

ACTS SUPPLEMENT

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Act 25 *East African Crude Oil Pipeline (EACOP)
(Special Provisions) Act* **2021**

**THE EAST AFRICAN CRUDE OIL PIPELINE (EACOP) (SPECIAL
PROVISIONS) ACT, 2021**

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**THE EAST AFRICAN CRUDE OIL PIPELINE (EACOP)
(SPECIAL PROVISIONS) ACT, 2021**

An Act to facilitate the implementation of the East African Crude Oil Pipeline Project in Uganda; to implement the obligations of Uganda under the Intergovernmental Agreement and the Host Government Agreement and for related matters.

DATE OF ASSENT: 20th December, 2021

Date of Commencement: See section 1

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Commencement

This Act shall come into force on the date of its publication in the Gazette, except for sections 11(1) and 38 which shall be deemed to have come into force on 1st January, 2016.

2. Application

This Act applies to the East African Crude Oil Pipeline (EACOP) project in Uganda.

3. Purpose of Act

The purpose of this Act is to enable and facilitate the implementation of the EACOP project in Uganda.

4. Interpretation

In this Act—

“acceptable credit rating” means a rating for long-term unsecured and non-credit-enhanced debt obligations of A- or higher by S&P Global Ratings (a division of S&P Global Inc.), Fitch Ratings Ltd or AMBest or A3 or higher by Moody’s Investors Service Limited or any other as may be agreed to by the Parties under the Host Government Agreement;

“affiliate” means with respect to any entity, any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with that entity;

“agreed fiscal regime” comprises the regime of taxes and other charges, including the regime for imposing, administering and disputing taxes and other charges, pursuant to Ugandan law, as modified by Schedule 2 to this Act;

“Authority” means the Petroleum Authority of Uganda established by the Petroleum (Exploration, Production and Development) Act, 2013;

“business day” means any day, other than a Saturday, Sunday or an officially recognised public holiday, on which banks are open for general business in Uganda;

“contractor” means any person supplying goods, works, technology or services, including financial services, including inter alia, credit, financing, insurance or other financial accommodations, for the EACOP project to, or for the benefit of, the project company or the operator and, if applicable, in relation to early project activities, of an investor or its affiliate undertaking project activities, whether by contract or sub-contract, excluding however any physical person acting in his or her role as an employee of any other person;

“decommissioning” means the process of safely ceasing operations resulting in complete or partial removal or making substantial changes in the use of the EACOP system or permanently disposing of or abandoning a facility or operation in a manner that is not deleterious to human health or the environment;

“decommissioning fund” means a cost reserve fund established pursuant to the decommissioning plan for the purposes of paying for the costs of implementing the decommissioning plan;

“decommissioning plan” means the latest version of the written plan describing the proposed actions associated with decommissioning of the EACOP system across Uganda and Tanzania to be undertaken by the project company, in the form prepared by the project company and approved by the relevant state Authority and the relevant Tanzanian state authority;

“dynamic flow meter” means an online meter capable of continuously measuring, displaying and storing the crude oil volume that is flowing across it at line conditions;

“EACOP” means the East African Crude Oil Pipeline;

“EACOP project” means, in relation to the EACOP system, the evaluation, development, design, construction, installation, financing, insuring, ownership, operation, including the transport of petroleum through the EACOP system, repair, replacement, refurbishment, maintenance, expansion, extension, including lateral, protection and, at the relevant time, decommissioning of the system and includes early project activities;

“EACOP system” means the petroleum export pipeline system running from the inlet flange at Kabaale in Hoima District in Uganda to an export flange at the marine export terminal at Chongoleani, Tanga District in Tanzania, together with the onshore and offshore facilities, including storage, jetty, load-out facilities, heating and pumping installations, telecommunication system and all facilities and infrastructure ancillary thereto and includes any future expansion, extension or other addition thereto;

“EHSS standards” means—

- (a) the environmental standards listed in the approved environmental and social impact statement; and
- (b) the health, social and safety standards applicable to the EACOP project under the Ugandan law and referenced in the approved environmental and social impact statement, provided that in the case of any conflict, the standard most protective of health, social and safety concerns shall prevail;

“encumbrance” means any interest, right, demand, mortgage, lien, judgment, execution, pledge, charge, security interest, restriction, easement, claim, deficiency in title, prior estate, or encumbrance of any nature whatsoever, whether arising by operation of Ugandan law or otherwise;

“entity” means any company, corporation, limited liability company, partnership, limited partnership, enterprise, joint venture, unincorporated joint venture, association, trust or other juridical entity, organisation or enterprise duly organised by treaty or under the laws of any state or any subdivision thereof;

“existing Uganda oil fields” means the development areas pertaining to the petroleum production licences granted as

of the date of the Intergovernmental Agreement or to be granted in the future in respect of Exploration Areas 1, 1A, 2 and the Kingfisher Development Area in the Albertine Graben in Uganda;

“final investment decision” means a positive unconditional and final decision to invest taken in relation to the EACOP project by the project company;

“finance parties” means—

- (a) the credit or financial institutions, including commercial banks, development finance and multilateral institutions, and export credit agencies, or other persons providing any credit, extension of credit, loan, financial accommodation, guarantee, hedging or other financing or credit product or service to any investor in connection with the EACOP project, including any refinancing or extension thereof; and
- (b) the persons providing any insurance, guarantee or debt service undertaking, howsoever described, in respect of the credit, extension of credit, loan, financial accommodation, guarantee, hedging or other financing or credit products or services referred to in paragraph (a) above,

in each case together with the agents and trustees of the parties, and including the shareholder related funders; and “finance party” means any one of them;

“first oil date” means the date of the first commercial delivery of petroleum at the exit point of the EACOP system;

“fiscal meter” means a dynamic flow meter and its associated equipment, including pressure and temperature transmitters, flow calculator, proving system, analysers

used for the metering or measurement of crude oil in connection with the calculation of taxes or royalties in relation to the crude oil;

“Host Government Agreement” or “HGA” means the Host Government Agreement between the Government of Uganda and the project company concerning the East African Crude Oil Pipeline (EACOP) project;

“Intergovernmental Agreement” or “IGA” means the Intergovernmental Agreement between the Republic of Uganda and the United Republic of Tanzania concerning the East African Crude Oil Pipeline (EACOP) Project;

“investor” means—

- (a) the project company and any branch or subsidiary of the project company;
- (b) the sponsors, including their branches or subsidiaries established in Uganda or in Tanzania in relation to the EACOP project;
- (c) the state participants;
- (d) the shareholders; and
- (e) for each shareholder, one entity being either—
 - (i) an entity in the ownership chain between the shareholder and its ultimate parent, which is identified in a notice delivered to the State by the shareholder, supported by reasonable evidence of the ownership chain; or
 - (ii) in the absence of a notice from the shareholder under subparagraph (i), the ultimate parent of the shareholder;

“key project parties” means each shareholder and shipper; and
“key project party” means any one of them;

“labour standards” means—

- (a) Ugandan law relating to labour rights; and
- (b) the following internationally recognised labour rights agreements and standards—
 - (i) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
 - (ii) Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
 - (iii) Forced Labour Convention, 1930 (No. 29);
 - (iv) Abolition of Forced Labour Convention, 1957 (No. 105);
 - (v) Equal Remuneration Convention, 1951 (No. 100);
 - (vi) Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
 - (vii) Minimum Age Convention, 1973 (No. 138); and
 - (viii) Worst Forms of Child Labour Convention, 1999 (No. 182),

provided that in case of conflict between Ugandan law relating to labour rights and the international labour rights agreements and standards set out above, for the purposes of defining the labour standards, the standard most protective of the worker shall prevail; and “labour standard” means any one of them;

“land” means—

- (a) all land, foreshores, seabeds, riverbeds and lakebeds;
- (b) the water columns above all seabeds, riverbeds and lakebeds; and
- (c) the air space above and subsurface areas below all of the foregoing,

in each case, for construction and facilities;

“land rights” means all rights over land in Uganda required to carry out the project activities and implement the EACOP project, including rights required for—

- (a) the examination, testing, evaluation, analysis, inspection, construction on, use, possession, occupancy, control, assignment, repairs, maintenance and enjoyment of the land;
- (b) access to the EACOP system; and
- (c) any short-term requirements, including during construction;

“land rights instrument” means an instrument granting a title or rights to the project company over any required project land;

“level 1 construction phase contractor” means each contractor rendering goods, services and works in Uganda, and contracting directly with the project company during the construction phase of the EACOP project;

“management staff” means supervisory, professional senior management staff with a diploma or degree, qualified or possessing the relevant number of years of experience;

“metered volume” means that volume of Petroleum that has been measured by a metering system at the point of entry of the EACOP system;

“Minister” means the Minister responsible for petroleum activities;

“national content” means—

- (a) the use of Ugandan expertise, goods, and services and Ugandan parties in project activities;
- (b) the combined value added or created in the Ugandan economy through the utilisation of Ugandan human and material resources for the provision of goods, works and services for the EACOP project; and
- (c) the combined value added or created in the Ugandan economy through recruitment, employment and training of Ugandan citizens; technology transfer; local supplier development; support for local education and training, and support for research and development in Uganda;

“national content plans” means the specific requirements in relation to national content for each of the construction phase and the operations phase of the EACOP project, and the conduct of project activities in relation to Uganda during any such phase;

“offtaker” means any person that has entered into an agreement to purchase petroleum that has been transported through the EACOP system;

“oil producing areas” means any existing Uganda oil fields and any other oil field producing petroleum to be transported through the EACOP system;

“operator” means the person or persons responsible from time to time for implementing, managing, coordinating or conducting for or on behalf of the project company all or any portion of the day-to-day project activities including serving as an operator of all or any portion of the EACOP system, whether as an agent for or contractor to the project company and for the avoidance of doubt, where no person or persons has or have been appointed by the project company in this capacity, the project company shall act as the operator;

“payment-in-kind” means the use of crude oil as payment for transportation tariff and related services in accordance with the agreements for transportation of petroleum and the Host Government Agreement;

“person” means any natural person, any state or any entity;

“petroleum” means any liquid hydrocarbons, including crude oil, condensate, unfinished oil or natural gas liquid produced from the oil producing areas;

“post-decommissioning finalisation report” means the final report in relation to the EACOP system, prepared in accordance with the Environmental, Health and Safety Standards, evaluating and confirming the final reinstatement works, verifying compliance and completion of the work in relation to all sites affected;

“project activities” means the activities conducted by the project participants in connection with the EACOP project;

“project authorisations” means any permit, consent, licence, authorisation, approval or registration required at any time by any project participant in connection with the EACOP project;

“project company” means the East African Crude Oil Pipeline

(EACOP) Limited and its successors and assignees in relation to its interests in the EACOP project;

“project participant” means each investor, operator, contractor, shipper, finance party and offtaker;

“project related assets” means all the investments, property and other assets relating to the EACOP project, including the EACOP system, any other tangible or intangible assets of the project company, the shares in, or loans to the project company, and the tangible or intangible assets of or the shares in, or loans to, any project participant;

“required project land” means any land in Uganda, in respect of which the project company has determined that it needs to acquire and hold land rights for the purposes of the EACOP project;

“reserved petroleum” means petroleum from the existing Uganda oil fields that shall be—

- (a) supplied to the refinery to be developed in Uganda in an amount determined by the refinery not exceeding 60,000 barrels per day until the date that a cumulative volume of 1046 million barrels of petroleum has been produced from the existing Uganda oil fields; and
- (b) thereafter, 60,000 barrels per day and any other amount as may be agreed by the State and the project company;

“shareholder” means any entity holding directly any form of equity in the project company;

“shipper” means any person that has contracted with the project company for the transport of petroleum through all or any portion of the EACOP system;

“sponsors” means—

- (a) one or more of the Uganda upstream partners (other than Uganda National Oil Company Limited (UNOC)) that holds or whose affiliate holds any form of equity or other ownership interest in the project company;
- (b) any private person that may become a Uganda upstream partner and holds or whose affiliate holds any form of equity or other ownership interest in the project company;
- (c) each respective affiliate of each such Uganda upstream partner (other than Uganda National Oil Company Limited (UNOC)) or each such private person which in each case holds any form of equity or other ownership interest in the project company; and
- (d) one or more of Total S.A. or CNOOC Limited that holds or whose affiliate holds any form of equity or other ownership interest in the project company;

“State” means the government of the Republic of Uganda;

“state agreement” means any agreement, contract, concession, or other document creating contractual rights, excluding the Host Government Agreement and the Intergovernmental Agreement, to which, on the one hand, the State or any state authority and, on the other hand, any project participant is or later becomes a party relating to the project activities;

“state authority” means the central government of the State and each and every aspect of government or authority at every level in Uganda, including all central, regional, municipal, local and judicial bodies, whether or not part of or controlled by any superior legal authority, all instrumentalities, branches and subdivisions of the foregoing, and any state entity and shall include any and all executive and regulatory

bodies, agencies, departments, ministries, authorities, officials, courts, entities, agents and representatives in Uganda that have the authority to govern, regulate, implement or enforce Ugandan law, levy or collect taxes, duties, contributions or other similar mandatory charges, grant licences or permits or approve or otherwise similarly affect, directly or indirectly, the EACOP project or the rights or obligations of project participants in respect of the project activities, notwithstanding any change at any time in structure, form or otherwise;

“state entity” means any entity in which, directly or indirectly, the State has a controlling equity, ownership or similar economic interest, or which the State directly or indirectly controls;

“state participants” means—

- (a) Tanzania or a Tanzanian state entity nominated by the Government of Tanzania;
- (b) Uganda, a state entity nominated by the Government of Uganda, Uganda National Oil Company Limited (UNOC) or any affiliate of UNOC; and
- (c) any other state entity or Tanzanian state entity,

provided in each case that such state or entity, as applicable holds any form of equity or other ownership interest in the project company;

“substantial nature” means—

- (a) in respect to a pipeline installation, increasing or decreasing the capacity of the pipeline installation by 25 percent or more or replacing the entirety of the core technology used in the pipeline installation; and
- (b) in respect to a pipeline route, placing the pipeline system outside the approved 30 meter corridor;

“technical standards” means technical standards, parameters, codes, guidance, recommended practices and specifications deriving from those applicable under Ugandan law or those issued by recognised international standards organisations;

“technology transfer” means all activities and mechanisms carried out by the project participants aimed at maximising knowledge and skills transfer to the State and Ugandan parties;

“transportation” means the transportation of petroleum through any legal arrangement or entitlement through the EACOP system, including any related storage and loading on ships and “transport” and “transported” or similar formulations shall have a corresponding meaning;

“technical staff” means skilled and semi-skilled staff certified under a technical training scheme and with verified competency including pipeline, refinery, chemical, electrical and instrumentation, process engineers and technicians, geoscientists, chemists, personnel trained and qualified in Environmental, Health and Safety Standards and technical standards matters, petroleum economists and cost engineers;

“Ugandan company” has the meaning ascribed to it in the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016;

“Ugandan law” means the law that is binding and legally in effect in Uganda, including—

- (a) the constitution of Uganda, any legislation, directive, order, promulgation, issuance, enactment, decree, regulation or other similar act of the State or a state authority; and

- (b) any international agreement, including the East African Community Treaty or measures taken pursuant to the agreement,

having binding and legal effect;

“Ugandan parties” means citizens of Uganda and registered entities owned by Ugandans and Ugandan companies;

“Ugandan state participant” means the Uganda National Oil Company or its wholly owned and controlled subsidiaries;

“Uganda upstream partners” means CNOOC Uganda Ltd., Total E&P Uganda B.V. and Uganda National Oil Company Limited (UNOC), and their successors and assignees in relation to their interests in the existing Uganda oil fields; and “Uganda Upstream Partner” means any one of them;

“upstream project” means, in relation to the existing Uganda oil fields, the evaluation, development, design, construction, installation, financing, insuring, ownership, operation, repair, replacement, refurbishment, maintenance, expansion, extension, protection and, at the relevant time, decommissioning of all related facilities and infrastructure.

PART II—TRANSPORTATION TARIFF

5. Transportation tariff

(1) The tariff to be charged by the project company for the provision of transport and related services in relation to the EACOP system shall be, in relation to petroleum produced at the existing Uganda oil fields—

- (a) up to the date when the sum of the production of crude oil from the existing Uganda oil fields as measured at the fiscal meters at Kabaale in Uganda plus the metered volume of the other petroleum transported through the EACOP

system in relation to which the tariff charged by and paid to the project company is equal to the tariff for petroleum produced at the existing Uganda oil fields reaches one billion and forty six million (1,046,000,000) barrels, an amount equal to twelve United States Dollars and seventy seven cents (US\$12.77) per barrel and adjusted each year starting from the first anniversary of the date of the first commercial delivery of petroleum at the exit point of the EACOP system at an annual increase of the lower of—

- (i) the US consumer price index; and
- (ii) two percent (2%) per annum,

the details of which shall be more fully set out in agreements for the transport of petroleum; and

- (b) thereafter, an amount established in accordance with the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013.

(2) Notwithstanding section 35 (b), (c) and (d) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, the tariff determined in accordance with subsection (1) (a) shall not be subject to further approval by any State authority.

(3) Subsection (2) is without prejudice to the requirement for the Authority to confirm the adjusted tariff determined in accordance with subsection (1)(a), pursuant to the Host Government Agreement.

(4) The project company shall notify the Authority of the amount of the adjusted tariff and provide the supporting information and calculation for the adjusted tariff and the Authority shall confirm, within ten business days, that the adjusted tariff is in compliance with subsection (1)(a).

(5) For the avoidance of doubt, the computation of the tariff under subsection (1) (b) shall not include the initial capital and operating expenditure covered under the fixed tariff regime prescribed in subsection (1) (a).

(6) The tariff for all other petroleum shall be an amount determined in accordance with this Act and the Host Government Agreement.

PART III—SECURITY

6. Security

(1) Notwithstanding section 74 and 34 (6) of the Public Finance Management Act, 2015, security of any description, including charges or other encumbrances over the shares in the project company and any shares owned by the Ugandan state participant, over the EACOP system or any other project related assets may be granted to, registered, perfected and enforced by the finance parties or any agent or trustee on their behalf.

- (2) The project company and each key project party may—
- (a) secure in favour of any finance party or any agent or trustee of the finance party, including by way of assignment, all or any of its rights under the Host Government Agreement and the finance party or any agent or trustee of the finance party may enforce that security, provided that—
- (i) the Minister has granted his or her consent, which shall not be unreasonably withheld or delayed, to a security in favour of the finance party or any agent or trustee of the finance parties over the licence to construct or operate the EACOP system; or
- (ii) if no security has been given over the licence to construct or operate the EACOP system, the Minister

has granted consent, which shall not be unreasonably withheld or delayed to the security over the rights under the Host Government Agreement;

- (b) agree with any finance party or any agent or trustee of the finance parties that in case of a default under the finance agreement, its rights and obligations under the Host Government Agreement may be novated to a finance party or any agent or trustee of the finance parties or to a third party, in all cases acceptable to the State pursuant to the direct agreements to be concluded between the State or the relevant state authority, as applicable, the finance parties and the project company or the project participant, as applicable.

(3) Where the shares or assets of the Ugandan state participant are used as security of any description under sub sections (1) or (2) by the Project Company, the Ugandan State Participant shall submit a report to Parliament in relation to the security within 30 days from the date of acquisition of the security.

(4) Where the project company or any key project party requires a consent or other project authorisation from the State or any state authority to grant to the finance parties or any agent or trustee of the finance parties, in relation to limited or non-recourse project finance debt or bond financing for the EACOP project, security with respect to the EACOP system or the rights and interests of the project Company or any project participant in relation to the EACOP project including rights arising under any state agreement or project authorisation—

- (a) the required consent or other project authorisation shall not be unreasonably withheld or delayed; and

- (b) if security in favour of the finance parties or any agent or trustee of the finance parties over—
 - (i) the licence to construct or operate the EACOP system has been consented to by the relevant state authority, which consent shall not be unreasonably withheld or delayed; or
 - (ii) the Host Government Agreement has been consented to by the State which consent shall not be unreasonably withheld or delayed,

then no further consent or project authorisation shall be required in relation to the granting of any other security in favour of the finance parties or any agent or trustee of the finance parties with respect to the EACOP system or the rights and interests of the project company or any project participant in relation to the EACOP project, including rights arising under any state agreement or project authorisation.

(5) Any finance party or any agent or trustee of the finance parties shall have the right to enforce the security, where applicable upon the terms and conditions set out in any direct agreements to be concluded among the State or the relevant State authority as applicable, the finance parties and the project company or the project participant, as applicable.

(6) Section 50 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 shall not apply to the EACOP Project.

PART IV—TITLE TO PETROLEUM AND PAYMENT IN KIND

7. Title to petroleum

Notwithstanding the provisions of any Ugandan law, the Ugandan State participant shall hold the legal and beneficial ownership of petroleum allocated to it arising from the 15% state participating interest in

applicable petroleum agreements at the exit point from the upstream project at Kabaale to enable it to exercise its rights and perform its obligations under—

- (a) the relevant petroleum agreements;
- (b) the agreements for the transport of petroleum;
- (c) the Host Government Agreement; and
- (d) any other agreements entered into for the implementation of the agreements referenced in paragraphs (a) to (c).

8. Payment-in-kind

(1) Notwithstanding sections 3, 57 (1) (5), (5a) and (6), 59(3) and 74 of the Public Finance Management Act, 2015, where the State or the Uganda National Oil Company is a shipper, they may pay the transportation tariff charged by the project company for the provision of transport and related services by way of payment-in-kind, the details of which will be agreed in agreements for the transport of petroleum.

- (2) The project company may—
 - (a) acquire petroleum in connection with any payment-in-kind arrangements agreed with the State or the Uganda National Oil Company, in their capacity as shippers, for the payment of the transport tariff under the agreements for the transport of petroleum; and
 - (b) sell the petroleum referred to in paragraph 2 (a) to other shippers or third party purchasers.

in each case, without any gain or loss for the project company, the State or the Uganda National Oil Company which would not have been received, suffered or incurred if the transportation tariff had been settled in cash by the State and the Uganda National Oil Company and not by way of payment-in-kind.

(3) The provision of guarantees or other assurances, including the creation of security over a shipper's assets, whether by operation of law or contract, may be agreed by the project company and the shippers other than in respect to the State for so long as the State and the Uganda National Oil Company are shippers and pay the transportation tariff by way of payment-in-kind or pursuant to other arrangements agreed with the project company in the applicable agreements for transport of petroleum.

PART V—ANTITRUST AND OTHER COMPETITION
RELATED MATTERS

9. Antitrust and other competition related matters

(1) The regime applicable to the EACOP Project in relation to antitrust and other competition matters shall be the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, this Act and Ugandan law.

(2) The fulfilment by the project company, the project participants, the State and any state authority of the provisions of the Host Government Agreement shall be deemed compliance with subsection (1) including provisions relating to—

- (a) determination of the tariff and other conditions of access to the EACOP system;
- (b) entering into and implementing agreements for the formation and management of the project company; or
- (c) determining the persons with which to enter into contracts for the transport of petroleum.

PART VI—PROJECT AUTHORISATIONS

10. Project authorisations

(1) Where the project company or a project participant has applied for an extension, renewal or re-issuance of a project authorisation within the period specified under the terms and conditions of the project authorisation and Ugandan law, the project authorisation shall be deemed to continue in force and shall not expire or terminate, until the end of the period during which the relevant state authority is reviewing the application.

(2) A bond, security, guarantee or other credit support shall not be required for the issuance of any project authorisation, except that in relation to an application for a licence to construct and a licence to operate a pipeline under section 10 (6) (a) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, the undertakings by the project company under the Host Government Agreement shall constitute the only form of security or bond required.

(3) The renewal of a project authorisation shall not be refused on the ground that, at the time of the renewal, the project company or other project participant has violated any Ugandan law or any condition in the project authorisation, except where, at the time of renewal, the applicant has and continues to violate Ugandan law under which the project authorisation is issued or any condition in the project authorisation and has not corrected or taken reasonable steps to correct the violation after notification by the relevant state authority.

(4) A project authorisation shall not be subject to termination, lapse, revocation or suspension for any reason other than a reason specified in the Host Government Agreement, the relevant project authorisation or Ugandan law including—

- (a) an occurrence of force majeure;

- (b) any granting or enforcement of any security interest in relation to the EACOP project in favour of any finance party or any agent or trustee of the finance party; or
- (c) any transfer of any direct or indirect ownership interests in the project company which does not contravene section 41 and the Host Government Agreement.

(5) Where the State or a state authority believes that there may be grounds for the termination or suspension of a project authorisation, the State or relevant state authority shall not commence any procedure or take any action potentially leading to the termination or suspension, including sending any notice for termination or suspension, unless—

- (a) the State or the relevant state authority has given the holder of that project authorisation and the project company, a notice describing the situation and the grounds for the action, at least thirty business days prior to taking the procedure or action; and
- (b) following the issue of the notice referred to in paragraph (a), the holder of the project authorisation and the project company have been provided a period of at least thirty business days in which—
 - (i) to rectify the grounds specified in the notice or provide reasonable evidence that there are no grounds;
 - (ii) to conduct bona fide discussions with the relevant state authority with a view of avoiding the termination or suspension; and
- (c) notwithstanding subsection (4), in case of a licence to construct or operate the EACOP system in Uganda, the licence is being suspended for a known and persistent failure or refusal by the project company to respect the

terms of the Host Government Agreement or Ugandan law, causing danger to persons, property or the environment or being terminated for circumstances that would entitle the State to terminate the Host Government Agreement.

(6) In relation to an application for a construction licence, the only consents and permits to be submitted by the project company under section 10 (6) (ab) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 are those listed in Form 4, item 7 of Schedule 1 to the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Regulations 2016.

(7) The project company shall not be required to obtain a licence under section 8 of the Trade Licensing Act when it acquires or disposes of petroleum in kind and no permit, consent, licence, authorisation, approval or registration shall be required for that purpose.

(8) Notwithstanding section 15 (2) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 and regulation 60 (4) and 82 (1) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Regulations, 2016—

- (a) any alteration or deviation to the approved pipeline route, which is not of a substantial nature shall not require the approval of the Authority; and
- (b) any change or modification to the pipeline installations, which is not of a substantial nature shall not require the approval of the Minister.

PART VII—LAND RIGHTS

11. Land rights

(1) The EACOP project shall constitute public works under section 1 of the Land Act.

(2) The Uganda Land Commission or other relevant state authority shall grant land rights to enable the project company to undertake all project activities.

(3) Where land has been identified for implementation of project activities, compensation of project affected persons and acquisition of the land shall be done in accordance with the laws of Uganda and the Host Government Agreement.

(4) Notwithstanding any Ugandan law, each land rights instrument issued to the project company by the relevant state authority shall—

- (a) enable the project company to undertake all the required project activities, including owning the EACOP system, and granting security over the land rights and the EACOP system placed, on, under or in the land; and
- (b) be in effect for sixty-six (66) years, or in the case of short-term requirements, for a shorter period of time corresponding to the duration of the relevant project activities.

(5) Notwithstanding any Ugandan law, a land rights instrument shall not be terminated except where—

- (a) the Host Government Agreement has been terminated in accordance with its terms; and
- (b) the project company or the Uganda Land Commission or other relevant state authority serves a notice of termination in writing to the other; provided that no notice may be validly served by the Uganda Land Commission or other relevant state authority prior to the permanent cessation of all project activities.

(6) For the avoidance of doubt, no other event or circumstance, including breach of a land rights instrument related to the EACOP project shall constitute grounds for termination of any land rights instrument related to the EACOP project.

PART VIII—NATIONAL CONTENT REQUIREMENTS

12. National content requirements under the EACOP project

(1) The national content regime applicable to the EACOP project shall be this Act, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016 and Ugandan law.

(2) The fulfilment by the project company, the project participants, the State and the state authorities of the national content provisions under the Host Government Agreement shall be deemed compliance with subsection (1).

13. National content plan

(1) The project company shall, for purposes of this Act, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016 develop and submit to the Authority for approval, national content plans for the construction phase and the operations phase respectively, in accordance with the Host Government Agreement.

(2) A plan developed and submitted by the project company under subsection (1) and approved by the Authority in accordance with the Host Government Agreement shall be deemed to have satisfied the requirement for submission of a national content programme under this Act, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016.

14. Principles for developing and implementing national content plans

(1) A national content plan shall be developed in accordance with the cross-border nature of the EACOP project and this Act and shall identify all relevant cross border issues.

(2) Where appropriate, each national content plan shall be harmonised and coordinated with the similar requirements in Tanzania, including the requirements for approval, implementation and monitoring of the plan over the life of the EACOP project.

(3) Each national content plan shall—

- (a) be developed in accordance with the cross-border nature of the EACOP project and this Act;
- (b) facilitate the development and implementation of the EACOP system in Uganda and Tanzania on a single integrated basis;
- (c) reflect the principles contained in the Host Government Agreement; and
- (d) set out the objectives and targets, action plans and key performance indicators related to the implementation of the national content requirements set out in the plan.

(4) The Authority shall approve all aspects of each national content plan and monitor the implementation of each national content plan in accordance with this Act.

(5) For purposes of measuring compliance with the national content requirements—

- (a) any supply of goods or services by Ugandan parties to the EACOP project in Tanzania;

- (b) any recruitment or training of Ugandans in relation to the EACOP project in Tanzania; and
- (c) any transfer of technology to Ugandans in relation to the EACOP project in Tanzania,

shall be considered by the Authority as part of the project company's contribution to national content under Ugandan law.

15. Registration on the national supplier data base

(1) An entity shall not provide goods, works and services for the EACOP project unless it is registered on the national supplier database maintained by the Authority.

(2) Notwithstanding subsection (1), where goods, works and services are not available in Uganda, they may be provided by an entity not registered on the national supplier database.

(3) The project company and its contractors may also contract with an entity not registered on the national supplier database for services limited in time in order to handle an emergency situation.

(4) For the purpose of this section, "emergency situation" means a circumstance which is urgent or unforeseeable or a situation which is not caused by dilatory conduct and which may—

- (a) compromise life, the environment, the condition or quality of goods, equipment or buildings;
- (b) cause a serious delay to the EACOP project unless a procurement is undertaken within the required time frame;
- (c) cause the EACOP project feasibility to be seriously compromised unless a procurement is immediately undertaken; or

- (d) cause operation shutdown unless action is urgently taken.

16. Selection of contractors during the construction phase

(1) The project company may conduct a call for tenders process for contracting packages identified in the construction phase national content plan in parallel to submission of the construction phase national content plan.

(2) The project company shall submit quarterly reports to the Authority on the implementation of the construction phase national content plan in accordance with the national content provisions under the Host Government Agreement.

(3) Regulations 9 and 15 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016 shall not apply to the EACOP project during the construction phase.

17. Award of contracts during the construction phase

(1) The project company may award contracts or continue the contracts for the scope of goods, works or services set out in the construction phase bid evaluation report approved by the Authority.

(2) A contractor and each of the direct or indirect subcontractors of the contractor shall be entitled to award contracts or continue the contracts for the scope of goods, works or services identified as national or international, as the case may be subcontracting in the construction phase bid evaluation report approved by the Authority.

(3) For the scope of goods, works or services identified as the yet-to-be identified national content subcontracting in the construction phase bid evaluation report approved by the Authority, a contractor and each of the direct or indirect subcontractors of the contractor shall run transparent and competitive selection processes and award contracts and procure the related goods, works and services, provided that—

- (a) the relevant national content requirements for the contractor approved in the bid evaluation report are respected;
- (b) all suppliers to which contracts are awarded are registered on the national supplier database maintained by the Authority;
- (c) the contractor advertises the related selection process in at least two newspapers of national circulation, giving at least one month to reply; and
- (d) the contractor has communicated its decision to the unsuccessful bidders, indicating the reasons why the bid was unsuccessful,

and in relation to paragraphs (a), (b) and (c), the contractor and each of its direct or indirect subcontractors shall not be required to prepare or submit separate national content plans, obtaining approvals in relation to national content from the Authority, or to report to the Authority on national content and shall not be subject to any further steps, approvals, consents or restrictions from the Authority.

(4) The national content related to any sub-contracting under subsection 3(a), (b) and (c) shall be included in the quarterly reports submitted to the Authority by the project company for the purpose of measuring compliance with national content requirements.

18. Recruitment and training during the construction phase

The plans for the recruitment of Ugandan citizens and training of Ugandan citizen employees during the construction phase shall be as set out in the construction phase national content plan and the Host Government Agreement.

19. Selection of contractors during the operations phase

Unless the project company determines that specific obligations unique to the operations phase require to proceed otherwise or the project company and the Authority agree otherwise, the provisions of

section 16 of this Act shall apply with necessary modifications to the selection of contractors and direct and indirect subcontractors until the end of the fifth year of the operations phase.

20. Award of contracts during the operations phase

Unless the project company determines that specific obligations unique to the operations phase require to proceed otherwise or the project company and the Authority agree otherwise, the provisions of section 17 of this Act shall apply with the necessary modifications to the award of contracts to contractors and direct and indirect subcontractors until the end of the fifth year of the operations phase.

21. Procurement of critical intragroup expertise

The procurement of the critical intragroup expertise for services in the National Content Appendix to the Host Government Agreement shall not be considered procurements giving rise to national content obligations under this Act or any other Ugandan law.

22. Procurement of international project finance services

The project company may, during the construction phase, procure international project finance services in the National Content Appendix to the Host Government Agreement from international suppliers in accordance with the conditions set out in the Host Government Agreement.

23. Procurements for everyday business purposes

(1) The project company and its contractors shall not be required to advertise or conduct tender processes for purchases of goods and services for everyday business purposes, including, for travel, taxis, accommodations, courier services or stationary, where—

- (a) the purchases are made on a spot or short-term basis and if made from Ugandan parties, whether or not registered in the national supplier database; and

- (b) the purchases are for amounts less than the equivalent of ten thousand United States Dollars per transaction per month.

(2) In case of purchases of goods and services for everyday business purposes for which the project company, acting reasonably, considers that the selection of a single supplier is feasible, including based on the nature of the goods or services and the location where needed, the project company and its contractors shall put in place call-off or framework contracts, bid and awarded in accordance with section 17(3)(c).

24. Reserved contracts

(1) The project company shall, subject to subsection (2) reserve for Ugandan parties the reserved contracts for works, goods and services in the National Content Appendix to the Host Government Agreement to be provided in or to Uganda.

(2) Where, considering the commercial terms, quantity, quality, delivery time, and required labour standards, technical standards and Environmental, Health and Safety Standards standards, the project company determines, after consultation with the Authority, that capacity among Ugandan parties for any of the goods, works or services is insufficient to meet the requirements of the EACOP project—

- (a) the project company shall inform the Authority of that determination;
- (b) the project company or its contractors shall reserve for Ugandan parties, contracts for the goods, works or services to the extent of their available capacity and ability as determined by the project company after consultation with the Authority; and

- (c) for the balance, the project company shall notify the Authority that capacity among Ugandan parties for the goods, works or services is insufficient to meet the requirements of the EACOP project, and the Authority shall grant the project company or its contractors the consent, which consent shall not to be unreasonably delayed or withheld, to procure the relevant goods, works or services from a reputable international supplier, subject to the requirements to form a Ugandan joint venture with a Ugandan party or, where that is not possible, from a reputable international supplier alone.

(3) The procurement under subsection (2) shall emphasise sub-contracting, where possible to Ugandan parties, local supplier development, employment and training of Ugandan parties or technology transfer as selection criteria.

(4) The provisions of subsections (1) and (2) shall not preclude Ugandan parties from providing goods, works and services or participating in the procurement process for goods, works and services that are not in respect of reserved contracts.

25. Joint ventures with local partners

(1) Subject to sections 21, 22 and 24, where goods, works or services required by the project company, its contractors and their sub-contractors are not available in Uganda, the goods, works and services may be provided by a foreign supplier that has entered into a Ugandan joint venture with Ugandan parties approved by the Authority and registered on the national supplier database.

(2) A Ugandan party shall be considered eligible to participate in a Ugandan joint venture, where the Ugandan party—

- (a) has the technical and financial competence and is able to deliver the goods, works and services in a timely manner;

- (b) demonstrates an ability to assist in technology transfer and the transfer generally of knowledge and technology to Ugandan parties;
- (c) has experience in providing the required goods, works and services; and
- (d) demonstrates that it will take active participation in the Ugandan joint venture.

(3) Where, following the assessment by the project company of the national market prior to a request for tenders or following the analysis by the project company of responses to a request for tenders, and considering the required quantity, quality, delivery time, labour standards, technical standards, Environmental, Health and Safety Standards standards or commercial terms, the project company determines that no Ugandan party is able to provide specific goods, works or services or to serve as a joint venture partner in a Ugandan joint venture for particular goods, works or services—

- (a) the project company shall notify the Authority, describing the assessment or tender process, as applicable, that it followed and the reasons for coming to the conclusion; and
- (b) the Authority shall promptly grant the project company the consent, which consent shall not to be unreasonably delayed or withheld, to procure the relevant goods, works or services from a reputable international supplier.

(4) The procurement under subsection (3) shall include subcontracting, where possible, to Ugandan parties, local supplier development, employment and training of Ugandan parties or technology transfer as selection criteria.

26. Unbundling of contracts

Unbundling shall not apply to contracts to be concluded with the level 1 construction phase contractor pursuant to the contracting strategy notified to the Authority prior to the date of the Host Government Agreement.

27. Mobilisation of staff

(1) The project company shall be entitled to mobilise management staff in accordance with the Host Government Agreement.

(2) For the purposes of regulation 21 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016, the project company or a project participant shall submit the following information—

- (a) job title and required responsibilities;
- (b) curriculum vitae;
- (c) translated and certified academic documents or equivalent professional or trade qualifications;
- (d) duration of proposed employment in Uganda; and
- (e) letter of good conduct.

28. Recruitment and training during the operations phase

(1) Plans for the recruitment of Ugandan citizens and training of Ugandan citizen employees during the operations phase shall be as set out in the operations phase national content plan.

(2) For the purpose of regulation 18(4)(b)(ii) and (iii) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016, the percentage of the management staff and the technical staff shall include Ugandan and Tanzanian citizens.

PART IX—INSURANCE AND REINSURANCE

29. Insurance and reinsurance of the EACOP project

(1) The insurance regime applicable to the EACOP project shall be this Act, the Insurance Act, 2017, the National Environment Act, 2019, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Regulations, 2016 and Ugandan law.

(2) The fulfilment by the project company, the project participants, the State and the State authorities of the insurance and reinsurance provisions under the Host Government Agreement shall be deemed compliance with subsection (1).

(3) The project company shall, subject to subsection (4), effect and maintain in relation to the EACOP project, for purposes of section 10(6)(b) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, the insurances set out in Schedule 1 to this Act which shall be fully reinsured with reinsurers, each with acceptable credit rating in accordance with this Act.

(4) Reinsurances shall be effected and maintained in accordance with a competitive process and, to the extent possible, shall be arranged to achieve a single reinsurance placement for each type of insurance effected in respect of the EACOP project, both in Uganda and Tanzania.

(5) Subject to subsection (6), the insurers shall, in accordance with this Act and Ugandan law, offer to place mandatory reinsurance cessions with Uganda Re, Zep RE and Africa Re for the value of up to 30% of the risks related to the EACOP project existing in Uganda.

(6) Where, as a result of the mandatory cession, referred to in subsection (5), more than 5% in aggregate of the risks related to the EACOP project existing in Uganda are reinsured with reinsurers

without an acceptable credit rating, the amount exceeding 5% shall be further reinsured with reinsurers with an acceptable credit rating selected by the mandatory reinsurers in conjunction with the project company from amongst reinsurers identified during the competitive process referred to in subsection (4).

(7) Notwithstanding section 74 (6) of the Insurance Act, 2017, the insurers or mandatory reinsurers referred to in subsection (6) may, in conjunction with the project company, to the extent necessary to meet the requirements of this section, place, reinsurances with reinsurers located outside Uganda.

PART X—NON-INTERRUPTION OF PROJECT ACTIVITIES

30. Non-interruption of project activities

(1) Notwithstanding sections 76(2), 121 and 122 of the Petroleum Exploration, Development and Production Act, 2013 and sections 41 and 42 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, the Minister or any other State authority shall not require the Ugandan upstream partners or the project company to deliver any petroleum from the existing Uganda oil fields to and for the domestic market or any other use, other than the reserved petroleum.

(2) Subject to subsection (3), the Minister or any other state authority shall not interrupt, curtail, delay or otherwise impede the transport of petroleum through the EACOP system or other project activities except—

- (a) as specifically provided in subsection (3); or
- (b) where it is specifically authorised by a competent dispute settlement authority.

(3) Where there are reasonable grounds for the State to believe that the project activities have given rise to an emergency, or to a

situation where an emergency is imminent, the State may interrupt the relevant project activities in Uganda, only to the extent and for the length of time necessary to remove or avoid the emergency and in that case, the State shall—

- (a) as soon as is reasonably practicable, give notice to the project company of the interruption, giving reasonably full details of the reasons for the interruption and all other pertinent information;
- (b) allow the project company sufficient time to ensure the safe reduction or interruption of transit flow, if applicable;
- (c) consult with the project company as to possible actions that may be taken by the appropriate party, reflecting the nature of the emergency in order to remedy the relevant situation so as to avoid or reduce the time or severity of any interruption; and
- (d) coordinate with Tanzania to ensure that the actions taken by the State under the Host Government Agreement and by Tanzania under any equivalent provisions of the Tanzanian Host Government Agreement are harmonised and seek to remedy the relevant situation so as to avoid or reduce the time or severity of any interruption.

(4) Without limiting the generality of subsection (2), in the event of a dispute over any matter arising from the transport of petroleum through the EACOP system, the Intergovernmental Agreement or the Host Governmental Agreement, the State shall not interrupt or reduce, or require or permit any State authority to interrupt or reduce the transport of petroleum or other project activities in Uganda, except where it is specifically provided for in a contract or other agreement governing the transport of petroleum or any other project activities in Uganda.

PART XI—THIRD PARTY ACCESS

31. Third party access

(1) The third party access regime applicable to the EACOP Project shall be this Act, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Regulations, 2016 and Ugandan law.

(2) The fulfilment by the project company, the project participants, the State and the State authorities of the third party access provisions of the Host Government Agreement shall be deemed compliance with subsection (1).

32. Third party access to the transportation system

(1) The EACOP project shall initially transport petroleum from the existing Uganda oil fields on behalf of the shippers and agreements to transport petroleum from the existing Uganda oil fields shall be entered into and performed in priority to any other agreements for transportation of petroleum through the EACOP system.

(2) The Authority shall consult and coordinate with the relevant Tanzanian state authority to approve a harmonised set of guidelines, for access to any available capacity of the EACOP system for the transportation of petroleum which does not originate from the existing Uganda oil fields, proposed by the project company and applicable to the whole of the EACOP system, including with respect to the tariff calculation methodology.

33. Available capacity

Any available capacity in the EACOP system in a given period shall be determined by the project company based on—

- (a) the mechanical availability and hydraulic capability of the EACOP system, together with any other factors reasonably

foreseeable by the project company which may affect the capacity of the EACOP system to transport petroleum; and

- (b) the capacity in the EACOP system required to fulfil the project company's commitments to the shippers.

34. Tariff calculation methodology for third party access

(1) The tariff calculation methodology under subsection (3) shall specify that—

- (a) subject to paragraph (b), the tariff for a third party's petroleum shall be equal to the tariff then applicable for petroleum produced at the existing Uganda oil fields; and
- (b) where the economics of a third party's petroleum cannot support the tariff determined in accordance with paragraph (a), the tariff shall be agreed between the State and the project company, the third party and Tanzania in accordance with the Host Government Agreement.

(2) In addition to any tariff determined under subsection (3), the third party shall be responsible for—

- (a) all costs associated with the third party connecting to the EACOP system; and
- (b) any additional direct costs induced in the EACOP system in connection with transporting the petroleum.

(3) The third-party tariff determined in accordance with the approved guidelines and the methodology issued by the State authority shall be approved by the relevant state authority.

(4) For the purposes of this section, "approved guidelines" means a harmonised set of guidelines, for access to any available capacity of the EACOP system for the transportation of petroleum

which does not originate from the existing Uganda oil fields, proposed by the project company and approved by the Authority applicable to the whole of the EACOP system, including with respect to the tariff calculation methodology for the purposes of this Act and the Host Government Agreement.

PART XII—DECOMMISSIONING

35. Applicable regime for decommissioning

(1) The decommissioning regime applicable to the EACOP project shall be this Act, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Regulations, 2016 and Ugandan law.

(2) The fulfilment by the project company, the project participants, the State and the State authorities of the decommissioning provisions of the Host Government Agreement shall be deemed compliance with subsection (1).

(3) The Authority shall—

- (a) coordinate with the relevant Tanzanian state authority to assist the project company to achieve the harmonisation and coordination of the decommissioning plan and the decommissioning activities across Uganda and Tanzania; and
- (b) cooperate and coordinate with the relevant Tanzanian state authority in the process of approving each version of the decommissioning plan submitted by the project company to ensure that a uniform, consistent and harmonised decommissioning plan is approved for the EACOP project.

36. Decommissioning fund

(1) The project company shall be responsible for the costs related to the implementation of the decommissioning plan.

(2) The project company, the Minister and the relevant Tanzanian state authority shall together choose from among the financial institutions indicated in the decommissioning plan either—

- (a) a single financial institution to act as escrow agent and account bank; or
- (b) a financial institution to act as escrow agent and a second financial institution to act as account bank, in which case the escrow agent shall hold the decommissioning fund in trust.

(3) The project company shall make transfers to the decommissioning fund as follows—

- (a) from the date falling five years after the first oil date and until the date falling ten years after the first oil date, the project company shall make annual transfers to the decommissioning fund in accordance with the Host Government Agreement for decommissioning works approved in the latest decommissioning plan; and
- (b) from the date falling ten years after the first oil date, the project company shall make transfers to the decommissioning fund in accordance with the Host Government Agreement.

(4) Where the decommissioning fund is not sufficient to cover the implementation of the decommissioning plan, the project company shall cover the extra costs and expenses required to implement the decommissioning plan.

(5) The agreed fiscal regime shall apply to the decommissioning fund and related interest, and payments into and out of the decommissioning fund.

(6) The Minister shall submit a report, annually, to Parliament on the status of the decommissioning fund.

37. Completion of decommissioning

(1) When the project company determines that all material activities required under the decommissioning plan have been completed, the project company shall contract with an independent consulting firm, chosen by the project company from the list of reputable and experienced firms set out in the decommissioning plan for that purpose, to prepare and deliver to the project company and the Authority a post-decommissioning finalisation report confirming completion of the decommissioning works in relation to all affected sites.

(2) The post-decommissioning finalization report shall be reviewed and approved by the Authority in consultation with the National Environment Management Authority in accordance with the National Environment Act, 2019, the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, and the Host Government Agreement.

(3) Upon approval by the Authority of the post-decommissioning finalisation report—

- (a) the project company shall be released from any liability for environmental and social impacts resulting from the EACOP project; and
- (b) at the request of the project company, any excess funds standing to the credit of the decommissioning fund shall be released to the project company.

PART XIII—MISCELLANEOUS

38. Early project activities

(1) This Act shall apply to all project activities, including those undertaken prior to the effectiveness of the Host Government Agreement which include early project activities.

(2) For the purposes of this section “early project activities” means all project activities carried out in relation to the EACOP system from 1st January 2016 up to the earlier of—

- (a) the date on which the final investment decision for the EACOP project occurs; or
- (b) the effective date of the Host Government Agreement.

39. Import and export

(1) Notwithstanding sections 3 and 4 of the External Trade Act and without prejudice to the requirements of section 12, there shall be no restriction on import, export, re-import, re-export or movement of goods, including petroleum, materials, supplies, technology and equipment related to the origin of those items or the persons contracted to provide them for the EACOP project.

(2) Subsection (1) applies only to imports and exports related to the EACOP project and shall not be construed as limiting the application of restrictions or prohibitions on any other imports into or exports out of Uganda under Ugandan law.

40. Force majeure

Notwithstanding section 100 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, the only force majeure provisions applicable to the EACOP project shall be those specified in the Host Government Agreement.

41. Transfer of rights and obligations

(1) Any transfer of a direct or indirect ownership interest in the project company which results in a change of decisive control of the project company shall be subject to the prior written consent of the Minister, which consent shall not be unreasonably withheld or delayed.

(2) The Minister shall not withhold consent under subsection

(1) except where a change of decisive control may—

- (a) have a material adverse effect on the legal and technical capacity, competence and financial strength of the project company; or
- (b) prejudice the public interest or safety in Uganda.

(3) Any decision of the Minister to withhold consent under subsection (2) shall be issued together with an explanation in support of the decision.

(4) Subsection (1) shall not apply where a change of decisive control relates to—

- (a) any State authority, including the Uganda National Oil Company or any Tanzanian state authority, including the Tanzania Petroleum Development Corporation;
- (b) any transfer of shares in the project company to the State or a state authority provided for in the Host Government Agreement;
- (c) the enforcement of any security by the finance parties or any agent or trustee of the finance parties upon the terms and conditions set out in any direct agreement to be concluded among the relevant state authorities, as applicable, the finance parties and the applicable project participants; or
- (d) a change within the chain of holding companies between a shareholder and its ultimate parent company where, following the change, there is no change of the ultimate parent of the shareholder and to the jurisdiction of the shareholder.

(5) For the purposes of this section, “decisive control” means the possession by a person, directly or indirectly, of the power to direct or cause the direction of management, whether through ownership of shares or voting rights.

(6) Sections 25 (5) and (6) and 30 (6) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 shall not apply to the EACOP project.

(7) For the avoidance of doubt, this section shall not apply for purposes of Schedule 2 to this Act.

42. Provision of electricity

Notwithstanding sections 29, 30, 31 and 53 of the Electricity Act, 1999—

- (a) the project company shall have the right to receive and use electrical power generated from excess associated gas by the upstream project at Tilenga or Kingfisher for pumping, heating and other operational purposes solely in connection with the transport of petroleum through the EACOP system, including the right to construct and operate any necessary infrastructure, in accordance with arrangements jointly agreed with the Electricity Regulatory Authority; and
- (b) the project company shall have the right to use petroleum in the EACOP system for the purposes of electricity generation and process heating for pumping, heating, terminal operations and other operational purposes solely in connection with the transportation of petroleum through the EACOP system, on terms and conditions to be agreed with the shippers.

43. Fibre optic network

(1) The project company may make excess capacity in the EACOP project's fibre optic network available to third parties on the basis of no cost to the user and no liability for the project company in accordance with the arrangements agreed with the relevant state authority.

(2) The project company shall not be required to obtain a licence under the Uganda Communications Act, 2013 for the purposes of subsection (1).

44. Fiscal regime

(1) The fiscal regime applicable to the EACOP project shall be the regime of taxes and other charges pursuant to Ugandan law, including the regime for imposing, administering and disputing taxes and other charges, as modified by Schedule 2 to this Act.

(2) Where there is any inconsistency between the application of the provisions of Schedule 2 on the one hand, and the application of the provisions of any other Ugandan Law, on the other hand, the provisions of Schedule 2 shall prevail.

45. Regulations

The Minister may in consultation with the Authority, by statutory instrument, make regulations generally for giving effect to the provisions of this Act and for its due administration and to facilitate the implementation of the Host Government Agreement.

46. Supremacy of this Act

This Act takes precedence over all existing laws relating to any matter under this Act, and where there is a conflict between this Act and any other Ugandan law other than the Constitution in relation to any matter under this Act, this Act shall prevail.

SCHEDULE 1

Section 29 (3)

INSURANCES

1. Construction period insurances

Insurance type	Brief description
Construction: all risks	Physical loss of or physical damage to all EACOP project related works located on worksites in connection with the project activities.
Marine cargo	Damage to EACOP project related works or their components whilst being transported.
Third party liability insurance	Legal liability of the project company or any other insured party under the policy to third parties for or arising from— (a) bodily injury, illness, or death; (b) loss or damage to property; or (c) damage to the environment.

2. Operating period insurances

Insurance type	Brief description
Property damage	Damage to EACOP project related facilities.
Marine cargo	Damage to EACOP project related works or their components whilst being transported.
Third party liability insurance	Legal liability of the project company or any other insured party under the policy to third parties for or arising from— (a) bodily injury, illness, or death; (d) loss or damage to property; or (e) damage to the environment.

3. At all times: all other insurances which are mandatory under Ugandan law, including automobile insurances, worker's compensation and employer's liability.

SCHEDULE 2*Sections 4, 41 (7) and 44***AGREED FISCAL REGIME****PART A****DEFINITIONS**

“**affected taxpayer**” means, for the purposes of a double taxation matter, one or more of the project company (or operator), any level 1 contractor and any level 2 contractor;

“**affiliated financial institution**” means a finance party that—

- (a) is a credit or financial institution;
- (b) is an affiliate of a shareholder; and
- (c) is such an affiliate only by reason that the finance party and the shareholder are both directly, or indirectly through one or more intermediaries, controlled by or under common control of, the same state;

“**agreed fiscal regime**” has the meaning set out in section 4 of this Act;

“**allocated amount**” means for each fiscal year the amount allocated to Uganda, corresponding to—

- (a) in respect of corporate income tax, the proportion of the project revenues, project expenses, project assets and project liabilities, as relevant, that is determined by applying the allocation percentage to project revenues, project expenses, project assets and project liabilities, as relevant, and the residual proportion of such project revenues, project expenses, project assets and project liabilities shall be allocated to the Tanzanian permanent establishment of the project company; and

- (b) in respect of withholding tax, where a payment in connection with project activities is made by the project company to a level 1 contractor:
- (i) for a supply of services that are performed outside Uganda and Tanzania—
 - (A) where such services are directly used by the project company in both Uganda and Tanzania, the amount that is determined by applying the allocation percentage to such payment, and the residual proportion of such payment shall be allocated to the Tanzanian permanent establishment;
 - (B) where such services are directly used by the project company exclusively in Uganda, the entire amount of such payment; and
 - (C) where such services are directly used by the project company exclusively in Tanzania, no amount of such payment;
 - (ii) for a supply of services that are performed inside Uganda or Tanzania—
 - (A) where such services are performed in Uganda, the entire amount of such payment; and
 - (B) where such services are performed in Tanzania, no amount of such payment.

“**allocation percentage**” shall be 40%;

“**branch profits tax**” means any tax imposed on the repatriated income of a branch pursuant to section 82 of the Income Tax Act;

“**certificate**” has the meaning set out in Part H of this Schedule;

“**construction phase**” means the period—

- (a) commencing on the date that the final investment decision in relation to the EACOP project is communicated to Uganda and Tanzania; and

- (b) expiring on the third anniversary of the date that the period commences under paragraph (a),

provided that the expiration of the period under paragraph (b) shall be extended on each occasion where the construction or installation of the EACOP system is interrupted, or otherwise impeded, for longer than thirty days as a result of a disruption event by the total number of days from such interruption or impedance until such construction or installation fully resumes;

“corporate income tax” means any income tax imposed on the chargeable income of an incorporated body under the Income Tax Act, other than any tax imposed under section 119(3) of the Income Tax Act;

“depreciation principles” shall apply to paragraph 3(4)(a) of Part C and mean the following principles—

- (a) no project asset shall be added to the pool of depreciable assets under section 27(9) of the Income Tax Act prior to the commencement of the exemption period;
- (b) the first use of the depreciable project assets shall correspond to the commencement of the exemption period;
- (c) the cost base of each project asset shall be calculated under section 52(2) of the Income Tax Act; and
- (d) a temporary, as opposed to permanent, interruption to the operation of the EACOP system where the relevant depreciable asset(s) remain installed as part of the EACOP system shall not be treated as a deemed disposal of such depreciable asset(s) under section 51 of the Income Tax Act;

“disruption event” means an event due to the actions or omissions of Uganda or a Ugandan Authority that is—

- (a) outside the control of the project company; and
- (b) is not related to any breach by the project company of Ugandan Law, the Host Government Agreement or any other project agreement to which the project company is a party;

“**dividend**” means a dividend as defined in the Income Tax Act;

“**domestic credit**” has the meaning set out in paragraph (3)(11)(a) of Part C of this Schedule;

“**double taxation matter**” means a matter resulting in double taxation with respect to taxation, or other charges, being imposed by both Uganda and Tanzania in relation to the EACOP project, including without limitation any double counting of income, revenue, gains, expenses, assets or liabilities in respect of any taxes on income, capital or transfers as a result of applying an allocation method that is not uniform and harmonised with Tanzania;

“**EACOP transaction**” has the meaning set out in paragraph 1 of Part H of this Schedule;

“**early project costs**” means all of the costs incurred by an investor in relation to early project activities;

“**exemption period**” means the period—

- (a) commencing on the date of the first commercial transportation and export of petroleum from the EACOP system; and
- (b) expiring on the tenth anniversary of the date in paragraph (a);

provided that the expiration of the period under paragraph (b) shall be extended on each occasion where the transport of petroleum through the EACOP system is interrupted, or otherwise impeded, for longer than thirty days as a result of a disruption event by the total number of days which the transport of petroleum through the EACOP system is interrupted, or otherwise impeded, as a result of such disruption event and until such transport of petroleum fully resumes;

“**fiscal year**” means a period of twelve consecutive months, or such shorter period as may be applicable, in respect of which corporate income tax is calculated;

- “foreign credit” shall have the meaning set out in paragraph (3)(11) (b) of Part C of this Schedule;
- “income tax” means tax imposed under or pursuant to the Income Tax Act;
- “**level 1 contractor**” means any direct contractor of the project company, including any engineering, procurement and construction type (EPC) contractor(s);
- “**level 2 contractor**” means any direct contractor of a level 1 contractor;
- “**non-tariff chargeable income**” shall have the meaning set out in paragraph (3)(2)(a) of Part C of this schedule;
- “**permanent establishment**” means a branch as defined in the Income Tax Act. In determining whether certain project activities undertaken by a project participant constitute a branch in Uganda, the ownership of or rights to petroleum being Transported through or stored within the EACOP system, and any export or sale for export of petroleum, shall not by itself constitute a branch in Uganda for such project participant;
- “**project assets**” means any tangible or intangible assets held or owned, or deemed to be held or owned, by the project company in connection with or for use in respect of its project activities;
- “**project expenses**” means expenses, costs, losses or other outgoings that are incurred, or deemed to be incurred, by the project company or a level 1 contractor, as relevant, in respect of its project activities, and in the case of the project company, shall include all of the early project costs charged or re-charged to the project company;
- “**project liabilities**” means any liabilities owed or held, or deemed to be owed or held, by the project company in connection with or for use in respect of its project activities;
- “**project participant**” means each investor, operator, contractor, shipper, finance party and offtaker;

“**project revenue**” means revenue, gains or other receipts that are derived, or deemed to be derived, by the project company in respect of its project activities;

“**resident**” means a resident for tax purposes in Uganda and for the purposes of this definition, in determining whether a project participant is a resident for tax purposes in Uganda—

- (a) the fact of its ownership of, or rights to, petroleum being transported through or stored within the EACOP system, or its export or sale for export of any petroleum, shall not by itself mean the project participant is a resident for tax purposes in Uganda; and
- (b) the fact that it directly or indirectly holds or disposes of—
 - (i) shares in the project company; or
 - (ii) a company that is itself a resident in, has a branch in, or carries on a business in, Uganda,

shall not by itself mean the Project Participant is a resident for tax purposes in Uganda;

“**Tanzanian permanent establishment**” shall have the meaning set out in paragraph (2)(4) of Part B of this schedule;

“**tariff chargeable income**” shall have the meaning set out in paragraph (3)(2)(a) of Part C of this Schedule;

“**taxes**” means any existing and future taxes, levies, duties, customs, imposts and fees including withholding taxes and Value Added Tax payable to or imposed by or in Uganda and “**tax**” means any one of them;

“**Ugandan head office**” means the registered branch of the project company in Uganda as referred to in Article 11 (*Right to Own, Implement and Operate the Project*) of the Host Government Agreement;

“**UK permanent establishment**” shall have the meaning set out in paragraph (2)(4) of Part B of this Schedule;

“**Value Added Tax**” means value added tax and any other similar taxes or impositions, including sales or goods and services taxes applicable to the supply or other provision of goods or services, or technology, payable to or imposed by or in Uganda.

PART B

GENERAL PROVISIONS

2. (1) Nothing in this Schedule is meant to prejudice the application of the anti-avoidance provisions of the Ugandan law. For the avoidance of doubt, the exercise of rights or enjoyment of benefits provided for in this Schedule by a project participant shall not in and of itself constitute an act or omission contemplated by such anti-avoidance provisions.

(2) The agreed fiscal regime shall include any applicable and in force double taxation agreement to which Uganda is or becomes a party. To the extent that a term of any applicable and in force double taxation agreement is inconsistent with any provision of the agreed fiscal regime, the term of that double taxation agreement shall prevail over such provision of the agreed fiscal regime if, and only to the extent that, such term of the double taxation agreement provides a more favourable term of relief, rate or exemption to a project participant than would otherwise apply under the agreed fiscal regime, including but not limited to the rates of withholding tax provided for under this Schedule.

(3) The project company shall be a company incorporated in England and Wales and shall, for tax purposes, be a resident of Uganda on the basis that its management and control and place of management is exercised in Uganda. The project company shall carry on project activities in Uganda and in Tanzania and shall carry on routine functions in relation to financing the EACOP Project in the United Kingdom.

(4) The project company shall, for tax purposes in Uganda, be treated as having a permanent establishment in Tanzania (the “**Tanzanian**

permanent establishment”) and a permanent establishment in the United Kingdom (the “**UK permanent establishment**”).

(5) This Schedule shall be applied in such a manner as to avoid and eliminate double taxation with respect to taxes on income, capital or transfers, including any double taxation in respect of corporate income tax, withholding tax or stamp duty, arising as a result of the project company structure for tax purposes as described in paragraph 2(3) and 2(4) of Part B of this Schedule.

(6) Nothing in this Schedule shall prevent the application of the arm’s length principle in accordance with Ugandan law to any transactions in relation to the EACOP project between associates, other than transactions or arrangements between the Ugandan head office and its permanent establishment in Tanzania.

(7) The agreed fiscal regime shall apply to the tariff income, irrespective of whether the tariff is paid in cash or in kind.

(8) Where the tariff is paid in kind, neither—

(a) the acquisition by the project company of volumes of oil acquired as a result of the payment in kind; nor

(b) the sale of such volumes by the project company at a price determined on a no-gain no-loss basis,

shall be subjected to any liabilities to tax which exceed those which the project company would have been subject to if the payment of the tariff had been made in cash.

PART C

CORPORATE INCOME TAX

3. (1) The tariff income from owning and operating the EACOP system shall not be subjected to corporate income tax during the exemption period.

- (2) During the exemption period—
- (a) the chargeable income of the project company in Uganda shall comprise of the chargeable income in respect of the tariff income from owning and operating the EACOP system (the “**tariff chargeable income**”) and any other chargeable income (the “**non-tariff chargeable income**”). For the avoidance of doubt, the tariff chargeable income shall not be subjected to corporate income tax during the exemption period and the non-tariff chargeable income shall be subjected to corporate income tax during the exemption period;
- (b) the project company shall calculate the tariff chargeable income and the non-tariff chargeable income separately for each fiscal year, in accordance with the following principles—
- (i) income and expenses taken into account in calculating the tariff chargeable income shall comprise—
- (A) the allocation percentage of the tariff income from owning and operating the EACOP system;
- (B) the allocation percentage of the deductible expenses incurred solely in the production of the income included in the tariff chargeable income; and
- (C) any deductible expenses incurred both in the production of the income included in the tariff chargeable income and the non-tariff chargeable income, allocated rateably to the tariff chargeable income in the proportion which the tariff chargeable income bears to the aggregate of the tariff chargeable income and the non-tariff chargeable income;
- (ii) income and expenses taken into account in calculating the non-tariff chargeable income shall comprise—

- (A) any income other than the income included in the tariff chargeable income, as determined under Ugandan law;
 - (B) any deductible expenses incurred solely in the production of the income included in the non-tariff chargeable income, as determined under Ugandan law; and
 - (C) any deductible expenses incurred both in the production of the income included in the tariff chargeable income and the non-tariff chargeable income, allocated rateably to the non-tariff chargeable income in the proportion which the non-tariff chargeable income bears to the aggregate of the tariff chargeable income and the non-tariff chargeable income; and
- (c) the exemption of the tariff chargeable income from corporate income tax shall be calculated in accordance with the formula in paragraph 3(5) of this Part C.

(3) After the exemption period, the chargeable income of the project company for each fiscal year shall be calculated on the basis that the income and expenses comprise—

- (a) the allocated amount determined under this Schedule; and
- (b) any other income and expenses determined under Ugandan law.

(4) In calculating the chargeable income of the project company for each fiscal year, whether prior to, during or after the exemption period, and without prejudice to paragraph 3(2) of this Part C and any other expenses otherwise deductible under the agreed fiscal regime which are not dealt with under this Schedule—

- (a) a deduction (“***D₅D₅***”) for the depreciation of the allocated amount of depreciable project assets shall be allowed in each fiscal year as provided under section 27(1) of the Income Tax

Act subject to the depreciation principles and calculated at a rate of 5% per annum on a straight-line basis, commencing on the first use of the depreciable project assets, on the following basis—

$$D_S = P_V \times 5\% D_S = P_V \times 5\%$$

where

“ $P_V P_V$ ” means the total cost base of the single pool comprising the allocated amount of the depreciable project assets,

provided that where one or more project assets included in the pool at the end of the fiscal year are only depreciable assets for part of that fiscal year as a result of a temporary disruption to the operation of the EACOP system, the deduction ($D_S D_S$) for that fiscal year shall be proportionately reduced;

- (b) a deduction shall be permitted for any amount of—
- (i) a contribution to a decommissioning fund in accordance with a decommissioning plan in that fiscal year; or
 - (ii) an expenditure incurred in carrying out work required by a decommissioning plan in that fiscal year, except to the extent the expenditure is paid out of a decommissioning fund from an amount of a contribution to the decommissioning fund under paragraph 3(4)(b)(i) of this Part,

and, for the purpose of permitting the deduction, such decommissioning fund shall be treated as a “decommissioning fund” under the Income Tax Act;

- (c) any assessed losses in respect of chargeable income arising in a fiscal year shall be carried forward and allowed as a deduction against up to 70% of the chargeable income in the following fiscal year. Any assessed losses not utilised in that following fiscal year shall be carried forward and allowed as a deduction in accordance with this paragraph, until exhausted; and

(d) no transaction or arrangement between the Ugandan head office and the Tanzanian permanent establishment in connection with project activities shall be recognised for income tax purposes in Uganda in a fiscal year. For the avoidance of doubt, no income, deduction, gain or loss shall be taken into account for income tax purposes in respect of such transaction or arrangement;

(5) The project company shall be exempt from, by way of reducing to zero, the amount of corporate income tax (“A”) imposed in a fiscal year on the tariff chargeable income during the exemption period, and “A” shall be calculated as follows—

$$A = R_{CIT} \times C_T A = R_{CIT} \times C_T$$

Where—

“ R_{CIT} ” is the rate of corporate income tax applicable to the project company for that fiscal year; and

“ C_T ” is the tariff chargeable income of the project company for that fiscal year.

(6) No gain or loss, or deemed gain or loss, shall be included or taken into account in the chargeable income of the project company in respect of the deemed disposal of the assets of the project company arising solely as a result of a change in the direct or indirect ownership of the project company in that fiscal year, pursuant to sections 75 and 79(ga) of the Income Tax Act.

(7) No branch profits tax shall be imposed on the project company in Uganda, on the basis that the project company is and remains a resident of Uganda for the duration of the EACOP project.

Project Participants

(8) Taxation of a direct or indirect disposal of an interest in the project company shall be in accordance with Ugandan law and shall take into account the allocation percentage for the determination of the basis subject to the said taxation.

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(9) No tax shall be imposed on a direct or indirect disposal of an interest in the project company where the said disposal of interest arises as a result of:

- (a) the enforcement by a finance party, or any agent or trustee of the finance party, of any security in relation to interests in the project company;
- (b) any transfer of an interest in the project company to the Ugandan state participant;
- (c) any transfer of an interest in the project company by a shareholder to its affiliate; or
- (d) any transfer of an interest which occurs within the chain of holding companies between a shareholder and its ultimate parent company where, following such transfer, there is no change of the ultimate ownership of such shareholder.

(10) The project company, or any other person acting on its behalf, shall promptly notify the Commissioner General of the Uganda Revenue Authority upon becoming aware of a direct or indirect disposal of an interest in the project company, together with documentation necessary for the Commissioner General to determine whether or not the said disposal fulfils the conditions stipulated in subparagraph 9 of this Part.

(11) A credit against any corporate income tax imposed by Uganda on a project participant in a fiscal year shall be available as follows—

- (a) a domestic credit for any domestic income tax (“**domestic credit**”), with any excess credit offset against future corporate income tax, except that where the total amount of domestic credits arising in a fiscal year exceeds the total corporate income tax imposed by Uganda on that project participant in that fiscal year, the project participant shall be entitled to apply for a refund of such excess and any such excess in accordance with the agreed fiscal regime shall be refunded within 60 days of a completed application being received from the project participant;

- (b) a foreign tax credit for any foreign income tax, including the foreign equivalent of any withholding tax or branch profits tax, to the extent of the Ugandan tax on the foreign income (“**foreign credit**”), with any excess credit carried forward indefinitely for use against corporate income tax on foreign source income in a subsequent fiscal year.

(12) The provisions of Part IXA of the Income Tax Act (*Special Provisions for the Taxation of Petroleum Operations*) shall not apply to the project company in respect of the EACOP project.

PART D

WITHHOLDING TAXES

4. (1) Without prejudice to any reduced tax rate or exemption provided for under Ugandan law, where withholding tax would otherwise be imposed on (i) the allocated amount of the following payments by the project company or (ii) the following payments by a level 1 contractor, it shall in each case be imposed only in accordance with the following—

- (a) on payments of interest to a finance party that is a shareholder of the project company or the affiliate of such a shareholder, other than an affiliated financial institution, at a rate of 10%;
- (b) on payments of interest to any other finance party not within subparagraph (a), at a rate of 0%; and
- (c) on payments to non-residents for the supply of technical and other services provided directly and exclusively for the EACOP project, at a rate of 5%.

(2) For the avoidance of doubt, paragraph 4(1)(c) shall apply in respect of any payment of premium for insurance or re-insurance, any payment for use or right to use, including the rental or hire, of any industrial, commercial or scientific equipment or other tangible moveable property, or any payment of management charges.

- (3) No withholding tax shall be imposed on—
- (a) a payment to the project company of tariff from owning and operating the EACOP system;
 - (b) the import of goods into Uganda including pursuant to section 119(3) of the Income Tax Act for the direct and exclusive use of the EACOP project;
 - (c) a payment for the purchase of an asset including pursuant to section 118B of the Income Tax Act for the direct and exclusive use of the EACOP project;
 - (d) a payment for the supply of petroleum for the EACOP project;
 - (e) payments made, or deemed to be made, by the Ugandan head office to the Tanzanian permanent establishment in connection with project activities; or
 - (f) the amount of any payment allocated to the Tanzanian permanent establishment in respect of withholding tax.

(4) No taxes shall be imposed on a dividend paid by the project company. For the avoidance of doubt, such taxes include any taxes which would be imposed pursuant to section 83(1) of the Income Tax Act in respect of a dividend or section 118 of the Income Tax Act and any interest or penalties in respect of such taxes.

- (5) For the purposes of imposing any withholding tax on payments of interest, a payment of interest shall be—
- (a) deemed not to have been made where it is capitalised to form part of the principal under any financing agreement or otherwise deferred; and
 - (b) instead deemed to be made upon repayment of such principal or on subsequent payment of the interest.

(6) The project company shall for purposes of payments of tariff, or interest accrued thereon, be exempt for purposes of withholding tax imposed pursuant to section 117 and section 119(1) of the Income Tax Act.

PART E

VALUE ADDED TAX

5. (1) Value Added Tax shall not be an economic cost to the EACOP project, including in relation to the import, sale for export, or export, of petroleum.

(2) In accordance with the principle in paragraph 5(1)—

(a) the supply of transportation and incidental services by the project company through the EACOP system shall be a zero-rated supply;

(b) no Value Added Tax shall be imposed on the import of goods and services provided directly and exclusively for the EACOP project by the project company, a level 1 contractor or a level 2 contractor;

(c) no Value Added Tax will be imposed on any import, sale for export or export of petroleum; and

(d) no Value Added Tax will be imposed on supplies, or deemed supplies, between—

(i) the Ugandan head office and the Tanzanian permanent establishment; or

(ii) the Ugandan head office and the United Kingdom permanent establishment.

(3) Any Value Added Tax otherwise due on taxable supplies of goods and services to the project company and any level 1 contractors in respect of the EACOP project shall be deemed to have been paid in accordance with section 24(5) of the Value Added Tax Act and related provisions of the Value Added Tax Act, which shall operate as follows—

(a) where the project company is granted a licence under the Midstream Act in respect of the EACOP system, it shall be a “licensee” as that term is used in section 24(5) of the Value Added Tax Act;

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- (b) section 24(5) of the Value Added Tax Act and related provisions shall apply to supplies made by a level 2 contractor to a level 1 contractor in respect of the EACOP project, for which purpose a level 2 contractor shall be deemed to be a “contractor” and a level 1 contractor shall be deemed to be a “licensee” as those terms are used in section 24(5) of the Value Added Tax Act; and
- (c) supplies in respect of the EACOP project shall be deemed to be in respect of “petroleum operations” as that term is used in section 24(5) of the Value Added Tax Act.

(4) Upon an application to register for Value Added Tax purposes made in accordance with the Value Added Tax Act by the project company, any level 1 contractor or any level 2 contractor, the approval of the application to register the project company or that level 1 contractor or level 2 contractor, as applicable, as a taxable person for Value Added Tax purposes shall not be unreasonably withheld.

(5) If a level 2 contractor is registered as a taxable person and its input tax credit exceeds its liability for tax for any tax period, the excess shall be refunded in accordance with section 42(1) of the Value Added Tax Act.

PART F

IMPORT, CUSTOMS AND EXCISE DUTIES

6. (1) There shall be no customs or import duties imposed on—
- (a) equipment and inputs, and engineering plant, excluding motor vehicles;
 - (b) capital goods; and
 - (c) the temporary importation of any motor vehicles,
- in each case for the direct and exclusive use in the EACOP project.

(2) Customs, import, export or excise duties, or other taxes of a similar nature or effect, shall not be an economic cost to the EACOP project,

including on the import, sale for export, or export of petroleum. For the avoidance of doubt, motor vehicle registration fees pursuant to section 12 of the Traffic and Road Safety Act shall not be treated as other taxes of a similar nature or effect for the purposes of this paragraph.

- (3) In applying the principle in paragraph 6(2)—
 - (a) no customs processing fee, or any other taxes of a similar nature or effect, shall be imposed on the import or export of goods or services for the direct and exclusive use of the EACOP project;
 - (b) no African Union levy or East African Community infrastructure levy shall be imposed on or in respect of any goods or services for the direct and exclusive use of the EACOP project;
 - (c) no security, in any form, shall be required on or in respect of the import, export or sale for export of petroleum; and
 - (d) no security, including requiring any bond to be entered into or cash deposit to be paid, shall be required on or in respect of any goods or services for the direct and exclusive use of the EACOP project.

(4) In applying the principle in paragraph 6(2) to equipment, inputs, engineering plant and capital goods that are for the direct and exclusive use in the EACOP project—

- (a) other than the conditions referred to in paragraph 6(1), no other preconditions for the exemption from customs and import duties on equipment, inputs and engineering plant, including any licensing requirements shall be imposed under the relevant Ugandan law on the relevant importer whether the project company or any other project participant; and
- (b) the project company shall submit a list of the main categories of goods which, as at the date of final investment decision in respect of the EACOP project, are expected to be imported for the direct and exclusive use of the EACOP project as “equipment”, “inputs” or “engineering plant”

(5) In applying the principle in paragraph 6(2) to the temporary importation of motor vehicles for the direct and exclusive use of the EACOP project under paragraph 6(1)(c)—

- (a) during the construction phase, the renewal of the period during which such motor vehicles may remain temporarily in Uganda shall not be denied, delayed or withdrawn;
- (b)
 - (i) such motor vehicles shall be permitted to be used by any project participant; and
 - (ii) any customs and import duties payable upon a disposal of such motor vehicles shall be determined by reference to the higher of the consideration received for the disposal or their written down value under the relevant Ugandan law;
- (c)
 - (i) no security or bond is required to be given in respect of such motor vehicles;
 - (ii) only a non-cash undertaking is required to be provided by the relevant project participant importing such motor vehicles, without any requirement for a guarantor, surety, cash deposit or other security in respect of that non-cash undertaking and with the non-cash undertaking applicable in Uganda so that the motor vehicle can move between Uganda and Tanzania without any further or replacement non-cash undertaking, security or bond in Uganda; and
 - (iii) the non-cash undertaking will be in the format prescribed by the Customs Authority of Uganda and shall provide that the project company will discharge any obligation to pay any customs or import duties in respect of such motor vehicles if any such obligation arises;
- (d) the foregoing accommodations in connection with the temporary importation of such motor vehicles are legal and valid under Ugandan law; and

- (e) other than the conditions referred to in paragraph 6(1) and this paragraph 6(5), no other conditions shall be imposed on the temporary importation of such motor vehicles.

PART G

TRANSIT FEE

7. No transit fee, or any taxes or other charge of a similar nature or effect, shall be imposed or applied to the EACOP project, the value or quantity of petroleum transported through the EACOP system, the value of the EACOP system or the sale for export or export of petroleum.

PART H

CONTROL MECHANISM

8. (1) In order to efficiently administer the provisions of Part D, Part E and Part F of this Schedule, the following control mechanism shall apply to a payment, supply, import, export or any other transaction or series of transactions that is covered by, and meets the relevant requirements of Part D (*Withholding Tax*), Part E (*VAT*) or Part F (*Import, Customs and Excise Duties*) of this schedule (in each case an “**EACOP transaction**”)—

- (a) an EACOP transaction may be made by the project company without any formal certification of its entitlement to the benefit of the provisions of Part D, Part E and Part F of this schedule, provided that this clause shall not remove any requirement on the project company—
- (i) to report agreements for the provision of services by a non-resident under the Income Tax Act; or
 - (ii) to register for Value Added Tax;
- (b) otherwise, where an EACOP transaction is covered by a certificate issued in accordance with this Part (each a “**certificate**”), then all relevant taxes shall be applied in accordance with the relevant Part(s) of this schedule to that EACOP transaction.

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(2) A project participant shall, prior to an EACOP transaction, request in writing that the Commissioner General of the Uganda Revenue Authority issue a certificate.

(3) The following information shall be provided for the purpose of requesting a certificate:

- (a) a copy of the contract or other instrument under which the EACOP transaction will be made by the project participant;
- (b) a draft form of the requested certificate to be issued by the Commissioner General Uganda Revenue Authority, including details of the project participant's business registration number in Uganda; and
- (c) confirmation by the project company that the EACOP transaction is covered by Part D (*Withholding Tax*), Part E (*VAT*) or Part F (*Import, Customs and Excise Duties*) of this Schedule.

(4) Within 15 business days of a completed written request for a certificate made by a project participant in accordance with paragraph 8(2), the Commissioner General may either—

- (a) issue a certificate in accordance with the request; or
- (b) render a decision refusing the issuance of the certificate if the Commissioner General reasonably considers that the relevant payment, supply, import or export is not an EACOP transaction. This decision shall be notified, in writing and by e-mail, to the project participant and to the project company. The notification shall detail the reasons why the Commissioner General considers that the relevant supply, import or export is not an EACOP transaction.

(5) Where the Commissioner General neither issues, nor renders a decision refusing the issuance of, a certificate within 15 business days of a request under paragraph 8(2), the request will be deemed to have been refused.

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(6) Where the Commissioner General renders a decision refusing the issuance of a certificate under paragraph 8(4)(b) of this Part, or neither issues nor renders a decision of refusal under paragraph 8(5) of this Part, the project participant may immediately refer the issue to an independent expert in accordance with the provisions of paragraph 4 (*Expert Determination*) of Article 48 (*Dispute Settlement*) of the Host Government Agreement, who shall determine whether or not the relevant payment, supply, import, export or other transaction or series of transactions is an EACOP transaction. If the independent expert determines that it is an EACOP transaction, the Commissioner General shall without delay issue a certificate to the relevant project participant in respect of the EACOP transaction.

(7) A certificate shall be substantially in the form set out in Part L of this schedule, or such other form as may be agreed from time to time, and shall be signed by the Commissioner General Uganda Revenue Authority.

(8) A certificate shall cease to have effect in Uganda upon the expiry of the certificate, which shall be a date no later than the latest of—

- (a) the 12 months anniversary of the date of issue of the certificate; and
- (b) the estimated end date of the relevant agreement under which the EACOP transaction occurs.

(9) Where there is an EACOP transaction which is not covered by a certificate upon its commencement, but which meets the relevant requirements of a provision under Part D Part E or Part F of this Schedule, as relevant and as a result any tax is incurred in excess of that contemplated under the relevant Part—

- (a) the Commissioner General Uganda Revenue Authority may subsequently upon request, issue a certificate covering such EACOP transaction in accordance with paragraph 8(2) of this Part H; and
- (b) upon application by the relevant holder of such certificate, a full refund shall be provided without delay in accordance

with the relevant provisions of Ugandan law or, if no refund is permitted under Ugandan law, the Commissioner General Uganda Revenue Authority shall provide a full set-off, credit or other adjustment.

(10) This Part shall not apply to any early project activities.

(11) An order granted by Tanzania in application of the provisions of the Host Government Agreement concluded between Tanzania and the project company will be valid in Uganda, with no requirement to request a certificate in Uganda for the same EACOP transaction.

(12) In order to manage the implementation of the agreed fiscal regime:

- (a) representatives of Uganda, Tanzania and the investors shall participate in a committee in order to—
 - (i) oversee the implementation of the agreed fiscal regime, including the allocation method with respect to withholding tax and the control mechanism under this Schedule;
 - (ii) identify and monitor fiscal matters which may delay the construction phase or have a material adverse impact on a project participant, including any delay of a refund payment to a project participant; and
 - (iii) identify issues that may arise in connection with the agreed fiscal regime and refer them to the relevant Government authority for prompt resolution;
- (b) there shall be no more than 12 representatives at any time, comprising no more than 4 representatives from each of Uganda, Tanzania and the investors. The representatives of Uganda and Tanzania may comprise representatives of Ministry of Finance, the Revenue Authority and the Attorney-General's office;
- (c) the committee shall meet at least once every three months at such location as the representatives may agree, and meetings

may be convened by a representative delivering at least 10 business days' notice to other representatives including an agenda and proposed venue of the meeting;

- (d) the representatives shall use all reasonable efforts to attend and participate in meetings in person. If that is not practicable, the representatives may attend by video or telephone conference. The committee may invite any other person to join meetings and to speak at any meetings, notwithstanding that they are not themselves representatives;
- (e) one representative from each of Uganda and Tanzania shall jointly chair the committee meetings and one representative from the main shareholder investor shall be the secretary; and
- (f) the funding of reasonable and justifiable costs in respect of the committee will be the sole responsibility of the project company.

PART I

SPECIFIC OTHER TAXES

9. (1) No stamp duty shall be chargeable on any instrument of transfer of shares in the project company that is incorporated in the United Kingdom.

(2) Any instrument effecting any grant, conveyance, transfer or other acquisition of any land rights in relation to the EACOP project shall be chargeable to stamp duty not exceeding five hundred thousand Uganda shillings.

(3) If stamp duty would otherwise be chargeable on the following instruments under Ugandan law, such stamp duty shall be limited to ten thousand Uganda Shillings on the following instruments—

- (a) any instrument entered into by the project company as security for any financing agreement, whether by way of principal or further charge, equitable or other mortgage, deposit of title agreement, deed, indemnity, bond, transfer, trust or otherwise; and

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(b) any instrument effecting the transfer, novation, assignment or sub-participation of any interest of a finance party in a financing agreement.

(4) During the construction phase, the project company and the level 1 contractors, and their respective employees who are not ordinarily resident in Uganda, shall be exempt from making contributions to the National Social Security Fund as envisaged under section 15 of the National Security Fund Act, on the basis that the project company's or level 1 contractor's employees, as applicable, are enrolled in a social security, retirement or pension scheme which is comparable to the scheme provided for under the National Social Security Fund Act, in the country where these employees are ordinarily resident.

(5) Any other taxes and charges imposed on, or payable by, the project company under Ugandan law, including local government rates, any business or trade license fees, investment licenses, fees for issuance, maintenance or renewal of project authorisations, shall not exceed a total of one hundred thousand US dollars (100,000 US dollars) per calendar year expressed in 2024 value and adjusted with effect from 1st of January at a fixed annual increase of the lower of (i) the US consumer price index and (ii) two percent (2%) per annum, with the first adjustment on the 1st of January 2025.

(6) The other taxes and charges referred to in paragraph (9)(5) shall not include—

(a) taxes and other charges otherwise expressly dealt with in this schedule, including tax imposed on employment income under the Income Tax Act;

(b) any sanction, fine, interest, or penalty or penal tax payable under the agreed regime and in accordance with the Host Government Agreement, or any damages, compensation or other charges imposed with the agreement of the project company or in accordance with the Host Government Agreement; and

(c) the “ESIA Fee” as described in paragraph 3(c) of Part I of Appendix II to the Host Government Agreement.

PART J**TAX ADMINISTRATION**

10. (1) The fiscal year for the project company shall be a period of twelve months ending on 31st December, or such shorter period as may be approved by the Commissioner General Uganda Revenue Authority.

(2) The project company shall prepare accounts for the purposes of taxes and other charges for the Ugandan head office for each fiscal year in accordance with generally accepted accounting principles as provided for under section 40(1) of the Income Tax Act.

(3) For purposes of this Part J, the reference to generally accepted accounting principles means the applicable international financial reporting standards, as amended from time to time, issued by the International Accounting Standards Board of the IFRS Foundation.

(4) The project company shall—

(a) keep and maintain its books and records;

(b) keep, prepare and file any accounts required by the agreed regime or by the Commissioner General Uganda Revenue Authority; and

(c) compute any taxes and other charges payable by it whether on its own account or by way of withholding, deduction or prepayment, in each case in US Dollars.

(5) The project company shall prepare and file its returns and statements in relation to taxes and other charges, including the statement of actual gross turnover for the purpose of calculating each instalment of provisional tax, based upon calculations in US Dollars.

(6) The project company shall make payments of taxes and other charges in accordance with Ugandan law and any administrative procedures in Uganda Shillings, converted from the calculations in US Dollars under

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paragraph 10(5) into Uganda Shillings in accordance with paragraph (10) (7) of this Part.

(7) Where an amount is required to be converted from US Dollars or any other currency into Uganda Shillings for the purpose of making a payment of taxes, the project company shall use the exchange rates prescribed for conversion of currencies as follows—

- (a) amounts received and costs and expenditures made in US Dollars or any other currency shall be converted into Uganda Shillings on the basis of the average of the buying and selling exchange rates as published by the Bank of Uganda, prevailing on the last business day of the calendar month preceding the calendar month in which the amounts are received, and costs and expenditures are paid; and
- (b) in the event of an increase or decrease, one time or accumulative, of ten percent or more in the rates of exchange between Uganda Shillings and the US Dollar or the currency in question during any given calendar month, the following rates will be used and the project company shall be required to maintain a record of the rates of exchange used in currency conversion—
 - (i) for the period from the first of the calendar month to the day when the increase or decrease is first reached, the average of the official buying and selling exchange rates between Uganda Shillings and the US Dollar or the currency in question as issued on the last day of the previous calendar month; and
 - (ii) for the period from the day on which the increase or decrease is first reached to the end of the calendar month, the average of the official buying and selling exchange rates between Uganda Shillings and US Dollar or the currency in question as issued on the day on which the increase or decrease is reached.

(8) The amount of tax payable for each instalment of provisional tax under section 111 of the Income Tax Act shall not be increased or decreased to account for any movement in the exchange rate for conversion from US Dollars into Uganda Shillings after the due date of the instalment of provisional tax.

(9) Where any refund of tax is due and payable to the project company, but has not been paid, the Commissioner General shall use its best efforts to expedite and approve in a reasonable manner the set-off of such tax against any other undisputed taxes due and payable by the project company or the refund of such tax, in accordance with section 113 of the Income Tax Act and section 42 of the Value Added Tax Act.

(10) Where the Commissioner General issues an assessment of any taxes (including interest or penalties in respect of such taxes), or otherwise makes a decision in respect of taxes, in relation to an affected taxpayer in a manner that gives rise to a double taxation matter, the Commissioner General shall—

- (a) allow the affected taxpayer to make submissions and attempt in good faith to resolve the double taxation matter; and
- (b) if the double taxation matter is not resolved within one month of the affected taxpayer's first submission under paragraph (a), consult and agree on a common position with the relevant authority in Tanzania within three months in respect of that double taxation matter, which is both consistent with the agreed fiscal regime and ensures that no part of the project revenue and project expenses are allocated to both Uganda and Tanzania.

(11) No interest shall accrue in respect of any such taxes during the period in which Uganda and Tanzania consult and agree on a common position in accordance with paragraph 10(10) of this Part.

(12) At the time of lodging an application before the Tax Appeals Tribunal, any deposit payment made by the project company, in accordance with section 15(1) of the Tax Appeals Tribunals Act, shall not exceed one million US dollars and, where applicable, the excess will be covered with security from the project company.

(13) Any interest charged in respect of overdue, unpaid or underpaid taxes, charges or penalties shall be calculated in Uganda Shillings at the interest rate applicable under Ugandan law in respect of the amount overdue, unpaid or underpaid.

(14) The relevant state authority to receive notices or other communication issued in accordance with this Schedule shall be the state authority with the mandated authority to levy or collect the relevant tax, levy, duty, impost or fee that is the subject of the notice or communication.

PART K

EARLY PROJECT ACTIVITIES

11. (1) The agreed fiscal regime and the provisions of this Schedule shall apply, to the extent relevant, to any investor undertaking early project activities.

(2) Early project costs incurred by or on behalf of an investor shall be charged or re-charged to the project company in accordance with arrangements determined and entered into by the project company, and such early project costs shall, once so charged or re-charged to the project company, be treated as project expenses of the project company as if they were incurred directly by the project company rather than by or on behalf of the investor, subject to tax audit.

(3) Upon the charge or re-charge of early project costs to the project company under paragraph 11(2), the project company shall pay all relevant taxes in accordance with the agreed fiscal regime as if the early project costs were project expenses incurred directly by the project company at the time of such charge or re-charge to the project company; provided that the amount of any taxes payable by the project company in Uganda shall be reduced to the extent any taxes have already been paid in Uganda in relation to such early project costs.

PART L

CERTIFICATE PROFORMA

[Issuing Entity Logo]

[Recipient Address Details]

TAX CERTIFICATE APPLICABLE TO AN EACOP TRANSACTION

Project participant details			
Legal name			
Trading name(s):	<i>[If different]</i>		
Business address:			
Postal address	<i>[If different]</i>		
Business registration number	<i>Uganda</i>		Jurisdiction of incorporation / business <i>[If applicable]</i>
EACOP Transaction Details			
Details of EACOP transaction	<i>[i.e. description of nature of import(s), export(s), supply(ies), payment(s) or other transaction(s) covered by certificate – for example: “import of materials and supply to project company of pumping stations” – including details of where any services performed outside Uganda and Tanzania will be directly used (where relevant)]</i>		
Description of goods (where relevant)	<i>[where relevant, list and estimated quantity of goods that are supplied/imported/exported under EACOP transaction – for example: “concrete (10 m³); diesel 10 kW generators (x10)”]</i>		
Duration of EACOP transaction	<i>[end date or estimated end date of EACOP transaction (DD/MM/YYYY)]</i>		
Details of relevant agreement	<i>[details (contract name, date, parties, consideration and summary) of any agreement under which EACOP transaction is being undertaken – for example: “procurement and construction contract between project company and level 1 contractor dated DD/MM/YYYY for construction of pumping stations in Uganda for US\$1 million”]</i>		

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Details of relevant taxes to be imposed at lower rate / exempted	<i>[details of the payments upon which tax would be imposed under Ugandan law and reduced rate applicable under agreed fiscal regime – for example: “\$100m loan interest (estimated), subject to withholding tax at rate of 0%”]</i>		
Certificate details			
Certificate commencement date:	<i>[DD/MM/YYYY]</i>	Certificate expiry date:	<i>[DD/MM/YYYY]</i>

[SIGNATURE]

FOR AND ON BEHALF OF [ISSUER NAME]

BY: [NAME OF SIGNATORY]

[POSITION OF SIGNATORY]

[DATE]

Cross References

Electricity Act, 1999 Cap. 145

External Trade Act, Cap. 88

Income Tax Act, Cap. 340

Insurance Act, 2017, Act 18 of 2017

Land Act, Cap. 227

National Environment Act, 2019, Act 5 of 2019

National Social Security Fund Act, Cap. 222

Petroleum (Exploration, Production and Development) Act, 2013, Act 3 of 2013

Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013, Act 4 of 2013

Petroleum (Refining, Conversion, Transmission and Midstream Storage) Regulations, 2016, S.I. 36 of 2016

Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016, S.I. 34 of 2016

Public Finance Management Act, 2015, Act 3 of 2015

Tax Appeals Tribunals Act, Cap. 345

Traffic and Road Safety Act, 1998, Cap. 361

Uganda Communications Act, 2013, Act 1 of 2013

Value Added Tax Act, Cap. 349

