

SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session



'17 MAR -7 P5:07

SENATE
S.B. NO. 1372

RECEIVED BY: J

Introduced by Senator Maria Lourdes Nancy S. Binay

EXPLANATORY NOTE

Oil and gas have become increasingly important to the Philippine economy both as the driving engine behind the transportation sector and primary fuel for power generation. Except for 6,000 barrels per day (MB/d) produced by Galoc Production Company (Galoc), the Philippines imports almost 300,000 MB/d of its daily demand on the average. Of these imports, the transportation sector utilizes approximately 65%. On the other hand, the Philippines utilizes its own indigenous gas from the Malampaya reservoir located 80 kilometers offshore Palawan. The Malampaya Deep Water Gas-to-Power project integrates the upstream and downstream components to produce 2,700 megawatts (MW) of electricity, which accounts for approximately 40% of power consumption in the island of Luzon. The Malampaya reservoir boasts of 2.7 trillion cubic feet (tcf) of gas for a period of at least 20 years or until 2024. Pressure from the Malampaya reservoir however is expected to go down beginning 2015 further stressing the need to find more local gas deposits.

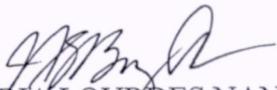
The Philippines has a diversity of geological basins that offer hydrocarbon resource potential. Of the 16 sedimentary basins however, not one can be considered as extensively explored. Since the shift from a concession framework to a service contract system in 1972, a total of only 263 exploration wells have been drilled in the Philippines. Of these activities, 41 resulted in oil discoveries while 11 were gas finds. 101 of these wells were drilled in the Northwest Palawan basin that is considered as the most prospective in terms of oil and gas reserves 43 wells were drilled in the Visayan basin and 23 wells were in the Southwest Palawan basin. Notwithstanding the success of Galoc and Malampaya, this historical exploration work in the Philippines pales in comparison to the wells drilled in Indonesia, Malaysia, and Thailand.

Presidential Decree No. 87 (PD 87), otherwise known as "The Oil Exploration and Development Act of 1972", has established the over-arching statutory framework underlying the upstream oil and gas industry in the Philippines.

While it sets out one of the most attractive fiscal regimes within the Asian region, PD 87 needs to be amended to adapt to the modern requirements of the upstream petroleum industry. To compete with Indonesia, Thailand, and Malaysia where a great number of oil and gas deposits were already discovered, the Philippines needs to offer improved fiscal

and contractual terms to investors to revitalize further interest and encourage more drilling activity in the country.

In view of the foregoing, the passage of this bill is earnestly recommended.



MARIA LOURDES NANCY S. BINAY
Senator

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**AN ACT TO PROMOTE THE DISCOVERY AND PRODUCTION OF
INDIGENOUS PETROLEUM AND FOR OTHER PURPOSES**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** *Short Title.* This Act shall be known and may be cited as "*The Petroleum*
2 *Exploration and Development Act of 2017.*"
3

4 **SECTION 2.** *Declaration of Policy.* All petroleum resources in public and private lands
5 within the territory and exclusive economic zone of the Republic of the Philippines are
6 owned by the State.¹ It is hereby declared to be the policy of the State (a) to ensure a
7 continuous, adequate, and economic supply of energy with the end in view of ultimately
8 achieving self-reliance in the country's energy requirements through the integrated and
9 intensive exploration, production, management, and development of the country's
10 indigenous petroleum resources²; (b) to hasten the discovery and production of
11 indigenous petroleum through the utilization of government and/or private resources,
12 local and foreign under the arrangements embodied in this Act which are calculated to
13 yield the maximum benefit to the Filipino people and to assure just returns to
14 participating private enterprises, particularly those that will provide the necessary
15 financing, technology and services and fully assume all explorations risks; (c) to attract
16 foreign capital and expertise by providing meaningful incentives that are competitive
17 with the fiscal and other terms offered by other countries in the Asia-Pacific region; (d) to
18 revitalize and encourage more exploration activities in the Philippines; and (e) to
19 rationalize and simplify the regulatory framework governing exploration and production
20 investment and activities in the Philippines.
21

22 **SECTION 3.** *Definition of Terms.* As used in this Act, the following terms shall have the
23 following meanings:
24

25 (a) "Affiliate" means (i) a company in which a Contractor holds directly or indirectly
26 at least fifty percent (50%) of its outstanding shares entitled to vote; (ii) a
27 company which holds directly or indirectly at least fifty percent (50%) of the

¹Sec. 2. RA 7942, Mining Act of 1995

²Sec. 2. RA 7638, Department of Energy Act of 1992

1 Contractor's outstanding shares entitled to vote; or (iii) a company in which at
2 least fifty percent (50%) of its share outstanding and entitled to vote are owned by
3 a company which holds directly or indirectly at least fifty percent of the shares
4 outstanding and entitled to vote of the Contractor

5
6 (b) "Associated Gas" means all gaseous hydrocarbons produced in association with
7 Crude Oil from oil reservoirs, including residue gas remaining after the extraction
8 of liquid hydrocarbons therefrom.

9
10 (c) "Barrel" means 42 U.S. gallons or 9702 cubic inches at a temperature of sixty
11 degrees Fahrenheit (60°F). Any references in this Act to the value of any Crude
12 Oil at the Market Price shall be construed as a reference to the amount obtained
13 by multiplying the number of Barrels of that Crude Oil by Market Price per Barrel
14 applicable to that Crude Oil.

15
16 (d) "Calendar Year" means a period of twelve (12) consecutive months commencing
17 with January 1 and ending on the following December 31.

18
19 (e) "Casinghead Petroleum Spirit" means any hydrocarbons including condensate,
20 existing in liquid form at a temperature of sixty degrees Fahrenheit (60°F) and at
21 an atmospheric pressure of 14.65 PSIA, which are obtained from Natural Gas at
22 the well head or by separation or by any chemical or physical process or ethane,
23 propane, and butane produced by gas processing.

24
25 (f) "Coal Bed Methane" means natural (hydrocarbon) gas with methane gas as its
26 main component naturally brought about in the coalification process in trapped
27 and absorbed condition in coal and/or coal layers.

28
29 (g) "Coal Bed Methane Contract" means a Contract for the exploration and
30 development of a Coal Bed Methane area under this Act.

31
32 (h) "Contract" or "Service Contract" refers to a contract entered into by the
33 Government and a Contractor in accordance with this Act including any exhibits
34 and attachments.

35
36 (i) "Contract Area" or "Area" means, at any time, the area within the sovereignty or
37 jurisdiction of the Republic of the Philippines which is the subject of a Service
38 Contract.

39
40 (j) "Contractor" means the contractor in a Service Contract whether acting alone or
41 in consortium with others.

42
43 (k) "Contractor Share" shall have the meaning set forth in Section 9(o).

44
45 (l) "Cross Recovery" means that the Operating Expenses incurred by a Deepwater
46 Contractor or its Affiliate in two or more Areas under different Deepwater

1 Contracts and the Operating Expenses it incurred in the drilling of Deepwater
2 Wells may be recovered from the Gross income resulting from the sale of the
3 Petroleum produced within any one or more of the Deepwater Contracts, as if
4 they are covered by a single contract.

5
6 (m) "Crude Oil" or "Crude" means oil in its natural state before the same has been
7 refined or otherwise treated. It does not include oil produced through destructive
8 distillation of coal, bituminous shales or other stratified deposits, either in its
9 natural state or after the extraction of water, and sand or other foreign substances
10 therefrom.

11
12 (n) "Date of Commencement of Commercial Production" means the date of
13 commencement of production of Crude Oil and/or Natural Gas from any Oil Field
14 and Gas Field determined and announced by the Department and the Contractor in
15 accordance with the provisions of the Contract on determination of
16 commerciality, excluding production from an extended well test or drill stem test.

17
18 (o) "Department" means the Department of Energy created under Republic Act No.
19 7638.

20
21 (p) "Department Secretary" means the Secretary of Energy.

22
23 (q) "Deepwater Contract" means a Contract that as of its effective date at least eighty
24 five percent (85%) of the total contract area are in water depths greater than 200
25 meters, notwithstanding any subsequent reduction of the contract area in water
26 depths greater than 200 meters arising from relinquishment or other reduction
27 permitted under the Contract.

28
29 (r) "Deepwater Contractor" means the Contractor in a Deepwater Contract, whether
30 alone or in consortium with others.

31
32 (s) "Deepwater Well" refers to a well drilled on water depths greater than 200 meters.

33
34 (t) "Development Cost" means costs incurred by the Contractor for Development
35 Operations.

36
37 (u) "Development Operations" means operations carried out for the realization of
38 Petroleum production from the date of approval by the Department of the Overall
39 Development Program for any Oil Field and/or Gas Field including design,
40 construction, installation, drilling, and related research work as well as relevant
41 activities carried out before the Date of Commencement of Commercial
42 Production for the realization of Petroleum production.

43
44 (v) "Exploration Cost" means costs incurred by the Contractor for Exploration
45 Operations.

1 (w) "Exploration Operations" means operations carried out for the purpose of
2 discovering Petroleum-bearing traps by means of geological, geophysical,
3 geochemical and other methods including exploratory well drilling; all the work
4 undertaken to determine the commerciality of traps in which Petroleum has been
5 discovered including appraisal well drilling and feasibility studies, formulation of
6 the Overall Development Program; and activities related to all such operations,
7 including any work done prior to approval of the Overall Development Program
8 in an attempt to identify a market for Natural Gas.

9

10 (x) "Exploration Period" shall have the meaning set forth in Section 9(e).

11

12 (y) "Facilities" means all property of every kind, nature and description taken over,
13 appropriated or otherwise acquired under or for the purpose of Petroleum
14 Operations.

15

16 (z) "Filipino Participation Incentive Allowance (FPIA)" means the allowance which
17 may be given a Contractor with Filipino participation as provided in Section 11
18 hereof.

19

20 (aa) "Foreign Exchange" means any currency other than that of the Republic of the
21 Philippines which is freely convertible into gold or currencies eligible to form part
22 of the country's international reserves and is acceptable to the Department and the
23 Contractor.

24

25 (bb) "Gas Field" means an accumulation of gas within the Contract Area composed
26 of one or several overlapping gas bearing zones, within one trap or within
27 associated traps of the same independent geological structure, including gas caps,
28 which may or may not be complicated by faulting, and which has commercial
29 value determined in accordance with the procedures stipulated in the Contract.

30

31 (cc) "Government" means the Government of the Republic of the Philippines.

32

33 (dd) "Government Share" shall have the meaning set forth in Section 9(p) hereof.

34

35 (ee) "Gross Income" means the gross proceeds from the sale, exchange or disposition
36 of Petroleum produced under the Contract and sold or exchanged during the
37 Taxable Year at Posted Price or Market Price, as the case may be, and such other
38 income which are incidental to and arising from one or more of the Petroleum
39 Operations of the Contractor.

40

41 (ff) "Investment Promotion Period" means the period within ten (10) years from the
42 effective date of this Act, which period may be extended by the President for an
43 additional period not exceeding five (5) years.

44

45 (gg) "LNG" means Liquefied Natural Gas.

1 (hh) "Major Contract" means a Service Contract where the Development Cost
2 incurred by the Contractor is not less than [Twenty Billion Pesos
3 (P20,000,000,000.00)].

4
5 (ii) "Market Price" means the price which is or would be realized for Petroleum
6 produced under a Contract if sold in a transaction between independent persons
7 dealing at arm's length in a free market.

8
9 (jj) "Natural Gas" means Non-associated Gas and Associated Gas in their natural
10 state including gas obtained from boreholes and wells and consisting primarily of
11 hydrocarbons.

12
13 (kk) "Net Proceeds" means the difference between (i) Gross Income, and (ii) the sum
14 of the Operating Expenses recoverable and the FPIA, if any.

15
16 (l) "Non-Associated Gas" means all gaseous hydrocarbons produced from gas
17 reservoirs, including wet gas, dry gas and residue gas after the extraction of liquid
18 hydrocarbons from wet gas.

19
20 (mm) "Non-Philippine Contractor" means a Contractor that is (a) not a Philippine
21 Corporation; or (b) a consortium wherein Philippine Corporations hold less than
22 sixty percent (60%) of the participating interest as defined in the joint operating
23 agreement governing the consortium.

24
25 (nn) "Oil Field" means an accumulation of Crude Oil within the Contract Area
26 composed of one or several overlapping oil-bearing zones, within one trap or
27 within associated traps of the same independent geological structure, which may
28 or may not be complicated by faulting, and which has commercial value
29 determined in accordance with the Contract.

30
31 (o) "Oil Field and/or Gas Field Straddling a Boundary" means any Oil Field and/or
32 Gas Field extending beyond the Contract Area.

33
34 (pp) "Operating Cost" means the costs incurred by the Contractor for Production
35 Operations.

36
37 (qq) "Operating Expenses" means the total expenditures incurred by Contractor
38 within and outside the Philippines in all Petroleum Operations performed in
39 accordance with or pursuant to the Contract. These expenses shall include but are
40 not necessarily limited to, the cost of seismic surveys, reprocessing and special
41 processing of seismic data, geological and geophysical studies, drilling, equipping
42 and completing wells, engineering studies, construction of well platforms and
43 tank batteries, flowline systems and terminals, the cost of operating and
44 maintaining all such facilities including general and administrative costs and
45 expenses, and home office overhead and service fees, in accordance with the
46 applicable accounting procedure of the Contract. Operating Expenses shall also

1 include, but are not necessarily limited to, charges relating to lifting,
2 transportation, storage, handling, and sale of Petroleum, whether for export or
3 domestic consumption, and interest and financing charges incurred to fund
4 Development Operations and Production Operations. In the recovery of Operating
5 Expenses, the first to be recovered shall be the Operating Cost followed by the
6 Exploration Cost and then the Development Cost.

7

8 (rr)“Overall Development Program” means a plan prepared by the Contractor for the
9 development of an Oil Field and/or Gas Field and approved by the Department
10 and such plans shall include, but shall not be limited to, recoverable reserves, the
11 development well pattern, master design, production profile, economic analysis
12 and time schedule of the Development Operations, abandonment and
13 decommissioning.

14

15 (ss)“Petroleum” means any Crude Oil or mineral oil, Natural Gas or hydrocarbon gas,
16 Coal Bed Methane, condensate, Casinghead Petroleum Spirit, bitumen, asphalt,
17 mineral gas, and all other similar or naturally associated substances with the
18 exception of coal, peat, bituminous shale and/or stratified mineral fuel deposits.

19

20 (tt)“Petroleum In Commercial Quantity” means Petroleum in such quantities which
21 will permit its being economically developed, either on its own or in combination
22 with other existing and/or future discoveries of Petroleum, as determined by the
23 Contractor and approved by the Department after taking into consideration the
24 location of the Petroleum reserves, the depths and number of wells required to be
25 drilled, and the transport and terminal facilities needed to utilize the Petroleum
26 which has been discovered.

27

28 (uu) “Petroleum Operations” means searching for and obtaining Petroleum within the
29 Philippines through drilling and natural flow or suction or the like, and all other
30 operations incidental thereto. It includes the treatment, processing, transportation
31 (including transportation by pipeline), storage, handling and sale (whether for
32 export or domestic consumption) of Petroleum so obtained but does not include
33 any: (i) transportation of Petroleum outside the Philippines; (ii) processing or
34 refining of Crude Oil at a refinery; or (iii) any transaction in the Crude Oil
35 products so refined. It includes transportation of Petroleum up to delivery point to
36 the buyer(s) thereof, and the facilities upstream of said delivery point(s) for the
37 extraction of such Petroleum as described in the applicable Overall Development
38 Plan. Subject to the approval of the Department and to terms as may be agreed
39 between the Government and the Contractor, such Contractor may construct,
40 install and operate facilities (whether offshore and/or onshore) to process the
41 Natural Gas from the Contract Area into LNG, and to store, transport, dispose
42 and/or export such LNG, as part of Petroleum Operations.

43

44 (vv) “Philippine Contractor” means a Contractor that is a Philippine Corporation or a
45 consortium wherein Philippine Corporations hold at least sixty percent (60%) of

1 the participating interest as defined in the joint operating agreement governing the
2 consortium.

3
4 (ww) "Philippine Corporation" means a corporation organized and existing under
5 Philippine laws at least sixty percent (60%) of the capital of which is owned and
6 held by Filipino citizens and/or other Philippine Corporations.

7
8 (xx) "Philippine Income Tax" means all taxes imposed by the National Internal
9 Revenue Code of the Philippines or equivalent legislation, as may be amended
10 from time to time, upon taxable corporate income, including withholding taxes on
11 dividends and distribution or remittances or profit to Contractor's parent company
12 or companies, or to Contractor's head office if the Contractor is a branch of a
13 foreign company, or to Contractor's shareholders.

14
15 (yy) "Posted Price" means that Free on Board (FOB) price established by Contractor
16 and the Department for each grade, specific gravity, and quality of Crude Oil
17 offered for sale to buyers generally for export at the particular point of export,
18 which price shall be based upon geographical location and the fair market export
19 values for Crude Oil of comparable grade, specific gravity, quality and quantity.

20
21 (zz) "President" means the President of the Philippines.

22
23 (aaa) "Production Area" means that portion or portions of the Contract Area where
24 reservoirs containing Petroleum In Commercial Quantity are delineated by
25 Contractor with the approval of the Department

26
27 (bbb) "Production Operations" means operations and all activities related thereto
28 carried out for producing Petroleum from an Oil Field and/or Gas Field from the
29 Date of Commencement of Commercial Production including but not limited to
30 extraction, injection, stimulation, treatment, storage, transportation, and lifting.

31
32 (ccc) "Special Purpose Vessel" means a vessel hat is used for offshore Petroleum
33 Operations including but not limited to: drilling operations; seismic, geophysical,
34 geochemical, oceanographic and similar surveys; survey; supply, anchor or hose
35 handling, pipe or cable laying; offshore construction, installation, commissioning
36 and hook-up; heavy lifting; dredging and rock placement; pipeline and subsea
37 facilities inspection and maintenance; floating accommodation, floating storage;
38 floating production storage and offloading; fire-fighting, search and rescue; and
39 oil spill control and response.

40
41 (ddd) "Sub-Contractor" means an individual or entity that directly or indirectly
42 provides goods and services required for Petroleum Operations including the
43 related subcontractors at whatever tier;

44
45 (eee) "Taxable Net Income" shall have the meaning set forth in Section 6 hereof.
46

1 (fff) "Taxable Year" means the calendar or fiscal year of the Contractor
2

3 **SECTION 4. Government May Undertake Petroleum exploration and production.**
4 Subject to existing private rights, the Government may directly explore for and produce
5 indigenous Petroleum. It may also indirectly undertake the same under Service Contracts
6 as hereafter provided. These Contracts may cover onshore or offshore areas or a
7 combination of both provided that each Contract Area shall as much as practicable be
8 contiguous. In every case, the Contractor must be technically competent and financially
9 capable as determined by the Department to undertake the Petroleum Operations required
10 in the Contract. In the context of Section 2, Article XII of the 1987 Constitution
11 regarding the large-scale exploration, development and utilization of petroleum
12 resources, Non-Philippine Contractors are qualified to enter into Service Contracts
13 provided that the work commitment for all of the phases comprising the Exploration
14 Period, including but not limited to the acquisition of seismic data and the drilling of
15 exploratory and/or appraisal well(s), shall not be less than One Billion Pesos
16 (P1,000,000,000.00).

17
18 **SECTION 5. Execution of the Contract authorized in this Act.** A Contract authorized in
19 this Act shall be executed as follows:

- 20
- 21 (a) If the Contract is with a Non-Philippine Contractor, then the Contract shall be
22 entered into on behalf of the Government by the President, upon the
23 recommendation of the Department.
- 24
- 25 (b) If the Contract is with a Philippine Contractor, the Contract shall be entered into
26 on behalf of the Government by (i) the President, or (ii) by the Department
27 Secretary, subject to the approval of the President, *Provided*, That if there are
28 assignments of the participating interest that result in the Contractor being
29 deemed a non-Philippine Contractor then such Contract shall be re-executed by
30 the President upon the recommendation of the Department.
- 31
- 32 (c) The President shall notify Congress of every Contract entered into within thirty
33 (30) days from the execution thereof.
- 34
- 35 (d) A Contract under this Act shall be executed after due public notice and pre-
36 qualification and may be awarded through public bidding or concluded through
37 negotiations. In case bids are requested and no bid is submitted, or the bids are
38 rejected by the Department for being disadvantageous to the Government, the
39 Contract may be concluded through negotiations.
- 40
- 41 (e) In opening Contract Areas and in selecting the best offers and proposals for
42 Petroleum Operations the Department may use any of the following methods: (i)
43 conduct a public bidding for a specific area(s) on the basis of defined criteria; or
44 (ii) conduction negotiation for a specific area(s) previously offered by the
45 Department but for which there has been insufficient interest to warrant a public
46 bidding. Any activities related to the implementation of Section 5(b) of this Act

1 shall be given the widest publicity in and outside the Philippines. The Department
2 shall publish model contracts and announce at least three (3) months in advance
3 any intention to offer areas for bidding to include the evaluation criteria to be
4 applied and the respective weights to be given for each criterion.³
5

6 **SECTION 6.** *Nature of Service Contract.* In a Service Contract:

- 7
- 8 (a) The Government grants the Contractor the exclusive right to explore and develop
9 any Petroleum within the Contract Area.
- 10
- 11 (b) The Contractor provides the necessary financing, technology and service to
12 conduct Petroleum Operations and assumes all exploration risk for which it shall
13 be entitled to recover Operating Expenses and to be paid a service fee from the
14 Petroleum produced under the Contract; and
- 15
- 16 (c) The government receives a stipulated share of the Net Proceeds from the
17 Petroleum produced under the Contract.

18 **SECTION 7.** *Provisions of Service Contract.* The provisions of each Contract shall
19 include but is not limited to the following: term, exclusion or relinquishment of areas,
20 minimum work commitment and expenditure, obligations and rights of the Contractor,
21 work program and budget, declaration of commerciality, cost recovery and accounting,
22 sale and disposal of Petroleum, pricing of Petroleum sold or disposed, income tax,
23 payments, natural gas, submission of data and reports, assets and equipment, consultation
24 and arbitration, incentives for Filipino participation, employment and training of
25 Filipinos, preferential use of local goods and services, books of account and audit,
26 insurance, confidentiality, assignments, health environmental protection and safety, and
27 termination.

28 **SECTION 8.** *Obligation of the Contractor.* The Contractor shall undertake manage and
29 execute Petroleum Operations under the full control and supervision of the Government,
30 through the Department. The Contract may authorize the Contractor to take and dispose
31 of and market either domestically or for export all Petroleum produced under the
32 Contract subject to supplying the domestic requirements of the Republic of the
33 Philippines on a *pro-rata* basis. The Government shall oversee the management of the
34 operations contemplated in the contract and in this connection shall require the
35 Contractor to:

- 36
- 37 (a) Provide the necessary services and technology;
- 38
- 39 (b) Provide the requisite financing;
- 40
- 41 (c) Perform the exploration work obligations and program prescribed in the Contract,
42 which may be more but shall not be less than the obligations prescribed in this
43 Act;
- 44
- 45

³See Section 6 and 7, House Bill No. 3019, Oil and Gas Act of 2004

- (d) Once Petroleum in Commercial Quality is discovered, operate the field on behalf of the Government in accordance with accepted good oil field practice using modern and scientific methods to enable maximum economic production of petroleum; avoiding hazards to life, health and property; avoiding pollution of air, land and waters; and pursuant to an efficient and economic program of operation;
 - (e) Assume all exploration risks such that if no Petroleum in Commercial Quantity is discovered and produced, it will not be entitled to reimbursement from the Government, subject to any applicable Cross Recovery;
 - (f) Furnish the Department promptly with geological and other information, data and reports which it may require;
 - (g) Maintain detailed technical records and accounts of its operations;
 - (h) Conform to regulations regarding, among others safety, demarcation of Contract Areas, and non-interference with the rights of other petroleum, mineral and natural resources operators;
 - (i) Maintain all meters and measuring equipment in good order and allow access to these as well as to the exploration and production sites and operations to inspectors authorized by the Department;
 - (j) Allow examiners of the Bureau of Internal Revenue and other representatives authorized by the Department full access to their accounts, books and records, for tax and other fiscal purposes;
 - (k) Be subject to Philippine Income Tax;
 - (l) After commercial production of Petroleum commences in the Contract Area, to supply from Contractor's and Government's shares in such production, a portion of the domestic requirements of the Philippines on a *pro-rata* basis, which portion shall be offered for sale at Market Price, and shall be determined as follows: in respect of each year, by multiplying the total quantity of Petroleum produced from the Contract Area to the entire Philippine production of Petroleum, *Provided*, that the Contractor subject to the approval of the Department, which shall not be unreasonably withheld, shall be entitled to export such Petroleum if domestic buyers are not willing or are otherwise unable to timely purchase the Petroleum or to timely pay the Market Price therefore.

On the other hand the Department shall:

1. Reimburse the Contractor for all Operating Expenses not exceeding the percentage of the Gross Income as provided in Section 9 (l) hereof; *Provided*, That if in any year the Operating Expenses exceeds the allowable percentage of

1 Gross Income then the unrecovered Operating Expenses shall be recovered from
2 the Gross Income of succeeding years.

- 3
- 4 2. Grant the Contractor a Filipino Participation Incentive Allowance (FPIA) and
5 Cross-Recovery, if applicable, and a service fee as provided in Section 9 (n)
6 hereof.

7

8 Reimbursement of Operating Expenses and payment of the FPIA, Cross-Recovery and
9 the service fee shall be in such form and manner as provided in the Contract.

10

11 **SECTION 9. Minimum Terms and Conditions.** In additions to those elsewhere provided
12 in this Act, every Contract executed in pursuance hereof shall contain the following
13 minimum terms and conditions:

- 14
- 15 a) Every Contractor shall be obliged to spend in direct prosecution of exploration
16 work and in delineation and development following the discovery of Petroleum in
17 Commercial Quantity not less than the amounts provided for in the Contract
18 between the Government and the Contractor and these amounts shall not be less
19 than the total obtained by multiplying the number of hectares covered by the
20 Contract by the following amounts per hectare:

<u>PERIOD</u>	<u>ONSHORE</u>	<u>OFFSHORE</u>
Year 1	P 15.00	P 15.00
Year 2	15.00	15.00
Year 3	15.00	30.00
Year 4	15.00	30.00
Year 5	15.00	30.00
Year 6	45.00	90.00
Year 7	45.00	90.00
Year 8	45.00	90.00
Year 9	45.00	90.00
Year 10	45.00	90.00

- 34
- 35 b) *Provided*, That if during any Contract year the Contractor shall spend more than
36 the amount of money required to be spent, the excess may be credited against the
37 money required to be spent by the Contractor during the succeeding years;
38 *Provided*, further, That in case the same Contractor holds two or more areas under
39 different Contracts, the total amount of work obligations for exploration required
40 for in the initial term of all such Contracts may be spent within any one or more
41 of them as if they are covered by a single Contract; *Provided*, That should the
42 Contractor fail to comply with the work obligations provided for in the Contract,
43 it shall pay the Government the amount it should have spent but did not in direct
44 prosecution of its work obligations. In case the Contractor renounces or abandons
45 wholly or partly the area covered by the Contract within two years from its
46 effectivity date, it should in respect of the abandoned area pay the Government

1 the amount it should have spent, but did not, for exploration work during said two
2 (2) years, for which payment, among other obligations, the performance guarantee
3 posted by the contractor shall be answerable.

- 4
- 5 c) Every Contract shall provide for the compulsory relinquishment of at least
6 twenty-five percent (25%) of the initial area at the end of five years from its
7 effective date and in the event of an extension of the Contract from seven to ten
8 years, an additional relinquishment of at least twenty-five percent (25%) of the
9 initial area at the end of seven years from its effective date. Any portion of the
10 Contract Area already delineated as a Production Area shall not be taken into
11 account in ascertaining the extent of relinquishment required. Any area renounced
12 or abandoned under Section 9(b) above shall be credited against the portion of the
13 area subject to the Contract which is required to be surrendered hereunder.
- 14
- 15 d) The Contractor shall, after the discovery of Petroleum in Commercial Quantity,
16 delineate the Production Area within the period agreed upon in the Contract.
- 17
- 18 e) The Exploration Period under every Contract shall be seven (7) years which may
19 consist of sub-phases as defined in the Contract, extendible for three (3) years if
20 the Contractor has not been in default in its exploration work obligations and
21 other obligations after which the Contract shall lapse, unless Petroleum has been
22 discovered by the end of tenth year and the Contractor request a further extension
23 of one year to determine whether it is in commercial quantity in which event,
24 another extension of one year for exploration may be granted. If Petroleum in
25 Commercial Quantity has been discovered, the Contractor may retain after the
26 Exploration Period and during the effectiveness of the Contract twelve and one-half
27 percent (12.5%) of the initial area in addition to the delineated Production Area:
28 *Provided*, however, That the Contractor shall pay annual rentals on such retained
29 area which shall not be less than fifty pesos (P50.00) per hectare or fraction
30 thereof for onshore areas and not less than one hundred pesos (P100.00) as
31 determined by the Department per hectare or fraction thereof for offshore areas;
32 *Provided*, further That such rentals can be offset against exploration expenditures
33 actually spent on such area.
- 34
- 35 f) Where Petroleum in Commercial Quantity is discovered during the Exploration
36 Period in any area covered by the Contract, the Contract with respect to said area
37 shall remain in force for production purposes during the balance of the ten (10)
38 year Exploration Period and for an additional period of twenty-five (25) years,
39 thereafter renewable for a period not exceeding fifteen years (15) years under
40 such terms and conditions as may be agreed upon by the Government and the
41 Contractor at the time of renewal.
- 42
- 43 g) Other than assets leased from third parties, the Contractor shall own the materials
44 equipment, plants and other installations purchased, installed and/or constructed
45 for the Petroleum Operations, whether such assets are movable or immovable in
46 nature, and whether located within or outside of the Contract Area. The

1 Contractor shall transfer possession and ownership of fully cost recovered assets,
2 as is, upon termination of the Contract or within the period agreed by the
3 Government and the Contractor, *Provided*, that in case the Department does not
4 elect to possess certain assets which have been fully cost recovered, the
5 Contractor shall to the extent required under the Overall Development Plan
6 remove or dispose the relevant assets within one year from the termination of the
7 Contract, or within the period agreed by the Government and the Contractor,
8 *Provided*, further that the Contractor shall have the right to continue to use the
9 aforementioned assets until it has concluded its use of them in accordance with
10 obligations under the Contract.

- 11
- 12 h) The Contractor shall be responsible for the decommissioning of the Facilities and
13 as part of the Overall Development Program the Contractor shall define a
14 decommissioning plan as well as a process to determine provisions for future
15 abandonment costs. In respect of Facilities locate offshore the means and methods
16 of decommissioning shall be consistent with Article 60(3) of the 1982 United
17 Nations Convention on the Law of the Sea and the "Guidelines and Standards for
18 the Removal of Offshore Installations and Structures on the Continental Shelf and
19 in the Exclusive Economic Zone" issued in 1989 by the International Maritime
20 Organization. The decommissioning plan shall incorporate the following
21 principles: (i) the decommissioning plan shall make provision for the cost of
22 decommissioning; (ii) the Contract may provide for the creation of a
23 decommissioning fund; (iii) costs incurred by the Contractor for decommissioning
24 including payments to the decommissioning fund shall be cost recoverable; (iv)
25 the Contractor may be required to provide security to ensure compliance with its
26 decommissioning obligations; and (v) the Department may elect to take over the
27 Facilities in which event the decommissioning fund shall be transferred to the
28 Department and the Contractor shall be relieved of any further liability for
29 decommissioning the Facilities.
- 30
- 31 i) The Contractor shall be subject to the provisions of laws of general application
32 relating to labor, health, safety and ecology insofar as they are not in conflict with
33 the provisions otherwise contained in this Act. The Contractor shall be
34 responsible to take measures to manage the health, safety and environmental risks
35 arising from the conduct of Petroleum Operations, and should have the ability to
36 prevent and respond to critical events.
- 37
- 38 j) Every Contract executed in pursuance of this Act shall contain provisions
39 regarding the discovery, production, sale and disposal of Natural Gas and
40 Casinghead Petroleum Spirit that shall be in line with the rules herein prescribed
41 for Crude Oil except that; (1) the Market Price shall be the basis for tax and all
42 other purposes; and (2) after meeting any requirements in secondary recovery
43 operations priority shall be given to supplying proactive demand in the
44 Philippines
- 45

- 1 k) A Contractor shall be exempt from all national and local taxes, except Philippine
2 Income Tax.
- 3
- 4 l) In each Calendar Year, the Contractor shall recover from the Gross Income an
5 amount equal to all unrecovered Operating Expenses; *Provided*, that the amount
6 so recovered shall not exceed eighty percent (80%) of the Gross Income in any
7 Calendar Year; *Provided further*, that if in any Calendar Year, the unrecovered
8 Operating Expenses exceed eighty percent (80%) of the Gross Income, or there is
9 no Gross Income, then the unrecovered Operating Expenses shall be recovered
10 from the Gross Income in the succeeding Calendar Year(s); *Provided further*, that
11 after the first three Calendar Years of commercial production the percentage of
12 Operating Expenses that can be recovered from Gross Income shall be reduced to
13 seventy percent (70%). Reimbursement of the Contractor's Operating Expenses
14 includes amortization, depreciation and interest as provided hereunder. In the
15 recovery of Operating Expenses, the first to be recovered shall be the Operating
16 Cost followed by the Exploration cost then the Development Cost. Tangible
17 Exploration Costs such as capital assets may, at the option of Contractor, be
18 depreciated for a period of three (3) years under the straight line or double
19 declining method. Intangible Exploration Costs may be recovered in full during
20 the Calendar Year they are incurred.
- 21
- 22 m) Cross-Recovery of Operating Expenses set forth in this section shall be allowed
23 for Deepwater Contracts that become effective during the Investment Promotion
24 Period. A Deepwater Contractor shall be entitled to Cross Recovery of the
25 Operating Expenses (including but not limited to the drilling of Deepwater Wells)
26 incurred in two or more Areas under different Deepwater Contracts, as if they are
27 covered by a single Contract. Operating Expenses incurred by a Deepwater
28 Contractor before the Date of Commencement of Commercial Production shall be
29 cross-recoverable starting on the said date. The following shall be cross-
30 recoverable: (i) the entire amount of Operating Expenses incurred within ten (10)
31 years before the Date of Commencement of Commercial Production; and (ii)
32 Operating Expenses incurred more than ten (10) years before the Date of
33 Commencement of Commercial Production shall be reduced by an amount equal
34 to twenty percent (20%) for each year beyond ten (10) years before the Date of
35 Commencement of Commercial Production. Operating Expenses of Deepwater
36 Contracts under this Act may be cross-recovered from the gross income of a
37 service contract executed under Presidential Decree No. 87 which meets the
38 definition of a Deepwater Contract. If the Contractor is a consortium then Cross
39 Recovery shall apply *mutatis mutandis* to a member of consortium holding an
40 interest in two or more Areas under different Deepwater Contracts. The manner
41 for claiming, computing, and paying *Cross Recovery* shall be stipulated in the
42 Contract.
- 43
- 44 n) The Contractor's service fee shall be equal to forty percent (40%) of the Net
45 Proceeds from Petroleum Operations during a Calendar Year ("Contractor
46 Share"), *Provided*, that in the case of a Deepwater Contract or Major Contract that

becomes effective during the Investment Promotion Period the Contractor's service fee shall be equal to fifty percent (50%) of the Net Proceeds. The Contractor shall have the right and privilege of receiving the Contractor's service fee in kind as Contractor's share of the Petroleum produced, saved and sold from the Contract Area. The Secretary may authorize the Contractor to market the Government share of Petroleum together with the Contractor's share which sale shall be exempt from any law rules or regulations requiring public bidding, *Provided*, that the selling price shall not be less than the Market Price.

- o) The Government shall be entitled to receive sixty percent (60%) of the Net Proceeds from Petroleum Operations during a Calendar Year (“Government Share”), *Provided*, that in case of a Deepwater Contract or Major Contract that becomes effective during the Investment Promotion Period the Government Share shall be equal to fifty percent (50%) of the Net Proceeds.

SECTION 10. *Contract Areas.* A Contractor or its Affiliate may enter into one or more Contracts with the Government. Contracts for offshore areas may cover *any portion* beneath the Philippine territorial waters or its continental shelf, or portion of the continental slope, terrace or areas which are or may be subject to Philippine jurisdiction; *Provided*, That for Deepwater Contracts, the Department may provide for more liberal terms than provided for herein with respect to contract area, exploration period and relinquishment. No individual Contract shall cover less than fifty thousand (50,000) nor more than seven hundred and fifty thousand (750,000) hectares for onshore areas, or less than eighty thousand (80,000) nor more than one million five hundred thousand (1,500,000) hectares for offshore areas.

SECTION 11. Filipino Participation Incentive Allowance. If the Contractor is a consortium in which Philippine Corporations have an aggregate participating interest of at least fifteen percent (15%), the Government may grant the Contractor an allowance commensurate with the scope of Filipino participation, not exceeding seven and one half percent (7.5%) of the Gross Income.

SECTION 12. *Transfer and Assignment.* The rights and obligations under a Contract executed under this Act shall not be assigned or transferred without the prior approval of the Department; *Provided*, That with respect to the transfer or assignment of contractual rights and obligations under this Act to an Affiliate of the transferor, the approval thereof by the Department shall be automatic, if the transferee is as qualified as the transferor to enter into such contract with the Government.

SECTION 13. *Privileges of Contractor.* The provisions of any law to the contrary notwithstanding, a Contract executed under this Act shall provide that the Contractor shall have the following privileges:

- a) Exemption from all national and local taxes (including real property tax), except Philippine Income Tax;

- b) Exemption from payment of all levies, tariffs, duties, compensating tax and value added tax on the importation into the Philippines of all machinery, equipment, spare parts and all materials required for, and to be used exclusively by the Contractor or its Sub-Contractor in Petroleum Operations, subject to the following conditions: (i) that said machinery, equipment, spare parts and materials of comparable price, quality and quantity are not manufactured domestically nor readily available to Contractor or its Sub-Contractor(s) within the same or better time frame; and (ii) said machinery, equipment, spare parts and materials are directly and actually needed and will be used exclusively by the Contractor or Sub-Contractor for Petroleum Operations and are covered by shipping documents in the name of the Contractor to whom the shipment will be delivered directly by the customs authorities; and (iii) the prior approval of the Department was obtained by the Contractor before the importation of such machinery, equipment, spare parts and materials which approval shall not be unreasonably withheld; *Provided*, however, if the Contractor or its Sub-Contractor(s) sell, transfer or dispose of such machinery, equipment, spare parts and materials in the Philippines without the prior approval of the Department the Contractor shall pay twice the amount of tax exemption granted on the item sold, transferred or disposed; *Provided* finally, that the Department shall allow and approve sale, transfer, or disposition of the said items without tax if made (1) to another Contractor; (2) for reasons of technical obsolescence; or (3) for purposes of replacement to improve and/or expand the Petroleum Operations of the Contractor;
 - c) Exemption from the posting of a performance or surety bond during the period of Production Operations under the Contract;
 - d) Exemption upon approval by the Department from laws, regulations and/or ordinances restricting (1) the construction, installation and operation of power plants for the exclusive use of the Contractor if no local enterprise can supply within a reasonable period and at reasonable cost the power needed by the Contractor in its petroleum operations, and (2) the exportation of machinery, equipment, spare parts and materials which were imported solely for the Contractor's Petroleum Operations when no longer needed therefore;
 - e) Exemption from publication requirements under Republic Act No. 5455 otherwise known as the "Foreign Business Regulation Act";
 - f) Exemption from the investment requirements of foreign corporations under Section 126 in relation to Section 148 of the Corporation Code of the Philippines;
 - g) Exportation of Petroleum subject to the obligation to supply a portion of domestic requirements as provided in Section 7(l);
 - h) Entry, upon the sole approval of the Department which shall not be unreasonably withheld, of foreign nationals for technical and specialized positions (including

their spouses and unmarried children below twenty one (21) years of age), who may exercise their professions solely for the operations of the Contractor as prescribed in its Contract with the Government under this Act; *Provided*, That if the employment or connection of any such foreign national with the Contractor or Sub-Contractor ceases, the applicable laws and regulations on immigration shall apply to said foreign national and the members of the family; *Provided, further* That Filipinos shall be given preference to positions for which they have adequate training and experience; and *Provided*, finally, That the Contractor shall adopt and implement a program for providing technology transfer and specialized technical training to Filipinos. Foreign nationals within the purview of this provision, who are not excluded by Section 29 of Commonwealth Act No. 613, as amended, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals. They shall be entitled to a multiple entry visa, valid for a period of three years (or if the employment is for a period less than three years, then for the duration of employment), and shall be allowed to enter and leave the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports. The validity of the multiple entry visa shall be extendible yearly. The said foreign nationals admitted under this provision, as well as their respective spouses and dependents shall be exempt from: (a) obtaining alien certificates of registration and immigration clearance certificates; and (b) securing the Alien Employment Permit (AEP) and all types of clearances, permits, licenses or their equivalents required by any government department or agency; and

- i) Rights and obligations in any Contract concluded pursuant to this Act shall be deemed as essential considerations for the Contract and shall not be unilaterally changed or impaired.

SECTION 14. *Repatriation of capital and retention of profits abroad.* The Contractor shall be entitled to: (1) repatriate over a reasonable period the capital investment and all costs and expenses actually spent on or brought into the country in Foreign Exchange or other assets and registered with the Bangko Sentral ng Pilipinas; (2) retain abroad all Foreign Exchange representing proceeds arising from exports accruing to the Contractor over and above (a) the Foreign Exchange to be converted into Pesos in an amount sufficient to cover the costs of the Petroleum Operations payable in Philippine currency; and (b) revenues due the Government from such Petroleum Operations; *Provided*, however, That the Government and the Contractor shall stipulate in the Contract the currency in which the Government revenues arising under (b) above are to be paid; (3) convert into Foreign Exchange and remit abroad at prevailing rates no less favorable to Contractor than those available to any other purchaser of Foreign Exchange, any excess balances of their Philippine currency earnings from Petroleum production and sale over and above the current working balance they require, and (4) convert Foreign Exchange into Philippine Currency for all purposes in connection with its petroleum operations at prevailing rates no less favorable to contractor than those available to any other purchaser of such currency.

1 **SECTION 15.** *Arbitration.* The Department may stipulate in a Contract that disputes in
2 the implementation thereof between the Government and the Contractor may be settled in
3 accordance with generally accepted international arbitration practice.

4

5 **SECTION 16.** *Performance Guarantee.* The Contract may require the posting of a bond
6 or other guarantee of sufficient amount in favor of the Government and with surety or
7 sureties satisfactory to the Department, conditioned upon the faithful performance by the
8 Contractor of any or all of the obligations under the Contract.

9

10 **SECTION 17.** *Implementing Agency and Inter-Agency Committee.* The Department of
11 Energy is designated as the implementing agency of this Act.

- 12
- 13 a) Inter-agency committee on vessel, customs, immigration and quarantine clearance
14 – To ensure a unified and coordinated effort among the Government agencies
15 involved in vessel, customs, immigration and quarantine clearance in relation to
16 the conduct of Petroleum Operations, and to expedite the entry and/or exit of the
17 required vessels, machinery, equipment, materials and spare parts, an inter-agency
18 committee is hereby created composed of the representatives of the Department
19 (Chair), the Department of Finance (Vice-Chair), the Bureau of Customs, the
20 Bureau of Immigration, the Philippine Coast Guard, and the National Quarantine
21 Office.
- 22
- 23 b) Inter-agency committee on work permits and visas – To ensure a unified and
24 coordinated effort among the relevant Government agencies, and to expedite the
25 entry and/or exit of foreign nationals required for the conduct of Petroleum
26 Operations, an inter-agency committee is hereby created composed of the
27 representatives of the Department (Chair), the Department of Foreign Affairs
28 (Vice-Chair), the Bureau of Immigration, and the Department of Labor and
29 Employment.
- 30
- 31 c) Additional inter-agency committees – The Department may establish such other
32 inter-agency committees as may be required to facilitate the implementation of
33 this Act and to facilitate cooperation and the sharing of resources and information
34 among the relevant Government agencies.
- 35
- 36 d) The Department shall have the power to reorganize the inter-agencies created
37 pursuant to this section as may be required from time to time.

38

39 **SECTION 18.** *Powers and Functions.* In addition to the powers and functions of the
40 Department under Republic Act No. 7638, the Department shall:

- 41
- 42 a) Promulgate and issue rules and regulations implementing the provisions of the
43 Act;

- 1 b) Prescribe appropriate forms, documentary requirements, and fees for the
2 processing of applications or the provision of administrative services under the
3 Act;
- 4
- 5 c) Define areas that are available for Contracts and to give wide publicity to any
6 notice or invitation to bid for such Contracts consistent with the best interest of
7 the Government;
- 8
- 9 d) Conduct investment promotion programs for domestic and international investors
10 in coordination with the Department of Trade and Industry;
- 11
- 12 e) Provide Contractors and potential investors with updated information and
13 authoritative resources regarding the permits, approvals and other requirements
14 for investments under this Act and for conducting Petroleum Operations;
- 15
- 16 f) Establish a One Stop Shop Center for the purpose of facilitating the registration,
17 licensing or issuing of permits to investors under this Act, in coordination with the
18 appropriate Government agencies;
- 19
- 20 g) Enter into Contracts, or recommend to the President to enter into Contracts, as the
21 case may be, with such terms and conditions as may be appropriate under the
22 circumstances;
- 23
- 24 h) Provide for the manner and form of the payment of Philippine Income Tax, the
25 reimbursement of Operating Expenses, Cross-Recovery, the payment of the
26 Government Share and Contractor's service fee, and other payments pursuant to
27 the applicable Contract;
- 28
- 29 i) Act as the repository of the applications, notices, approvals, Contracts, reports,
30 submissions and other pertinent documents and information related to the
31 implementation of this Act;
- 32
- 33 j) Provide the public with information on the award and status of Contracts, the
34 operational and financial performance of Contractors, major projects approved by
35 the Department, and the revenues generated for the Government;
- 36
- 37 k) Conduct programs to control marine pollution from offshore Petroleum
38 Operations and to establish and maintain emergency response capabilities, in
39 coordination with the Philippine Coast Guard and the Department of Environment
40 and Natural Resources;
- 41
- 42 l) Conduct development programs (directly or through a Contractor or other party)
43 benefit communities in areas, or adjacent to areas, where Petroleum Operations
44 are conducted, in coordination with the relevant Contractors and local government
45 units;
- 46

- m) Conduct regular and special meetings with concerned Government agencies (including local government units) as may be required to achieve the objectives of the Act, to reduce bureaucratic red tape, to simplify and standardize permit requirements and procedures, to resolve any inter-agency issues, and to facilitate the efficient conduct of Petroleum Operations;
 - n) Prescribe rules and regulations for: (i) the services that may be rendered by Government personnel (including but not limited to customs, immigration, quarantine and vessel clearance in support of offshore Petroleum Operations) involving special arrangements due to the remote location or difficulty of access to the area where the presence of Government personnel is required; (ii) the provision by the Contractor or other party of any required training, transportation, meals, accommodation, personal protective equipment, or other assistance; and (iii) the payment by the Department or the relevant Government agency of reasonable allowances to the aforesaid Government personnel in view of travel required, extended or irregular working hours, or exposure to hazards, and the manner of funding such allowances;
 - o) Submit an annual report to the President and Congress on the activities and the accomplishments of the Department to implement the Act; and
 - p) Perform such other functions and responsibilities as may be directed by the President and to exercise all powers necessary or incidental to attain the objectives of this Act.

SECTION 19. *Imposition of Tax.* The Contractor shall be liable each Taxable Year for the Philippine Income Tax under the provisions of the National Internal Revenue Code and this Act. The Philippine Income tax shall be part of the Government Share.

SECTION 20. *Taxable Net Income.* The Taxable Net Income shall be equivalent to the Contractor Share grossed-up for the amount of Philippine Income Tax.

SECTION 21. *Tax return.* Each corporation comprising the Contractor shall render to the Department a return for each Taxable Year in duplicate in such form and manner as provided by Philippine laws setting forth its Taxable Net Income. The Department shall file the returns with the Commissioner of Internal Revenue or his deputies or other persons authorized to receive such return within the period specified in the National Internal Revenue Code and the Rules and Regulations promulgated thereunder.

SECTION 22. *Payment of tax.* The Department shall, on behalf of each corporation comprising Contractor, pay from the Government Share of the Net Proceeds and separately remit to the Bureau of Internal Revenue, all Philippine Income Tax based on income or profit derived from Petroleum Operations under the Contract. The Department shall separately remit such Philippine Income Tax to, and obtain separate official receipts acknowledging payment of said taxes from, the proper Government authority. The Department shall furnish to each of the corporations comprising the Contractor their

1 respective official receipts issued in their names. The Contractor's liability for Philippine
2 Income Tax in any Taxable Year shall not exceed the Government Share, and the
3 Contractor shall not be liable for the payment of any Philippine Income Tax in excess of
4 the Government Share.

5
6 **SECTION 23. Final income tax on Sub-Contractors.** Every Sub-Contractor, whether
7 domestic or foreign, entering into a contract with a Contractor engaged in Petroleum
8 Operations in the Philippines shall be liable to a final income tax equivalent to eight
9 percent (8%) of its gross income derived from such contract, such tax to be in lieu of any
10 and all taxes, whether national or local: *Provided, however,* that any income received
11 from all other sources within and without the Philippines in the case of domestic Sub-
12 Contractors and within the Philippines in the case of foreign Sub-Contractors shall be
13 subject to the regular income tax imposed under the National Internal Revenue Code. The
14 term "gross income" means all income earned or received as a result of the contract
15 entered into by the subcontractor with a service contractor engaged in petroleum
16 operations in the Philippines under this Act.

17
18 **SECTION 24. Taxation of foreign nationals employed by Contractors and Sub-
19 Contractors.** Foreign nationals who are permanent residents of a foreign country but who
20 are employed and assigned in the Philippines by Contractors or by Sub-Contractors
21 engaged in Petroleum Operations in the Philippines, shall be liable to a final income tax
22 equal to fifteen percent (15%) of the salaries, wages, annuities, compensations,
23 remunerations and emoluments received from such contractors or subcontractors. Any
24 income earned from all other sources within the Philippines by the said alien employees
25 shall be subject to the income tax imposed under the National Internal Revenue Code.

26
27 **SECTION 25. Withholding of certain taxes.** (a) Every Contractor shall deduct, withhold,
28 and pay the tax imposed under Section 23 from the amounts paid by Contractor to the
29 Sub-Contractor under the contract entered into by and between them in the same manner
30 and subject to the same conditions as provided in Section 26 of the National Internal
31 Revenue Code. (b) Every Contractor shall also deduct, withhold and pay the tax imposed
32 under Section 24 from the salaries, wages, annuities, compensations, remunerations and
33 emoluments paid to its foreign national employees and the foreign nationals employed by
34 its foreign Sub-Contractors in the same manner and under the same conditions as
35 provided in Section 26 of the National Internal Revenue Code. (c) Every domestic Sub-
36 Contractor shall deduct, withhold and pay the tax imposed in Section 24 from the
37 salaries, wages, annuities, compensations, remunerations and emoluments paid to its
38 foreign national employees in the same manner and under the same conditions as
39 provided in Section 26 of the National Internal Revenue Code.

40
41 **SECTION 26. Registration of Sub-Contracts.** All contracts entered into between the
42 Contractor and a Sub-Contract engaged in Petroleum Operations in the Philippines shall
43 be registered with the Department. The cost of Sub-Contracts shall be considered as part
44 of reimbursable operating expenses of the Contractor under this Act only if it is shown
45 that the contract has been properly registered with the Department and the taxes due

1 under this Act have been withheld and paid in accordance with the provisions of Section
2 26 of the National Internal Revenue Code.

3
4 **SECTION 27.** *Applicability of the provisions of the National Internal Revenue Code.* All
5 provisions of the National Internal Revenue Code and the rules and regulations
6 promulgated in relation therewith that are not inconsistent with the provisions of this Act
7 shall be applicable to the Contractor.

8
9 **SECTION 28.** *Auxiliary Exploration and Development Rights.* To facilitate the efficient
10 conduct of Petroleum Operations the Contractor shall have the following rights:

- 11
12 (a) Water Rights. – The Contractor shall have water rights for its Petroleum
13 Operations upon approval of application with the appropriate government agency
14 in accordance with existing water laws, rules and regulations promulgated
15 thereunder: *Provided*, That water rights already granted or vested through long
16 use, recognized and acknowledged by local customs, laws, and decisions of courts
17 shall not thereby be impaired: *Provided*, further, That the Government reserves
18 the right to regulate water rights and the reasonable and equitable distribution of
19 water supply so as to prevent the monopoly of the use thereof
- 20
21 (b) Right to Possess Explosives. – The Contractor shall have the right to possess and
22 use explosives within his contract area as may be necessary for his Petroleum
23 Operations upon approval of an application with the appropriate government
24 agency in accordance with existing laws, rules and regulations promulgated
25 thereunder: *Provided*, That the Government reserves the right to regulate and
26 control the explosive accessories to ensure safe mining operations.
- 27
28 (c) Easement Rights. – When the Contract Area is so situated that for purposes of
29 more convenient Petroleum Operations it is necessary to build, construct or install
30 on the area or lands owned, occupied or leased by other persons, such
31 infrastructure as roads, warehouses, staging or storage areas and port facilities,
32 tramways, runways, airports, electric transmission, telephone or telegraph lines,
33 sites for water wells, ditches canals, pipelines, etc., the Contractor, upon payment
34 of just compensation shall be entitled to enter and occupy said areas or lands.
- 35
36 (d) Entry into Private Lands and Concession Areas. – Subject to prior notification, the
37 Contractor shall not be prevented from entry into private lands and concession
38 areas by surface owners, occupants, or concessionaires when conducting
39 Petroleum Operations therein: *Provided*, That any damage done to the property of
40 the surface owner, occupant, or concessionaire as a consequence of such
41 operations shall be properly compensated as may be provided for in the
42 implementing rules and regulations: *Provided*, further, That to guarantee such
43 compensation, the Contractor authorized to conduct Petroleum Operations shall,
44 prior thereto, post a bond with the Department based on the type of properties, the
45 prevailing prices in and around the area where the Petroleum Operations are to be
46 conducted, with surety or sureties satisfactory to the Department.

1
2 **SECTION 29. Safety and Exclusion Zones.** The President may establish and reserve
3 certain lands, waters, submerged lands, foreshore areas, and air space as safety and
4 exclusion zones in order: (a) to protect public health, safety and the environment; (b) to
5 secure vital infrastructure used in Petroleum Operations from damage; and (c) to prevent
6 disruptions in the availability of Petroleum. The Department may prohibit certain
7 activities in such safety and exclusion zones without its prior authorization, including but
8 not limited to: (a) trawl fishing or other fishing methods which involve the use of
9 weights, anchors or similar devices on the seabed; (b) anchoring; (c) use of and/or
10 dumping of explosives; (d) drilling, construction or the installation of submarine
11 pipelines or cable; and (e) similar activities which may pose a potential risk to the
12 Petroleum sand to public health, safety and the environment..

13
14 **SECTION 30. Temporary restraining orders and injunctions.** Republic Act No. 8975
15 (An act to ensure the expeditious implementation and completion of Government
16 infrastructure projects by prohibiting lower courts from issuing temporary restraining
17 orders, preliminary injunctions, or preliminary mandatory injunctions, providing
18 penalties for violations thereof, and for other purposes) shall apply to projects pursuant to
19 a Contract under this Act and such projects shall be deemed as "national government
20 projects" for the purpose of RA No. 8975.

21
22 **SECTION 31. Vessels used for Petroleum Operations.** Foreign-owned or foreign-
23 registered Special Purpose Vessels used by Contractors for Petroleum Operations shall
24 not be deemed to be public or common carriers engaged in domestic trade or coastwise
25 trade and are exempt from the requirement to obtain a certificate of Philippine registry
26 under Presidential Decree No. 761 and related laws and issuances subject to the following
27 conditions: (a) the Special Purpose Vessel is used exclusively for Petroleum Operations
28 by one or more Contractors and its use by the Contractor for a specified duration has been
29 approved by the Department; (b) vessels of similar specifications and capacity are not
30 locally available at competitive price; (c) the Special Purpose Vessel is not used in the
31 business of carrying passengers and general cargo from port to port in the Philippines; (d)
32 the Special Purpose vessel enters Philippine ports principally for the purpose of
33 transporting personnel and cargo required for Petroleum Operations in an offshore
34 location, resupply, refueling, repair or maintenance, or if required, for the purpose of
35 customs, immigration and quarantine clearance. The Special Purpose Vessel may be
36 manned or operated by foreign and/or Filipino nationals. The Department and the
37 Maritime Industry Authority shall issue joint regulations prescribing a simplified
38 procedure for the issuance of permits for Special Purpose Vessels that will facilitate the
39 efficient and cost-effective conduct of Petroleum Operations.

40
41 **SECTION 32. Allocation of Government Share.** The Government Share as referred to in
42 Section 9 shall be allocated in accordance with Sections 290 and 292 of Republic Act No.
43 7160 otherwise known as the Local Government Code of 1991. In case Petroleum
44 Operations are undertaken by a government-owned or controlled corporation, the sharing
45 and allocation shall be in accordance with Section 291 and 292 of the said Code.

46

1 **SECTION 33.** Coal Bed Methane. The exploration and development of Coal Bed
2 Methane resources is subject to the provisions of this Act. In awarding contracts for Coal
3 Bed Methane areas, the Department may give preference to the holder of an existing coal
4 mining license or permit issued pursuant to Republic Act No. 7942, that meets the
5 requirements under this Act or the applicable rules and regulations. The Department and
6 the Department of Environment and Natural Resources shall issue joint implementing
7 rules and regulations governing areas where a Coal Bed Methane Contract area overlaps
8 with a coal mining license or permit area, specifying the respective rights and obligations
9 of the relevant parties, including the obligation to coordinate their respective operations
10 to the extent practicable.

11 **SECTION 34.** *Preference to Local Labor.* The Contractor shall give priority in
12 employment to qualified personnel in the municipality or municipalities or province
13 where the Petroleum Operations are conducted.

14 **SECTION 35.** *Foreign Assistance.* Nothing in this Act or of any other law shall preclude
15 the Government of the Republic of the Philippines, through the Department or any other
16 proper office or agency, from negotiation or entering into any agreement with any foreign
17 country or government for assistance in terms of equipment, technical know-how and
18 financing for the exploration and production of Petroleum.

19 **SECTION 36.** *Disputed Maritime Areas.* Pending the resolution of disputes with certain
20 States in respect of maritime areas with known or potential Petroleum reserves within the
21 territory or exclusive economic zone of the Philippines, the Government may consider,
22 pursue and enter into provisional arrangements consistent with Articles 74 and 83 of the
23 1982 United Nations Conventions on the Law of the Sea. The President upon the
24 recommendation of the Secretary of Energy and the Secretary of Foreign Affairs may
25 enter into bilateral or multilateral agreements for the establishment of Joint Development
26 Zones (JDZ) wherein the State parties with conflicting claims may conduct joint
27 exploration, development and production of Petroleum (“JDZ Agreement”). Any JDZ
28 Agreement entered into by the President shall provide that the States party thereto have
29 entered into the agreement without prejudice to their respective claims, and that the
30 agreement does not nullify their respective claims. The President may authorize the
31 Department Secretary, the Secretary of Foreign Affairs, and/or the President of the
32 Philippine National Oil Company, to enter into: (i) preliminary or preparatory
33 agreements, or memoranda of understanding with their respective counterparts to
34 establish joint committees or similar bodies for the purpose of initiating discussions and
35 studies on the proposed establishment of Joint Development Zones; and/or (ii)
36 agreements to share technical data and/or conduct joint exploration operations (including
37 but not limited to seismic surveys) to assist the parties in defining suitable areas to be
38 covered by the proposed JDZ (collectively, “Preparatory Agreements”). The JDZ
39 Agreement shall include among others a statement of the principles and purpose of the
40 agreement, the scope of the agreement, the definition of the area to be covered by the
41 JDZ, the rights and obligations of the parties, any reservations made as to the rights of the
42 parties, the program of work to be carried out, the respective shares of the parties in the
43 costs to be incurred and any production of Petroleum that will be realized, the

1 management of the JDZ, and the term and termination of the agreement. In accordance
2 with SECTION 21, Article VII of the 1987 Constitution the JDZ Agreement shall be
3 deemed an international agreement that requires the concurrence of at least two-thirds of
4 all the members of the Senate, *Provided*, however, that the Preparatory Agreements shall
5 not require such concurrence.

6
7 **SECTION 37. Funds.** To carry out the purpose of this Act, there is hereby appropriated,
8 out of any funds in the National Treasury not otherwise appropriated the sum of Fifty
9 Million Pesos (P50,000,000) for the fiscal year Two Thousand Seventeen. Hereafter the
10 necessary appropriations shall be included in subsequent General Appropriations Act.

11
12 **SECTION 38. Non-impairment of existing Service Contracts.** All valid and existing
13 service contracts granted under Presidential Decree No 87 at the date of the effectivity of
14 this Act, shall remain valid, shall not be impaired, and shall be recognized by the
15 Government until the termination or expiration thereof, including any extension allowed
16 therein. *Provided*, That an existing service contract may be converted into a Contract
17 under this Act, upon the application of the service contractor and subject to the approval
18 of the President. *Provided*, further, that any application for conversion shall be submitted
19 to the Department within eighteen (18) months from the effectivity of this Act.

20
21 **SECTION 39. Separability Clause.** If any provision of this Act shall be held
22 unconstitutional or invalid, the other provisions not otherwise affected shall remain in full
23 force and effect.

24
25 **SECTION 40. Repealing Clause.** Presidential Decree No. 87, as amended, shall continue
26 to subsist and govern all service contracts entered into in accordance with its provisions
27 prior to the effectivity of this act, until such time as all such service contracts have
28 expired or terminated in accordance with its terms. All other laws, presidential decrees,
29 executive orders and issuances, or any part thereof, which are inconsistent herewith are
30 hereby repealed, provided that no existing rights shall be prejudiced thereby.

31
32 **SECTION 41. Effectivity Clause.** This Act shall take effect upon its publication in the
33 Official Gazette or in at least one news paper of general circulation.

34
35 *Approved,*