

## BLOCK 245 RESOLUTION AGREEMENT

THIS AGREEMENT ("FGN Resolution Agreement") is made this 29<sup>th</sup> day of April 2011.

### Between

**THE FEDERAL GOVERNMENT OF NIGERIA** (hereinafter referred to as the **FGN**) represented by Honourable Attorney General of the Federation and Minister of Justice, the Minister of Petroleum Resources and the Minister of Finance; and

**SHELL NIGERIA ULTRA-DEEP LIMITED**, a company incorporated under the laws of the Federal Republic of Nigeria having its registered office at Freeman house, 21/22 Marina, Lagos (hereinafter referred to as **SNUD**, which expression where the context so admits shall include its successors-in-title and assigns); and

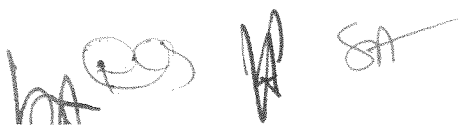
**NIGERIAN NATIONAL PETROLEUM CORPORATION**, a statutory corporation established under the laws of the Federal Republic of Nigeria whose Head Office is at NNPC Towers, Central Area, Herbert Macaulay Way, P.M.B 190, Garki, Abuja, Nigeria (hereinafter referred to as "**NNPC**" which expression where the context so admits shall include its successors-in-title and assigns), and

**NIGERIAN AGIP EXPLORATION LIMITED** a company established under the laws of the Federal Republic of Nigeria whose registered office is at Churchgate Building, Plot 473 AO Constitution Avenue, Central Business Area, Abuja, (hereinafter referred to as "**NAE**", which expression where the context so admits shall include its successors-in-title and assigns), and

**SHELL NIGERIA EXPLORATION AND PRODUCTION COMPANY LIMITED**, a company incorporated under the laws of the Federal Republic of Nigeria having its registered office at Freeman house, 21/22 Marina, Lagos (hereinafter referred to as **SNEPCO**, which expression where the context so admits shall include its successors-in-title and assigns);

**FGN, SNUD, NNPC, SNEPCO and NAE** may also be referred to herein individually as a "**Party**" or, collectively, as the "**Parties**".

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**WHEREAS:**

- A. On the **29<sup>th</sup> of April 1998**, FGN granted an Oil Prospecting License (OPL 245) over oil block 245 (“**Block 245**”) to Malabu Oil & Gas Limited company incorporated under the laws of the Federal Republic of Nigeria (“MALABU”).
- B. On **30<sup>th</sup> March, 2001**, MALABU and SNUD entered into a Farm-in Agreement, and a Deed of Assignment under which MALABU assigned forty (40) percent equity interest in OPL 245 to SNUD.
- C. On the **2<sup>nd</sup> July 2001**, FGN revoked OPL 245.
- D. By a letter dated the **23<sup>rd</sup> May 2002**, the then Honourable Minister of Petroleum Resources, on behalf of FGN awarded Block 245 to SNUD on the basis of a Production Sharing Contract (“**PSC**”), following a competitive bid with another international oil company, on the invitation of the FGN.
- E. On **22<sup>nd</sup> December 2003**, NNPC executed a PSC with SNUD, (hereinafter referred to as the “**2003 PSC**”), granting SNUD the right to exclusively operate Block 245 as contractor for a term of thirty (30) years.
- F. Subsequent to the revocation referred to in paragraph C above and the execution of the 2003 PSC, various law suits involving the FGN, NNPC, MALABU and SNUD, were instituted to determine disputes arising from the revocation of OPL 245 by the FGN, the termination of the agreements between MALABU and SNUD referred to in paragraph B above, and the execution of the 2003 PSC in respect thereof, with SNUD.
- G. On **30<sup>th</sup> November, 2006**, the FGN executed a settlement agreement with MALABU wherein the FGN, without admission of liability for any alleged wrongful, unlawful, unjust or any like conduct, agreed to re-allocate Block 245 to MALABU in consideration of MALABU discharging and releasing the FGN from all claims and suits filed by MALABU against the FGN in connection with the revocation of MALABU’s interest on 2nd July 2001.
- H. As a result of the execution of the settlement agreement referred to in paragraph G above, a number of dispute resolution proceedings were initiated by SNUD against the FGN including the Bilateral Investment Treaty (BIT) arbitration **No. ARB/07/18** pending at the International Centre for the Settlement of Investment Disputes (“**ICSID Arbitration**”), to enforce SNUD’s rights to exclusively operate Block 245 as Contactor on the basis of the 2003 PSC between NNPC and SNUD.
- I. The extant cases of those referred to in paragraphs F and H above, are:

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- i. **CA/A/25M/2003** - SNUD vs. The House of Representatives and MALABU.
  - ii. **ICC No. 12136 MS (C12137/MS)** SNUD vs. MALABU. (Arbitration with resulting award in favor of SNUD delivered on 20<sup>th</sup> December 2004, and costs of US\$2.735 million awarded against MALABU.)
  - iii. **FHC/NRJ/01/2009** - SNUD vs. MALABU, by which the ICC Award was registered on 29 March, 2010, making it enforceable in Nigeria.)
  - iv. **ICSID Case No. ARB/07/18-** Bilateral Investment Treaty arbitration between SNUD and the FGN. (Ruling pending.)
- J. On 2<sup>nd</sup> July 2010, FGN again issued a letter to MALABU, re-allocating Block 245 to MALABU.
- K. FGN is willing to settle all claims to any interest in OPL 245 by SNUD against FGN and/or MALABU in the terms of this Agreement.
- L. Pursuant to paragraph K above, FGN has entered into agreements of even date, respectively with MALABU and SNUD (The 'Resolution Agreements'), in respect of the resolution referred to in paragraph K above, by which, MALABU has relinquished all claims to OPL 245 and agrees to all future actions which FGN may take under this FGN Resolution Agreement with respect to OPL 245.
- M. SNUD agrees to the reallocation of its interest in Block 245 to SNEPCO, an Affiliate of SNUD, and SNEPCO agrees to reimburse the past costs and the signature bonus paid by SNUD in respect of Block 245 as well as to agree terms with NAE to jointly undertake the future development of the Block 245.
- N. FGN and SNUD now wish to resolve their differences amicably with respect to Block 245 and to set out the agreed interests of the Parties with respect to Block 245 in accordance with the terms of this FGN Resolution Agreement.

**NOW THEREFORE**, pursuant to FGN's confirmation of the full and final resolution with MALABU and SNUD, of all MALABU's and SNUD's respective claims and issues in dispute over Block 245 and a mutual reciprocal release from all claims, under the Resolution Agreements, FGN, SNUD, NNPC, SNEPCO and NAE **HAVE AGREED** in the manner hereinafter stated:

1

- 1.1 SNEPCO shall reimburse SNUD in respect of: (i) costs incurred by SNUD under Clause 2(i); and (ii) costs of three hundred thirty five million and six hundred thousand US Dollars (\$335,600,000) incurred by SNUD related to the execution of the work-programme pursuant to

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the terms of the 2003 PSC and in consideration of this payment SNUD hereby consents to the reallocation of the interests in Block 245 by the FGN as agreed in Clause 1.2 herein.

- 1.2 The FGN hereby causes the allocation of Block 245 and will cause the grant of the relevant Oil Prospecting license by the Minister of Petroleum Resources in favour of SNEPCO and NAE as joint licence holders under the Petroleum Act Cap P10, Laws of the Federation of Nigeria, 2004 on the terms of this FGN Resolution Agreement.
- 1.3 Following the execution of this FGN Resolution Agreement, (i) SNUD shall, on behalf of SNEPCO and NAE pay to the FGN the Signature Bonus in accordance with Clause 2 below, and FGN hereby agrees that not later than seven (7) days thereafter FGN shall grant the Oil Prospecting license in respect of Block 245 to SNEPCO and NAE and (ii) NAE shall, on behalf of NAE and SNEPCO and FGN, appoint an escrow agent for the purpose of paying to FGN a sum equal to one billion ninety two million and forty thousand Dollars (US\$1,092,040,000) for the purposes of FGN settling all and any existing claims and/or issues over Block 245, in accordance with Clause 3 below.
- 1.4 Upon the grant of the Oil Prospecting License to SNEPCO and NAE pursuant to Clause 1.2 hereof, NNPC and SNUD agree that the 2003 PSC is terminated as of the date of grant of the Oil Prospecting License to SNEPCO and NAE. Consequent upon the termination of the 2003 PSC, NNPC and SNUD release and discharge each other fully and effectively from all and any existing and continuing obligations that would otherwise survive the termination of the 2003 PSC except that this release shall not be deemed to extend to any claim or obligations related thereto and arising from this FGN Resolution Agreement.
- 1.5 The FGN confirms that the Oil Prospecting License to be granted to SNEPCO and NAE shall be for an aggregate period of ten (10) years commencing from the date it is issued, and any OMLs which may derive therefrom shall have a duration of twenty (20) years plus additional renewals as allowed by law.

2 Upon the execution of this FGN Resolution Agreement by all the Parties herein:

- i) FGN and SNUD as parties to an escrow agreement dated 22<sup>nd</sup> December 2003 (“the Escrow Agreement”) shall issue to the Escrow Agent, (JP Morgan Chase Bank) a notice (in the form attached to this FGN Resolution Agreement as Schedule 1) as required under Clause 10.1 of the Escrow Agreement, terminating the Escrow Agreement with an instruction to pay the sum of two hundred and seven million nine hundred sixty thousand US Dollars (\$207,960,000.00) representing the Signature Bonus, into the FGN Receiving Account. The balance of the Escrow Fund shall be paid into the Shell Receiving Account free of any taxes. The Parties acknowledge and agree that the payment of the Signature Bonus made pursuant to this Clause 2(i), represents the full payment of the Signature Bonus for the acquisition by SNEPCO and NAE of all rights over Block 245 and that no other payments are or will be due by any of SNUD, SNEPCO and NAE to FGN in this respect other than as provided for in Clause 3.
- ii) FGN and NAE shall enter into an escrow agreement (“Escrow Agreement no. 2”), substantially in the form attached to this FGN Resolution Agreement as Schedule 2, with a bank of international standing acceptable to such Parties within five (5) Business Days from the Execution Date.

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Handwritten signatures of the parties involved in the agreement, including what appears to be the FGN and NAE.

For the purposes of Clause 2(i) above, "Escrow Agent", "Escrow Fund", "FGN Receiving Account" and "Shell Receiving Account" shall have the meaning ascribed to them in the Escrow Agreement.

- 3 Within five (5) Business Days of the grant and delivery to SNEPCO and NAE by FGN of the Oil Prospecting license for Block 245 duly issued jointly in the name of SNEPCO and NAE pursuant to Clause 1.2 above NAE shall, on behalf of both NAE and SNEPCO, wire transfer to the account opened in accordance with the Escrow Agreement no. 2 the amount of one billion ninety two million and forty thousand Dollars (US\$1,092,040,000) to the benefit of FGN pursuant to Clause 1.3.

Subject to receipt by NAE and SNEPCO of a letter from FGN confirming that it has achieved the full and final resolution of all claims and issues in dispute over Block 245 and obtained a release from all claims on Block 245 from the relevant parties, NAE and SNEPCO as parties to the Escrow Agreement No.2 shall issue to the escrow agent, a notice (in the form attached to the Escrow Agreement No.2) terminating the Escrow Agreement No. 2 with an instruction to pay the sum indicated in this Clause 3 into the FGN Escrow Account as defined in the Escrow Agreement No.2.

- 4 The rights and obligations of NAE and SNEPCO as between themselves in the operations of Block 245 shall be governed by a Production Sharing Agreement (PSA) to be executed between themselves or between themselves and/or their nominees.
- 5 The PSA shall be treated as and deemed a "Production Sharing Contract" as defined in section 17 of the Deep Offshore and Inland Basin Production Sharing Contracts Act, Cap D3, Laws of the Federation of Nigeria 2004.
- 6 The FGN confirms to NAE and SNEPCO that the fiscal terms as provided in the Deep Offshore and Inland Basin Production Sharing Contracts Act Cap D3, Laws of the Federation of Nigeria, 2004, shall be applicable to the PSA between NAE and SNEPCO with respect to Block 245.

In the event of any enactment of or change in the laws or regulations of Nigeria or any rules, procedures, guidelines, instructions directives or policies, applying to this FGN Resolution Agreement and/or the Oil Prospecting License for Block 245 and/or subsequent Oil Mining Lease (OML) derived therefrom, including the above fiscal terms, introduced by any Government department or Government parastatals or agencies occurs subsequent to the Execution Date, which materially and adversely affects the rights and obligations or the economic benefits of NAE and SNEPCO, the relevant Parties shall agree to such modifications to this FGN Resolution Agreement and/or any agreements between the relevant Parties in furtherance hereof as will redress and remove the adverse effect of such changes with retroactive effect from the date of such adverse change.

- 7 Tax Oil under the PSA shall be allocated, in the proportion of their interests in Block 245, to NAE and SNEPCO, as Holder as defined in the Deep Offshore and Inland Basin Production Sharing Contracts Act. Each of NAE and SNEPCO shall have the right to lift its share of the allocated Tax Oil and remit the proceeds thereof to the appropriate agencies of the FGN for the discharge of their proportionate share of the PPT obligations attributable to the Contract Area.

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8. The Parties hereby expressly agree that nothing in this FGN Resolution Agreement shall be taken as an admission by FGN, or any of its agents and authorities, including NNPC, of the possibility that either SNEPCO or NAE acting in their respective capacities as Contractor' (as such term is defined), under existing production sharing contracts with NNPC are engaged in Petroleum Operations, nor can it be cited in any ongoing arbitral proceedings between NAE, SNEPCO and any of the agencies of FGN in respect of such existing production sharing contracts between NAE, SNEPCO and NNPC.
9. FGN confirms that all sums reimbursed to SNUD by SNEPCO under Clause 1.1(ii) above is expenditures on mineral assets, being the acquisition of petroleum deposits or rights in or over such deposits and information relating to the extent of such deposits, and is incurred wholly, exclusively, necessarily and reasonably for the purposes of petroleum operations in Block 245 and shall be treated accordingly for the purposes of the laws listed in the First Schedule to the Federal Inland Revenue (Establishment) Act 2007, and as such each of NAE and SNEPCO shall be entitled to treat the sums referred to in Clause 1.1(ii) above in accordance with their participating interest in the Block 245 when calculating PPT and pursuant to the PSC Act.
10. FGN hereby grants full and unconditional exemption from any obligations and liabilities in respect of capital gains tax, taxes on income, withholding taxes and Value Added Tax in respect of the transactions and payments mentioned in Clause 1 arising from or relating to this FGN Resolution Agreement. Notwithstanding the foregoing and without prejudice to the position of FGN and NNPC, NAE and SNEPCO shall not be precluded from presenting a claim for any allowances applicable by law on the amount of Signature Bonus to FIRS in the normal course.
11. The Parties enter into this Agreement on the understanding that NAE and SNEPCO and/or their permitted assigns shall be sole and exclusive owners of Block 245 for the duration of the Oil Prospecting Licence and any OML derived therefrom, including any renewals allowed by law. Notwithstanding the foregoing, if at any time FGN and/or its relevant agencies and institutions decides by law to participate or acquire any interest in the Oil Prospecting license or any OML for Block 245 issued pursuant to this FGN Resolution Agreement, the FGN undertakes to NAE and SNEPCO that:
  - (i) the participation of the FGN and/or its relevant agencies and institutions shall be exercised by way of acquiring not more than fifty (50%) percent interest under the Oil Prospecting licence or relevant oil mining lease subject to the payment by FGN to NAE and SNEPCO of the cost of the latters' acquisition of Block 245 which shall be an amount equal to the proportionate share relative to the interest acquired by the FGN and/or its relevant agencies and institutions of the sums paid by NAE and SNEPCO under Clauses 2 and 3 of this FGN Resolution Agreement net of any taxes, levies or other duties whatsoever; plus accrued interest as agreed by the relevant parties; and
  - (ii) the FGN and/or its relevant agencies and institutions shall enter into a production sharing contract with NAE and SNEPCO as Contractors for the exclusive conduct of petroleum Operations in respect of the FGN's acquired interest in the Block 245 ("FGN PSC"); The

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terms of the FGN PSC shall be no less favourable than the terms previously agreed between NNPC and SNUD in the agreement referenced in Preamble E; and

- (iii) the FGN's and/or its relevant agencies and institutions' proportionate share relative to its acquired interest, of all costs incurred by NAE and SNEPCO in Block 245 from the date of the grant of the Oil Prospecting Licence, pursuant to Clause 1.3, up to the date of the acquisition of interest by FGN and/or its relevant agencies and institutions pursuant to this Clause 11, shall be recoverable by NAE and SNEPCO under the FGN PSC.
12. FGN confirms that the terms of this FGN Resolution Agreement have been agreed by all the appropriate agencies of the FGN including the Ministry of Finance, and the Federal Inland Revenue Service.
13. FGN acknowledges that, in entering into this FGN Resolution Agreement, the other Parties have relied on its express or implied representation and other assurances made by its agents and representatives before the signature of this FGN Resolution Agreement regarding the efficacy of the terms thereof.
14. This FGN Resolution Agreement and any agreements executed by the Parties on the date of this FGN Resolution Agreement or in pursuance thereof, supersede all and any agreement or arrangement between the Parties or any of them entered into prior to the date of this FGN Resolution Agreement, either by letter directive, or howsoever relating to Block 245.
15. No amendments, changes or modifications to this FGN Resolution Agreement shall be valid except if the same are in writing and signed by a duly authorised representative of each of the Parties hereto.
16. Each of the Parties shall do all such acts and execute and deliver all such documents as shall be reasonably required in order to fully perform and carry out the terms of this FGN Resolution Agreement.
17. FGN shall indemnify, save and hold harmless, and defend SNUD, SNEPCO and NAE from and against all suits, proceedings, claims, demands, losses and liability of any nature or kind, including, but not limited to, all litigation costs, attorneys' fees, settlement payments, damages, and all other related costs and expenses, based on, arising out of, related to, or in connection with: (i) this FGN Resolution Agreement, (ii) the Resolution Agreements and/or (iii) the issuance of the Oil

Execution version



Prospecting licence in respect of Block 245 jointly in the name of SNEPCO and NAE, and arising out of any asserted prior interest in Block 245.

18. Each Party agrees that they and their employees, agents, agencies, subsidiaries, and attorneys will keep confidential at all times, this Agreement, the terms thereof, and the discussions or negotiations that led to the Agreement, except to the extent required by law or any competent regulatory body.

19 Definitions:

19.1 **"Affiliate"** means: a company which, directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with a Party. For this purpose control means the direct or indirect ownership of in aggregate fifty percent (50%) or more of the voting capital.

19.2 **"Business Day"** shall mean a day other than Saturday, Sundays and public holidays, on which banks are open for business in Nigeria

19.3 **"Clause"** means a clause of this Resolution Agreement.

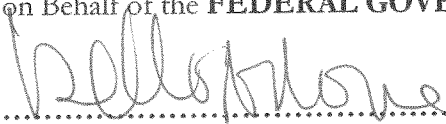
19.4 **"Execution Date"** means the date first written in this Resolution Agreement; being the date on which all Parties to this Resolution Agreement execute this Resolution Agreement.

19.5 **"PSA"** means the production sharing agreement to be entered into between NAE and SNEPCO for the conduct of Petroleum Operations in respect of OPL 245 pursuant to this Agreement.

19.5 **"Signature Bonus"** means the sum referred to in Clause 2(i) of this Resolution Agreement.

**SIGNED AND AGREED** the day and year first above written.

For and on Behalf of the **FEDERAL GOVERNMENT OF NIGERIA:**



.....  
**THE HON. ATTORNEY GENERAL OF THE FEDERATION  
AND MINISTER OF JUSTICE.**



.....  
**THE HON. MINISTER OF PETROLEUM RESOURCES**



.....  
**THE HON. MINISTER OF FINANCE**

The **COMMON SEAL** of **NIGERIAN AGIP EXPLORATION LIMITED** was affixed to this Resolution Agreement and was duly delivered in the presence of:

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.....  
**VICE CHAIRMAN AND MANAGING DIRECTOR**

.....  
**COMPANY SECRETARY**

The **COMMON SEAL** of **SHELL NIGERIA ULTRA-DEEP LIMITED** was affixed to this FGN Resolution Agreement and was duly delivered in the presence of:

.....  
**DIRECTOR**

.....  
**SECRETARY**

The **COMMON SEAL** of **SHELL NIGERIA EXPLORATION AND PRODUCTION COMPANY LIMITED** was affixed to this FGN Resolution Agreement and was duly delivered in the presence of:

.....  
**DIRECTOR**

.....  
**SECRETARY**

The **COMMON SEAL** of **NIGERIAN NATIONAL PETROLEUM CORPORATION** was affixed to this FGN Resolution Agreement and was duly delivered in the presence of:

.....  
**GROUP MANAGING DIRECTOR**

.....  
**COMPANY SECRETARY/LEGAL ADVISER**

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SCHEDULE 1 - PRO-FORMA NOTICE TO JP MORGAN CHASE BANK

**JP Morgan Chase Bank**

Trinity Tower

9 Thomas Moore Street

London E1W 1YT

ATTENTION: Institutional Trust Services – Escrow Administration

**TERMINATION NOTICE**

We refer to the Escrow Agreement dated 22nd December 2003 between The Government of the Federal Republic of Nigeria (FGN), Shell Nigeria Ultra Deep Limited (Shell) and JPMorgan Chase Bank (the "Escrow Agreement"). Words and expressions used in this letter shall have the same meanings as in the Escrow Agreement.

This is to notify the Escrow Agent in accordance with Clause 10.1 of the Escrow Agreement that FGN and Shell have agreed to terminate the Escrow Agreement.

You are hereby instructed to release the sum of two hundred and seven million, nine hundred and sixty thousand US dollars (US \$207,960,000 million) out of the Escrow Funds into the FGN Receiving Account on the date you receive from the FGN, a copy of the attached Block 245 Resolution Agreement duly initialed and signed by all the parties therein; and you are further instructed to pay the balance thereof outstanding in the Escrow Account into the Shell Receiving Account.

Upon the satisfaction of the conditions and instructions stated above and the Escrow Fund is zero, FGN and Shell irrevocably instructs the Escrow Agent to close the Escrow Account.

Consequently the Escrow Agreement shall terminate on the date of closure of the Escrow Account but no later than the ----- day of -----2011 .

DATED THIS.....day of.....2011

**SIGNED AND AGREED** the day and year first above written.

For and on Behalf of the **FEDERAL GOVERNMENT OF NIGERIA:**

.....  
**ACCOUNTANT GENERAL OF THE FEDERATION**

For and on Behalf of **SHELL NIGERIA ULTRA DEEP LIMITED:**

Execution version



.....  
**DIRECTOR**

Execution version

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SCHEDULE 2  
PRO-FORMA ESCROW AGREEMENT NO.2

Execution version

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