by the Company's operations;
 - (e) control the flow of Petroleum so as to prevent avoidable waste and escape into the environment; and
 - (f) ensure adequate compensation for injury to persons or damage to property proved to have been caused by the carrying out of the activities under this Agreement by the Company.
- (3) The Company shall cause EIAs to be prepared by persons with special knowledge of environmental conditions similar to those in Seychelles, such persons being acceptable to the Minister and the minister responsible for environment, in accordance with the following arrangements:
- (a) An EIA, relating to seismic surveys, shall be conducted and submitted by the Company as part of the Company's seismic programme;
 - (b) An EIA, relating to exploration drilling, shall be conducted and submitted by the Company as part of the Company's drilling programme in the Agreement Area;
 - (c) An EIA, relating to Appraisal drilling, shall be conducted and submitted by the Company as part of the Company's drilling programme;
 - (d) An EIA, covering Field development and production activities, shall be submitted by the Company as part of its Development Plan.

Each assessment shall be carried out in order to determine the prevailing situation relating to the environment, including marine life and bird life, in the Agreement Area and in the neighbouring areas and the effect of the respective Petroleum Operation on the environment and an EIA shall be undertaken at the end of each Field production and submitted to the Minister not later than six (6) months following the cessation of Petroleum Operations for that Field in order to determine the effect or effects that Petroleum Operations have had on the environment.

- (4) The EIAs prepared and submitted by the Company in accordance with sub-clause 21(3) shall include proposed Environmental Management Plans ('EMPs') to minimize environmental damage, and to provide for the effective implementation of environmental duties and obligations of the Company and, establish procedures for the monitoring of operations and the effects on the
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environment. The EMPs prepared by the Company shall include measures concerning wildlife and habitat protection, marine resource protection, fuel storage and handling, waste management and disposal, protection of cultural and archaeological sites, selection of drilling sites, blow-out prevention, flaring during completion and testing of gas and oil wells, noise control and, site reclamation and rehabilitation plans.

- (5) The Company shall ensure that EMPs are made available to its employees and to its contractors and that there is adequate and proper awareness of the measures and methods of environmental protection to be used when carrying out Petroleum Operations; and that any agreements entered into between the Company and its contractors relating to the conduct of Petroleum Operations shall include the terms set out in this Agreement and any established measures and methods for the implementation of the Company's obligations in relation to the environment under this Agreement.
- (6) Where the activities of the Company result in pollution or damage to the environment or marine life or otherwise, the Company shall take all necessary measures in accordance with Best International Petroleum Industry Practice to effect immediate remedy of the failure and the effects thereof. If such pollution or damage is the result of gross negligence or wilful misconduct of the Company, the cost of the remedy shall not be an allowable deduction in the computation of PIT and PAPT.
- (7) The Company shall notify the Minister forthwith in the event of any emergency or accident affecting the environment and shall take such action as may be prudent and necessary in accordance with Best International Petroleum Industry Practice in such circumstances to mitigate the impact of such accidents and restore the environment.
- (8) If the Company does not act promptly so as to control or clean up any pollution or make good any damage caused, the Minister may, after giving the Company reasonable notice in the circumstances, take any actions which are necessary in accordance with and the costs and expenses of such actions, with interest charged in accordance with Section 1.5 of the Accounting Procedures, shall be recoverable from the Company.

22. **FISHING AND NAVIGATION**

The Company shall carry out operations under this Agreement in such manner as to ensure that there is no unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea and shall take all necessary or desirable steps in regard to the state of the Agreement Area as the Minister may reasonably direct to ensure that following vacation and decommissioning there will be no such interference.

23. HEALTH AND SAFETY

- (1) The Company and its contractors and sub-contractors shall implement a Health and Safety Programme and take necessary measures to ensure health and safety of its persons employed carrying out Petroleum Operations in accordance with Best International Petroleum Industry Practice. Such measures shall include but not be limited to the following:
- (a) supplying first aid and safety equipment for each work area and maintaining a healthy environment for persons employed;
 - (b) reporting to the Minister within seventy-two (72) hours any incident where any person employed has been injured while on the job and resulting in such personnel being unable to return to work;
 - (c) implementing a permit-to-work procedure around hazardous equipment and installations;
 - (d) providing safe storage areas for explosives, detonators and any other dangerous products used in the Petroleum Operations;
 - (e) supplying fire-extinguishing equipment in each work area;
 - (f) ensuring control of any blow-out or fire which could damage the environment or Petroleum Field, in accordance with Best International Petroleum Industry Practice;
 - (g) preventing any involuntary injection of fluids in Petroleum formations and production of Crude Oil and Natural Gas at rates that do not conform to Best International Petroleum Industry Practice.
- (2) The Company and its contractors and sub-contractors shall comply with relevant health, safety and environment legislation and with any instructions given from time to time by the Minister for

securing the safety, health and welfare of persons employed by the Company and its contractors and sub-contractors in or about the Agreement Area.

24. UNIT DEVELOPMENT

- (1) Where during the term of this Agreement, the Minister is satisfied that this Agreement and any other petroleum agreement are in force in respect of a common Petroleum reservoir and considers that the common petroleum reservoir should be worked and developed as a unit on a co-operative basis to secure the maximum ultimate recovery of Petroleum, the Minister may, by notice, require the Company to co-operate with such persons as are specified in the notice (being all or any of the persons whose petroleum agreements are in force in respect of the common Petroleum reservoir and hereinafter called the "Other Companies") in the preparation of a development plan ("Joint Development Plan") for the working and development of the common Petroleum reservoir as a unit by the Company and the other Companies on a co-operative basis.
- (2) A notice under sub-clause 24(1) shall contain or refer to a description of the area or areas in respect of which the Minister requires a Joint Development Plan to be submitted along with a unit development and production agreement and shall state the period within which the Joint Development Plan is required to be submitted for approval by the Minister and the proposed contents of the Joint Development Plan.
- (3) If a Joint Development Plan is not so submitted, or if the Joint Development Plan so submitted is not approved by the Minister, the Minister may cause a Joint Development Plan to be prepared and given to the Company (which Plan shall be fair and equitable to the Company and the Other Companies) and the Company shall perform and strictly observe the terms and conditions of the Joint Development Plan.
- (4) If the Company notifies the Minister that it reasonably objects to a Joint Development Plan (with substantial detail and documentation) which the Minister causes under sub-clause 24(3) to be prepared, a dispute shall be deemed to exist between the Government and the Company for the purpose of Clause 39.

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- (5) Notwithstanding that a dispute so exists, the Company shall continue to perform and observe the terms of the Joint Development Plan unless it is otherwise determined by arbitration or the Minister alters, withdraws or suspends the Joint Development Plan or part thereof pending arbitration or otherwise.

25. **MEASUREMENT OF PETROLEUM AND INSPECTIONS**

- (1) The Minister may, at all reasonable times, authorise entry into and upon any installations erected by the Company on or over any part of the Agreement Area for the following purposes, namely:
- (a) to examine the wells, plant, equipment, buildings and other things made or done by the Company under this Agreement and the state of repair and conditions of such things;
 - (b) to inspect and check the accuracy of the weighing or measuring appliances, weights, measurements, records, maps and plans which the Company is required to keep or make under this Agreement; and,
 - (c) to inspect the samples of strata, Petroleum or water which the Company is required to keep under this Agreement.
- (3) The Ministry may at all reasonable times inspect and make abstracts or copies of any records, maps, plans, or accounts which the Company is required to keep in Seychelles or make under this Agreement. The Company shall extend the same facilities enjoyed by its employees to the Ministry when examining or inspecting plant and installations pursuant to sub-clause 25(1).
- (4) (a) As part of the approval of the Development Plan of a Petroleum Field, the Parties shall mutually agree as to the point or points at which all petroleum produced and saved from the Field shall be measured or weighed. The Company shall measure or weigh by a method or methods customarily used in Best International Petroleum Industry Practice and from time to time approved by the Minister.
- (b) The Company shall not make any alteration in the method or methods of measurement or weighing used by it or any appliances used for that purpose without the advance consent in writing of the Minister and the Minister may in any case require that no alteration shall be made save in the presence of a person authorised by the Minister.

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- (c) The Minister may from time to time direct that any weighing or measuring appliance shall be tested or examined in such manner upon such occasions or at such intervals and by such means as may be specified in the direction.
 - (d) If any measuring or weighing appliance shall upon any such test or examination as is mentioned in sub-clause 25(3) be found to be incorrectly calibrated, false or unjust the same shall, if the Minister so determines after considering any representations in writing made by the Company, be deemed to have existed in that condition during the period since the last occasion upon which the same was tested or examined pursuant to sub-clause 25(3) and royalty payable under this Agreement for that period shall be adjusted accordingly.
 - (e) For the purpose of measuring Natural Gas produced and saved from a Field in the Agreement Area the value of the Natural Gas shall be calculated at an absolute pressure of one (1) atmosphere and at a temperature of sixty (60) degrees Fahrenheit, unless otherwise agreed.
 - (f) Any person or persons authorised by the Minister shall be entitled at all reasonable times to enter into and upon any of the Company's installations or inspect and examine all equipment used or to be used in connection with exploring for or getting Petroleum in the Agreement Area, to execute any works or to provide and install any equipment which PETROSEYCHELLES may be entitled to execute or provide and install in accordance with the provisions hereof.

26. **INSTALLATIONS**

The Company shall not construct or place any installations in the Agreement Area or outside the Agreement Area when approved under the Development Plan until plans and specifications of such installations and related particulars thereof as may be required under this Agreement have been approved by the Minister, which approval may be given on such terms and conditions as the Minister determines and directs, including a direction that permanent means for giving warning of their presence must be maintained and that any installation which is abandoned or disused be removed in its entirety at the cost of the Company.

27. **DRILLING OF WELLS**

The drilling of wells associated with Petroleum Operations carried out under this Agreement shall be governed by the Petroleum Drilling Regulations, 1980, as amended from time to time and supplemented by Best International Petroleum Industry Practices which shall take precedence when relevant, and shall not be carried on without prior approval by the Minister.

28. ABANDONMENT AND DECOMMISSIONING

- (1) The Company shall not abandon any well without the prior written approval of the Minister. A request for abandonment of any well shall be timely submitted by the Company at the date required under Best International Petroleum Industry Practice.
- (2) Every well that the Company intends to abandon shall be securely plugged by the Company in order to prevent entry and exit of water into and from any portion of the strata bored through, unless the Minister otherwise determines and directs an alternative approach concerning such abandonment. The Minister may also require that no well shall be plugged except in the presence of a person authorised by him.
- (3) The Company shall on the termination or expiration of this Agreement, remove all the facilities and assets built under this Agreement in accordance with Best International Petroleum Industry Practice.
- (4) Before relinquishing any area during the Exploration Phase, the Company shall submit for approval an abandonment plan of the concerned area.
- (5) When half of the estimated Petroleum proved reserves of a Field are produced, the Company shall submit to the approval of the Minister a Decommissioning Plan and budget. A detailed work programme and schedule in respect of the Decommissioning Plan shall be submitted by the Company to the Minister for approval at least six (6) months before the planned end of the production of the relevant Field, termination or relinquishment of the area, whichever is the earlier.
- (6) The Company shall undertake and fund the approved Decommissioning Plan before the termination of this Agreement, or the relinquishment of each Development Area, whichever is the earlier.
- (7) The proposed Decommissioning Plan and budget under sub-clause 28(5) submitted for approval to the Minister shall provide for a formula allowing the determination of an allowable annual decommissioning provision, deductible for PIT and PAPT purposes, based on a unit of production

scheme effective from the date of approval of the Decommissioning Plan up to the estimated end of production of the relevant Field.

- (8) For the purposes of developing a Decommissioning Plan in accordance with sub-clause 28(7), the Company shall provide under sub-clause 28(5) for two possible systems, subject to the approval of the Minister, under which the Company shall:
- (a) either contribute to an escrow account dedicated to Decommissioning (“Decommissioning Fund”), maintained outside the Company in a bank or other financial institution acceptable to the Minister and earning interest kept in the Fund; or,
 - (b) provide a satisfactory guarantee regarding Decommissioning provided by a parent company, a bank or financial institution acceptable to the Minister.
- (9) The Company shall remain liable to contribute to all the necessary decommissioning costs irrespective of the system approved and established in accordance with sub-clause 28(8) above, including in cases where a Decommissioning Fund or financial guarantee is insufficient to meet the costs of Decommissioning.
- (10) Where following the completion of Decommissioning and written confirmation from the Minister stating that all Decommissioning obligations of the Company under this Agreement have been satisfied, any surplus funds remaining in a Decommissioning Fund established by the Company shall be available to the Company and considered as taxable income.

29. CONDUCT OF PETROLEUM OPERATIONS

- (1) The Company shall use generally accepted standards of Best International Petroleum Industry Practice for confining Petroleum obtained from the Agreement Area in tanks, gas holders, pipes, pipelines or other receptacles constructed for the purpose.
- (2) Prior to commencing any Petroleum Operations in the Agreement Area, the Company shall furnish to the Minister the name and address of the manager resident in Seychelles under whose supervision such operations are to be carried on. When the Company is constituted by more than one entity, a copy of the joint operating agreement shall be submitted to the Minister prior to the

Effective Date, or when executed; any change to that agreement shall be submitted when executed. Any change of Operator shall be approved by the Minister.

- (3) Section 3 or 4 of the Preservation of Public Security Act (Cap. 36) as amended from time to time, shall apply in emergency situations.
- (5) No statement (oral or written) shall be made by or with the consent of the Company claiming or suggesting, whether expressly or by implication, that any Government division or any person or body acting on behalf of the Government has or have formed or expressed an opinion that the Agreement Area is from their geological formation or otherwise likely to contain petroleum.
- (6) Sub-clause 29(5) or a statement to the effect of that sub-clause shall be included in or endorsed on any prospectus, statement in lieu of prospectus, notice, circular advertisement or other invitation issued by or with the consent of the Company offering to the public for subscription or purchase any shares or debentures of a company proposed to be brought into existence.

30. **DATA AND INFORMATION**

- (1) The Company shall keep the Minister currently advised of all developments regarding the Petroleum Operations, including, but not limited to, information in respect of the drilling, deepening, work over, repair, plugging, abandonment or completion of wells.
- (2) All data, including well logs, maps and plans, magnetic tapes, cores and cuttings samples, and other geological and geophysical information and interpretations obtained by the Company as a result of its activities under this Agreement and all geological, technical, financial and economic reports, studies and analyses prepared by or for the Company relating to the Agreement Area, and hereinafter referred to as "Petroleum Operations Information" shall be the property of the Government. The Company shall deliver, at the Company's own cost, to the Ministry within a reasonable time after they have become available copies of the Petroleum Operations Information as soon as such information becomes available. Copies shall be supplied by the Company using the most up to date technology and should be compatible with PETROSEYCHELLES facilities. The Company shall be entitled to retain copies of the Petroleum Operations Information solely for its own use and subject to the confidentiality obligations contained in this Agreement as set forth below.

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- (3) The Government shall be entitled:
- (a) at any time, undertake or commission data collection activities, including the acquisition of seismic and other geological and bathymetric information in the Agreement Area at any time, provided that such activities do not cause interference with the Petroleum Operations of the Company;
 - (b) to make use of any Petroleum Operations Information for the purpose of preparing and publishing aggregated returns and general reports on the extent of Petroleum Operations;
 - (c) at any time, to make use of appropriate summaries of the Petroleum Operations Information for use in connection with the promotion of unlicensed areas, including significant information on the presence of Petroleum encountered in any well in the Agreement Area;
 - (d) at any time, to make use of Petroleum Operations Information for the purpose of any arbitration or litigation between the Parties;
 - (e) to release Petroleum Operations Information after three (3) years from the date when the Petroleum Operations Information was acquired by the Company or upon relinquishing any part of the Agreement Area to which the Petroleum Operations Information refers, whichever date is the earlier;
 - (f) to disclose Petroleum Operations Information to its advisers and consultants, and those of PETROSEYCHELLES;
 - (g) at any time, to make use of topographical survey information, including submarine topography, for any purpose whatever; and
 - (h) at any time, to make use of information regarding economic minerals other than Petroleum.
- (4) The Company shall have the right to use the Petroleum Operations Information for any legitimate purpose in connection with the Company's Petroleum Operations and to disclose such information, provided an undertaking of confidentiality is obtained from the disclose, to:
- (a) outside consultants engaged in connection with the Company's operations hereunder;
 - (b) a bank or financial institution from whom the Company may be seeking to obtain financing;
- or
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- (c) any third party who has a bona fide interest in acquiring by purchase, exchange or otherwise all or a portion of the Company's rights and interest in this Agreement.
- (5) The Company shall, as far as is reasonably practicable, correctly label and keep for reference for the duration of this Agreement characteristic samples of any fluids and of any gas encountered in any well and samples of any petroleum found in the Agreement Area, and for the duration of this Agreement characteristic samples of the strata found in any well. PetroSeychelles shall have access to such samples at all reasonable times and shall be entitled to require that representative specimens of any such samples be delivered to PetroSeychelles, which may retain any specimens so delivered. Before disposing of samples subject to this Clause, the Company shall give PETROSEYCHELLES not less than six (6) months' notice of its intention to dispose of the samples.
- (6) The Company shall keep (physically and electronically) in Seychelles full and accurate records in a form from time to time approved by the Minister, containing particulars of the following matters, namely:
- (a) the drilling, deepening, plugging or abandonment of wells;
 - (b) the strata and subsoil through which wells are drilled;
 - (c) the casing inserted in wells and any alteration to such casing;
 - (d) any Petroleum, water and other economic minerals encountered;
 - (e) the areas in which any geological and geophysical work has been carried out including the nature of work and the details thereof; and,
 - (f) such other matters related to the above as the Minister may from time to time require,
- and the Company shall also keep in Seychelles accurate geological maps and plans, geophysical records, and interpretations relating to the Agreement Area. Such maps, plans, records and interpretations and all geological and geophysical reports made by or for the Company shall be available for inspection by PETROSEYCHELLES, and the Company shall deliver at Company cost copies of such maps, plans, records, interpretations and reports to the Minister whenever required.
- (7) The Company shall furnish to the Minister:
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- (a) daily written progress reports during operations such as seismic acquisition, drilling, development and production operations;
 - (b) within fifteen (15) days after the end of each Month:
 - (i) a written summary of all geological and geophysical work carried out by or for the Company, including lists of maps and reports;
 - (ii) a written summary of all drilling activity and results obtained; and,
 - (iii) notification of future exploration plans;
 - (c) within sixty (60) days after the first day of January and the first day of July in each Calendar Year, estimates of Crude Oil and Natural Gas production, and exports for each of the two (2) half year periods immediately following each of the said dates;
 - (d) within three (3) months after the end of each Calendar Year:
 - (i) estimates of economically recoverable reserves of Crude Oil and Natural Gas at the end of each Calendar Year; and,
 - (ii) a record, in a form previously approved by the Minister, which describes the results of all exploration, development and other works carried out by the Company during that Calendar Year in connection with searching for, boring for and obtaining petroleum, and details of reports and documents to be provided as prescribed;
 - (iii) detailed reports of exploration and other wells, including litho-, chrono-and bio-stratigraphy, petro-physical data, hydrocarbon zones and any other such information shall be submitted within three (3) months of completing the well;
 - (iv) from time to time, such other plans and information as to the progress and results of the Company's Petroleum Operations as the Minister may require; and,
 - (v) on relinquishment of any part of the Agreement Area, such maps, plans, reports, records, interpretation and data, made or obtained by or for the Company, relating to exploration, development, production and any operations in the relinquished lands as the Minister may require.

31. INDEMNITY

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- (1) The Company shall at all times keep the Government fully indemnified and held harmless against all proceedings, costs (including attorney's fees and costs), charges, claims and demands whatsoever which may be or brought against the Government by any third person in relation to or in connection with this Agreement, the Petroleum Operations, including any environmental damage, or any matter or thing done or purporting to be done in pursuance thereof by the Company.

32. **TRANSFER AND ASSIGNMENT**

- (1) The Company shall not transfer or assign, directly or indirectly, any right, power or interest in the Agreement Area and this Agreement ("assignment") without the prior written approval of the Minister.
- (2) An application for assignment shall be in accordance with terms and conditions specified within the Petroleum Mining Act and any regulations made under it.
- (3) The Minister may consent to an assignment if the proposed assignee is able to demonstrate to the satisfaction of the Minister that:
- (a) the proposed assignee is of good reputation;
 - (b) the proposed assignee has sufficient technical knowledge, experience or financial resources to enable it effectively carry out the responsibilities pursuant to the Petroleum Operations under this Agreement which is to be assigned; and,
 - (c) where the proposed assignee is to serve as Operator, such assignee has proven operating experience or is supported by a competent operator under a technical service agreement with respect to operations to be carried out pursuant to the Petroleum Operations under this Agreement which is to be assigned.
- (4) The Company shall within one (1) month of the date of execution of an assignment furnish to the Minister, copies of all conveyances, leases, assignments, agreements and deeds relating to the Agreement Area, Petroleum Operations on the Agreement Area or, any interest therein and to which the Company is a party or under which the Company either directly or indirectly obtains any benefit or incurs any liability.

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- (5) At any time at which the Company is constituted by more than one company, the reference in sub-clause 32(1) to "the Company" shall be construed as a reference to each one of those companies and the obligation under sub-clause 32(1) shall apply as a joint and several obligation.
- (6) Where a Company is taken over by another company or merges, or is acquired by another company either by acquisition or exchange of shares, including a change of control of a parent company outside Seychelles, it shall be deemed to be and treated as an assignment within Seychelles and shall be subject to the terms and conditions of the Petroleum Mining Act, the Petroleum (Taxation) Act, any regulations made under them, and this Clause.
- (7) Any assignment pursuant to this Clause shall be fully disclosed by the Company to the Seychelles Revenue Commission. Any petroleum income tax payable in relation with any assignment in accordance with the Petroleum (Taxation) Act shall be timely paid by the assignor to the Seychelles Revenue Commission, and such payment shall be a condition for the consent under sub-clause 32(1).

33. **POWER OF GOVERNMENT TO PERFORM COMPANY'S OBLIGATION**

- (1) If the Company at any time fails to comply with any of the obligations which must be complied with by the Company under Clauses 7, 21, 22, 26, 27, 28, 29, or 37 of this Agreement, the Government may, after giving to the Company reasonable notice, do any of the things which in the opinion of the Government may be necessary to ensure compliance with such obligations and to recover the full costs and expenses of so doing from the Company.

34. **RIGHT OF THE COMPANY TO TERMINATE AGREEMENT**

- (1) The Company may, during any period of the Exploration Phase, terminate this Agreement by giving not less than three (3) months' notice in writing to the Minister provided that all its obligations for the relevant period of the Exploration Phase have been met.

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- (2) The Company may, during the Development Phase, terminate this Agreement by giving not less than twelve (12) months' notice in writing to the Minister.
 - (3) A purported termination made by the Company under clauses 34(1) and 34(2) shall be deemed ineffective until such time as the Minister has confirmed in writing that the Decommissioning obligations of the Company specified under Clause 28 of this Agreement have been satisfied.

35. RIGHT OF THE MINISTER TO TERMINATE AGREEMENT

- (1) The Minister may terminate this Agreement by giving written notice to Company, where in the opinion of the Ministry, the Company has:
 - (a) failed to use the Agreement Area *bona fide* for the purposes of this Agreement;
 - (b) failed to comply with a term or condition of this Agreement or with a direction or instruction given under this Agreement with which it is required to comply;
 - (c) failed to pay any amount payable by the Company under this Agreement within a period of one (1) month after the day on which the amount became payable;
 - (d) failed to comply with any unit Joint Development Plan;
 - (e) failed to commence commercial production within five (5) years of the commencement of the Development Phase of the relevant Field; or, suspended commercial production from a Field for a period exceeding twelve (12) months decided without the Minister's approval; or,
 - (f) failed to comply with any of the terms or conditions subject to which the Minister gave his consent.
- (2) The Minister shall not, under sub-clause 35(1), terminate this Agreement on the ground of any failure referred to in that sub-clause, where the Company claims that there has not been such a failure, unless:
 - (a) the Company withdraws its claim; or,
 - (b) the claim has been referred to arbitration in accordance with Clause 39 of this Agreement, and the arbitration award confirms that there has been such a failure by the Company.

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- (3) The Minister shall not, under sub-clause 35(1), terminate this Agreement on the ground of any failure referred to in that sub-clause unless:
- (a) the Minister gives not less than one (1) month's written notice to the Company of the intention of the Minister to terminate this Agreement on that ground;
 - (b) The Minister has, in the notice, specified a date on or before which the Company may, by notice to the Minister, submit any matter which it wishes the Minister to consider; and,
 - (c) The Minister has taken into account:
 - (i) any action taken by the Company to remove that ground or to prevent the occurrence of similar grounds; or,
 - (ii) any matters so submitted by the Company before the date specified in the notice.
- (4) Where the Minister gives a notice under sub-clause 35(1) to the Company and the Company then claims that there has not been such a failure as is referred to in that notice, the Minister may, if either of the requirements of sub-clause 35(2)(a) or (b) have effect, terminate this Agreement without giving a further notice under sub-clause 35(3).
- (5) The Minister may by order terminate this Agreement if an order is made or a resolution is passed winding up the affairs of the Company unless:
- (a) the winding up is for the purpose of amalgamation or re-construction; and,
 - (b) The Minister has been notified of the amalgamation or re-construction and has given consent.
- (6) The Minister may terminate this Agreement if a receiver is appointed to administer the assets of the Company or the Company is otherwise insolvent and cannot continue its operations as currently constituted.
- (7) At any time where the Company is more than one company, the Minister shall not under sub-clause 35(5) or (6) terminate this Agreement because of the passing by one of those companies of a winding-up resolution or, as the case may be, because of the appointment of a receiver of the
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assets of one of those companies unless satisfied that the remaining companies are unable to perform the obligations of the Company under this Agreement.

- (8) At any time when the Company is more than one company, a reference in sub-clauses 35(1) to (4) to the Company is a reference to those companies jointly.

36. **EFFECT OF TERMINATION**

- (1) Following the termination of this Agreement, this Agreement and all the respective rights and obligations of the Parties shall altogether cease to have effect, provided that such termination shall be subject to and without prejudice to any rights and obligations of the Parties respectively expressed to arise under this Agreement prior to the termination thereof or any liability of either Party arising out of an earlier failure to comply with any obligation which must be complied with by such Party.
- (2) Where any part of the Agreement Area is relinquished under this Agreement, sub-clause 35(1) shall apply in relation to that part as if this Agreement had been terminated.

37. **DELIVERY UP OF PRODUCTIVE WELLS AND ASSETS AT MINISTER'S ELECTION**

- (1) At the expiry of this Agreement or any earlier termination of this Agreement in respect of a Field, the Government may decide to continue, either directly or by a third party, the operation of all or part of such Field. The Minister shall notify the Company of such election at least six (6) months before the planned end of the operation or expiry of the relevant Development Area. When so elected, the Company shall deliver up to the Government, free of charge, at the agreed date, the designated productive wells and assets operated by the Company in good repair and condition and fit for further working (unless ordered by the Minister to plug and abandon some of them and except such wells and assets as shall have been previously abandoned with the consent of the Minister). Such transfer of ownership on the designated wells and assets shall cause, as the case may be, the automatic extinction of any surety or security concerning those wells and assets.
- (2) At the expiry of this Agreement or at any earlier termination in all or part of this Agreement, the Company shall plug and abandon all wells, and decommission all assets as provided in Clause 28 of this Agreement in relation with the concerned Field except for those wells and assets specifically

designated under sub-clause 37(1) and not included in the approved Decommissioning Plan. The Decommissioning Fund or provisions constituted under Clause 28 in relation with the assets delivered to the Government under sub-clause 37(1) shall be transferred to the Government.

38. APPLICATION OF FORCE MAJEURE

- (1) A failure on the part of each Party to fulfil any of the terms and conditions of this Agreement shall not be treated as breach of this Agreement in so far as the failure arises from Force Majeure and if, as a result of Force Majeure, the fulfilment by each Party of any of the terms or conditions of this Agreement is delayed beyond the period fixed or allowed for its fulfilment the period of the delay shall be added to the period so fixed or allowed.
- (2) Where a Party considers it is prevented from performing any of its obligations by the occurrence of Force Majeure, it shall forthwith notify the other party thereof by specifying the grounds for establishing a situation of force majeure, and take all necessary and useful steps to ensure the normal resumption of the concerned obligations upon termination of the event constituting the Force Majeure. All obligations other than those affected by Force Majeure shall continue to be performed in accordance with the provisions of this Agreement.
- (3) The Party invoking the Force Majeure shall promptly notify the Minister as soon as conditions of Force Majeure no longer prevent the Company from carrying out its obligations and following such notice shall resume Petroleum Operations as soon as reasonably practicable.

39. SETTLEMENT OF DISPUTES

- (1) In the event of a dispute arising between the Parties concerning the interpretation or application of this Agreement, the parties to the dispute shall seek to resolve the dispute by consultation and negotiation.
- (2) Subject to sub-clause 39(3) below, where a dispute cannot be resolved through consultation and negotiation within a period of three months, either Party may do one of the following:
 - (a) where the Company is duly incorporated, constituted, set up, or otherwise duly organized under the law of a State Party to the 1965 *Convention on the Settlement of Investment Disputes between States and Nationals of other States* ('the Convention'), refer the

dispute to the International Centre for Settlement of Investment Disputes ('ICSID') for arbitration pursuant to Article 36 of the Convention;

- (b) where the Company is not duly incorporated, constituted, set up, or otherwise duly organized under the law of a State Party to the Convention, refer the dispute to an *ad hoc* arbitral tribunal in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (1976), subject to the following provisions:
- (i) The Arbitral Tribunal shall consist of three arbitrators. Each Party shall select an arbitrator, and those two arbitrators shall then appoint by mutual agreement a third arbitrator, the Chairperson, who shall be a national of a third State. All arbitrators shall be appointed within two months from the date when a Party informs the other Party of its intention to submit the dispute to arbitration under this sub-paragraph.
 - (ii) If the necessary appointments are not made within the period specified above, either Party to the dispute may, in the absence of any other agreement, request the Secretary-General of the Permanent Court of Arbitration to make the necessary appointments.
 - (iii) The Arbitral Award shall be made in accordance with this Agreement.
 - (iv) The Arbitral Tribunal shall reach its decision by a majority of votes and shall state in the Award the basis and reasons for its decision.
 - (v) The decision of the Arbitral Tribunal shall be final and binding and the Parties to the dispute shall abide by and comply with the terms of its award.
 - (vi) Each Party to the dispute shall bear the cost of its own arbitrator and its representation in the arbitral proceedings. The cost of the Chairperson in discharging his or her duties in relation to the arbitration and the remaining costs of the arbitration shall be borne equally by the Parties to the dispute. The arbitral tribunal may, however, direct in its decision that a higher proportion of costs shall be borne by one or other of the Parties to the dispute, and this award shall be binding on the Parties to the dispute.

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- (3) In the case of any disputes arising under sub-clause 11(14), sub-clause 14(7) or sub-clause 15(4) of this Agreement, the procedures relating to the referral of a matter to a Sole Expert for determination shall apply. In the event that there is failure to agree on the person to be so appointed, a person appointed by the Secretary-General of the Permanent Court of Arbitration at the request of either Party, who shall be an independent and impartial person of international standing with relevant qualifications and experience and shall not, by virtue of nationality, personal connection or commercial interests have a conflict between his own interest and his duty as a Sole Expert.

40. **APPLICABLE LAW**

- (1) This Agreement shall be governed by the Laws of Seychelles.
- (2) Nothing in this Agreement shall entitle the Company to exercise the rights, privileges and powers conferred upon it by this Agreement in a manner which would contravene any law of the Seychelles.

41. **DELEGATION**

The Minister may authorise any person to exercise and perform any of his functions under this Agreement and anything done by the delegate in pursuance of the delegation shall have the same validity and effect as it would have if done by the Minister.

42. **ACQUISITION OF LAND**

The Government shall use reasonable commercial endeavours to assist the Company to acquire access and/or usage rights in respect of land in Seychelles where those rights are required by the Company for the purposes of, or for purposes incidental to the purposes of, this Agreement.

43. **AGREEMENT TRANSPARENCY**

This Agreement is a public document and the Government shall have the right to publish and keep publicly available and distribute such information and reports concerning this Agreement as may be required by the Law of Seychelles, or otherwise consistent with internationally accepted standards and norms concerning transparency in the extractive industries, including the publication

of production and financial data relating to revenue derived from Rental, Royalty, PIT, PAPT and other taxes and fees, together with information concerning any additional payments made by the Company to the Government, or other indirect fiscal benefits offered by the Company and received by the Government in relation to this Agreement.

44. **MODIFICATIONS TO THIS AGREEMENT**

This Agreement shall not be amended or modified except with the written mutual agreement of the Parties.

45. **NOTICE AND COMMUNICATIONS UNDER THIS AGREEMENT**

- (1) All notice and other communications to be given under this Agreement shall be given in writing, and:
- (a) where notice is to be given to the Minister, may be sent by registered mail, courier, facsimile or electronic mail to the Minister, together with a copy provided to PETROSEYCHELLES;
 - (b) where the notice is to be given to the Company, may be delivered or sent by registered mail, courier, facsimile or electronic mail to:
 - (i) the registered office of the Company in Seychelles; or,
 - (ii) where the Company is more than one Company, to the registered office of any such Company in Seychelles.
- (2) Any notice sent pursuant to this Clause by registered mail shall be deemed to have been given on the date that is three (3) days after the date of the mailing of the notice.

46. **SCHEDULES TO THIS AGREEMENT**

- (1) The Schedules shall be applied and interpreted in accordance with and form an integral part of this Agreement.

SIGNED



FOR THE GOVERNMENT

FOR THE COMPANY



FIRST SCHEDULE
AGREEMENT AREA

SECOND SCHEDULE

MINIMUM EXPLORATION WORK PROGRAMME

[INSERT THE APPROPRIATE CLAUSES corresponding to the minimum exploration work obligations]

PART I

Subject to the other provisions of this Agreement, the following work shall be performed in the Agreement Area during the periods indicated:

<u>PERIOD</u>	<u>DURATION OF PERIOD</u>	<u>DESCRIPTION OF WORK TO</u>	<u>BE PERFORMED</u>
1.	From the Effective Date of this Agreement until the third anniversary of the said date.	
2.	From the third anniversary to the sixth anniversary of the said date.	
3.	From the sixth anniversary to the ninth anniversary of the said date.	

PART II

Subject to the other provisions of this Agreement, in the event of failure by the Company to carry out its work obligations in full or in part during any of the corresponding periods of Part I of this Schedule, the Company shall be liable to pay immediately to the Revenue Commission of Seychelles US Dollars _____ [*INSERT AMOUNT for each period or part of work obligations as well as any other appropriate related clauses*]

The Minister shall require the Company to provide a performance bond or letter of credit from a bank or financial institution of high international standing or a parent company performance guarantee or similar credit support agreement in the form set out in the Fourth Schedule.

THIRD SCHEDULE

ACCOUNTING PROCEDURE

SECTION 1 GENERAL PROVISIONS

1.1 Definitions

The terms used in this Accounting Procedure which are defined in this Agreement or in the Petroleum (Taxation) Act shall have the same meaning when used herein.

1.2 Purpose of the Accounting Procedure

The purpose of this Accounting Procedure is to establish principles and procedures of accounting which will enable the Government to monitor the Company's expenditures, production, income and receipts as well as the Government's entitlement to Royalty, Petroleum Income Tax and PAPT pursuant to Clauses 11, 12 and 13 respectively of this Agreement. The classification of expenditures and the determination of whether the costs and expenses set forth herein are allowable or non-allowable as provided in this Schedule shall guide the Parties in the preparation and approval of accounts and shall apply in respect of the calculation of PIT and PAPT; moreover, to the extent specified herein, the provisions of this Accounting Procedure shall guide the Seychelles Revenue Commission in determining the amount of PIT and PAPT payable by the Company under the Petroleum (Taxation) Act.

1.3 Statements and Reports Required to be Submitted by the Company

1.3.1 Within sixty (60) days of the Effective Date, the Company shall submit to and discuss with PETROSEYCHELLES and the Seychelles Revenue Commission a proposed outline of charts of accounts, operating records, reports and Statements (as further specified in subsection 1.3.2 below), which outline shall reflect each of the categories and sub-categories of expenditures specified in Sections 2 and 3 and shall be in accordance with generally accepted and recognised accounting systems and consistent with normal practice of the international petroleum industry and not contradictory to the accounting principles

generally used in Seychelles, unless otherwise agreed. Within sixty (60) days of receiving the above submission shall either indicate approval of the proposal or request revisions to the proposal. Within one hundred and eighty (180) days after the Effective Date of this Agreement, the Company and PETROSEYCHELLES shall agree on the outline of charts of accounts, operating records and reports which shall describe the basis of the accounting system and procedures to be developed and used under this Agreement. Following such agreement, the Company shall expeditiously prepare and provide PETROSEYCHELLES and the Seychelles Revenue Commission (within not more than thirty (30) days) with formal copies of the comprehensive charts of accounts (including the Statements) related to the accounting, recording and reporting functions, and allow PETROSEYCHELLES and the Seychelles Revenue Commission reasonable access upon prior notice to examine the Company's manuals and to review procedures which are, and shall be, observed under this Agreement, subject to any revision agreed by the Parties.

1.3.2 Notwithstanding the generality of the foregoing, the Company shall prepare and submit monthly written Statements to the Minister and the Seychelles Revenue Commission relating to its activities under this Agreement, as follows:

- (i) Production Statements (see Section 5 of this Schedule);
- (ii) Value of Production Statements (see Section 6 of this Schedule);
- (iii) Royalty Statement (see Section 7 of this Schedule);
- (iv) Statement of Expenditure and Receipts (see Section 8 of this Schedule);
- (v) Petroleum Additional Profits Tax Statement (see Section 9 of this Schedule);
- (vi) End-of-Year Statement (see Section 10 of this Schedule); and
- (vii) Annual Budget Statement (see Section 11 of this Schedule).

1.3.3 All reports and any other Statements which the Company may be required to submit to the Government during the course of the period covered by this Agreement shall be prepared in accordance with this Agreement, the laws of Seychelles and, where there are no relevant provisions in either of these, in accordance with normal practices of the international petroleum industry.

1.3.4 The Statements referred to in subsection 1.3.2 shall be prepared on a cash basis, with subsidiary schedules attached, where appropriate, to enable costs, expenses and receipts to be computed on an accruals basis.

1.3.5 The Operator, for and on behalf of all entities constituting the Company, shall maintain the accounts of the Petroleum Operations under this Agreement, prepare and submit to PETROSEYCHELLES and the Seychelles Revenue Commission the various Statements required under subsection 1.3.2, and shall do so in such a manner as to permit each such entity to fulfil its obligations under this Agreement.

1.3.6 However, each of the entities constituting the Company shall be responsible for maintaining its own accounting records in order to comply fully with all legal requirements and to support all fiscal returns or any other accounting reports required by any Governmental authority in relation to the Petroleum Operations.

1.4 Units of Account, Language and Exchange Rates

1.4.1 Pursuant to Part IV of the Petroleum (Taxation) Act, accounts shall be maintained in United States Dollars for all purposes. For statistical purposes, summarised accounts shall be maintained in Seychelles Rupees and United States Dollars. A consistent set of units (including barrels for oil production) shall be employed for measurements required under this Schedule. The language employed shall be English.

1.4.2 It is the intent of the Parties that neither the Government nor the Company should experience an exchange gain or loss at the expense of, or to the benefit of, the other. However, should there be any gain or loss from exchange of currency, it will be credited or charged to the accounts under this Agreement.

1.4.3 (i) Amounts received and expenditures made in Seychelles Rupees shall be converted from Seychelles Rupees into United States Dollars at the mean of the buying and selling exchange rates as published or offered by the commercial banks operating in

Seychelles for the day on which the relevant transaction occurred, unless otherwise agreed.

- (ii) Amounts received and expenditures made in currencies other than United States Dollars shall be converted into United States Dollars at the mean of the buying and selling exchange rates between the currencies in question as published by the commercial banks operating in Seychelles or, failing such publication, as published in the Financial Times (London edition) for the day on which the relevant transaction occurred, unless otherwise agreed.
- (i) The average daily exchange rates used in accordance with sub-paragraphs 1.4.3(i) and (ii) above shall be identified in the relevant Statements required under subsection 1.3.2 of this Schedule.

1.5 **Payments**

Except as is otherwise specified in the Petroleum (Taxation) Act, any payment which the Company is required to make to the Government, or which the Government is required to make to the Company, as the case may be, pursuant to this Agreement, shall be made within the time specified in this Agreement for the payment, or, where no time is specified, within thirty (30) days following the date on which the obligation to make such payment occurs. Except as is otherwise specified in the Petroleum (Taxation) Act, all sums due by one Party to the other under this Agreement during any Month shall, for each day such sums are overdue during such Month, bear interest compounded daily at a rate equivalent to an annual rate equal to the average London Interbank Offered Rate (LIBOR) *plus* ___per cent [INSERT THE PERCENTAGE] *rate above LIBOR* for six (6) months US Dollars as quoted at 11.00 a.m. London time on the first business day of such Month by the London office of National Westminster Bank PLC, or such other rate or bank as the Parties may agree.

1.6 **Audit and Inspection Rights of Government**

1.6.1 In accordance with Part IV of the Petroleum (Taxation) Act and Clause 19 of the Agreement, Government shall have the right, upon giving reasonable notice to the Company, to audit the Company's books, records and accounts pertaining to its Petroleum Operations. At

any time at which the Company is more than one company the reference in this subsection and in Clause 19 of this Agreement to "the Company" for PIT Purposes is a reference to each one of those companies.

- 1.6.2 For purposes of auditing, the Government may examine and verify, at reasonable times, all charges and credits relating to the Company's activities under this Agreement and all books of account, accounting entries, material records and inventories, vouchers, payrolls, invoices and any other documents, correspondence and records necessary to audit and verify the charges and credits. Furthermore, the Government and its auditors shall have the right in connection with such audit to visit and inspect at reasonable times all sites, plants, facilities, warehouses and offices of the Company serving its activities under this Agreement and to visit personnel associated with those activities.
- 1.6.4 The Company shall answer any notice of exception within thirty (30) days of receipt of such notice by the Company. Where the Company has, after the thirty (30) days period failed to answer a notice of exception made by the Government, the Government's exception shall prevail until such time as the Government's exception is resolved.
- 1.6.6 Without prejudice to the finality of matters described in Clause 19 of this Agreement and in this subsection, all relevant documents shall be maintained and made available for inspection by Government for at least five (5) years following their date of issue.

SECTION 2

CLASSIFICATION, DEFINITION AND ALLOCATION OF EXPENDITURES

All expenditures relating to the Company's activities under this Agreement which qualify as allowable deductions in the computation of Royalty, PIT and PAPT in accordance with Section 3 of this Schedule shall be classified, defined and allocated as follows:

2.1 **Exploration Expenditures** shall consist of all allowable direct and allocated indirect expenditures incurred in the search for petroleum in an area which is or was, at the time when such costs were incurred, part of the Agreement Area, including:

- (a) aerial, geophysical, geochemical, palaeontological, geological, topographical and seismic surveys and studies and their interpretation;
- (b) bore hole drilling and water well drilling;
- (c) labour, materials and services used in drilling wells, with the object of finding Petroleum, or Appraisal Wells;
- (d) facilities used solely in support of the purposes described in (a), (b) and (c) above including access roads, fixed assets and purchased geological and geophysical information;
- (e) that portion of all Service Expenditures and that portion of all General and Administrative Expenditures allocated to Exploration Expenditures according to standard oil industry accounting practice or as otherwise agreed between the Parties; and
- (f) any other expenditures incurred in the search for petroleum after the Effective Date but prior to the agreed date of commencement of regular commercial production of the relevant Petroleum Field and not covered under subsections 2.2, 2.3, 2.4 and 2.5.

2.2 **Development Expenditures** shall consist of all allowable direct and allocated indirect expenditures incurred in the development of a Petroleum Field in accordance with the approved Development Plan, including:

- (a) expenditure on drilling wells, other than Exploratory Wells and Appraisal Wells, which are completed as producing wells and drilling wells for purposes of producing from a

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- Petroleum Field, whether these wells are dry or producing, and drilling wells for the injection of water or gas to enhance recovery of petroleum;
- (b) expenditure on completing wells by way of installation of casing or equipment or otherwise after a well has been drilled for the purpose of bringing the well into use as a producing well, or as a well for the injection of water or gas to enhance recovery of petroleum;
 - (c) intangible drilling costs such as labour, consumable materials and services having no salvage value which are incurred in drilling and deepening of wells for the purposes set out in paragraphs 2.2(a) and (b) above;
 - (d) the costs of petroleum production, storage and transport facilities such as pipelines, flow lines, production and treatment units, wellhead equipment, subsurface equipment, enhanced recovery systems, offshore platforms, export terminals, harbours, piers, and related facilities, and access roads for production activities, up to the approved Point(s) of Delivery for the concerned Petroleum Field;
 - (e) the cost of engineering and design studies for Field facilities referred to in paragraph 2.2 (d); and
 - (f) that portion of all Service Expenditures and that portion of all General and Administrative Expenditures allocated to Development Expenditures according to standard oil industry accounting practice or as otherwise agreed between the Parties.

2.3 Operating Expenditures shall consist of all allowable direct and allocated indirect expenditures of an operational nature specifically incurred on or in connection with production activities under this Agreement, and transparently identifiable as such, after the agreed date of commencement of regular commercial production from each Field. Such expenditures shall be other than Exploration Expenditures, Development Expenditures, General and Administrative Expenditures and Service Expenditures, but shall include the balance of General and Administrative Expenditures and Service Expenditures not allocated to Exploration Expenditures or Development Expenditures.

2.4 Service Expenditures shall consist of allowable direct and indirect expenditures on services in support of the exploration, development or production activities under this Agreement, including warehouses, vehicles, motorised rolling equipment, aircraft, marine vessels, fire and security

stations, workshops, water and sewage plants, power plants, housing community and recreational facilities and furniture, tools and equipment used in these activities under this Agreement. Service Expenditures in any Calendar Year shall include the total costs incurred in such Calendar Year to purchase and/or construct said facilities as well as the annual costs to maintain and operate the same. All Service Expenditures will be regularly allocated as specified in subsections 2.1(e), 2.2(f) and 2.3 to Exploration Expenditures, Development Expenditures and Operating Expenditures.

2.5 General and Administrative Expenditures

2.5.1 General and Administrative Expenditures shall comprise and be limited to expenditure incurred on general administration and management primarily and principally related to Petroleum Operations in the Agreement Area, as follows:

- (a) main office, field office and general administrative expenditures in Seychelles, including supervisory, accounting and employee relations services (excluding commissions paid to intermediaries by the Company);
- (b) an annual overhead charge for services rendered outside Seychelles, and not otherwise charged under this Accounting Procedure, for managing the Company's activities under this Agreement and for staff advice and assistance including financial, legal, accounting, secretarial and employee relations services (including rent and rates). Pursuant to Section 12(2) of the Petroleum (Taxation) Act, which shall also apply in the determination of the Company's PIT liability and PAPT liability for the period from the Effective Date until the date on which the first Development Plan submitted pursuant to sub-clause 8(10) is approved by the Minister, this annual charge shall be the Company's verifiable costs but shall in no event be greater than one (1) per-cent of the expenditures relating to the Company's activities under this Agreement incurred during the Calendar Year and allowable under Section 3 of this Schedule. From the date of approval by the Minister of such Development Plan the charge shall be at an amount or rates to be agreed between the Parties and stated in the Development Plan not higher than

the maximum rate applicable during exploration. The annual overhead charge shall be separately identified in all Statements.

2.5.2 All General and Administrative Expenditures shall be regularly allocated as specified in subsections 2.1(e), 2.2(f) and 2.3 to Exploration Expenditures, Development Expenditures and Operating Expenditures, and shall be shown separately under each of these expenditure categories in all Statements to the Minister and the Seychelles Revenue Commission.

2.6 Development Expenditures and Operating Expenditures shall be allocated per individual Petroleum Field.

SECTION 3

COSTS, EXPENSES, EXPENDITURES AND CREDITS OF THE COMPANY

3.1 Costs Allowable

Subject to the provisions of this Agreement, the Company shall bear and pay the following costs and expenses in respect of its activities under this Agreement. These costs and expenses will be classified under the expenditure headings set out in Section 2 of this Schedule. Subject to the Sections 12, 13 and 15 of the Petroleum (Taxation) Act, which shall apply equally to the computation of PIT and PAPT under this Agreement, the costs described in this subsection 3.1 shall be allowable deductions in the computation of PIT and PAPT, subject to audits.

3.1.1 Surface Rights

This covers any direct costs attributable to the acquisition, renewal or relinquishment of surface rights acquired and maintained in force for the purposes of this Agreement, including any rent for land but excluding the Annual Rentals (which are covered in subsection 3.1.7) and costs attributable to the assignment of rights pursuant to Clause 32 of this Agreement.

3.1.2 Labour and Associated Labour Costs

(a) Gross salaries and wages including bonuses of the Company's employee directly engaged in the Company's activities under this Agreement, 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 activities under this Agreement, only that pro-rata portion of applicable wages and salaries will be charged;

- (b) costs to the Company of established plans of employee's group life insurance, hospitalization, company pension, retirement and other benefits of a like nature customarily granted to the Company's employees and the Company's costs regarding holiday, vacation, sickness and disability payments applicable to the salaries and wages chargeable under sub-paragraph (a) above shall be allowed at actual cost, provided, however, that such total costs shall not exceed twenty five (25) per-cent of the Company's total labour costs under sub-paragraph (a) above;
- (c) any expenditures or contributions made pursuant to assessments or obligations imposed under the laws of Seychelles which are applicable to the Company's cost of salaries and wages chargeable under (a) above; and,
- (d) reasonable travel and reasonable personal expenses of expatriate employees (and their immediate dependants) of the Company including those made for travel and relocation of expatriate employees assigned to Seychelles, all of which shall be in accordance with the Company's normal practice.

3.1.3 **Transportation**

The cost of transportation of employees, equipment, materials and supplies necessary for the conduct of the Company's activities under this Agreement.

3.1.4 **Charges for Services**

(a) **Third Party Contracts**

The actual costs of contracts (without mark-up), for technical and other services entered into by the Company for its activities under this Agreement, made with third parties other than an Affiliate are allowable; provided that the prices paid by the Company are no higher than those generally charged by other international or domestic suppliers for comparable work and services.

(b) **Affiliates of the Company**

In the case of services rendered to undertake the activities under this Agreement by an Affiliate of the Company, the charges shall be based on actual costs without profits and shall be competitive, as if the arrangements were made on an arm's length basis with an unrelated entity. The charges shall be no higher than the most favourable prices charged by the Affiliate to third parties for comparable services under similar terms and conditions elsewhere and shall be fair and reasonable in the light of prevailing international oil industry practice and conditions. Where such services, or a succession of such services, devoted to a single defined task, are expected to cost in excess of two hundred thousand US\$ (US\$200,000) the services shall not be provided by an Affiliate unless that Affiliate has been selected by competitive tender. The Company shall, if requested by the Minister, specify the amount of the charge which constitutes an allocated proportion of the general material, management, technical and other costs of the Affiliate and the amount which is the direct cost of providing the services concerned. If necessary, certified evidence regarding the basis of prices charged may be obtained from the auditors of the Affiliate.

3.1.5 Property and Equipment

- (a) The rental cost of any buildings or other facilities occupied for the purpose of conducting Petroleum Operations.
- (b) The rental cost of any machinery and equipment hired or leased for the purpose of conducting Petroleum Operations.
- (c) For services rendered to the activities under this Agreement through the use of property and equipment exclusively owned by the Company, the accounts shall be charged at rates, not

exceeding those prevailing in the East African region, which reflect the cost of ownership and operation of such property, or at rates to be agreed.

3.1.6 **Material**

(a) **General**

So far as is practicable and consistent with efficient and economical operation, only such material shall be purchased or furnished by the Company for use in activities under this Agreement as may be required for use in the reasonably foreseeable future and the accumulation of surplus stocks shall be avoided. Material and equipment held in inventory shall only be charged to the accounts when it is removed from inventory and used in Petroleum Operations.

(b) **Warranty of Material**

The Company does not warrant material beyond the supplier's or manufacturer's guarantee and, in case of defective material or equipment, any adjustment received by the Company from the suppliers/manufacturers or their agents will be credited to the accounts under this Agreement. All suppliers' and/or manufacturers' guarantees and warranties shall be passed through by the Company to the Government.

(c) **Value of Material Charged to the Accounts under this Agreement**

(i) Except as otherwise provided in (b) below, material purchased by the Company in arm's length transactions on the open market for use in the activities under this Agreement shall be valued to include invoice price less trade and cash discounts (if any), purchase and procurement fees plus freight and forwarding charges between point of supply and point of shipment, freight to port of destination, insurance, taxes, custom duties, consular fees, other items chargeable against imported material and, where applicable, handling and transportation expenses from point of importation to warehouse or operating site. The cost of such material shall not exceed that currently prevailing in normal arm's length transactions on the open market.

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- (ii) Material purchased from or sold to an Affiliate, or transferred to or from activities of the Company other than activities under this Agreement, shall be priced and charged or credited at the prices specified in (1) and (2) below:

New Material (Condition "A") shall be valued at the current international price which shall not exceed the price prevailing in normal arm's length transactions on the open market.

Used Material (Conditions "B" and "C")

(i) Material which is in sound and serviceable condition and is suitable for reuse without reconditioning shall be classified as Condition "B" and priced at not more than seventy five (75) per-cent of the current price of new materials defined in (1) above.

(ii) Material which cannot be classified as Condition "B" but which:

(a) after reconditioning will be further serviceable for original function as good second-hand material Condition "B", or

(b) is serviceable for original function but substantially not suitable for reconditioning,

shall be classified as Condition "C" and priced at not more than fifty (50) per-cent of the current price of new material (Condition "A"). The cost of reconditioning shall be charged to the reconditioned material provided that the Condition "C" material value plus the cost of reconditioning does not exceed the value of Condition "B" material.

(iii) Material which cannot be classified as Condition "B" or Condition "C" shall be priced at a value commensurate with its use.

(iv) Material involving erection costs shall be charged at the applicable condition percentage of the current knocked-down price of New Material.

(v) When the use of material is temporary and its service to the activities under this Agreement does not justify the reduction in price, in relation to materials referred to as Conditions "B" and "C", 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.

3.1.7 Annual Rentals, Levies and Bonuses

Annual Rentals, taxes, levies, charges, fees, contributions and any other assessments and charges levied by the Government in connection with the Company's activities under this Agreement and paid-by the Company but excluding PIT and PAPT.

3.1.8 Insurance and Losses

Insurance premiums and costs incurred for insurance of such type and in such amount as is customary in the international petroleum industry in accordance with good oilfield practice, provided that if such insurance is wholly or partly placed with an Affiliate of the Company, such premiums and costs shall be allowable only to the extent generally charged by competitive insurance companies other than an Affiliate. Costs and losses incurred as a consequence of events which are, and in so far as, not made good by insurance are allowable under this Agreement unless such costs have resulted from an act of misconduct or negligence of the Company.

3.1.9 Legal Expenses

All costs and expenses reasonably incurred of litigation and legal or related services necessary or expedient for the procuring, perfecting, retention and protection of the Agreement Area, and in defending or prosecuting lawsuits involving the Agreement Area or any third party claim arising out of activities under this Agreement, or sums paid in respect of legal services necessary or expedient for the protection of the joint interest of Government and the Company are allowable. Where legal services are rendered in such matters by salaried or regularly retained lawyers of the Company or an Affiliate, such compensation shall be included instead under subsections 3.1.2 or 3.1.4 above as applicable.

3.1.10 Training Costs

All documented and reasonable costs and expenses incurred by the Company directly related to the training of Seychelles employees in petroleum-related activity carried out under this Agreement and such other training as is required under Clause 18 of this Agreement.

3.1.11 General and Administrative Costs

The costs described in subsection 2.5.1 (a) and the charge described in subsection 2.5.1(b).

3.2 Costs Allowable only with Prior Approval of Government

Any costs and expenditures incurred by the Company for the necessary and proper conduct of its Petroleum Operations which are not covered by Section 3.1, and are not disallowed under Section 3.3 or under the Petroleum (Taxation) Act shall be allowable costs and expenditures for PIT and PAPT only to the extent that they were approved by the Government, in writing and prior to such costs being incurred, on a case by case basis. Interest and other charges incurred on loans and other financing raised by the Company shall be allowable in the determination of PIT subject to the limitations specified in section 14 of the Petroleum (Taxation) Act, but shall not, in any event, be allowable in the computation of FANCP and SANCP pursuant to Clause 13 of this Agreement. Any finance lease shall be approved by the Minister.

3.3 Costs not Allowable under this Agreement

Pursuant to Sections 9(3) of the Petroleum (Taxation) Act, the following costs and expenditures shall not be allowable in the computation of PIT and PAPT:

- (a) costs incurred before the Effective Date;
- (b) petroleum marketing or transportation costs of petroleum beyond the Company's Delivery Point(s); costs, charges or losses in respect of any hedging transactions;
- (c) costs of arbitration and the Sole Expert in respect of any dispute under this Agreement;
- (d) fines and penalties imposed by Courts of Law of Seychelles;
- (e) costs incurred as a result of misconduct or negligence of the Company, including those arising pursuant to sub-clause 20(6) of this Agreement;

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- (f) any costs associated with a parent company guarantee or similar credit support mechanism, if any, effected by the Parties with respect to this Agreement and any other amounts spent on indemnities with regard to non-fulfilment of contractual obligations;
 - (g) donations and charitable contributions;
 - (h) expenditure on research into and development of new equipment, materials and techniques for use in searching for developing and producing petroleum; and,
 - (i) any costs which by reference to standard oil industry practices are not arm's length or are excessive.

3.4 **Miscellaneous Income and Credits under this Agreement**

Pursuant to subsection 8(1)(f) of the Petroleum (Taxation) Act, and in addition to the amounts specified in subsection 8(1)(a) to (e) of that Act, the Company's miscellaneous income shall include, but not be limited to, the following amounts received by the Company, and this miscellaneous income shall be treated as income chargeable to PIT and PAPT in cases where such miscellaneous income is apportioned as necessary to Petroleum Fields:

- (a) net proceeds of any insurance or claim in connection with activities under this Agreement or any assets charged to the accounts under this Agreement;
 - (b) revenue received from third parties for the use of property or assets charged to the accounts under this Agreement;
 - (c) any adjustment received by the Company from suppliers or manufacturers or their agents, in connection with defective material the cost of which was previously charged by the Company to accounts associated with this Agreement;
 - (d) rentals, refunds or other credits received by the Company which apply to any charge which has been made to the accounts under this Agreement, but excluding any award granted to the Company under arbitration or Sole Expert proceedings;
 - (e) the net proceeds from the sale or exchange by the Company of materials, equipment, plant or facilities from the Petroleum Field or plant or facilities, the acquisition costs of which have been charged to the accounts under this Agreement;
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- (f) proceeds derived from the sale or licence of any intellectual property, the development costs of which were incurred under this Agreement;
 - (g) legal expenses charged to the accounts under the provisions of subsection 3.1.9 and subsequently recovered by the Company; and,
 - (h) for PIT purposes only, proceeds derived, realised or, arising from, the sale, acquisition, transfer or assignment of rights concerning the conduct of Petroleum Operations in the Agreement Area.

3.5 Duplication of Charges and Credits

Notwithstanding any provision to the contrary in this Accounting Procedure, it is the intention that there shall be no duplication of charges or credits to the accounts under this Agreement, and no duplication of deductions or income for PIT and PAPT.

**SECTION 4
RECORDS AND VALUATION OF ASSETS**

- 4.1 The Company shall maintain detailed records of property in use for its activities under this Agreement in accordance with best practice in exploration, development and production activities of the international petroleum industry. At six (6) monthly intervals the Company shall notify the Minister in writing of all assets acquired by the Company for use in connection with its Petroleum Operations during the preceding six (6) months, indicating the quantities, costs and location of each asset as well as of all assets sold or otherwise disposed of.
- 4.2 The Company shall take inventories of the property and assets under this Agreement and deliver copies of such inventories to the Minister at least every six (6) Months with respect to movable assets and, every Calendar Year with respect to immovable assets. The Company will clearly state the principles upon which valuation of the inventory has been determined.
- 4.3 The Company shall give the Minister at least sixty (60) days advance written notice of its intention to take such inventory and the Minister shall have the right to be represented when such inventory is taken. When an assignment of rights under this Agreement takes place a special inventory may be taken by the Company at the request of the assignee.

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- 4.4 In order to give effect to Clause 19 of this Agreement, the Company shall provide the Minister with a comprehensive list of all relevant assets when requested by the Minister to do so.

SECTION 5
PRODUCTION STATEMENT

- 5.1 Commencing from the date of first commercial regular production from each Petroleum Field, the Company shall prepare and submit to the Minister monthly and quarterly Production Statements containing the following particulars in respect of each Field in the Agreement Area and in respect of the total production arising from the Agreement Area:
- (a) the quantity, grades and gravity of Crude Oil produced and saved, specifying separately the amounts of Condensates and Natural Gas Liquids;
 - (b) the quantity and composition of Natural Gas produced and saved;
 - (c) the quantities of Crude Oil and Natural Gas used for purposes of carrying on drilling and production operations and pumping to field storage, as well as of quantities injected into the formations (each such use to be separately identified);
 - (d) the quantity of petroleum unavoidably lost;
 - (e) the quantity of Natural Gas flared;
 - (f) the size of petroleum stocks held at the beginning of the Calendar Month or Quarter in question;
 - (g) the size of petroleum stocks held at the end of the Calendar Month or Quarter in question; and,
 - (h) the number of days in the Month and in the Quarter during which Crude Oil and Natural Gas was produced from each Field in the Agreement Area.
- 5.2 The Minister may by notice in writing addressed and delivered to the Company direct that any other particulars relating to Petroleum Operations be included in the Production Statements, and the Company shall comply with such request.

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- 5.3 The Production Statements for each Month or Quarter shall be submitted to the Minister not later than seven (7) days after the end of such Month or Quarter.

SECTION 6
VALUE OF PRODUCTION STATEMENT

- 6.1 The Company shall for the purposes of Clauses 14 and 15 of this Agreement prepare a Statement providing calculations of the value of Crude Oil and Natural Gas produced and saved during each Calendar Month from the Agreement Area.

- 6.2 With respect to Crude Oil, this Statement shall contain the following information:

- (a) the quantities, prices and receipts realised therefor by the Company in third party sales of Crude Oil during the Month in question, together with the names of the purchasers, specifying separately the quantities, prices and receipts realised of Condensates and Natural Gas Liquids;
- (b) the quantities, prices and receipts realised therefor by the Company in sales of Seychelles Crude Oil during the Month in question, other than in third party sales, together with a statement of the purchaser and/or destination of the Crude Oil;
- (c) the value of stocks of Crude Oil held at the beginning of the Month in question, valued in accordance with normal oil industry practices;
- (d) the value of stocks of Crude Oil held at the end of the Month in question, valued in accordance with normal oil industry practices;
- (e) the percentage volume of total sales of Crude Oil made by the Company during the Month that are third party arm's length sales;
- (f) the Company's estimate, pursuant to Clause 14 of this Agreement, of the Market Value of Seychelles Crude Oil for the Month; and
- (g) all information available to the Company, if relevant for the purposes of Clause 14 of this Agreement, concerning the prices of the selection of major competitive Crude Oils,

including contract prices, discounts and premiums, and prices obtained on the spot markets.

- 6.2 In the case of Natural Gas, the Minister and the Company shall agree on the format and content of the Value of Production Statement at the time the first Natural Gas discovery in the Agreement Area is developed.
- 6.3 The Value of Production Statement for each Month shall be submitted to the Minister not later than thirty (30) days after the end of such Month.

SECTION 7 **ROYALTY STATEMENT**

- 7.1 The Company shall prepare and submit to the Minister a Monthly Royalty Statement in respect of each Petroleum Field.
- 7.2 Each Royalty Statement shall be compatible with the provisions of Clause 11 of this Agreement, and with the Production Statement and Value of Production Statement to be prepared in respect of the Month in question pursuant to Sections 5 and 6 of this Accounting Procedure.
- 7.3 The Royalty Statement shall specify the Company's estimate of the amount of Royalty due for the Month in question, separately for each field and separately for Crude Oil and Natural Gas.
- 7.4. The Statement shall also show, pursuant to paragraph 11(4)(b) of this Agreement, any adjustments to the amount of royalty due for any previous months resulting from a redetermination of the Market Value.
- 7.5 The Royalty Statement for each Month shall be prepared by the Company and submitted to the Minister within thirty (30) days of the end of each Month.

SECTION 8 **STATEMENT OF EXPENDITURE AND RECEIPTS**

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- 8.1 The Company shall prepare with respect to each Quarter a Statement of Expenditure and Receipts under this Agreement. The Statement shall distinguish between Exploration Expenditures, Development Expenditures per Petroleum Field and Operating Expenditures and shall identify all significant items of expenditures (including those sub-categories of costs listed in Section 3 of this Accounting Procedure) within these categories. That part of the Statement covering receipts shall distinguish between income from the sale of Petroleum and miscellaneous income of the sort specified in subsection 8(1) of the Petroleum (Taxation) Act and itemised in subsection 3.4 of this Schedule. If the Minister is not satisfied with the degree of disaggregation within the said categories, he may request a more detailed breakdown and the Company shall promptly comply with such request.
- 8.2 The Statement of Expenditure and Receipts will cover the following:
- (a) actual Expenditures and Receipts for the Quarter in question;
 - (b) cumulative Expenditures and Receipts for the budget year in question;
 - (c) latest forecast of cumulative Expenditures at the Year-end; and
 - (d) variations between budget forecast and latest forecast with explanations thereof.
- 8.3 The Statement of Expenditure and Receipts shall also record, in appropriate detail, amounts spent in the Quarter by the Company during its Petroleum Operations that are, or are to be, disallowed as deductions in the compensation of tax pursuant to subsection 3.3 of the Accounting Procedure.
- 8.4 The Statement of Expenditure and Receipts for each Quarter shall be submitted to the Minister no later than thirty (30) days after the end of such Quarter.

SECTION 9
PAPT STATEMENT

- 9.1 The Company shall prepare in respect of each Petroleum Field and for each Calendar Year a Petroleum Additional Profits Tax Statement containing the following information:
- (a) the value of Net Cash Receipts from the field for the Year, identifying separately each of the revenues and allowable deductions provided for in sub-clause 13(2) of this Agreement;
 - (b) the value of the FANCP and SANCP for the Year;
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- (c) the value of the FANCP and SANCP at the end of the preceding Year;
 - (d) the Company's estimate of the amount of Petroleum Additional Profits Tax payable with respect to each of the FANCP and SANCP for the Year;
 - (e) the Company's estimate of the total amount of Petroleum Additional Profits Tax payable for the Year; and
 - (f) the amount of Petroleum Additional Profits Tax paid by the Company.
- 9.2 The information required in terms of subsection 9.1 shall be presented in sufficient detail so as to enable the Seychelles Revenue Commission to verify the timing and amount of Petroleum Additional Profits Tax payments.
- 9.3 A provisional PAPT Statement for each Calendar Year shall be submitted by the Company in accordance with Part IV of the Petroleum (Taxation) Act..
- 9.4 A final Petroleum Additional Profits Tax Statement for the year, which shall constitute the Return required under Section 28 of the Petroleum (Taxation) Act, shall be submitted by the Company to the Seychelles Revenue Commission within three (3) Months after the end of the Calendar Year.

SECTION 10
END-OF-YEAR STATEMENT

- 10.1 The Company shall prepare a definitive End-of-Year Statement.
- 10.2 The End-of-Year Statement shall contain aggregated information for the Calendar Year in the same format as required in the Production Statement, Value of Production Statement, Royalty Statement and Statement of Expenditures and Receipts, but shall be based on the actual quantities of Petroleum produced, income received and the costs and expenditures incurred.
- 10.3 The End-of-Year Statement for each Calendar Year shall be submitted to the Minister within sixty (60) days of the end of such Calendar Year.

SECTION 11
ANNUAL BUDGET STATEMENT

- 11.1. The Company shall prepare an Annual Budget Statement in respect of each Calendar year. This Statement shall distinguish between Exploration Expenditures, Development Expenditures per Petroleum Field, and Operating Expenditures per Petroleum Field and shall specify the following:
- (a) forecast expenditures and receipts for the budget Year under this Agreement;
 - (b) cumulative expenditures and receipts to the end of the said budget Year; and
 - (c) a schedule showing the most important and individual items of expenditures for the said budget Year.
- 11.2 The Budget Statement shall be submitted to the Minister with respect to each budget Year not less than sixty (60) days before the start of the Year except in the case of the Year in which the Effective Date falls, when the Budget Statement shall be submitted within thirty (30) days of the Effective Date.

SECTION 12
REVISION OF ACCOUNTING PROCEDURE

- 12.1 The provisions of this Accounting Procedure may be amended by agreement between the Company and Government. The amendments shall be made in writing and shall state the date upon which the amendments shall become effective.
- 12.2 Following any second discovery in the Agreement Area, the Parties shall meet in order to establish specific principles and procedures for identifying all costs, expenditures and credits on a Petroleum Field basis, it being understood that costs, expenditures and credits which do not uniquely arise in respect of any one Petroleum Field shall be apportioned between Petroleum Fields in a principled, fair and consistent manner.

SECTION 13

CONFLICT WITH THIS AGREEMENT

In the event of any conflict between the provisions of this Accounting Procedure and this Agreement, the provisions of this Agreement shall prevail.

FOURTH SCHEDULE
PARENT COMPANY PERFORMANCE GUARANTEE

WHEREAS the [DEF COMPANY], a company duly incorporated and registered in having its registered office at, (hereinafter referred to as "the Guarantor") is the owner of 100% of the share capital of the [ABC COMPANY Ltd] (hereinafter referred to as "the company") and its parent company; and

WHEREAS the company is a party to this Agreement dated the day of in the year(hereinafter referred to as "this Agreement") entered into with the Government of Seychelles (hereinafter referred to as "the Government"), and

WHEREAS the [DEF COMPANY] wishes to guarantee the performance of the Company or its affiliated assignee under this Agreement;

NOW, THEREFORE, the Guarantor hereby -

- (a) unconditionally and irrevocably guarantees to the Government that it will make available or cause to be made available to the Company or any other directly or indirectly owned subsidiary or affiliate of the Guarantor to which any part or all of the Company's rights or interest under this Agreement may subsequently be assigned ("Affiliated Assignee"), resources required to ensure that Company or an Affiliated Assignee can carry out its obligations as set forth in this Agreement;
- (b) unconditionally and irrevocably guarantees to the Government the due and punctual compliance by the Company (or Affiliated Assignee) with any obligations of the Company (or Affiliated Assignee) under this Agreement;

(c) undertakes to the Government that if the Company (or any Affiliated Assignee) defaults on any of its obligations under this Agreement, then the Guarantor will fulfil or cause to be fulfilled the said obligations in place of the Company (or any Affiliated Assignee);

(d) declares that this guarantee shall expire on termination of this Agreement and any claims arising out of events during the period of validity of this guarantee must be submitted to the undersigned not later than 30 months subsequent to the date the claim arose

SIGNED at on this day of in the year

.....
[DEF COMPANY]