LAWS OF BRUNEI

REVISED EDITION 1984

CHAPTER 44

PETROLEUM MINING

ARRANGEMENT OF SECTIONS

Section

Repealed by S. 34/92

PETROLEUM MINING ACT

An Act to amend and consolidate the law relating to petroleum mining 3 of 1963 S.24/64 5 of 1969 5 of 1972 12 of 1983 S. 34/92

Commencement: 18th November 1963

1. This Act may be cited as the Petroleum Mining Act. Short title

2. In this Act unless the context otherwise requires — Interpretation

"State Land" means land within Brunei and includes the foreshores and submarine areas beneath the territorial waters of Brunei and also the area of the Continental Shelf being the sea-bed and its sub-soil which lies beneath the high seas contiguous to the territorial waters of Brunei;

"Offshore State Land" means State Land within the area of the Continental Shelf;

"Onshore State Land" means State Land other than within the area of the Continental Shelf including the foreshores and submarine areas beneath the territorial waters of Brunei;

"person" means and includes any individual or group of individuals and any company, corporation or other body;

"petroleum" means any mineral oil or relative hydro-carbon and natural gas existing in its natural condition and casinghead petroleum spirit but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

3. (1) Save as provided in subsection (2), any person found to be exploring, prospecting or mining for petroleum upon any State Land or doing any act with a view to such Restriction on prospecting or mining for petroleum exploring, prospecting or mining upon any State Land and without having received lawful authority so to do under any of the provisions of this Act or in breach of any of the conditions thereof, shall be guilty of an offence: Penalty, imprisonment for 5 ~~2 years and to a fine~~, and all machinery, tools, plant, buildings or other property together with any minerals or other products which may be found upon or proved to have been obtained from the State Land so unlawfully explored, prospected or mined shall be liable to forfeiture, and if ... (S. 34/92 wef. 31-10-92)

5 years, a fine or both
Am. S. 34/92
wef. 31-10-92)

(1A) ... S. 34/92 wef. 31-10-92

(2) Nothing in this Act shall invalidate any exploration licence, prospecting licence or mining lease issued by the lawful authority of the Government of Brunei before the passing of this Act or abrogate any of the rights or privileges expressly conferred thereby:

Provided that every such right or privilege shall be limited to the extent prescribed by such licence or lease.

S. 34/92 31-10-92

Persons by whom applications may be made

~~4. Any person may apply in accordance with this Act for~~ a petroleum mining Agreement in respect of any onshore State Land or any offshore State Land:

Provided that no application shall be made in respect of an area which comprises both onshore State Land and ~~offshore State Land.~~

S. 34/92 31-10-92

Manner in which application may be made

~~5. (1) Every application shall be made in writing in the~~ form set out in the First Schedule and shall be addressed to the Minister.

(2) To the application there shall be attached —

(*a*) 2 copies of a recognised official map of Brunei or any part thereof upon which shall be delineated the boundaries of the area in respect of which a petroleum mining Agreement is applied ~~for;~~

(*b*) a detailed outline of the Applicant's proposed exploration programme, including the number of exploratory wells to be drilled, and an estimate of the cost of such programme pursuant to Clause 16 of the model petroleum mining Agreement set out in the Second Schedule and Clause 13 of the model petroleum mining Agreement set out in the Third Schedule;

(*c*) the percentage of the annual net profits, which the Applicant offers to the Government pursuant to Clause 60 of the model petroleum mining Agreement set out in the Second Schedule and Clause 44 of the model petroleum mining Agreement set out in the Third Schedule;

(*d*) the details of any other benefit or advantage, such as but not limited to bonus or other payment on signature of an Agreement or on production of petroleum which the Applicant offers to the Government.

(3) The applicant shall, upon request by the Minister furnish such further evidence as the Minister may consider necessary as to his financial and technical qualifications, and as to his ability to comply with any terms and conditions contained in the Clauses of the Agreement set out in the Second Schedule, and if such further evidence shall not have been furnished to the satisfaction of the Minister within 3 months of the request therefor the application shall, unless His Majesty the Sultan and Yang Di-Pertuan in Council otherwise determined, be deemed void.

(4) All information comprised in, or furnished to the Minister in pursuance of, an application made in accordance with this Act, shall be treated by His Majesty in Council and the Minister as confidential.

pealed by 34/92 wef. 31-10-92

Separate applications to be made

~~6. Where any person requires a petroleum mining Agreement in respect of 2 or more separate areas of State Land a separate application shall be made in respect of each such area.~~

Lapse of application

or the period agreed between HM in Council and the applicant (Am. S. 34/92 wef. 31-10-92)

7. If a petroleum mining Agreement is not executed within 6 months after approval of the application by His Majesty in Council the right of the applicant to such petroleum mining Agreement shall be deemed to have lapsed, unless His Majesty in Council considers that the delay is not attributable to the fault of the applicant.

Areas and form of Agreement

Am. S. 34/92 wef. 31-10-92

~~**8.** (1) Subject to the provisions of section 9.~~

(*a*) His Majesty in Council may enter into a petroleum mining Agreement in respect of any area of State Land for which application has been made as herein provided.

(*b*) His Majesty in Council may at the request of the Licensee or Lessee enter into one or more petroleum mining Agreements in substitution for and in respect of the same area or areas as are covered by any one or more oil exploration or prospecting licences or oil mining leases which were valid and subsisting (or which may be accepted by His Majesty in Council as if they had been valid and subsisting) at the date of the coming into operation of this Act without any application being made as herein provided.

(2) A petroleum mining Agreement in respect of onshore State Land may be in the form and may contain the terms and conditions of the model petroleum mining Agreement set out in the Second Schedule and a petroleum mining Agreement in respect of offshore State Land may be in the form and may contain the terms and conditions of the model petroleum mining Agreement set out in the Third Schedule.

(3) A person with whom a petroleum mining Agreement and any collateral agreement or agreements is made shall be entitled to all the rights thereby expressed to be granted.

~~Comprehen~~sive Agreement

Repealed b

S. 34/92

wef 21-10-

~~9. Subject to and notwithstanding the provisions of sec~~tion 6, His Majesty in Council may enter into a comprehensive petroleum mining Agreement in respect of 2 or ~~more separate areas of State Land.~~

Provided that —

(*a*) they are situated on the same geological structure or cover a group of geologically similar and related structures and;

(*b*) no petroleum mining Agreement shall be made in respect of an area or areas of land which comprise both onshore State Land and offshore State Land.

Grant of more than one Agreement

10. Nothing in this Act shall prevent more than one petroleum mining Agreement being made with the same person.

Execution

Am. S 34/92 wef. 31-10-92

or the Minister designated by His Majesty

11. The Clerk to the Council of Ministers shall have power to execute for and on behalf of His Majesty in Council any petroleum mining Agreement and any collateral Agreement or Agreements which His Majesty shall direct to be executed.

Notification

12. The Minister shall, as soon as may be after the execution, surrender, determination, or assignment of any petroleum mining Agreement or the right thereunder under this Act, issue a public notification of the fact stating the name of the person with whom the petroleum mining Agreement was made, the name of any assignee and the situation of the area concerned.

12A. ... S. 34/92 wef. 31-10-92

Rules

13. His Majesty in Council may from time to time make and when made vary, alter, amend, revoke or cancel rules generally for carrying out the provision of this Act, and, without prejudice to the generality of the foregoing, to provide for —

Am. S. 34/92 wef. 31-10-92

(i) the appointment, duties, privileges and powers of persons ~~officers~~ to enforce the provisions of this Act or any petroleum mining Agreement made thereunder;

(ii) the prescribing of fees to be paid in respect of anything to be done in accordance with the provisions of this Act or any petroleum mining Agreement made hereunder;

Deleted by S. 34/92 wef. 31-10-92

~~(iii) the amendment of the First Schedule~~.

FIRST SCHEDULE

Repeal of First, Second and Third Schedules.

12. The First, Second and Third Schedules of the Act are repealed. S.34/92 wef. 31-10-92

Saving.

13. Nothing in this Order shall invalidate any exploration licence, prospecting licence, mining lease or petroleum mining Agreement issued or entered into by the lawful authority of the Government before 31st October, 1992 or abrogate any of the rights or privileges expressly conferred thereby :

Provided that every such right or privilege shall be limited to the extent prescribed by such licence, lease or Agreement and that the same shall not be extended upon expiry.

of each individual.

3. If application is by a company —

(*a*) Law under which company is incorporated.

(*b*) Principal place of business.

(*c*) If principal place of business is outside Brunei, name and address of duly authorised agent in Brunei.

(*d*) Nature of business.

(*e*) Name and nationality of each director.

(*f*) Name and amount of shareholding of each principal shareholder.

4. State whether an onshore petroleum mining Agreement or an offshore petroleum mining Agreement is required.

5. Situation and approximate size of the area in respect of which application is made.

6. Brief particulars of previous experience in petroleum prospecting or oilfield development work.

~~7. Names and qualifications of technical experts or advisers.~~

8. Brief particulars of interest in and access to refining and marketing facilities outside Brunei.

9. State amount of capital for operations under the petroleum mining Agreement applied for —

(*a*) at present available;

(*b*) which applicant can make available and the source.

I/We hereby declare that all the foregoing particulars are correct.

Signature(s) of Applicant*(s)

*(If the applicant is a company state capacity in which form is signed).

SECOND SCHEDULE

(Section 5 (3))

MODEL PETROLEUM MINING AGREEMENT IN RESPECT OF ONSHORE STATE LANDS

THIS AGREEMENT is made the day of 19 , BETWEEN: His Majesty the Sultan and Yang Di-Pertuan in Council of Brunei Darussalam (in this Agreement called "the Government") of the one part AND (in this Agreement called "the Company" which expression shall where the context allows include its successors and assigns) of the other part.

WHEREAS —

(*a*) The Company has applied to the Government under the Petroleum Mining Act for a petroleum mining Agreement in respect of certain lands specified in the Schedule to this Agreement.

(*b*) The Government has agreed to enter into a petroleum mining Agreement under the terms and together with the benefit of but subject to the provisions in this Agreement specified.

NOW THIS AGREEMENT WITNESSETH as follows —

PART I

Definitions

Meaning of expressions in Agreement

1. In this Agreement the following expressions (except where the context otherwise requires) have the following meanings:

(*a*) "a petroleum field" means a geological structure, containing one or more accumulations of petroleum, which the Company has concluded contains commercially recoverable reserves;

(*b*) "barrel" means 42 U.S. gallons or 9702 cubic inches being equivalent to 34.9726 imperial gallons;

(*c*) casinghead petroleum spirit" means any liquid hydrocarbons obtained from natural gas (before the crude oil from which it is derived has been measured for royalty) by separation or by any chemical or physical process;

(*d*) "Commissioner of Lands" means the officer appointed to be the Commissioner of Lands;

(*e*) "crude oil" means oil in its natural state before the same has been refined or otherwise treated but excluding water and foreign substances;

(*f*) "natural gas" means gas obtained from boreholes and wells and consisting primarily of hydrocarbons;

(*g*) "Part" and "Clause" means respectively a Part and a Clause of this Agreement;

(*h*) "petroleum" means any mineral oil or relative hydrocarbon and natural gas existing in its natural condition and casinghead petroleum spirit but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

(*i*) "Minister" means the person appointed under section 4 of the Constitution of Brunei Darussalam 1959;

(*j*) "Conservator of Forests" means the officer appointed
Cap. 46 under subsection (1) of section 3 of the Forest Act;

(*k*) "the Agreement Period" means the period of 30 years from the date of this Agreement; and "Agreement Year" means a year commencing on the date of the anniversary of the commencement of the Agreement Period;

(*l*) subject to the provisions of clause 15, "the Scheduled Lands" means the lands specified in the Schedule to this Agreement.

PART II

Agreement

2. In consideration of the expenditure commitments and payments to be made by the Company specified in Parts V and VI, the Government hereby GRANTS to the Company the rights specified in Part III in respect of the Scheduled Lands TO EXERCISE AND ENJOY all and every the said rights for the Agreement Period subject to the provisions for surrender contained in Part IV and together with the benefit of but subject to the other stipulations and provisions contained in Parts VII to XIV inclusive. General grant

PART III

Rights Over Scheduled Lands

3. The Company shall hold the exclusive right to search for, bore for, and take all or any petroleum lying in or under the Scheduled Lands together with the right to enter upon the Scheduled Lands for those purposes. To search for and obtain petroleum

4. The Company shall hold the right to treat the said petroleum in and upon the Scheduled Lands. To treat petroleum

5. (1) The Company shall hold the exclusive right — To store, carry away and sell petroleum

(*a*) to store, take, carry and pipe the said petroleum in and on the Scheduled Lands;

(*b*) subject to the Petroleum (Pipelines) Act and to any leave granted by the Minister under that Act, to carry the said petroleum and its products away from the Scheduled Lands; and Cap. 45

(*c*) subject to Clauses 69 and 70, to sell, use or otherwise deal with the said petroleum and its products as the Company thinks fit.

(2) In exercising its rights under this Clause, for each quality of crude oil available in substantial quantities for regularly sustained delivery for export from Brunei, the Company shall establish in accordance with commercial practice, and shall be free from time to time to vary according to its judgement of market conditions, a publicly listed price for sales at the border of Brunei or other delivery points in Brunei.

To appropriate water etc.

6. Subject to the approval of the Minister, the Company shall hold the right to take and use the water upon or within any of the Scheduled Lands for any purposes connected with the Company's operations under this Agreement, and the right to collect, keep and bore for such water for such purposes:

Provided that —

(*a*) no lands, villages, houses or watering places for cattle are thereby deprived of a reasonable supply of water as formerly accustomed; and

(*b*) no rivers or waters are thereby obstructed so as to endanger vessels or boats using such rivers or waterways or prevent them using such rivers or waterways.

To occupy Scheduled Lands

7. The Company shall hold the right to enter upon, and occupy for its use a sufficient area or areas of the surface of the Scheduled Lands for carrying out the Company's operations under this Agreement.

To erect buildings, etc.

8. The Company shall hold the right to build, make, operate, occupy and use in and on the Scheduled Lands, permanent and temporary dwelling houses, offices, sheds and other industrial buildings; engines, furnaces and other machinery; refineries and other plant and pipelines; storage tanks, power lines and radio apparatus and systems; railways and roads, reservoirs, water works and sewerage works; and all other things whatsoever necessary or convenient for or in connection with the effectual carrying out of its operations under this Agreement:

Provided that —

(*a*) the Company shall obtain the prior consent of the Minister to build or make anything under this Clause which is of a permanent nature and which could normally be used other than exclusively in carrying out petroleum operations (however such consent shall not be unreasonably withheld); and

(*b*) before building or making anything under this Clause the Company shall apply for such permission or approval as may be required by any written law then in force and shall pay fees or charges including in the case of anything under this Clause which could normally be used other than exclusively in carrying out petroleum operations such rates and rentals as may be imposed for such permission or approval.

9. The Company shall hold the right to search for, dig and obtain free of charge gravel, sand, clay and stone within the Scheduled Lands for the purposes of the Company's operations under this Agreement. But the Company shall not hold the right to sell these things: To dig gravel etc.

Provided that at the expiration of the Agreement Period any excavations shall be fenced or filled in or levelled and left otherwise fit for cultivation and occupation, as far as may be reasonably practicable and if so required by the Minister.

10. The Company shall hold the right to cut down the brushwood and undergrowth and, with the consent of the Conservator of Forests, to fell any timber now or hereafter growing on the Scheduled Lands as may be convenient in order to enter and leave the Scheduled Lands, in order to clear lands for the purposes of Clauses 3, 4, 5 and 8 and in order to clear lands for protection against damage by fire: To cut timber, etc.

Provided that —

(*a*) except as provided in this Clause the Company shall not cut or injure any timber without the consent of the Conservator of Forests;

(*b*) the Company shall obtain a permit under the Forest Act and Rules for the time being in force and pay the fees, rates and royalties then payable in respect of such cutting down and felling; and Cap. 46

(*c*) this Clause shall not apply to any land that may have been proclaimed to be a Reserved Forest without the previous written consent of the Conservator of Forests.

11. The Company shall hold the right to enclose with a fence the surface of any area or areas of the Scheduled Lands actually occupied by the Company under Clause 7 hereof. To fence

PART IV

Surrender Provisions

12. (1) The Company shall — Company to surrender Scheduled Lands compulsorily

(i) On the expiration of 4 Agreement Years from the date of this Agreement, surrender its rights in respect of such area or areas of the Scheduled Lands (if any), as, together with any area or areas in respect of which such rights have already been surrendered under Clause 13 amount to 50% of the area originally contained in the Scheduled Lands.

(ii) On the expiration of 8 Agreement Years from the date of this Agreement, surrender its rights in respect of such further area or areas of the Scheduled Lands (if any) as, together with any area or areas in respect of which such rights have already been surrendered under this Clause and/or Clause 13 amount to 100% of the area originally contained in the Scheduled Lands:

Provided that —

(*a*) if a petroleum field is discovered during the first 8 years of this Agreement or during any extension of the exploration period under paragraph (*b*) of this Proviso, nothing in this sub-clause shall oblige the Company to surrender at any time during the subsistence of this Agreement any area or areas of the Scheduled Lands which form part of such petroleum field or 25% of the area originally contained in the Scheduled Lands, whichever is the greater;

(*b*) if no petroleum field is discovered during the first 8 years of this Agreement, the Company may apply for an extension of the exploration period of up to 4 years, for an area no greater than 25% of the area originally contained in the Scheduled Lands. Such an extension may be granted at the discretion of the Minister, subject to terms and conditions as laid down by the Government.

(2) Subject to Clause 14, the Company shall be free to select for surrender under this Clause such area or areas of the Scheduled Lands as the Company shall decide.

(3) The Company shall not less than 1 calendar month before the due date of surrender notify the Minister in writing of the area or areas of the Scheduled Lands to be surrendered.

(4) After any such surrender, if the Scheduled Lands retained do not form a single entity, the Company shall be granted such wayleaves over any Scheduled Lands surrendered for the laying, operating and maintenance of pipes, telephone and power lines and intercommunication and passage between the Scheduled Lands retained as the Company may require for the purposes of this Agreement. Such grant shall

be subject to such reasonable payment and to such other stipulations and provisions as may be agreed between the Government and the Company. The said wayleaves shall not be included in the calculation of the amount of the Scheduled Lands retained.

13. Without prejudice to any obligation imposed by this Agreement and subject to Clause 14 the Company shall be entitled to surrender its rights in respect of any area or areas of the Scheduled Lands at any time during the Agreement Period. Such surrender may be made by the Company by giving not less than 1 calendar month's notice to the Government and shall take effect as from the expiration of such notice. Company may surrender Scheduled Lands voluntarily

14. Any area or areas of the Scheduled Lands which are surrendered in accordance with the provisions of this Part shall, so far as is reasonable, be an area or areas which are, at the date of surrender, of sufficient size and convenient shape, having regard to adjacent areas not then the subject of petroleum mining Agreements, to enable oil operations to be effectively carried out thereon. Areas to be surrendered

15. As from the date upon which any area or areas of the Scheduled Lands are surrendered in accordance with the provisions of this Part, such area or areas shall for all purposes (except as provided in Clause 12), be deemed no longer to be contained in the Scheduled Lands. Furthermore, any reference to the Scheduled Lands shall thereafter (except as aforesaid) mean only the Scheduled Lands as reduced by such surrender. Reduction of Scheduled Lands

PART V

Expenditure Commitment and Fixed Yearly Payments

16. (1) During the first 4 Agreement Years of the Agreement Period the Company shall spend on and in connection with operations on the Scheduled Lands a total sum of money calculated on the basis of the acreage held by the Company from time to time during that 4 year period under this Agreement an average of not less than 4,000 Brunei Dollars per square kilometre, or a total sum of not less than 12 million Brunei Dollars whichever is the greater. Expenditure commitment

(2) During the next 4 Agreement Years the Company shall spend on and in connection with operations on the Scheduled Lands a total sum of money calculated on the basis of the acreage held by the Company from time to time during that 4 year period under this Agree-

ment an average of not less than 8,000 Brunei Dollars per square kilometre.

(3) Any sum spent by the Company during the first 4 Agreement Years and in connection with operations under this Agreement in excess of the Company's commitment calculated under subclause (1) hereof shall be deemed, for the purposes of subclause (2) hereof, to have been spent during the second 4 Agreement Years.

(4) If at the end of the first 4 Agreement Years the Company shall not have spent its commitment calculated under subclause (1) hereof, and/or at the end of the second 4 Agreement Years the Company shall not have spent its commitment calculated under subclause (2) hereof, then the Company shall pay the unspent balance to the Government within 6 months after the period in respect of which it shall not have fulfilled its commitment. In the event of this Agreement being determined during the currency of either 4 year period, if the Company shall not then have spent a proportionate commitment in respect of the Scheduled Lands, the Company shall pay the unspent balance of such proportionate commitment to the Government within 6 months after the date of determination.

Fixed yearly payments

17. (1) During each Agreement Year of the Agreement Period the Company shall make a fixed yearly payment to the Minister in respect of each square kilometre or part of a square kilometre of the Scheduled Lands —

(*a*) in respect of the first 4 Agreement Years inclusive —

15 Brunei Dollars;

(*b*) in respect of the second 4 and subsequent Agreement Years —

45 Brunei Dollars.

(2) The said fixed yearly payments shall be made by equal half-yearly instalments on the first day of January and the first day of July in every year. The first of such instalments shall be paid on the first of the said days next after the commencement of the ninth Agreement Year. The last of such instalments shall be paid on the last of the said days in the Agreement Period.

(3) Where an amount of rent under this Agreement is not paid as provided by subclause (1) the Company shall pay to the Government an

additional amount calculated at the rate of one and one-half (1½) per centum per month or part of a month upon the amount of rent from time to time remaining unpaid, to be computed from time to time when the rent becomes payable until it is paid.

18. When the Company's rights under this Agreement are determined or when the rights granted by this Agreement are surrendered in respect of any area or areas of the Scheduled Lands then the Government shall refund to the Company an apportioned part of any fixed yearly payments made by the Company in advance in respect of the Scheduled Lands or any such area or areas thereof. This refund shall be in respect of the period after the date of such determination or surrender for which payment has already been made. Refund of fixed yearly payments

19. The Company shall make to the Minister payment of such rates or rentals per acre or part of an acre as may be imposed in accordance with paragraph (*b*) of the Proviso to Clause 8 in respect of surface lands actually occupied by the Company for purposes which could normally be used other than exclusively in carrying out petroleum operations. Such payments shall be made yearly or by equal half yearly instalments at such times as may be determined by the Minister. Yearly payments for surface occupation

PART VI

Royalties and Taxes

20. (1) Subject to subclause (3) of Clause 21 within one month after the end of each quarter in each year of the Agreement Period the Company shall pay to the Minister in Brunei Dollars (unless otherwise agreed) a sum equal to the Company's estimate of the royalties set out in Clauses 21, 22 and 23 in respect of the said quarter. Royalties

(2) Within 2 months after the first day of January and the first day of July in each year of the Agreement Period the Company shall submit to the Minister a statement showing —

(*a*) the total of royalties payable;

(*b*) the total sum paid by way of royalties; and

(*c*) the instalment of the fixed yearly payment due under Clause 17 (which falls to be deducted pursuant to Clause 25) paid;

in respect of the half year period ending on the said dates (and so that for the purposes of this Clause the period between the date of this Agreement and the first of the foregoing days next following the date of the Agreement shall be deemed to be a half-year period).

(3) Within one month after the receipt by the Minister of the statement referred to in subclause (2) of this Clause, the Company shall pay to the Minister or the Minister shall pay to the Company, as appropriate, a sum equal to the underpayment or overpayment disclosed by the said statement:

Provided that if there is any dispute or failure to agree between the parties affecting the amount of royalties payable in respect of any half year period then if it should be ascertained that additional royalties are payable by the Company the Company shall pay within 7 days the amount payable plus an additional amount calculated at the rate of one and one-half (1½) per cent per month, or part of a month upon the amount of royalty from time to time remaining unpaid until it is paid.

Royalty on crude oil

21. (1) A royalty shall be paid, as specified in Clause 20 on all crude oil won and saved by the Company from the Scheduled Lands in the preceding quarter at a rate equal to 12½% of the value thereof:

Provided that any crude oil used (or the products of which are used) during such quarter by the Company for the purpose of carrying on drilling and production operations and pumping to field storage and refineries in Brunei shall be excluded when calculating the quantity of crude oil obtained in that quarter for the purposes of this Clause.

(2) The value of crude oil for the purposes of royalty shall for each type of crude oil, in respect of each calendar month, be the average price obtained by the Company from the sale of such crude oil during that month calculated by volume.

(3) The Government may, in lieu of the royalty prescribed in subclause (1) of this Clause, elect to take a proportion of each type of crude oil not exceeding 12½% of the total volume of that type of crude oil in respect of which royalty would have been payable under subclause (1). Such election may be made upon the Government giving not less than 4 calendar months notice to the Company and when made shall continue for such period as was stated in such notice or, if no period was stated, until terminated by the Government giving not less than 4 calendar months further notice to the Company. Delivery of crude oil which the Government has elected to take shall be effected at

main field storage tanks or at such other point of delivery as may be agreed.

22. (1) A royalty shall be paid, as specified in Clause 20 on all casinghead petroleum spirit recovered by the Company in the preceding quarter period at a rate equal to 12½% of the value thereof: Royalty on casinghead petroleum spirit

Provided that any casinghead petroleum spirit used during such quarter by the Company for the purpose of carrying on drilling and production operations and pumping to field storage and refineries in Brunei shall be excluded when calculating the quantity of casinghead petroleum spirit recovered in that quarter for the purposes of this Clause.

(2) The value of casinghead petroleum spirit for the purposes of royalty shall in respect of each calendar month be the average price obtained by the Company from the sales of such casinghead petroleum spirit during that month calculated by volume.

23. (1) A royalty shall be paid, as specified in Clause 20, on all natural gas obtained from the Scheduled Lands and sold by the Company in the preceding quarter at a rate of 12½% of the value thereof. Royalty on natural gas

Provided that no royalty shall be payable in respect of —

(*a*) natural gas sold by the Company to the Government or to any persons or companies which the Minister shall by notification to the Company declare to be engaged in activities which contribute to the economic development of Brunei, and

(*b*) natural gas sold to other persons holding petroleum and mining agreements in Brunei for repressurising the natural oil reservoir.

(2) The value of natural gas for the purposes of royalty shall in respect of each calendar month be the average price obtained by the Company from the sales of such natural gas during that month calculated by volume.

24. (1) The Company shall measure or weigh by a method or methods customarily used in good oilfield operations and from time to time approved by the Minister — Measurement of petroleum for royalty purposes

(*a*) all crude oil obtained and casinghead petroleum spirit recovered from the Scheduled Lands; and (*b*) all natural gas obtained from the Scheduled Lands and sold. (The volume of it shall be calculated at an absolute pressure of 1 atmosphere and at a temperature of 60°F.)

(2) Any officer authorised by the Minister shall be entitled to be present at any time when such measurement or weighing takes place.

(3) Any measuring or weighing appliances found to be false at any time shall be deemed to have existed in that condition during the period of 3 months prior to the discovery thereof or the period elapsed since the last occasion upon which the same was examined or tested, (whichever shall be the less), if the Minister so determines after considering any representations made by the Company. The royalties payable in respect of such period shall then be adjusted in accordance with this provision.

(4) The Company shall not make any alteration in the method or methods of measurement or weighing used by it or in any appliances used for that purpose without first informing the Minister. The Minister may require on any occasion that no alteration shall be made except in the presence of an officer authorised by him.

(5) When calculating the quantity of crude oil obtained and casinghead petroleum spirit recovered for the purposes of Clauses 21 and 22, the quantity of crude oil and casinghead petroleum spirit which is to be excluded shall be ascertained according to a method approved by the Minister.

Deduction of fixed yearly payments from royalties

25. The amount of the fixed yearly payment actually made in respect of any year under Clause 17 hereof shall be deducted from the amount of royalties payable under the provisions of this Part in respect of that year. The deduction shall be made so far as practicable by deducting each half-yearly instalment from the next succeeding quarterly royalty payment due under the provisions of Clause 20, and if that be insufficient, then the balance shall be deducted from the next succeeding royalty payment due.

Pricing

26. The Company hereby undertakes that if and so often as called upon to do so for the purposes of royalty, the Company will justify the prices at which its petroleum is sold.

Taxation

27. During the Agreement Period —

(*a*) The Company and its associated companies shall be liable to pay to the Government tax under the Income Tax

(Petroleum) Act in respect of their profits arising from petroleum operations within the meaning of the said Act in relation to petroleum produced under this Agreement; Cap. 119

(*b*) The Company and its associated companies shall be free of all taxation charges and fees by the Government or by any governmental authority in Brunei and free of any requirement to make any payment whatsoever to the Government or any such authority in relation to such petroleum operations, except for —

(i) payment which would be made in accordance with this Agreement and the Income Tax (Petroleum) Act;

(ii) charges and fees for services rendered by governmental authorities on request or to the public generally, provided such charges and fees are reasonable and non-discriminatory; and

(iii) taxes and fees of general application such as import duties, export duties, stamp duties, registration fees, rates and rentals, provided they are at rates no higher than those generally applicable in Brunei.

Audit

28. (1) The Government shall have the right from time to time to appoint an auditor, who shall be qualified and independent of the Government and such auditor shall have the right to audit for the purposes of Government revenues and not otherwise the books and accounts of the Company.

(2) For the purposes of such audit the Company shall make available to the auditor all such books, records, accounts, and other documents and information as may be reasonably required of the Company by him.

PART VII

Rights Reserved by Government

Government may work other substances in Scheduled Lands

29. The Government or any other person authorised by the Government for that purpose shall hold the right —

(*a*) to enter into and upon the Scheduled Lands (except lands enclosed by a fence as provided in Clause 11 and lands for which the Company is paying a surface rent) in order to search for, dig for and take any substances other than petroleum therein;

(*b*) to sink, build and use such pits, shafts, levels, drains, watercourses, tunnels, buildings, engines or machinery, railways, roads and other things on, in or under the Scheduled Lands as the Government thinks necessary or desirable for the purposes specified in paragraph (*a*) of this Clause:

Provided that the said rights shall be exercised in a manner which does not interfere with the rights of the Company under this Agreement:

Provided also that fair compensation shall be paid for all loss or damage which the Company may incur because of the exercise of the said rights.

Government may enter Scheduled Lands for other purposes

30. The Government or any other person authorised by the Government for that purpose shall hold the right —

(*a*) to enter into and upon the Scheduled Lands in order to make and maintain on the Scheduled Lands such reservoirs, pumping stations, generating stations, radio transmitting and receiving apparatus, waterways, roads, railways, telegraph and telephone lines and pipelines or other things as in the opinion of the Government, are necessary or desirable for any purpose;

(*b*) to obtain from and out of any Scheduled Lands such stone, earth and other minerals as may be necessary or required for making, and maintaining the things specified in paragraph (*a*) of this Clause;

(*c*) at all times to draw water from any Scheduled Lands and to have free access thereto; and

(*d*) to go to and fro at all times on and through the Scheduled Lands for all such purposes as may be required:

Provided always that the said rights shall be exercised in a manner which does not interfere with the rights of the Company under this Agreement.

Provided also that fair compensation shall be paid for all loss or damage (but not including the value of any materials taken) which the Company may incur because of the exercise of the said rights.

31. The Government shall hold the right at any time to alienate to any person all or any area or areas of any Scheduled Lands for any purpose provided that such alienation shall be made subject to the rights of the Company under this Agreement.

Government may alienate Scheduled Lands to third parties subject to Company's rights

32. (1) The Government may, at any time or times, give notice to the Company that application has been made to the Government to acquire rights over the surface of such area or areas of any Scheduled Lands as is mentioned in such notice.

Government may alienate surface in certain cases so as to interfere with Company's rights

(2) If the Company shall not give notice to the Government that it objects to the Government consenting to such application within 90 days after receipt of such notice, then the Government shall hold the right at any time or times thereafter to alienate all or any part of the surface of such area or areas:

Provided that such alienation shall not exclude the said area or areas of Scheduled Lands but only exclude the Company's right to enter on and occupy the surface thereof.

(3) If any such objection shall be made by the Company within the said period and the Government shall desire to effect the alienation notwithstanding such objection, then the question whether the proposed alienation ought or ought not be effected shall be referred to arbitration.

(4) If the Arbitrators decide that the proposed alienation may be made without seriously harming the rights of the Company under this Agreement, then it shall be lawful for them to award that it may be made either —

(*a*) freed from the right of the Company under this Agreement to occupy the surface; or

(*b*) subject to the right of the Company under this Agreement in relation to the surface of all or any parts of such area or areas (in whatsoever way defined) as the Arbitrators may determine.

Provided that such rights may nevertheless be exercised only on condition that before the exercise of any right in respect of the surface the Company —

(i) shall give to the acquirer and his successors in title 60 days' previous notice of the Company's intention to exercise such rights; and

(ii) shall make an agreement with him to pay compensation (to be assessed in case of dispute by arbitration) for all loss or damage which he may incur because of the exercise of such rights.

(5) Whenever an award is made under paragraph (*b*) of subclause (4) of this Clause, the proposed alienation, if made, shall be made expressly subject to the provisions of the award.

(6) The Company shall hold a prior right to have any area or areas alienated under this Clause again included in the Scheduled Lands over which the Company holds the right to occupy the surface under this Agreement, if such area or areas shall subsequently become available for this purpose.

(7) The foregoing provisions of this Clause shall not prevent the Company obtaining the right by agreement to occupy the surface of any area or areas alienated under the provisions of this Clause if the title of the acquirer and his successors in title so allows.

Government may exclude lands for public purposes

33. The Government shall hold the right at any time to withdraw the Company's right to occupy the surface of any area or areas of any Scheduled Lands if such area or areas are required for existing villages or new villages, village extensions, water reserves or any public purposes whatsoever.

Provided that —

(*a*) during the Agreement Period the area or areas so excluded shall not exceed 1 square mile as regards any one area, and in all shall not exceed 5 square miles; and

(*b*) the area or areas excluded under this Clause shall continue to form part of any Scheduled Lands subject to this Agreement:

Provided that no operations shall be carried on, in or under such area or areas other than searching for or mining petroleum by means of deviated drilling from Scheduled Lands not so excluded; and

(*c*) the exclusion of any area or areas shall not be required if —

(i) any active operations such as well-drillings, road construction, waterworks and/or other operations relating to the obtaining of petroleum have previously been commenced or are in progress therein; or

(ii) the Company has given notice that such area or areas is or are required for occupation and paid or offered compensation in respect thereof under subclause (3) of Clause 35.

Instead, some other equal area or areas of the Scheduled Lands shall be excluded which are suitable in the opinion of the Government for the said public purposes.

PART VIII

Restriction on Company's Rights

34. Notwithstanding the foregoing provisions of Part III, to the extent that any part or parts of the Scheduled Lands are at the date of this Agreement held by third parties under Land Titles granted under the Land Code — Restriction as to Alienated Lands Cap. 40

(*a*) the rights granted to the Company in respect of such part or parts of the Scheduled Lands shall be subject to the provisions of the Land Titles relating thereto as now existing; and

(*b*) the Company shall not exercise any of the rights granted under Part III in respect of any area or areas of such part or parts of the Scheduled Lands without the previous consent of the Minister who shall give such consent upon proof to his satisfaction that —

(i) it would not tend to the religious prejudice of the community; and that either

(ii) the Company has agreed with the registered owner or owners of the surface of such area or areas for payment of compensation to such registered owner or owners in respect of any damage which may be done to such area or areas or to any cultivation or buildings thereon because of the exercise of such rights; or

(iii) the Company has made reasonable efforts to make such an agreement but has failed to do so through no fault of the Company, or

(iv) the Company is unable to make such an agreement because such registered owner or owners or any of them cannot be found, or are out of Brunei or are for any reason incapable because of law of making such an agreement.

Occupation of Scheduled Lands for surface purposes

35. (1) Before occupying any area or areas of the Scheduled Lands for the purposes of surface operations the Company shall give to the Minister 28 days' previous notice specifying by name, amount or other sufficient designation the area or areas proposed to be occupied and the purpose for which the area or areas are required.

(2) The Minister shall state his objections, if any, on grounds of public interest to the proposed site within 28 days after the receipt of such notice. The validity of such objections, if a dispute occurs, shall be determined by reference to arbitration.

(3) The Company shall always pay or offer reasonable compensation to the occupiers of any area or areas of the Scheduled Lands before the Company occupies such area or areas. Thereafter the Company shall be entitled to occupy such area or areas (subject to any adverse award by the Arbitrators) but shall pay the amount of compensation. Compensation hereunder shall be determined by Agreement between the Government and the Company and in case there shall be a dispute shall be assessed by reference to arbitration.

Company not to cause damage

36. The Company shall not exercise the rights granted by this Agreement in a way which may cause damage by water or otherwise to land not occupied by the Company.

Timber cutting in reserved forest restricted

37. The following restrictions on the rights granted by Clause 10 shall apply to any Scheduled Lands that may have been proclaimed to be a Reserved Forest —

(*a*) a plan of the whole of any area or areas which it is proposed to develop shall be given to the Conservator of Forests;

(*b*) a plan of any portion of the area or areas to be cleared shall be given to the Conservator of Forests and the proposed locations for well sites shall be shown on it. Such plans shall be made from actual survey and shall, if practicable, be on the same scale as the plan referred to in paragraph (*a*) of this Clause with points of connection to enable them to be plotted on that plan;

(*c*) clearings shall be strictly limited to the actual area or areas necessary for the efficient operations under this Agreement together with such additional clearings as may be necessary for the protection of such operations from fire and other hazards;

(*d*) due care shall be exercised in felling all trees so as not to damage other trees outside the area or areas being cleared;

(*e*) the clearings for well sites shall not usually exceed 2 acres.

38. The rights granted by this Agreement shall be exercised on the foreshore lying between high water mark and low water mark at usual spring tides only when it is necessary to carry out effectually any operations under this Agreement. The Company shall not cause any reasonably avoidable obstruction to the use of such foreshore for other purposes through exercising such rights.

Limitation of rights over foreshore

39. (1) Nothing in this Agreement shall be deemed to give any rights to the Company over the water over the Scheduled Lands other than such rights as may be necessary for obtaining petroleum from the Scheduled Lands in a proper and efficient manner or other than such rights as may be expressly mentioned in this Agreement.

Limitation of rights over sea areas and reclamation

(2) Nothing in this Agreement shall be deemed to confer any rights on the Company to reclaim any of the Scheduled Lands except with the prior consent of the Minister and subject to and in accordance with plans to be approved by the Minister.

40. Any installations erected by the Company under this Agreement in any sea area or areas shall be of such sort and shall be made, placed, marked and buoyed in such a way as to leave safe and convenient channels for ships in the area. The Company (if required to do so by the Minister) shall illuminate between the hours of sunset and sunrise all derricks, piers, survey marks or any other installations erected in such sea areas in such manner and by such means as is satisfactory to the Minister.

Installations in sea areas

41. The Company shall not, except with the consent of the Minister, use the Scheduled Lands in any manner except for the purposes of this Agreement.

Company not to use lands other than for purposes of Agreement

Company not to obstruct working of other minerals

42. The Company shall not whenever reasonably avoidable exercise the rights granted by this Agreement in a manner which may obstruct or interrupt the development and working of any minerals (other than petroleum) within the Scheduled Lands or lands adjacent to them. The Company shall at all times (so far as lies within its power) give the holders of licences or leases in respect of any such minerals reasonable means of access and passage on and across the Scheduled Lands to such minerals for the purpose of searching for, digging for, taking and carrying away such minerals.

Distance of boreholes or wells from boundaries

43. No borehole or well shall be drilled —

(*a*) within a distance of 400 feet from the boundaries of the Scheduled Lands except with the consent of the Minister; or

(*b*) so as to deviate at any point out of the Scheduled Lands.

No drilling operations to be carried on near railways, etc.

44. Except with the previous consent of the Minister or of any officer authorised by him and subject to any conditions which may be connected with such consent, no drilling operations shall be carried on by the Company on the Scheduled Lands at any place within 50 yards of any reservoir, canal, railway or public road which is not constructed by the Company, or within 50 yards of any other public works or any building or inhabited site which is not the property of the Company, other than for the maintenance or repair of existing wells. Moreover no storage tanks shall be erected at any point within 100 yards of such places:

Provided that if such places are situated on or within any of the areas falling under the operation of Clauses 31, 32 or 33 the provisions of this Clause shall not apply.

Notice of the site and commencement of boreholes and wells

45. As soon as the site of any borehole or well has been decided the Company shall notify the Minister of the site of it. The borehole or well shall be described by a certain number in the records, maps and plans which the Company is required to keep under the provisions of this Agreement. The Company shall notify the Minister of any change of the number of any such borehole or well which may be made.

Abandonment and plugging of boreholes

46. (1) No borehole or well shall be abandoned and no cemented string or other permanent form of casing shall be withdrawn from any borehole or well which it is proposed to abandon without the prior consent of the Minister or in case of an exploration borehole or well

without notification to the Minister as soon as practicable. Consent shall not be unreasonably withheld in respect of boreholes or wells which have become or are unproductive.

(2) Every borehole or well which the Company intends to abandon shall be securely plugged by the Company in order to prevent entry and exit of water in and from any portion of the strata bored through, unless the Minister otherwise determines.

(3) The Minister may require on any occasion that no borehole or well shall be plugged except in the presence of an officer authorised by him.

47. (1) The Company shall proceed with all due diligence to carry out exploration and development work at a reasonable and economically justifiable rate. Methods of working

(2) The Company shall maintain all apparatus and appliances and all boreholes and wells capable of producing petroleum in good repair and condition. The Company shall carry out all operations under this Agreement in a workmanlike manner and in accordance with generally accepted standards of good petroleum field operations and conservation practices. Without prejudice to the general nature of the foregoing provisions the Company shall take all steps practicable in order —

(*a*) to control the flow and to prevent the escape or waste of petroleum discovered in the Scheduled Lands;

(*b*) to prevent damage to adjoining petroleum bearing strata;

(*c*) to prevent the fortuitous entrance of water through boreholes and wells to petroleum bearing strata;

(*d*) to prevent the pollution of any water-well, spring, stream, river, lake, reservoir, estuary or harbour, and to prevent the pollution of the coastal waters and shoreline; and

(*e*) to cause as little damage as possible to the surface of the Scheduled Lands and to the trees, crops, buildings, structures and other property thereon.

(3) The Company shall obey any instructions from time to time given by the Minister in writing relating to any of the matters specified in paragraphs (*a*) to (*e*) of subclause (2) of this Clause:

Provided that if the Company objects to any such instruction for the reason that it is unreasonable it may refer the matter to arbitration within 28 days after the date when such instruction was given.

Provisions of storage tanks

48. The Company shall use generally accepted standards of good petroleum field operations for confining the petroleum obtained from the Scheduled Lands in tanks, gasholders, pipes, pipelines or other receptacles constructed for that purpose. No petroleum shall be put or enclosed in an earthen reservoir, except as a temporary measure during an emergency.

Disposal of waste oil

49. The Company shall drain all waste oil, salt water and refuse from tanks, gasholders, boreholes and wells into proper receptacles, which shall be constructed and maintained by it for that purpose, at a safe distance from such tanks, gasholders, boreholes and wells and from any buildings or structures whether situated within the Scheduled Lands or not. The Company shall dispose of such waste oil, salt water and refuse in a manner from time to time approved by the Minister.

Health and safety

50. The Company shall comply with any instructions given from time to time by the Minister for maintaining the health and safety of persons employed by the Company in or about the Scheduled Lands.

Unit development

51. If at any time during the Agreement Period —

(*a*) other petroleum mining Agreements are at the time in force in respect of the same petroleum field;

(*b*) the Government shall consider that it is in the interest of Brunei, in order to secure the maximum ultimate recovery of petroleum and to avoid unnecessary competitive drilling, that the petroleum field should be worked and developed as a unit in co-operation by all the persons, including the Company, whose petroleum mining Agreements extend to or include any part of the petroleum field;

then the following provisions shall apply —

(i) The Minister may require the Company by notice to co-operate with such other persons as are parties to petroleum mining Agreements with the Government in respect of any part or parts of the petroleum field as may be specified in the said notice (in this Clause called "the other Operators") in the preparation of a scheme (in this Clause called "a development scheme") for the working and development of the petroleum field as a unit by the Company and the other Operators in co-operation. The said notice shall contain a description by reference to a map of the area or areas in respect of which the Minister requires a development scheme to be submitted and shall state the period within which such scheme is required to be submitted for approval by the Minister.

(ii) Upon receipt of such notice the Company shall be bound to submit such a scheme jointly with the other Operators for the approval of the Minister.

(iii) If a development scheme is not submitted to the Minister within the period limited by the said notice, or, if a development scheme is so submitted but is not approved by the Minister, then the Minister may prepare a development scheme which shall be fair and equitable to the Company and the other Operators. Moreover the Company shall obey all the provisions of any such development scheme applicable to the Company:

Provided that if the Company objects to any such development scheme prepared by the Minister it may refer the matter to arbitration within 28 days from the date when notice of such development scheme has been given to it by the Minister. Notwithstanding any such reference to arbitration however the Company shall obey the provisions of the development scheme pending the decision of the Arbitrator unless the Arbitrator otherwise determines.

52. If a state of national emergency or war occurs (the Government alone shall judge whether it exists) the following provisions shall apply — Right of pre-emption in emergency

(*a*) The Government shall hold the first right to purchase all crude oil obtained by the Company from the Scheduled Lands under this Agreement and all the products of that crude oil.

(*b*) The Company shall use its best endeavours to increase as far as reasonably possible with facilities that then exist, the supply of crude oil and/or products of that crude oil to the extent required by the Government for Brunei.

(*c*) With all reasonable speed, the Company shall endeavour to deliver all crude oil and/or products of that crude oil which are purchased by the Government under this Clause in the quantities, at the time and in the manner required by the Government at a convenient place of shipment or at a place of storage in Brunei to be determined by the Minister, (whether belonging to the Government or otherwise). If a vessel employed to carry any such crude oil and/or products of such crude oil on behalf of the Government is detained on demurrage at the port of loading, then the Company shall pay the amount owing for demurrage according to the terms of the charter party and/or the rates of loading previously agreed unless the delay is due to causes outside the control of the Company.

(*d*) The price to be paid for all crude oil or products of it which are purchased by the Government shall be either —

(i) separately agreed by the parties; or

(ii) in default of agreement, a fair price at the places and on the dates of delivery to be settled by arbitration. To assist in arriving at a fair price at the places and on the dates of delivery the Company shall give particulars to the Government and the Arbitrators, if so required, in respect of the quantities, descriptions and prices of crude oil or products previously sold to other customers and of charters or contracts entered into for carriage. The Company shall also show to the Government and the Arbitrators original or authenticated copies of contracts or charter parties entered into for the sale or carriage of such crude oil or products. The foregoing information shall be treated as confidential.

(*e*) The Government shall also hold the right to take control of the plant and premises of the Company in Brunei, and if this happens the Company shall conform to and obey all directions issued by the Minister or on his behalf. Compensation shall be paid to the Company for any loss or damage that may be proved to have been incurred by the Company by reason of the exercise by the Government of the powers given by this paragraph of this Clause.

PART IX

Records, Accounts etc.

53. (1) The Company shall keep accurate records, in a form from time to time approved by the Minister, containing particulars of the following matters — Company to keep and give records

(*a*) the drilling, deepening, plugging or abandonment of all boreholes and wells;

(*b*) the strata and subsoil through which all boreholes and wells are drilled;

(*c*) the casing inserted in all boreholes and wells and any alteration to such casing;

(*d*) any petroleum, water and workable minerals encountered;

(*e*) the areas in which any geological or geophysical work has been carried out;

(*f*) such other matters as the Minister may from time to time require;

and shall also keep accurate geological maps and plans relating to the Scheduled Lands.

(2) The Company shall deliver copies of the said records, maps and plans to the Minister whenever required. The Company further shall give to the Minister —

(*a*) within 2 months after the end of each calendar year —

(i) a record, in a form approved by the Minister, which indicates all exploration, development and other works carried out by the Company during that year in connection with searching for, boring for and obtaining petroleum, and

(ii) estimates of economically recoverable reserves of crude oil and natural gas at the end of that year;

(*b*) within 2 months after the first day of January and the first day of July in each year, estimates of crude oil and natural gas production and exports for each of the 4 half-year periods immediately following the said dates;

(*c*) from time to time, such other plans and information as to the progress of the Company's operations as the Minister may reasonably require.

Company to keep samples

54. The Company shall as far as reasonably practicable correctly label and correctly keep for reference for a period of 1 calendar year characteristic samples of the water encountered in any borehole or well and samples of any petroleum found in the Scheduled Lands and for a period of 2 calendar years characteristic samples of the strata found in the Scheduled Lands. The Minister or his representative shall have access to such samples at all reasonable times and shall be entitled to require that representative specimens not exceeding one-half of any such samples be delivered to him. Furthermore the Minister may retain any specimens so delivered.

Company to keep accounts

55. (1) The Company shall keep full and correct accounts, in a form from time to time approved by the Minister, at all times during the Agreement Period. These accounts shall contain accurate entries of —

(*a*) the gross quantity of —

(i) crude oil obtained from the Scheduled Lands;

(ii) untreated natural gas obtained from the Scheduled Lands and separated and introduced into main gas pipeline networks;

(*b*) the method and results of tests made on the crude oil and natural gas;

(*c*) the quantity sold of —

(i) crude oil;

(ii) natural gas;

(iii) casinghead petroleum spirit;

(iv) each refined petroleum product, including liquified petroleum gases;

together with the names of the purchasers, the quantity purchased and the price paid by each purchaser;

(*d*) the quantity injected into the formation of —

(i) crude oil;

(ii) natural gas;

(iii) casinghead petroleum spirit;

(iv) each refined petroleum product, including liquified petroleum gases;

(v) water and other liquids or gases;

(*e*) the quantity consumed for drilling and other production operations (other than quantities reported under (*d*) above), and consumed in pumping to field storage and refineries in Brunei of —

(i) crude oil;

(ii) natural gas;

(iii) casinghead petroleum spirit;

(iv) each refined petroleum product, including liquified petroleum gases;

(*f*) the quantity of crude oil refined in Brunei and the quantity of each refined product, including liquified petroleum gases, obtained from it;

(*g*) the quantity of natural gas treated in Brunei for the removal of casinghead petroleum spirit or other liquids and liquified petroleum gases and the quantity of —

(i) casinghead petroleum spirit;

(ii) butane;

(iii) propane;

(iv) other liquids or gases obtained from it;

(*h*) the quantity of natural gas flared;

(*i*) such further information as the Minister may reasonably require from time to time.

(2) The Company shall within 2 calendar months after the first day of January and the first day of July in each year deliver to the Minister a summary of the said accounts for each such half-year period, in a form from time to time approved by the Minister, together with a statement of all royalties payable in respect of each such half-year period.

Company to furnish copies of agreements.

56. The Company shall within 2 calendar months of the date of execution give to the Commissioner of Lands copies of all conveyances, leases, assignments, agreements and deeds relating to the Scheduled Lands 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.

Treatment of information supplied by Company

57. All records, maps, plans, accounts and information which the Company is required or may be required to give from time to time under this Agreement shall be supplied at the expense of the Company and subject as hereinafter mentioned shall be treated as confidential. The Government shall nevertheless be entitled —

(*a*) at any time, to make use of any information received from the Company, for the purpose of preparing and publishing aggregated returns and general reports on the extent of operations under petroleum mining Agreements in Brunei;

(*b*) at any time, to make use of topographical survey information for any purpose whatsoever;

(*c*) at any time, to make use of any information received from the Company for the purpose of any arbitration or litigation between the parties;

(*d*) at any time to make use of any information regarding economic minerals other than petroleum;

(*e*) to publish summaries of exploration wells, including lithological groups, letter classification boundaries and hydrocarbons zones —

(i) in the case of discovery wells, 5 years after completion of drilling;

(ii) in other cases at any time;

(*f*) on relinquishment of any part of the Scheduled Lands, to incorporate geological and geophysical information relating to the surrendered lands in general;

(*g*) 2 years after relinquishment of any part of the Scheduled Lands, to publish well records relating to the surrendered lands, including electric logs, lithologies of cored samples, well cuttings and side wall samples, drill stem tests, flow records and faunal and floral lists; and

(*h*) 5 years after relinquishment of any part of the Scheduled Lands, to use in any way, any maps, plans, reports, records, interpretations and data relating to the surrendered lands:

Provided that nothing in this Clause shall entitle the Government to disclose to third parties at any time any information which is marked or otherwise designated as proprietary information at the time at which the Company gives such information to the Government pursuant to Clause 53 except with the consent of the Company.

58. Any person or persons authorised by the Minister shall hold the right at all reasonable times to enter into and upon any land for the time being occupied by the Company in Brunei for the following purposes — Power of Government to inspect plant, records, etc.

(*a*) to examine the boreholes, wells, plant, equipment, buildings and other things made or done by the Company under this Agreement and the state of repair and condition 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;

(*c*) to inspect and make abstracts or copies of any records, maps, plans or accounts which the Company is required to keep or make under this Agreement;

(*d*) to inspect the samples of strata, petroleum or water which the Company is required to keep under this Agreement; and

(*e*) to carry out any operations which the Government may be entitled to carry out under this Agreement.

PART X

Government's Right to Participate

Govern-ment's right to participate

59. (1) If deposits of petroleum which are technically and commercially exploitable are discovered by the Company (hereinafter referred to as a "petroleum field") within the Scheduled Lands, the Government shall, if the Company decides to develop and exploit such petroleum field, have the right to participate up to a share of 50 per cent in its development and exploitation by the Company in accordance with the following procedure —

(*a*) Promptly after having reached its decision to develop such petroleum field the Company shall notify the Government thereof;

(*b*) Within 180 days of such notification, the Company shall prepare and submit to the Government plans and estimates sufficient to enable the Government to determine whether it wishes to participate in the development and exploitation of such petroleum field;

(*c*) Within a further 90 days of the submission to the Government of such plans and estimates, the Government shall advise the Company whether it wishes to participate and the extent of the share up to 50 per cent that it wishes to acquire;

(*d*) If the Government decides to participate then it shall pay to the Company up to 50 per cent of the cost according to the size of the share chosen, incurred by the Company in discovering appraising and evaluating such petroleum field from the effective date of this Agreement until the date when the Government indicates its wish to participate.

(2) In consideration for the payment by the Government of the amount specified in subclause (1) (*d*), the Government shall acquire the rights and incur the obligations, including expenditure commitments, under this Agreement with respect to such petroleum field in proportion to its chosen share.

(3) The terms governing the relationship between the Company and the Government under this Clause shall be set out in an Operating Agreement to be annexed hereto.

PART XI

Supplementary Payment

60. (1) In order to give the Government a greater share of the benefits of any commercial discovery, the Company agrees to pay to the Government an agreed percentage of the annual net profits arising from petroleum produced under this Agreement. Such percentage is to be agreed by the Government and the Company before this Agreement is entered into. Supplementary payment

(2) For the purpose of this Clause, Net Profits shall be determined in the same manner as provided for the determination of chargeable Profits in Part III of the Income Tax (Petroleum) Act, as amended, except that in making such determination no deduction shall be allowed for Royalty, paid to the Government under this Agreement or for the Net Profits payment paid to the Government under this Clause. Cap. 119

PART XII

Miscellaneous Provisions

61. (1) The Government shall make land available to the Company (if required) outside the Scheduled Lands but within Brunei for the erection of shore installations, residential areas, the appropriation of water and such other purposes as may be agreed to be necessary for the exercise by the Company of its rights under this Agreement. This land shall be of such a size, in such an area or areas and be made available on such conditions as may be agreed between the parties and in default of such agreement as may be decided by arbitration: Land for shore installations, etc.

Provided that —

(*a*) where any land made available to the Company in accordance with the provisions of this Clause, is situated within the area of any other lands the subject of a petroleum mining Agreement to which the Company is a party then such land shall be held on the same terms and conditions as if the land so made available had been occupied by the Company in accordance with the provisions of that petroleum mining Agreement;

(*b*) nothing in this Clause shall compel the Government compulsorily to acquire land for the above purposes under the provisions of any written law relating to the compulsory acquisition of land by the Government.

(2) If the Company's rights over any lands, outside the Scheduled Lands and the subject of a petroleum mining Agreement to which the Company is a party, are surrendered or in any way terminated, the Company shall have the right to occupy for the duration of this Agreement any area of such lands upon which stand shore installations, residential areas, supplies of water or any other building, construction or plant as are necessary for the exercise by the Company of its rights under this Agreement.

Compensation

62. The Company shall pay reasonable compensation for all injury to the property and rights of third persons which may be done by the Company, its agents and servants in the exercise of the rights granted by this Agreement.

Indemnity against third party claims

63. The Company shall at all times indemnify every officer of the Government against all actions, costs, charges, claims and demands whatsoever which may be made or brought by any third person in connection with this Agreement or any thing done or purported to be done by the Company under this Agreement.

Statements, prospectuses, etc.

64. (1) No statement shall be made by or with the consent of the Company claiming or suggesting whether expressly or by implication that any Government Department or any person or body acting on behalf of the Government has or have formed or expressed any opinion that the Scheduled Lands are from their geological formation or otherwise likely to contain petroleum.

(2) The foregoing provisions of this Clause or a statement to the effect thereof 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 or proposed company proposed to be brought into existence.

Notice of fresh issues of capital

65. The Company shall report to the Minister particulars of any fresh issues of capital which may be made by it from time to time and any alteration which may be made in the Memorandum or Articles of Association or in the constitution of the Company.

Consent to assignment

66. The Company shall not transfer its interest under this Agreement nor any of the rights hereby granted to any person or persons whomsoever without the previous consent in writing of the Government. The

Government (without limiting its rights to make such consent subject to any conditions it may think fit) may require that, as a condition of giving such consent, the person or persons taking such interest or rights at his or their expense shall agree by agreement to observe and perform the obligations imposed on the Company by this Agreement.

67. If the Company at any time fails to comply with any of the obligations which must be complied with by the Company under Clauses 24, 46, 47, 48, 49, 50, 73 and 80, then and in any such case the Government shall be entitled, after giving to the Company reasonable notice, to 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 costs and expenses of so doing from the Company. Power for Government to perform Company's obligations

68. The Company shall, subject to the availability of suitable candidates, use its best endeavours to employ and train Bruneians in and for every phase of the Company's operation and management. Training and employment of Bruneians

69. (1) In respect of natural gas which is surplus to — Sale of gas to Government

(*a*) the requirements of the Company for its own use or the use of its employees; and

(*b*) the requirements of any associate of the Company for its own use in respect of the refining and/or exporting of petroleum; and

(*c*) such contractual obligations of the Company as are then current;

the Company shall, before entering into any contract for the sale thereof, give to the Government the first option to purchase the same for consumption in Brunei including any requirements for manufacture in Brunei of derivatives (other than liquefied natural gas or liquefied petroleum gases) whether for consumption in Brunei or for export from Brunei.

(2) The price ex the Company's systems at which such surplus natural gas shall be offered shall in no case be higher than the price at which the Company could otherwise sell the same (netted back to its systems) less the amount of royalty which would (but for the sales being to Government) be payable in respect of such natural gas and in the case of sales of such surplus natural gas for Government projects (including projects in Brunei in which the Government has at least a 50 per cent

participating financial interest) shall be at a lower price to be agreed between the Government and the Company.

(3) If the Government shall not accept any such offer within a period of 28 days, the offer shall be deemed to have been refused.

Petroleum to be made available for consumption within Brunei

70. (1) The Company shall make available for consumption within Brunei petroleum excepting natural gas produced within Brunei to the extent of such proportion of the total demand in Brunei for such petroleum as is equal to the proportion which the Company's production bears to the total production in Brunei. Furthermore, to the extent that the petroleum is refined products the Company shall make them available at prices to be agreed between the Government and the Company.

(2) For the purpose of this Clause, the price at which the Company makes petroleum available for consumption within Brunei shall be deemed to be the publicly listed price required to be established by the Company under Clause 5 (2).

Quiet enjoyment

71. If and so long as the Company makes all payments which must be made and complies with all the other obligations which must be complied with by the Company under this Agreement, then the Company shall hold the right to exercise and enjoy the rights granted by this Agreement during the Agreement Period peaceably and quietly and without any lawful interruption by the Government or any person rightfully claiming from or under it.

Foreign currency

72. The Company shall be allowed to retain abroad in foreign currency the proceeds of export sales and to use these sums to meet expenditure incurred abroad, including dividend payments.

PART XIII

Extension and Determination

Extension

73. (1) If the Company makes all payments which must be made and complies with all other obligations which must be complied with by the Company under this Agreement, then the Government may, on the Company giving to the Government not less than 12 months' previous notice not more than 2 years nor less than one year before the end of the Agreement Period, extend the rights of the Company under this Agreement in respect of the Scheduled Lands.

(2) Such extension shall be for such further period from the end of the Agreement Period and upon such terms and conditions as may be mutually agreed between the Government and the Company.

(3) If any extension of the rights of the Company under this Agreement is granted in respect of the whole or any part of the Scheduled Lands as provided in subclause (1) of this Clause, then the Company shall be released from all liability to do anything which is expressly required to be done under this Agreement by the Company at the end of the Agreement Period in relation to such lands.

Right of Company to determine

74. The Company shall hold the right to determine this Agreement at any time during the Agreement Period by giving to the Government not less than 12 months' previous notice in writing to that effect.

Right of Government to determine

75. If —

(*a*) any payments which must be made by the Company under this Agreement are unpaid for the space of 6 calendar months following after any of the dates on which the same ought to have been made; or

(*b*) there is any failure by the Company to comply with any other obligations which must be complied with by the Company under this Agreement; or

(*c*) the Company ceases to exist either voluntarily or compulsorily (except a voluntary cessation of a solvent company for the purpose of amalgamation or reconstruction), or a receiver is appointed of any part of its undertaking; or

(*d*) the Company fails to comply with any unit development scheme prepared in accordance with the provisions of Clause 51; or

(*e*) after 20 years from the date of this Agreement the Company has failed to find on the Scheduled Lands petroleum in a commercial quantity;

then and in any such case the Government shall hold the right to determine this Agreement:

Provided that except with regard to the non-payment of money and the provisions of paragraph (*e*) the said power shall not be exercised unless and until —

(i) notice has been given to the Company specifying the particular matter causing the said power to arise, and if the matter is capable of remedy requiring the Company to remedy the matter, and requiring the Company to make reasonable compensation in money for the matter in any case where such compensation may reasonably be required; and

(ii) within a reasonable time thereafter the Company fails to remedy the matter, if it is capable of remedy, and to make reasonable compensation in money, if such compensation is required, to the satisfaction of the Government.

Effect of determination

76. On the determination of this Agreement under any of the provisions hereof, this Agreement and all the respective rights and obligations of the parties under this Agreement shall altogether cease to have effect:

Provided that such determination shall be subject and without prejudice to —

(*a*) any rights and obligations of the parties respectively expressed to arise under this Agreement on the determination thereof; and

(*b*) any liability of either party arising out of an earlier failure to comply with an obligation which must be complied with by such party.

Right of Government to assets at end of Agreement Period

77. (1) Subject to the occupation rights of the Company (if any) under another Petroleum Mining Agreement, at the end of the Agreement Period or any earlier determination of this Agreement the Company shall deliver up to the Government free of charge all buildings, plant, railways, pipelines, pumps, machinery and other assets of a fixed or permanent nature constructed, put up or built and used or employed by the Company in or on the Scheduled Lands and which are either at that time necessary for the continued production of any petroleum field therein or are in the nature of public utilities (such as utilities providing electrical, gas, water and telecommunications services to the Government or the public). The Company shall also sell to the Government at that time (at a price which, if agreement fails, shall be fixed by arbitration) any moveable assets owned and used or employed by the Company in or on the Scheduled Lands which are then necessary for the

continued production of any petroleum field therein and which the Government may wish to purchase:

Provided that —

(*a*) the foregoing provisions of this Clause shall not apply to moveable assets which are still required by the Company for use or employment in respect of lands held under any other Petroleum Mining Agreement nor to assets of a fixed or permanent nature which are still required by the Company as aforesaid so long as such assets are so required;

(*b*) the Government shall give notice of any purchase it wishes to make hereunder at least 6 calendar months before the end of the Agreement Period (or, if this Agreement shall be determined before the end of the Agreement Period, at any time within 3 calendar months thereafter).

(2) The Company shall not within 5 years before the end of the Agreement Period remove from the Scheduled Lands or sell any assets of a fixed or permanent nature which might be deliverable to the Government under this Clause, and at no time shall remove or sell any such asset which is in the nature of a public utility while it is required for that purpose.

Right of Company over assets during Agreement Period

78. Subject to Clause 77 and the rights of surface owners, the Company from time to time may remove and may sell or otherwise dispose of any assets in or on the Scheduled Lands which are no longer required by the Company for the purpose of its operations under this Agreement, and pending such sale or other disposal may deal with such assets as the Company thinks fit.

Delivering up of productive boreholes and wells at end of Agreement Period

79. Within 2 months after the end of the Agreement Period or any earlier determination of this Agreement, the Company shall deliver up to the Government all productive boreholes or wells made by the Company in good repair and condition and fit for further working, (unless ordered by the Minister to plug them as provided in Clause 80 and except such boreholes and wells as shall have been previously abandoned with the consent of the Minister).

Plugging of boreholes and wells at end of Agreement Period

80. Within 2 months after the end of the Agreement Period or at any earlier determination of this Agreement the Company shall plug all boreholes and wells as provided in Clause 46, if required so to do by the Minister.

PART XIV

Ancillary Provisions

Force majeure

81. Failure on the part of the Company to fulfil any of its obligations under this Agreement shall not give the Government any claim against the Company or be deemed a breach of this Agreement in so far as such fulfilment has been delayed, hindered, interfered with or prevented by any exceptional or unforeseeable circumstances which are not within the control of the Company or by reason of compliance with any order or request of any national, port, transportation, local or other similar authority or of any body or person purporting to be or act for such authority.

Arbitration

82. (1) Subject to Clause 83, whenever any matter must be referred to arbitration under the provisions of this Agreement or if at any time (whether during the Agreement Period or thereafter) any question or dispute shall arise regarding this Agreement or any matter or thing connected therewith or the rights or obligations of the Government or the Company under this Agreement or any matter arising out of these rights or obligations or connected with them, or if with respect to any matter requiring the agreement of the Government and the Company agreement cannot be reached within 6 months of the date consultations commence or such extended period as may be agreed, then and in all such cases the matter shall be referred to arbitration in London, England or such other place as may be mutually agreed. The parties shall seek to agree upon the joint appointment of a single arbitrator. Failing such agreement within 3 calendar months of the time that the matter is referred to arbitration, each party shall have the right to appoint one arbitrator, and these 2 arbitrators shall jointly appoint a third arbitrator who shall be the chairman. If the first 2 arbitrators shall fail to agree within 2 calendar months of their appointment upon the appointment of a third arbitrator or if either party shall fail to appoint an arbitrator within one calendar month of the failure to agree on a single arbitrator then the appointment shall be referred to the competence of the President of the Federal Tribunal of Switzerland at the request of either party. Such arbitration shall be conducted in accordance with the Arbitration Act 1950 of the United Kingdom or in accordance with such law as may be enacted in Brunei relating to arbitration.

(2) The parties hereby expressly exclude —

(*a*) their right to require a court to determine a preliminary point of law in connection with any arbitration; and

(*b*) their right to appeal to a court on any question of law arising out of an arbitration award.

83. If any dispute shall arise between the Government and the Company as to any matter to be justified under Clause 26 the dispute shall not be referred to arbitration but either of the parties may refer the dispute to an expert or a committee of experts to be similarly appointed and to have similar powers of procedure and decision as the Price Review Committee to which the Collector may refer pricing questions under the Income Tax (Petroleum) Act as in force at the date of this Agreement. Price Committee Cap. 119

84. This agreement shall be construed in accordance with the laws of Brunei. Applicable law

85. (1) All notices and other communications to be given under this Agreement shall be given in writing. Notices

(2) Any notice which the Government or any other person is required or entitled to give to the Company may be given or sent to the Company either at its registered office (if any) in Brunei or at its statutory address for service of notices. Any notice which the Company is required or entitled to give to the Government or to any other person may be given or sent to the Minister as representative of the Government or such other person either at any address notified by the Minister or such other person, or, if no notification is given, at the office of the Minister.

(3) Any notice sent by registered post shall be deemed to have been received 2 days after the date of posting in Brunei.

86. The marginal notes are for convenience only and do not form part of this Agreement. Marginal notes

IN WITNESS WHEREOF the Clerk to the Council of Ministers has, by the direction of and for and on behalf of His Majesty the Sultan and Yang Di-Pertuan in Council, hereunto set his hand and the Company has caused its Common Seal to be hereunto affixed the day and year first herein above written.

SIGNED BY ....

....

The Clerk to the Council of Ministers for and on behalf of His Majesty the Sultan and Yang Di-Pertuan in Council in the presence of ....

....

THE COMMON SEAL OF ....

....

was hereunto affixed in the presence of ....

....

....

THE SCHEDULE

(Clause 1(l))

(The Scheduled Lands)

THIRD SCHEDULE

(Section 8 (2))

MODEL PETROLEUM MINING AGREEMENT IN RESPECT OF OFFSHORE STATE LANDS

THIS AGREEMENT is made the
day of 19 , BETWEEN: His Majesty the Sultan and Yang Di-Pertuan in Council of Brunei Darussalam (in this Agreement called "the Government") of the one part AND
(in this Agreement called "the Company" which expression shall where the context allows include its successors and assigns) of the other part.

WHEREAS —

(*a*) The Company has applied to the Government under the Petroleum Mining Act for a petroleum mining Agreement in respect of certain lands specified in the Schedule to this Agreement.

(*b*) The Government has agreed to enter into a petroleum mining Agreement under the terms and together with the benefit of but subject to the provisions in this Agreement specified.

NOW THIS AGREEMENT WITNESSETH as follows —

PART I

Definitions

1. In this Agreement the following expressions (except where the context otherwise requires) have the following meanings: Meaning of expressions in Agreement

(*a*) "a petroleum field" means a geological structure, containing one or more accumulations of petroleum, which the Company has concluded contains commercially recoverable reserves;

(*b*) "barrel" means 42 U.S. gallons or 9702 cubic inches being the equivalent to 34.9726 imperial gallons;

(*c*) "casinghead petroleum spirit" means any liquid hydrocarbons obtained from natural gas (before the crude oil from which it is derived has been measured for royalty) by separation or by any chemical or physical process;

(*d*) "crude oil" means oil in its natural state before the same has been refined or otherwise treated but excluding water and foreign substances;

(*e*) "natural gas" means gas obtained from boreholes and wells and consisting primarily of hydrocarbons;

(*f*) "Part" and "Clause" means respectively a Part and a Clause of this Agreement;

(*g*) "petroleum" means any mineral oil or relative hydrocarbon and natural gas existing in its natural condition and casinghead petroleum spirit but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

(*h*) "Minister" means the person appointed under section 4 of the Constitution of Brunei Darussalam 1959;

(*i*) "the Agreement Period" means the period of 30 years from the date of this Agreement; and "Agreement Year" means a year commencing on the date of the anniversary of the commencement of the Agreement Period;

(*j*) subject to the provisions of clause 12, "the Scheduled Lands" means the lands specified in the Schedule to this Agreement.

PART II

Agreement

General grant

2. In consideration of the expenditure commitments and payments to be made by the Company specified in Parts V and VI, the Govern-

ment hereby GRANTS to the Company the rights specified in Part III in respect of the Scheduled Lands TO EXERCISE AND ENJOY all and every the said rights for the Agreement Period subject to the provisions for surrender contained in Part IV and together with the benefit of but subject to the other stipulations and provisions contained in Parts VII to XIII inclusive.

PART III

Rights Over Scheduled Lands

3. The Company shall hold the exclusive right to search for, bore for, and take all or any petroleum lying in or under the Scheduled Lands together with the right to enter upon the Scheduled Lands for those purposes. To search for and obtain petroleum

4. The Company shall hold the right to treat the said petroleum in and upon the Scheduled Lands. To treat petroleum

5. (1) The Company shall hold the exclusive right — To store, carry away and sell Petroleum

(*a*) to store, take, carry and pipe the said petroleum in and on the Scheduled Lands;

(*b*) subject to the Petroleum (Pipelines) Act and to any leave granted by the Minister under that Act, to carry the said petroleum and its products away from the Scheduled Lands; and Cap. 45

(*c*) subject to Clauses 53 and 54, to sell, use or otherwise deal with the said petroleum and its products as the Company thinks fit.

(2) In exercising its rights under this Clause, for each quality of crude oil available in substantial quantities for regularly sustained delivery for export from Brunei, the Company shall establish in accordance with commercial practice, and shall be free from time to time to vary according to its judgement of market conditions, a publicly listed price for sales at the border of Brunei or other delivery points in Brunei.

6. Subject to the approval of the Minister, the Company shall hold the right to take and use the water upon or within any of the Scheduled Lands for any purposes connected with the Company's operations under To appropriate water, etc.

this Agreement, and the right to collect, keep and bore for such water for such purposes.

To erect installations, etc.

7. The Company shall hold the right to build, make, operate, occupy and use in and on the Scheduled Lands, all installations, erections, buildings, wharves, and loading places for ships and aircraft landing places; machinery; pipelines; storage tanks; telephone and power lines and radio apparatus and systems; and all other things whatsoever necessary or convenient for or in connection with the effectual carrying out of its operations under this Agreement:

Provided that before building or making telephone lines, radio apparatus or systems or wharves or loading places for ships, the Company shall apply for such permission or approval as may be required by any written law then in force and shall pay such fees or charges as may be imposed for such permission or approval.

To dig gravel, etc.

8. The Company shall hold the right to search for, dig and obtain free of charge gravel, sand, clay and stone within the Scheduled Lands for the purposes of the Company's operations under this Agreement. But the Company shall not hold the right to sell these things.

PART IV

Surrender Provisions

Company to surrender Scheduled Lands compulsorily

9. (1) The Company shall —

(i) On the expiration of 4 Agreement Years from the date of this Agreement, surrender its rights in respect of such area or areas of the Scheduled Lands (if any), as, together with any area or areas in respect of which such rights have already been surrendered under Clause 10, amount to 50% of the area originally contained in the Scheduled Lands.

(ii) On the expiration of 8 Agreement Years from the date of this Agreement, surrender its rights in respect of such further area or areas of the Scheduled Lands (if any) as, together with any area or areas in respect of which such rights have already been surrendered under this Clause and/or Clause 10, amount to 100% of the area originally contained in the Scheduled Lands:

Provided that —

(*a*) if a petroleum field is discovered during the first 8 years of this Agreement or during any extension of the exploration period under paragraph (*b*) of this proviso, nothing in this subclause shall oblige the Company to surrender at any time during the subsistence of this Agreement any area or areas of the Scheduled Lands which form part of such petroleum field or 25% of the area originally contained in the Scheduled Lands, whichever is the greater;

(*b*) if no petroleum field is discovered during the first 8 years of this Agreement, the Company may apply for an extension of the exploration period of up to 4 years, for an area no greater than 25% of the area originally contained in the Scheduled Lands. Such an extension may be granted at the discretion of the Minister, subject to terms and conditions as laid down by the Government.

(2) Subject to Clause 11, the Company shall be free to select for surrender under this Clause such area or areas of the Scheduled Lands as the Company shall decide.

(3) The Company shall not less than one calendar month before the due date of surrender notify the Minister in writing of the area or areas of the Scheduled Lands to be surrendered.

(4) After any such surrender, if the Scheduled Lands retained do not form a single entity, the Company shall be granted such wayleaves over any Scheduled Lands surrendered for the laying, operating and maintenance of pipes, telephone and power lines and intercommunication between the Scheduled Lands retained as the Company may require for the purposes of this Agreement. Such grant shall be subject to such reasonable payment and to such other stipulations and provisions as may be agreed between the Government and the Company. The said wayleaves shall not be included in the calculation of the amount of the Scheduled Lands retained.

Company may surrender Scheduled Lands voluntarily

10. Without prejudice to any obligation imposed by this Agreement and subject to Clause 11, the Company shall be entitled to surrender its rights in respect of any area or areas of the Scheduled Lands at any time during the Agreement Period. Such surrender may be made by the Company by giving not less than one calendar month's notice to the Government and shall take effect as from the expiration of such notice.

Areas to be surrendered

11. Any area or areas of the Scheduled Lands which are surrendered in accordance with the provisions of this Part shall, so far as is reasonable, be an area or areas which are, at the date of surrender, of sufficient size and convenient shape, having regard to adjacent areas not then the subject of petroleum mining Agreements, to enable oil operations to be effectively carried out thereon.

Reduction of Scheduled Lands

12. As from the date upon which any area or areas of the Scheduled Lands are surrendered in accordance with the provisions of this Part, such area or areas shall for all purposes (except as provided in Clause 9), be deemed no longer to be contained in the Scheduled Lands. Furthermore, any reference to the Scheduled Lands shall thereafter (except as aforesaid) mean only the Scheduled Lands as reduced by such surrender.

PART V

Expenditure Commitment and Fixed Yearly Payments

Expenditure commitment

13. (1) During the first 4 Agreement Years of the Agreement Period the Company shall spend on and in connection with operations on the Scheduled Lands a total sum of money calculated on the basis of the acreage held by the Company from time to time during that 4 year period under this Agreement an average of not less than 4,000 Brunei Dollars per square kilometre, or a total sum of not less than 12 million Brunei Dollars whichever is the greater.

(2) During the next 4 Agreement Years the Company shall spend on and in connection with operations on the Scheduled Lands a total sum of money calculated on the basis of the acreage held by the Company from time to time during that 4 year period under this Agreement an average of not less than 8,000 Brunei Dollars per square kilometre.

(3) Any sum spent by the Company during the first 4 Agreement Years and in connection with operations under this Agreement in excess of the Company's commitment calculated under subclause (1) hereof shall be deemed, for the purposes of subclause (2) hereof, to have been spent during the second 4 Agreement Years.

(4) If at the end of the first 4 Agreement Years the Company shall not have spent its commitment calculated under subclause (1) hereof, and/or at the end of the second 4 Agreement Years the Company shall not have spent its commitment calculated under subclause (2)

hereof, then the Company shall pay the unspent balance to the Government within 6 months after the period in respect of which it shall not have fulfilled its commitment. In the event of this Agreement being determined during the currency of either 4 year period, if the Company shall not then have spent a proportionate commitment in respect of the Scheduled Lands, the Company shall pay the unspent balance of such proportionate commitment to the Government within 6 months after the date of determination.

Fixed yearly payments

14. (1) During each Agreement Year of the Agreement Period the Company shall make a fixed yearly payment to the Minister in respect of each square kilometre or part of a square kilometre of the Scheduled Lands —

(*a*) in respect of the first 4 Agreement Years —

15 Brunei Dollars;

(*b*) in respect of the second 4 and each subsequent Agreement Years —

45 Brunei Dollars.

(2) The said fixed yearly payments shall be made by equal half-yearly instalments on the first day of January and the first day of July in every year. The first of such instalments shall be paid on the first of the said days next after the commencement of the eleventh Agreement Year. The last of such instalments shall be paid on the last of the said days in the Agreement Period.

(3) Where an amount of rent under this Agreement is not paid as provided by subclause (1), the Company shall pay to the Government an additional amount calculated at the rate of one and one-half (1½) per centum per month or part of a month upon the amount of rent from time to time remaining unpaid, to be computed from time to time when the rent becomes payable until it is paid.

Refund of fixed yearly payments

15. When the Company's rights under this Agreement are determined or when the rights granted by this Agreement are surrendered in respect of any area or areas of the Scheduled Lands, then the Government shall refund to the Company an apportioned part of any fixed yearly payments made by the Company in advance in respect of the Scheduled Lands or any such area or areas thereof. This refund shall be in respect of the period after the date of such determination or surrender for which payment has already been made.

PART VI

Royalties and Taxes

Royalties

16. (1) Subject to subclause (3) of Clause 17, within one month after the end of each quarter in each year of the Agreement Period the Company shall pay to the Minister in Brunei Dollars (unless otherwise agreed) a sum equal to the Company's estimate of the royalties set out in Clauses 17, 18 and 19 in respect of the said quarter.

(2) Within 2 months after the first day of January and the first day of July in each year of the Agreement Period the Company shall submit to the Minister a statement showing —

(*a*) the total of royalties payable;

(*b*) the total sum paid by way of royalties; and

(*c*) the instalment of the fixed yearly payment due under Clause 14 (which falls to be deducted pursuant to Clause 22) paid;

in respect of the half year period ending on the said dates (and so that for the purposes of this Clause the period between the date of this Agreement and the first of the foregoing days next following the date of this Agreement shall be deemed to be a half-year period).

(3) Within one month after the receipt by the Minister of the statement referred to in subclause (2) of this Clause, the Company shall pay to the Minister or the Minister shall pay to the Company, as appropriate, a sum equal to the underpayment or overpayment disclosed by the said statement:

Provided that if there is any dispute or failure to agree between the parties affecting the amount of royalties payable in respect of any half year period then if it should be ascertained that additional royalties are payable by the Company, the Company shall pay within 7 days the amount payable plus an additional amount calculated at the rate of one and one-half (1½) per cent per month, or part of a month upon the amount of royalty from time to time remaining unpaid until it is paid.

Royalty on crude oil

17. (1) A royalty shall be paid, as specified in Clause 16, on all crude oil won and saved by the Company from the Scheduled Lands in the preceding quarter, at the following rates —

(*a*) in respect of crude oil obtained from wells situated more than 3 but not more than 10 nautical miles offshore from mean low water mark, the royalty shall be equal to 10% of the value thereof;

(*b*) in respect of crude oil obtained from wells situated more than 10 nautical miles offshore from mean low water mark, the royalty shall be equal to 8% of the value thereof.

Provided that any crude oil used (or the products of which are used) during such quarter by the Company for the purpose of carrying on drilling and production operations and pumping to field storage and refineries in Brunei shall be excluded when calculating the quantity of crude oil obtained in that quarter for the purposes of this Clause.

(2) The value of crude oil for the purposes of royalty shall for each type of crude oil, in respect of each calendar month, be the average price obtained by the Company from the sale of such crude oil during that month calculated by volume.

(3) The Government may, in lieu of the royalty prescribed in subclause (1) of this Clause, elect to take a proportion of each type of crude oil not exceeding —

(*a*) in respect of crude oil obtained from wells situated more than 3 but not more than 10 nautical miles offshore from mean low water mark, 10%; and

(*b*) in respect of crude oil obtained from wells situated more than 10 nautical miles offshore from mean low water mark, 8%;

of the total volume of that type of crude oil in respect of which royalty would have been payable under subclause (1). Such election may be made upon the Government giving not less than 4 calendar months notice to the Company, and when made shall continue for such period as was stated in such notice or, if no period was stated, until terminated by the Government giving not less than 4 calendar months further notice to the Company. Delivery of crude oil which the Government has elected to take shall be effected at main field storage tanks or at such other point of delivery as may be agreed.

Royalty on casinghead petroleum spirit

18. (1) A royalty shall be paid, as specified in Clause 16, on all casinghead petroleum spirit recovered by the Company in the preceding quarter, at the following rates —

(*a*) in respect of casinghead petroleum spirit recovered from natural gas obtained from wells situated more than 3 but not more than 10 nautical miles offshore from mean low water mark, the royalty shall be equal to 10% of the value thereof;

(*b*) in respect of casinghead petroleum spirit recovered from natural gas obtained from wells situated more than 10 nautical miles offshore from mean low water mark, the royalty shall be equal to 8% of the value thereof.

Provided that any casinghead petroleum spirit used during such quarter by the Company for the purpose of carrying on drilling and production operations and pumping to field storage and refineries in Brunei shall be excluded when calculating the quantity of casinghead petroleum spirit recovered in that quarter for the purposes of this Clause.

(2) The value of casinghead petroleum spirit for the purposes of royalty shall in respect of each calendar month be the average price obtained by the Company from the sales of such casinghead petroleum spirit during that month calculated by volume.

Royalty on natural gas

19. (1) A royalty shall be paid, as specified in Clause 16, on all natural gas obtained from the Scheduled Lands and sold by the Company in the preceding quarter, at the following rates —

(*a*) in respect of natural gas obtained from wells situated more than 3 but not more than 10 nautical miles offshore from mean low water mark, the royalty shall be equal to 10% of the value thereof;

(*b*) in respect of natural gas obtained from wells situated more than 10 nautical miles offshore from mean low water mark, the royalty shall be equal to 8% of the value thereof.

Provided that no royalty shall be payable in respect of —

(*a*) natural gas sold by the Company to the Government or to any persons or companies which the Minister shall by notification to the Company declare to be engaged in activities which contribute to the economic development of Brunei,

(*b*) natural gas sold to other persons holding petroleum mining Agreements in Brunei for repressurising the natural oil reservoir.

(2) The value of natural gas for the purposes of royalty shall in respect of each calendar month be the average price obtained by the Company from the sales of such natural gas during that month calculated by volume.

Deemed source of crude oil and gas

20. Crude oil and natural gas shall be deemed to have been obtained from the area of the well head through which the crude oil or natural gas is drawn. This provision shall apply even though the said crude oil and natural gas may have been taken from beneath another area of the Scheduled Lands by means of deviated drilling.

Measurement of petroleum for royalty purposes

21. (1) The Company shall measure or weigh by a method or methods customarily used in good oilfield operations and from time to time approved by the Minister —

(*a*) all crude oil obtained and casinghead petroleum spirit recovered from the Scheduled Lands; and

(*b*) all natural gas obtained from the Scheduled Lands and sold. (The volume of it shall be calculated at an absolute pressure of 1 atmosphere and at a temperature of 60°F.)

(2) Any officer authorised by the Minister shall be entitled to be present at any time when such measurement or weighing takes place.

(3) Any measuring or weighing appliances found to be false at any time shall be deemed to have existed in that condition during the period of 3 months prior to the discovery thereof or the period elapsed since the last occasion upon which the same was examined or tested, (whichever shall be the less), if the Minister so determines after considering any representations made by the Company. The royalties payable in respect of such period shall then be adjusted in accordance with this provision.

(4) The Company shaii not make any alteration in the method or methods of measurement or weighing used by it or in any appliances used for that purpose without first informing the Minister. The Minister may require on any occasion that no alteration shall be made except in the presence of an officer authorised by him.

(5) When calculating the quantity of crude oil obtained and casinghead petroleum spirit recovered for the purposes of Clauses 17 and 18, the quantity of crude oil and casinghead petroleum spirit which

is to be excluded shall be ascertained according to a method approved by the Minister.

Deduction of fixed yearly payments from royalties

22. The amount of the fixed yearly payment actually made in respect of any year under Clause 14 hereof shall be deducted from the amount of royalties payable under the provisions of this Part in respect of that year. The deduction shall be made so far as practicable by deducting each half-yearly instalment from the next succeeding quarterly royalty payment due under the provisions of Clause 16, and if that be insufficient, then the balance shall be deducted from the next succeeding royalty payment due.

Pricing

23. The Company hereby undertakes that if and so often as called upon to do so for the purposes of royalty, the Company will justify the prices at which its petroleum is sold.

Taxation

24. During the Agreement Period —

(*a*) The Company and its associated companies shall be liable to pay to the Government tax under the Income Tax (Petroleum) Act in respect of their profits arising from petroleum operations within the meaning of the said Act in relation to petroleum produced under this Agreement;

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(*b*) The Company and its said associated companies shall be free of all taxation, charges and fees by the Government or by any governmental authority in Brunei and free of any requirement to make any payment whatsoever to the Government or any such authority in relation to such petroleum operations, except for —

(i) payment which would be made in accordance with this Agreement and the Income Tax (Petroleum) Act);

(ii) charges and fees for services rendered by Governmental authorities on request or to the public generally, provided such charges and fees are reasonable and non-discriminatory; and

(iii) taxes, fees, rates and rentals of general application such as import duties, export duties, stamp duties and registration fees, provided they are at rates no higher than those generally applicable in Brunei.

Audit

25. (1) The Government shall have the right from time to time to appoint an auditor, who shall be qualified and independent of the Government and such auditor shall have the right to audit for the purposes

of Government revenues and not otherwise the books and accounts of the Company.

(2) For the purposes of such audit the Company shall make available to the auditor all such books, records, accounts, and other documents and information as may be reasonably required of the Company by him.

PART VII

Restriction of Company's Rights

Limitation of rights over sea areas and reclamation

26. (1) Nothing in this Agreement shall be deemed to give any rights to the Company over the water over the Scheduled Lands other than such rights as may be necessary for obtaining petroleum from the Scheduled Lands in a proper and efficient manner or other than such rights as may be expressly mentioned in this Agreement.

(2) Nothing in this Agreement shall be deemed to confer any rights on the Company to reclaim any of the Scheduled Lands except with the prior consent of the Minister and subject to and in accordance with plans to be approved by the Minister.

Installations in sea areas

27. Any installations erected by the Company under this Agreement on the Scheduled Lands shall be of such sort and shall be made, placed, marked and buoyed in such a way as to leave safe and convenient channels for ships in the area. The Company (if required to do so by the Minister) shall illuminate between the hours of sunset and sunrise all installations on the Scheduled Lands in such a manner and by such means as is satisfactory to the Minister.

Company not to use lands other than for purposes of Agreement

28. The Company shall not, except with the consent of the Minister, use the Scheduled Lands in any manner except for the purposes of this Agreement.

Distance of boreholes or wells from boundaries

29. No borehole or well shall be drilled —

(*a*) within a distance of 400 feet from the boundaries of the Scheduled Lands except with the consent of the Minister; or

(*b*) so as to deviate at any point out of the Scheduled Lands.

Notice of the site and commencement of boreholes and wells

30. As soon as the site of any borehole or well has been decided the Company shall notify the Minister of the site of it. The borehole or well shall be described by a certain number in the records, maps and plans which the Company is required to keep under the provisions of this Agreement. The Company shall notify the Minister of any change of the number of any such borehole or well which may be made.

Abandonment and plugging of boreholes and wells

31. (1) No borehole or well shall be abandoned and no cemented string or other permanent form of casing shall be withdrawn from any borehole or well which it is proposed to abandon without the prior consent of the Minister or in case of an exploration borehole or well without notification to the Minister as soon as practicable. Consent shall not be unreasonably withheld in respect of boreholes or wells which have become or are unproductive.

(2) Every borehole or well which the Company intends to abandon shall be securely plugged by the Company in order to prevent entry and exit of water in and from any portion of the strata bored through, unless the Minister otherwise determines.

(3) The Minister may require on any occasion that no borehole or well shall be plugged except in the presence of an officer authorised by him.

Methods of working

32. (1) The Company shall proceed with all due diligence to carry out exploration and development work at a reasonable and economically justifiable rate.

(2) The Company shall maintain all apparatus and appliances and all boreholes and wells capable of producing petroleum in good repair and condition. The Company shall carry out all operations under this Agreement in a workmanlike manner and in accordance with generally accepted standards of good petroleum field operations and conservation practices. Without prejudice to the general nature of the foregoing provisions the Company shall take all steps practicable in order —

(*a*) to control the flow and to prevent the escape or waste of petroleum discovered in the Scheduled Lands;

(*b*) to prevent damage to adjoining petroleum bearing strata;

(*c*) to prevent the fortuitous entrance of water through boreholes and wells to petroleum bearing strata; and (*d*) to prevent the pollution of the coastal waters and shoreline.

(3) The Company shall obey any instructions from time to time given by the Minister in writing relating to any of the matters specified in paragraphs (*a*) to (*d*) of subclause (2) of this Clause:

Provided that if the Company objects to any such instruction for the reason that it is unreasonable it may refer the matter to arbitration within 28 days after the date when such instruction was given.

33. The Company shall use generally accepted standards of good petroleum field operations for confining the petroleum obtained from the Scheduled Lands in tanks, gasholders, pipes, pipelines or other receptacles constructed for that purpose. No petroleum shall be put or enclosed in an earthen reservoir, except as a temporary measure during an emergency. Provision of storage tanks

34. The Company shall drain all waste oil, salt water and refuse from tanks, gasholders, boreholes and wells into proper receptacles, which shall be constructed and maintained by it for that purpose. The Company shall dispose of such waste oil, salt water and refuse in a manner from time to time approved by the Minister. Disposal of waste oil

35. The Company shall comply with any instructions given from time to time by the Minister for maintaining the health and safety of persons employed by the Company in or about the Scheduled Lands. Health and safety

36. If at any time during the Agreement Period — Unit development

(*a*) other petroleum mining Agreements are at the time in force in respect of the same petroleum field;

(*b*) the Government shall consider that it is in the interest of Brunei, in order to secure the maximum ultimate recovery of petroleum and to avoid unnecessary competitive drilling, that the petroleum field should be worked and developed as a unit in co-operation by all the persons, including the Company, whose petroleum mining Agreements extend to or include any part of the petroleum field;

then the following provisions shall apply —

(i) The Minister may require the Company by notice to co-operate with such other persons as are parties to petroleum mining Agreements with the Government in respect of any part or parts of the petroleum field as may be specified in the said notice (in this Clause called "the other Operators") in the preparation of a scheme (in this Clause called "a development scheme") for the working and development of the petroleum field as a unit by the Company and the other Operators in co-operation. The said notice shall contain a description by reference to a map of the area or areas in respect of which the Minister requires a development scheme to be submitted and shall state the period within which such scheme is required to be submitted for approval by the Minister.

(ii) Upon receipt of such notice the Company shall be bound to submit such a scheme jointly with the other Operators for the approval of the Minister.

(iii) If a development scheme is not submitted to the Minister within the period limited by the said notice, or, if a development scheme is so submitted but is not approved by the Minister, then the Minister may prepare a development scheme which shall be fair and equitable to the Company and the other Operators. Moreover the Company shall obey all the provisions of any such development scheme applicable to the Company:

Provided that if the Company objects to any such development scheme prepared by the Minister it may refer the matter to arbitration within 28 days from the date when notice of such development scheme has been given to it by the Minister. Notwithstanding any such reference to arbitration however the Company shall obey the provisions of the development scheme pending the decision of the Arbitrator unless the Arbitrator otherwise determines.

Right of pre-emption in emergency

37. If a state of national emergency or war occurs (the Government alone shall judge whether it exists) the following provisions shall apply —

(*a*) The Government shall hold the first right to purchase all crude oil obtained by the Company from the Scheduled Lands under this Agreement and all the products of that crude oil.

(*b*) The Company shall use its best endeavours to increase, as far as reasonably possible with facilities that then exist, the supply of crude oil and/or products of that crude oil to the extent required by the Government of Brunei.

(*c*) With all reasonable speed, the Company shall endeavour to deliver all crude oil and/or products of that crude oil which are purchased by the Government under this Clause in the quantities, at the time and in the manner required by the Government at a convenient place of shipment or at a place of storage in Brunei to be determined by the Minister, (whether belonging to the Government or otherwise). If a vessel employed to carry any such crude oil and/or products of such crude oil on behalf of the Government is detained on demurrage at the port of loading, then the Company shall pay the amount owing for demurrage according to the terms of the charter party and/or the rates of loading previously agreed unless the delay is due to causes outside the control of the Company.

(*d*) The price to be paid for all crude oil or products of it which are purchased by the Government shall be either —

(i) separately agreed by the parties; or

(ii) in default of agreement, a fair price at the places and on the dates of delivery to be settled by arbitration. To assist in arriving at a fair price at the places and on the dates of delivery the Company shall give particulars to the Government and the Arbitrators, if so required, in respect of the quantities, descriptions and prices of crude oil or products previously sold to other customers and of charters or contracts entered into for carriage. The Company shall also show to the Government and the Arbitrators original or authenticated copies of contracts or charter parties entered into for the sale or carriage of such crude oil or products. The foregoing information shall be treated as confidential.

(*e*) The Government shall also hold the right to take control of the plant and premises of the Company in Brunei, and if this happens the Company shall conform to and obey all directions issued by the Minister or on his behalf. Compensation shall be paid to the Company for any loss or damage that may be proved to have been incurred by the Company by reason of the exercise by the Government of the powers given by this paragraph of this Clause.

PART VIII

Records, Accounts etc.

Company to keep and give records

38. (1) The Company shall keep accurate records, in a form from time to time approved by the Minister, containing particulars of the following matters —

(*a*) the drilling, deepening, plugging or abandonment of all boreholes and wells;

(*b*) the strata and subsoil through which all boreholes and wells are drilled;

(*c*) the casing inserted in all boreholes and wells and any alteration to such casing;

(*d*) any petroleum, water and workable minerals encountered;

(*e*) the areas in which any geological or geophysical work has been carried out;

(*f*) such other matters as the Minister may from time to time require;

and shall also keep accurate geological maps and plans relating to the Scheduled Lands.

(2) The Company shall deliver copies of the said records, maps and plans to the Minister whenever required. The Company further shall give to the Minister —

(*a*) within 2 months after the end of each calendar year —

(i) a record, in a form approved by the Minister, which indicates all exploration, development and other works carried out by the Company during that year in connection with searching for, boring for and obtaining petroleum, and

(ii) estimates of economically recoverable reserves of crude oil and natural gas at the end of that year;

(*b*) within 2 months after the first day of January and the first day of July in each year, estimates of crude oil and natural gas production and exports for each of the 4 half-year periods immediately following the said dates;

(*c*) from time to time, such other plans and information as to the progress of the Company's operations as the Minister may reasonably require.

39. The Company shall as far as reasonably practicable correctly label and correctly keep for reference for a period of 1 calendar year characteristic samples of the water encountered in any borehole or well and samples of any petroleum found in the Scheduled Lands and for a period of 2 calendar years characteristic samples of the strata found in the Scheduled Lands. The Minister or his representative shall have access to such samples at all reasonable times and shall be entitled to require that representative specimens not exceeding one-half of any such samples be delivered to him. Furthermore the Minister may retain any specimens so delivered. Company to keep samples

40. (1) The Company shall keep full and correct accounts, in a form from time to time approved by the Minister, at all times during the Agreement Period. These accounts shall contain accurate entries of — Company to keep accounts

(*a*) the gross quantity of —

(i) crude oil obtained from the Scheduled Lands;

(ii) untreated natural gas obtained from the Scheduled Lands and separated and introduced into main gas pipeline networks;

(*b*) the method and results of tests made on the crude oil and natural gas;

(*c*) the quantity sold of —

(i) crude oil;

(ii) natural gas;

(iii) casinghead petroleum spirit;

(iv) each refined petroleum product, including liquified petroleum gases;

together with the names of the purchasers, the quantity purchased and the price paid by each purchaser;

(*d*) the quantity injected into the formation of —

(i) crude oil;

(ii) natural gas;

(iii) casinghead petroleum spirit;

(iv) each refined petroleum product, including liquified petroleum gases;

(v) water and other liquids or gases;

(*e*) the quantity consumed for drilling and other production operations (other than quantities reported under (*d*) above), and consumed in pumping to field storage and refineries in Brunei of —

(i) crude oil;

(ii) natural gas;

(iii) casinghead petroleum spirit;

(iv) each refined petroleum product, including liquified petroleum gases;

(*f*) the quantity of crude oil refined in Brunei and the quantity of each refined product, including liquified petroleum gases, obtained from it;

(*g*) the quantity of natural gas treated in Brunei for the removal of casinghead petroleum spirit or other liquids and liquified petroleum gases and the quantity of —

(i) casinghead petroleum spirit;

(ii) butane;

(iii) propane;

(iv) other liquids or gases obtained from it;

(*h*) the quantity of natural gas flared;

(*i*) such further information as the Minister may reasonably require from time to time.

(2) The Company shall within 2 calendar months after the first day of January and the first day of July in each year deliver to the Minister a summary of the said accounts for each such half-vear period, in a form from time to time approved by the Minister, together with a statement of all royalties payable in respect of each such half-year period.

41. All records, maps, plans, accounts and information which the Company is required or may be required to give from time to time under this Agreement shall be supplied at the expense of the Company and subject as hereinafter mentioned shall be treated as confidential. The Government shall nevertheless be entitled — Treatment of information supplied by Company

(*a*) at any time, to make use of any information received from the Company, for the purpose of preparing and publishing aggregated returns and general reports on the extent of operations under petroleum mining Agreements in Brunei;

(*b*) at any time, to make use of topographical survey information for any purpose whatsoever;

(*c*) at any time, to make use of any information received from the Company for the purpose of any arbitration or litigation between the parties;

(*d*) at any time to make use of any information regarding economic minerals other than petroleum;

(*e*) to publish summaries of exploration wells, including lithological groups, letter classification boundaries and hydrocarbons zones —

(i) in the case of discovery wells, 5 years after completion of drilling;

(ii) in other cases at any time;

(*f*) on relinquishment of any part of the Scheduled Lands, to incorporate geological and geophysical information relating to the surrendered lands in general;

(*g*) 2 years after relinquishment of any part of the Scheduled Lands, to publish well records relating to the surrendered lands, including electric logs, lithologies of cored samples, well cuttings and side wall samples, drill stem tests, flow records and faunal and floral lists; and

(*h*) 5 years after relinquishment of any part of the Scheduled Lands, to use in any way, any maps, plans, reports, records, interpretations and data relating to the surrendered lands:

Provided that nothing in this Clause shall entitle the Government to disclose to third parties at any time any information which is marked or otherwise designated as proprietary information at the time at which the Company gives such information to the Government pursuant to Clause 38 except with the consent of the Company.

Power of Government to inspect plant, records, etc.

42. Any person or persons authorised by the Minister shall hold the right at all reasonable times to enter into and upon any land for the time being occupied by the Company in Brunei for the following purposes —

(*a*) to examine the boreholes, wells, plant, equipment, buildings and other things made or done by the Company under this Agreement and the state of repair and condition 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;

(*c*) to inspect and make abstracts or copies of any records, maps, plans or accounts which the Company is required to keep or make under this Agreement;

(*d*) to inspect the samples of strata, petroleum or water which the Company is required to keep under this Agreement; and

(*e*) to carry out any operations which the Government may be entitled to carry out under this Agreement.

PART IX

Government's Right to Participate

Government's right to participate

43. (1) If deposits of petroleum which are technically and commercially exploitable are discovered by the Company (hereinafter referred to as a "petroleum field") within the Scheduled Lands, the Government shall, if the Company decides to develop and exploit such petroleum field, have the right to participate up to a share of 50 per cent in its development and exploitation by the Company in accordance with the following procedure —

(*a*) Promptly after having reached its decision to develop such petroleum field the Company shall notify the Government thereof;

(*b*) Within 180 days of such notification, the Company shall prepare and submit to the Government plans and estimates sufficient to enable the Government to determine whether it wishes to participate in the development and exploitation of such petroleum field;

(*c*) Within a further 90 days of the submission to the Government of such plans and estimates, the Government shall advise the Company whether it wishes to participate and the extent of the share up to 50 per cent that it wishes to acquire;

(*d*) If the Government decides to participate then it shall pay to the Company up to 50 per cent of the cost according to the size of the share chosen, incurred by the Company in discovering appraising and evaluating such petroleum field from the effective date of this Agreement until the date when the Government indicates its wish to participate.

(2) In consideration for the payment by the Government of the amount specified in subclause (1) (*d*), the Government shall acquire the rights and incur the obligations, including expenditure commitments, under this Agreement with respect to such petroleum field in proportion to its chosen share.

(3) The terms governing the relationship between the Company and the Government under this Clause shall be set out in an Operating Agreement to be annexed hereto.

PART X

Supplementary Payment

Supplementary payment

44. (1) In order to give the Government a greater share of the benefits of any commercial discovery, the Company agrees to pay to the Government an agreed percentage of the annual net profits arising from petroleum produced under this Agreement. Such percentage is to be agreed by the Government and the Company before this Agreement is entered into.

(2) For the purpose of this Clause, Net Profits shall be determined in the same manner as provided for the determination of chargeable Profits in Part III of the Income Tax (Petroleum) Act, as amended, except that in making such determination no deduction shall be allowed for Royalty, paid to the Government under this Agreement or for the Net Profits payment paid to the Government under this Clause.

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PART XI

Miscellaneous Provisions

Land for shore installation, etc.

45. (1) The Government shall make land available to the Company (if required) outside the Scheduled Lands but within Brunei for the erection of shore installations, residential areas, the appropriation of water and such other purposes as may be agreed to be necessary for the exercise by the Company of its rights under this Agreement. This land shall be of such a size, in such an area or areas and be made available on such conditions as may be agreed between the parties and in default of such agreement as may be decided by arbitration:

Provided that —

(*a*) where any land made available to the Company in accordance with the provisions of this Clause, is situated within the area of any other lands the subject of a petroleum mining Agreement to which the Company is a party then such land shall be held on the same terms and conditions as if the land so made available had been occupied by the Company in accordance with the provisions of that petroleum mining Agreement;

(*b*) nothing in this Clause shall compel the Government compulsorily to acquire land for the above purposes under the provisions of any written law relating to the compulsory acquisition of land by the Government.

(2) If the Company's rights over any lands, outside the Scheduled Lands and the subject of a petroleum mining Agreement to which the Company is a party, are surrendered or in any way terminated, the Company shall have the right to occupy for the duration of this Agreement any area of such lands upon which stand shore installations, residential areas, supplies of water or any other building, construction or plant as are necessary for the exercise by the Company of its rights under this Agreement.

46. The Company shall pay reasonable compensation for all injury to the property and rights of third persons which may be done by the Company, its agents and servants in the exercise of the rights granted by this Agreement. Compensation

47. The Company shall at all times indemnify every officer of the Government against all actions, costs, charges, claims and demands whatsoever which may be made or brought by any third person in connection with this Agreement or any thing done or purported to be done by the Company under this Agreement. Indemnity against third party claims

48. (1) No statement shall be made by or with the consent of the Company claiming or suggesting whether expressly or by implication that any Government Department or any person or body acting on behalf of the Government has or have formed or expressed any opinion that the Scheduled Lands are from their geological formation or otherwise likely to contain petroleum. Statements, prospectuses, etc.

(2) The foregoing provisions of this Clause or a statement to the effect thereof 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 or proposed company proposed to be brought into existence.

49. The Company shall report to the Minister particulars of any fresh issues of capital which may be made by it from time to time and any alteration which may be made in the Memorandum or Articles of Association or in the constitution of the Company. Notice of fresh issues of capital

50. The Company shall not transfer its interest under this Agreement nor any of the rights hereby granted to any person or persons whomsoever without the previous consent in writing of the Government. The Government (without limiting its rights to make such consent subject to any conditions it may think fit) may require that, as a condition of giving such consent, the person or persons taking such interest or rights at his or their expense shall agree by agreement to observe and perform the obligations imposed on the Company by this Agreement. Consent to assignment

51. If the Company at any time fails to comply with any of the obligations which must be complied with by the Company under Clauses 21, 31, 32, 33, 34, 35, 63 and 64, then and in any such case the Government shall be entitled, after giving to the Company reasonable notice, to do any of the things which in the opinion of the Government may be Power for Government to perform Company's obligations

necessary to ensure compliance with such obligations and to recover the costs and expenses of so doing from the Company.

Training and employment of Bruneians

52. The Company shall, subject to the availability of suitable candidates, use its best endeavours to employ and train Bruneians in and for every phase of the Company's operation and management.

Sale of gas to Government

53. (1) In respect of natural gas which is surplus to —

(*a*) the requirements of the Company for its own use or the use of its employees; and

(*b*) the requirements of any associate of the Company for its own use in respect of the refining and/or exporting of petroleum; and

(*c*) such contractual obligations of the Company as are then current;

the Company shall, before entering into any contract for the sale thereof, give to the Government the first option to purchase the same for consumption in Brunei including any requirements for manufacture in Brunei of derivatives (other than liquefied natural gas or liquefied petroleum gases) whether for consumption in Brunei or for export from Brunei.

(2) The price ex the Company's systems at which such surplus natural gas shall be offered shall in no case be higher than the price at which the Company could otherwise sell the same (netted back to its systems) less the amount of royalty which would (but for the sales being to Government) be payable in respect of such natural gas and in the case of sales of such surplus natural gas for Government projects (including projects in Brunei in which the Government has at least a 50 per cent participating financial interest) shall be at a lower price to be agreed between the Government and the Company.

(3) If the Government shall not accept any such offer within a period of 28 days, the offer shall be deemed to have been refused.

Petroleum to be made available for consumption within Brunei

54. (1) The Company shall make available for consumption within Brunei petroleum excepting natural gas produced within Brunei to the extent of such proportion of the total demand in Brunei for such petroleum as is equal to the proportion which the Company's production bears to the total production in Brunei. Furthermore, to the extent that

the petroleum is refined products the Company shall make them available at prices to be agreed between the Government and the Company.

(2) For the purpose of this Clause, the price at which the Company makes petroleum available for consumption within Brunei shall be deemed to be the publicly listed price required to be established by the Company under Clause 5 (2).

Quiet enjoyment

55. If and so long as the Company makes all payments which must be made and complies with all the other obligations which must be complied with by the Company under this Agreement, then the Company shall hold the right to exercise and enjoy the rights granted by this Agreement during the Agreement Period peaceably and quietly and without any lawful interruption by the Government or any person rightfully claiming from or under it.

Foreign currency

56. The Company shall be allowed to retain abroad in foreign currency the proceeds of export sales and to use these sums to meet expenditure incurred abroad, including dividend payments.

PART XII

Extension and Determination

Extension

57. (1) If the Company makes all payments which must be made and complies with all other obligations which must be complied with by the Company under this Agreement, then the Government may, on the Company giving to the Government not less than 12 months' previous notice not more than 2 years nor less than one year before the end of the Agreement Period, extend the rights of the Company under this Agreement in respect of the Scheduled Lands.

(2) Such extension shall be for such further period from the end of the Agreement Period and upon such terms and conditions as may be mutually agreed between the Government and the Company.

Right of Company to determine

58. The Company shall hold the right to determine this Agreement at any time during the Agreement Period by giving to the Government not less than 12 months' previous notice in writing to that effect.

Right of Government to determine

59. If —

(*a*) any payments which must be made by the Company under this Agreement are unpaid for the space of 6 calendar months following after any of the dates on which the same ought to have been made; or

(*b*) there is any failure by the Company to comply with any other obligations which must be complied with by the Company under this Agreement; or

(*c*) the Company ceases to exist either voluntarily or compulsorily (except a voluntary cessation of a solvent company for the purpose of amalgamation or reconstruction), or a receiver is appointed of any part of its undertaking; or

(*d*) the Company fails to comply with any unit development scheme prepared in accordance with the provisions of Clause 36; or

(*e*) after 20 years from the date of this Agreement the Company has failed to find on the Scheduled Lands petroleum in a commercial quantity;

then and in any such case the Government shall hold the right to determine this Agreement:

Provided that except with regard to the non-payment of money and the provisions of paragraph (*e*) the said power shall not be exercised unless and until —

(i) notice has been given to the Company specifying the particular matter causing the said power to arise, and if the matter is capable of remedy requiring the Company to remedy the matter, and requiring the Company to make reasonable compensation in money for the matter in any case where such compensation may reasonably be required; and

(ii) within a reasonable time thereafter the Company fails to remedy the matter, if it is capable of remedy, and to make reasonable compensation in money, if such compensation is required, to the satisfaction of the Government.

Effect of determination

60. On the determination of this Agreement under any of the provisions hereof, this Agreement and all the respective rights and obligations of the parties under this Agreement shall altogether cease to have effect:

Provided that such determination shall be subject and without prejudice to —

(*a*) any rights and obligations of the parties respectively expressed to arise under this Agreement on the determination thereof; and

(*b*) any liability of either party arising out of an earlier failure to comply with an obligation which must be complied with by such party.

Right of Government to assets at end of Agreement Period

61. (1) Subject to the occupation rights of the Company (if any) under another Petroleum Mining Agreement, at the end of the Agreement Period or any earlier determination of this Agreement the Company shall deliver up to the Government free of charge all buildings, plant, railways, pipelines, pumps, machinery and other assets of a fixed or permanent nature constructed, put up or built and used or employed by the Company in or on the Scheduled Lands and which are either at that time necessary for the continued production of any petroleum field therein or are in the nature of public utilities (such as utilities providing electrical, gas, water and telecommunications services to the Government or the public). The Company shall also sell to the Government at that time (at a price which, if agreement fails, shall be fixed by arbitration) any moveable assets owned and used or employed by the Company in or on the Scheduled Lands which are then necessary for the continued production of any petroleum field therein and which the Government may wish to purchase:

Provided that —

(*a*) the foregoing provisions of this Clause shall not apply to moveable assets which are still required by the Company for use or employment in respect of lands held under any other Petroleum Mining Agreement nor to assets of a fixed or permanent nature which are still required by the Company as aforesaid so long as such assets are so required;

(*b*) the Government shall give notice of any purchase it wishes to make hereunder at least 6 calendar months before the end of the Agreement Period (or, if this Agreement shall be determined before the end of the Agreement Period, at any time within 3 calendar months thereafter).

(2) The Company shall not within 5 years before the end of the Agreement Period remove from the Scheduled Lands or sell any assets

of a fixed or permanent nature which might be deliverable to the Government under this Clause, and at no time shall remove or sell any such asset which is in the nature of a public utility while it is required for that purpose.

Right of Company over assets during Agreement Period

62. Subject to Clause 61 and the rights of surface owners, the Company from time to time may remove and may sell or otherwise dispose of any assets in or on the Scheduled Lands which are no longer required by the Company for the purpose of its operations under this Agreement, and pending such sale or other disposal may deal with such assets as the Company thinks fit.

Delivering up of productive boreholes and wells at end of Agreement Period

63. Within 2 months after the end of the Agreement Period or any earlier determination of this Agreement, the Company shall deliver up to the Government all productive boreholes or wells made by the Company in good repair and condition and fit for further working, (unless ordered by the Minister to plug them as provided in Clause 64 and except such boreholes and wells as shall have been previously abandoned with the consent of the Minister).

Plugging of boreholes and wells at end of Agreement Period

64. Within 2 months after the end of the Agreement Period or at any earlier determination of this Agreement the Company shall plug all boreholes and wells as provided in Clause 31, if required so to do by the Minister.

PART XIII

Ancillary Provisions

Force majeure

65. Failure on the part of the Company to fulfil any of its obligations under this Agreement shall not give the Government any claim against the Company or be deemed a breach of this Agreement in so far as such fulfilment has been delayed, hindered, interfered with or prevented by any exceptional or unforeseeable circumstances which are not within the control of the Company or by reason of compliance with any order or request of any national, port, transportation, local or other similar authority or of any body or person purporting to be or act for such authority.

Arbitration

66. (1) Subject to Clause 67, whenever any matter must be referred to arbitration under the provisions of this Agreement or if at any time (whether during the Agreement Period or thereafter) any question or dispute shall arise regarding this Agreement or any matter or thing connected therewith or the rights or obligations of the Government or

the Company under this Agreement or any matter arising out of these rights or obligations or connected with them, or if with respect to any matter requiring the agreement of the Government and the Company agreement cannot be reached within 6 months of the date consultations commence or such extended period as may be agreed, then and in all such cases the matter shall be referred to arbitration in London, England or such other place as may be mutually agreed. The parties shall seek to agree upon the joint appointment of a single arbitrator. Failing such agreement within 3 calendar months of the time that the matter is referred to arbitration, each party shall have the right to appoint one arbitrator, and these 2 arbitrators shall jointly appoint a third arbitrator who shall be the chairman. If the first 2 arbitrators shall fail to agree within 2 calendar months of their appointment upon the appointment of a third arbitrator or if either party shall fail to appoint an arbitrator within one calendar month of the failure to agree on a single arbitrator then the appointment shall be referred to the competence of the President of the Federal Tribunal of Switzerland at the request of either party. Such arbitration shall be conducted in accordance with the Arbitration Act 1950 of the United Kingdom or in accordance with such law as may be enacted in Brunei relating to arbitration.

(2) The parties hereby expressly exclude —

(*a*) their right to require a court to determine a preliminary point of law in connection with any arbitration; and

(*b*) their right to appeal to a court on any question of law arising out of an arbitration award.

Price Committee

67. If any dispute shall arise between the Government and the Company as to any matter to be justified under Clause 23 the dispute shall not be referred to arbitration but either of the parties may refer the dispute to an expert or a committee of experts to be similarly appointed and to have similar powers of procedure and decision as the Price Review Committee to which the Collector may refer pricing questions under the Income Tax (Petroleum) Act as in force at the date of this Agreement. Cap. 119

Applicable law

68. This Agreement shall be construed in accordance with the laws of Brunei.

Notices

69. (1) All notices and other communications to be given under this Agreement shall be given in writing.

(2) Any notice which the Government or any other person is required or entitled to give to the Company may be given or sent to the Company either at its registered office (if any) in Brunei or at its statutory address for service of notices. Any notice which the Company is required or entitled to give to the Government or to any other person may be given or sent to the Minister as representative of the Government or such other person either at any address notified by the Minister or such other person, or, if no notification is given, at the office of the Minister.

(3) Any notice sent by registered post shall be deemed to have been received 2 days after the date of posting in Brunei.

Marginal notes

70. The marginal notes are for convenience only and do not form part of this Agreement.

IN WITNESS WHEREOF the Clerk to the Council of Ministers has, by the direction of and for and on behalf of His Majesty the Sultan and Yang Di-Pertuan in Council, hereunto set his hand and the Company has caused its Common Seal to be hereunto affixed the day and year first herein above written.

SIGNED BY ....

....

The Clerk to the Council of Ministers for and on behalf of His Majesty the Sultan and Yang Di-Pertuan in Council in the presence of ....

....

THE COMMON SEAL OF ....

....

was hereunto affixed in the presence of ....

....

....

THE SCHEDULE

(Clause 1 (*l*))

(The Scheduled Lands)

SUBSIDIARY LEGISLATION

NOTE. There is no Subsidiary Legislation.