

**Initial Tender Protocol**  
**(Edital Provisório)**

**Dili, Timor-Leste**  
**September 30, 2005**

## TABLE OF CONTENTS

	Page No.
1. INTRODUCTION .....	1
2. CALENDAR.....	2
3. OBJECTIVE OF THE OFFERING .....	3
4. GENERAL CONDITIONS.....	4
5. THE CONTRACT AREAS .....	5
6. TECHNICAL DATA.....	6
7. MINIMUM REQUIREMENTS FOR PARTICIPATION.....	7
8. PRE-QUALIFICATION.....	8
9. BIDDING.....	12
10. BID ACCEPTANCE .....	14
11. EXECUTION OF THE PRODUCTION SHARING CONTRACT .....	15
12. EXPLANATION OF INFORMATION .....	17
13. OGED's RIGHTS .....	18

### ANNEXES

ANNEX I Power of Attorney

ANNEX II Bid Bond

## **1. INTRODUCTION**

- 1.1 Timor-Leste (East Timor) became the world's newest nation in May 2002, and less than two (2) years later made its debut as a significant petroleum producer with first production from the Bayu-Undan field.
- 1.2 This project in the joint production and development area in the Timor Sea which is managed jointly with neighbouring Australia was the result of upstream investment by a ConocoPhillips-led joint venture of around US\$2 billion. It is already generating a revenue stream that is vitally important for the nation's reconstruction and development.
- 1.3 To build on this success, the Government of Timor-Leste is now opening a significant portion of the nation's offshore area to petroleum exploration and development by qualified companies. This Initial Tender Protocol (*Edital Provisório*) follows the guidelines contained in *Decreto do Governo xx/2005 (Concursos Públicos para a Celebração de Contratos Petrolíferos)* of August 24, 2005, as well as other relevant legislation and regulations and defines the rules which must be followed by all companies interested in participating in this offering.
- 1.4 This Initial Tender Protocol will be replaced by the Final Tender Protocol (*Edital de Licitações* ("Edital")), which will be published no later than forty-five (45) days before the deadline for the submission of Bids for the Contract Areas offered in this Round.

## **2. CALENDAR**

Formal Announcement of Round	August 17, 2005
Presentations to Interested Companies	
Singapore.....	September 2, 2005
London.....	September 6, 2005
Calgary.....	September 9, 2005
Houston.....	September 13, 2005
Initial Tender Protocol.....	September 30, 2005
Operator Pre-Qualification .....	from October 3, 2005
Legal/Financial/Contractual/Technical Workshop.....	November 17-18, 2005
Publication of Final Tender Protocol (Edital) and Definitive Production Sharing Contract.....	~ end January, 2006
Deadline for submission of Pre-Qualification Documents.....	~ mid February, 2006
Submission of Bids.....	mid March, 2006
Contract Signature.....	from May, 2006

### **3. OBJECTIVE OF THE OFFERING**

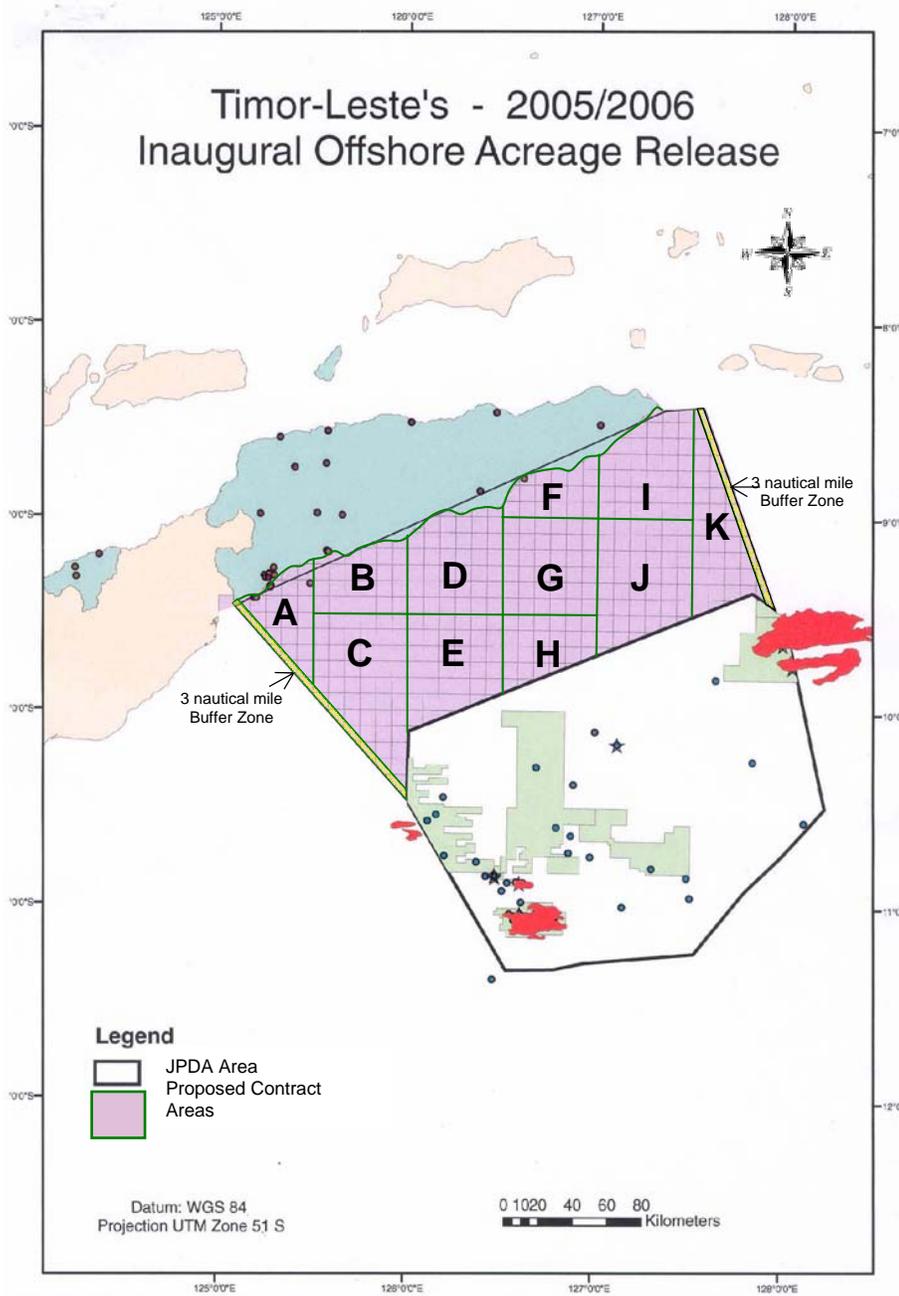
- 3.1 The objective of the current offering is the award of Production Sharing Contracts (“PSC”), on the basis of an open and competitive tender, to companies or consortia of companies to carry out exploration, development, and production activities for oil and natural gas on the Contract Areas described in Section 5.
- 3.2 Winning companies or consortia must enter into a PSC in order to carry out such activities. The model PSC is annexed to this Initial Tender Protocol.

#### **4. GENERAL CONDITIONS**

- 4.1 **Applicable legislation:** Bidding Rounds will be governed by the *Petroleum Act (Lei das Actividades Petrolíferas)*, the *Concursos Púbilico para a Celebração De Contratos Petrolíferos* and the Final Tender Protocol.
- 4.2 **Future regulations:** Additional regulations applicable to petroleum operations will be enacted under Article 31 of the *Petroleum Act*. Companies successful in a Bidding Round are expected to comply with such regulations when performing their obligations and carry out operations pursuant to a PSC.
- 4.3 **Language:** All pre-qualification documents shall be submitted in either Portuguese or English.
- 4.4 **Contract Areas:** The acreage available for the Bidding Round shall be divided into one or more Contract Areas to be defined by geographical coordinates of latitude and longitude.
- 4.5 **Bids per Contract Area:** Bids shall be Contract Area-specific. Companies or consortia wishing to bid on more than one Contract Area must submit a separate Bid for each Contract Area.
- 4.6 **Bid Summary Form:** Each Contract Area will have a specific Bid Summary Form which will be made available by the Oil, Gas & Energy Directorate (“OGED”).
- 4.7 **Submission of Bids:** Each Bid shall be submitted in the format, time and manner specified in the Final Tender Protocol.

## 5. THE CONTRACT AREAS

5.1 The offshore area south of the Timor-Leste, less a three (3) nautical mile “buffer” zone from its borders to the east and west, has been divided into eleven (11) Contract Areas comprising some 30,421 square kilometres, as illustrated in the map below.



5.2 The precise coordinates defining each Contract Area as well as precise areal extent will be provided in the Final Tender Protocol.

Contract Area	A	B	C	D	E	F	G	H	I	J	K
Approximate Surface Area (Sq. Kms.)	1,660	2,070	4,162	3,139	3,130	1,518	3,190	1,966	3,113	3,881	2,592

## **6. TECHNICAL DATA**

- 6.1 Although it lies in an established petroliferous environment and is adjacent to the Joint Petroleum Development Area (“JPDA”) that contains two world class discoveries in Bayu-Undan and Greater Sunrise/Troubadour, there has been no substantive exploration activity in Timor-Leste’s offshore area for more than thirty (30) years. Prior to the Indonesian invasion and occupation there was only a very modest level of activity. One well, Mola -1, was drilled in 1975 to 3,077m. The well tested gas in non-commercial quantities. There was also a 1,500 km 2D survey undertaken in 1974 Timor-Leste’s near-shore/onshore. Furthermore, in 1992 and 1996 regional surveys acquired in the Timor Sea also contained several lines into what are now Timor-Leste waters.
- 6.2 There is strong evidence of an active petroleum system across the offshore area. A large number of light oil seeps, 35-40 deg. API, as well as active gas seeps are present in Timor-Leste, representing hydrocarbons from a deep source and/or displaced oil from the offshore area between Timor Island and the Timor Trench.
- 6.3 In order to provide a minimum body of technical data upon which an exploration Bidding Round could be launched, in 2004 a contract to conduct a “spec” seismic survey was awarded to BGP-GGS, a Norwegian-Chinese joint venture. In late 2004 and early 2005 BGP-GGS acquired 6,600 kilometres of high quality 2D seismic data over the approximately 30,000 square kilometres in the offshore area south of Timor-Leste. Preliminary geotechnical analysis and interpretation of the survey indicates more than twenty (20) structural and stratigraphic potential plays/prospects in the area south of the Timor Trench.
- 6.4 This information is available for purchase from BGP-GGS and its purchase is a requirement of each bidding company or consortium in this Bidding Round. Contact details for BGP-GGS can be accessed on OGED’s website: (<http://www.gov.east-timor.org/emrd>.)
- 6.5 In addition, other information on Timor-Leste’s sub-surface can be accessed from IHS Energy, Fugro, and a United Nation’s publication on the petroleum and mineral resource wealth of Timor-Leste.

## **7. MINIMUM REQUIREMENTS FOR PARTICIPATION**

- 7.1 Submission of a Power of Attorney signed by a legal representative of the company, or companies in the case of a consortium, nominating and empowering one or more individuals to act as Accredited Representative(s) for the purposes of the Bidding Round, in accordance with the example document in Annex I.
- 7.2 Payment for any required data sets, which in the case of a consortium means at least one (1) company in the consortium must have purchased the entire data set being offered by BGP-GGS, and submit a copy of the receipt notice from BGP-GGS with any Bid submitted.
- 7.3 In addition, coincident with submitting a Bid for any Contract Area, the company, or companies in the case of a consortium, must:
- (i) submit a formal declaration, signed by the Accredited Representative, of acceptance of the terms and conditions of the PSC contained in the Final Tender Protocol (which will be issued at least forty-five (45) days prior to the deadline for submission of a Bid);
  - (ii) pay in aggregate a non-refundable Bid processing fee in the amount of US\$ 25,000 (twenty-five thousand United States Dollars) per Contract Area;
  - (iii) provide a Bid Bond in the amount determined by the Ministry in the Final Tender Protocol, in accordance with the provisions of Annex II, as guarantee of the winning applicant's obligation to sign a PSC for the relevant Contract Area in accordance with the terms of the Applicant's Bid; and
  - (iv) be pre-qualified as an Operator or, in the case of a consortium, have a pre-qualified Operator as the designed operator for the consortium.
- 7.4 No documentation submitted to the Ministry will be returned, with the exception of any documents necessary for the cancellation of Bid Bonds in accordance with the terms of the Final Tender Protocol.

## **8. PRE-QUALIFICATION**

### **General Requirements**

- 8.1 Pre-qualification of individual companies wishing to participate in the Bidding Round is not required. However, each bidding consortia must include, as its designated operator, a company that has been pre-qualified by the Ministry as Operator. Any companies wishing to bid alone must similarly be pre-qualified as Operator by the Ministry.
- 8.2 Companies wishing to be pre-qualified as Operators must submit evidence of their experience and capability to operate in an environmentally sensitive, remote offshore environment, as well as evidence of their financial capacity to prosecute a thorough exploration and development programme within the Contract Areas offered, in addition to any general evidence of their corporate bona fides and good standing, as further detailed below.
- 8.3 All documentation submitted with the application shall relate to the ultimate parent company which, in accordance with this Initial Tender Protocol, may designate an affiliate to sign the PSC, in the event of success. The Ministry reserves the right to seek such additional information or clarification as it may require.
- 8.4 Companies are free to form bidding consortia for each Contract Area subject to the following restrictions:
- (i) Each consortium shall nominate a company that has been pre-qualified as Operator by the Ministry as the Operator for the Contract Area.
  - (ii) The Operator shall have a minimum thirty (30) percent interest in the consortium;
  - (iii) Companies may not present more than one Bid for each Contract Area. Companies in consortia may not participate in more than one consortium bidding for the same Contract Area;
  - (iv) The minimum interest that may be held by any participating company in a consortium is five (5) percent; and
  - (v) Satisfactory evidence of a formal undertaking to form a consortium, if successful in the bidding, signed by all members of the consortium, shall be provided.
- 8.5 In the event a company wishes to withdraw from a consortium following submission of a successful Bid but before signing the PSC, the remaining consortium member(s) shall assume the obligations of the withdrawing company, and in no circumstances shall new companies be permitted into the consortium during this period.

**Technical Qualification**

- 8.6 Technical qualification of a company shall be based on its demonstrated experience in oil and gas exploration and production activities. Applications shall include information on the relevant experience and expertise of the companies relating to work in difficult operating conditions, including deepwater, high temperature or high pressure and operations in environmentally sensitive areas. Information supplied shall include:
- (i) For companies that seek to pre-qualify as an Operator, full information supporting their operating capability, including information on areas in the world where current exploration and production activities are conducted, along with current and recent (last five (5) years) production and investment (exploration and production separately) levels, providing detailed and separate information on operated and non-operated production, as well as specific reference to the extent and location of the company's (operated and non-operated) activities.
  - (ii) Summary of the technical submission: Companies shall submit a summary of one to two pages of the technical submission, warranting clearly that it is a fair and true summary of the technical information submitted. This summary shall be signed by the Accredited Representative of the company and properly notarized.

**Financial Qualification**

- 8.7 Evaluation of the financial qualifications for companies interested in pre-qualifying as Operator in the Bidding Round shall be established based on the following parameters:
- (i) Consolidated financial statements for the applicant company (the one that is to provide the guarantees required under the PSC);
  - (ii) All statements shall be audited (by an independent auditor), and complete with accompanying notes for the last three (3) years;
  - (iii) The auditor's opinion letter referencing the financial statements of the company, signed by an independent public accountant, certifying that the documents reflect the real condition of the company and have been prepared in accordance with the relevant accounting and reporting standards;
  - (iv) In the case of state-owned companies from countries where legislation prohibits audit of the company by an independent auditor, a notarized opinion letter referencing the financial statements of the company, signed by a certified public accountant, certifying that the documents reflect the real condition of the company and have been prepared in accordance with the relevant accounting and reporting standards;
  - (v) If prepared in a language other than Portuguese or English, the documents referred to in sub-paragraphs (iii) and (iv) above shall be notarized, and translated into Portuguese or English by sworn legal translators;
  - (vi) The applicant company's present and historical credit rating from Standard & Poor's Rating Services and/or Moody's Investor Services Inc. ratings, if available, or lines of credit, credit agreements, and any other bank reference;
  - (vii) Description of long-term debt, including major lease obligations, and identification of major assets which are the subject of financial security

arrangements;

- (viii) Description of any material contingent liabilities or obligations not reflected on the company's Balance Sheet and accompanying notes which may impact the future activities of the company;
  - (ix) Details of medium-term plans, if these are expected to materially alter the financial status of the company; and
  - (x) Any additional information supporting the financial capacity of the applicant.
- 8.8 The Operator shall be responsible for providing the Financial and Performance Guarantees required in the PSC.
- 8.9 Companies with less than the equivalent of US\$ 20,000,000 (twenty million United States Dollars) of shareholder equity will not be qualified as Operators. The Ministry shall be the sole arbiter of what constitutes shareholder equity.

**Legal Qualification**

- 8.10 In order to secure legal qualification for this Bidding Round, the following documents (or equivalent) shall be submitted:
- (i) A complete notarised copy of the Articles of Incorporation and By-Laws of the applicant company registered with the Business Registry (or equivalent competent body) in the place of incorporation;
  - (ii) The names of any partner or shareholder who, directly or indirectly, holds twenty (20) percent or more of the voting shares of the applicant company or otherwise has an interest that could constitute control;
  - (iii) Designation of the Accredited Representative(s) before the Ministry, authorised to act for and assume obligations related to this Bidding Round and proposed for this role by the Power of Attorney;
  - (iv) The Power of Attorney mentioned in sub-paragraph (iii) above shall be signed by a legal representative of the company (it being understood that the legal representative will be the president, managing director or other officer named in the constituent documents of the company duly authorised to sign documents and to nominate Representatives on its behalf), and be notarised; and
  - (v) Certificates from the relevant notaries in the company's domicile regarding the company's good standing before the Federal and State Criminal and Civil Justice authorities, as well as any Claims Court or other body. These certificates may be substituted by a declaration by the company's Accredited Representative that there is no pending litigation, legal proceedings or other circumstances which may lead to the failure or bankruptcy of the company.

- 8.11 Participants from countries other than Timor-Leste should present, along with the documents listed above, the following:
- (i) Proof that the company is legally constituted, organized and functions according to the laws of its home country; and
  - (ii) An undertaking that, in the event the company is successful in the bidding, it will establish a company under the laws of Timor-Leste, with an office for administration and conduct of operations in Timor-Leste.
- 8.12 Companies that have been pre-qualified as Operators may have such pre-qualification revoked in the following circumstances:
- (i) Declaration of bankruptcy, dissolution or sale of the company;
  - (ii) At the request of the company;
  - (iii) Proven misrepresentation by the company;
  - (iv) Failure to comply with the conditions of this Bidding Round and its Final Tender Protocol; or
  - (v) Any illegal act proved in a court of law.
- 8.13 Companies are to provide two (2) copies (one in hardcopy and the other in electronic, CD, format) of the qualification documents. The qualification documents will be accepted by courier or personal delivery up to 17:00, Dili time (GMT + 09:00), 15 days after the publication of the Final Tender Protocol, at the following address:
- Oil, Gas & Energy Directorate  
1st Floor Fomento Building, Mandarin Dili  
Dili, Timor-Leste
- 8.14 Companies who submit pre-qualification information will have their qualification status advised as soon as possible. The OGED expects to advise the results to submitting Companies within twenty-one (21) working days of submission.
- 8.15 As it may be necessary in some cases to seek clarification on various points, notification will not necessarily be based on the order in which pre-qualification information is received by the OGED.
- 8.16 The decision as to whether and how to qualify an applicant will be made by the OGED.
- 8.17 The OGED undertakes to hold in strictest confidence all non-public (and identified as such) information submitted in the pre-qualification submissions.

## **9. BIDDING**

### **General**

The detailed form of the bidding process will be advised in the Final Tender Protocol. However, in general terms, it is expected to consist of the following elements:

- 9.1 Bids will be made separately for each Contract Area that is offered, in the specified format and submitted in sealed bidding envelopes to be provided by the OGED. The bidding envelopes will be sent to companies pre-qualified as Operators.
- 9.2 If bidding singly, each envelope should clearly identify the company participating in the bid for the Contract Area in question. If bidding in consortia, the envelope should clearly identify each participating company, with their respective percentages of participation, and identify the designated Operator.
- 9.3 Envelopes that do not identify a pre-qualified Operator, or that do not identify the company that will provide the Bid Bond, or that violates any other condition of the Final Tender Protocol, will not be accepted.
- 9.4 The Bid documents will contain an explicit undertaking on the part of a successful company or consortium to: (i) unconditionally accept the terms and conditions of the definitive PSC contained in the Final Tender Protocol; (ii) enter into a PSC for the relevant Contract Area; (iii) incorporate a company under the laws of Timor-Leste; (iv) provide a general guarantee of performance under the PSC; and (v) provide, in the form of a irrevocable stand-by letter of credit, a financial guarantee of performance of the proposed minimum work programme.
- 9.5 Bids will consist of a firm guaranteed work programme to be carried out in the first three (3) years of the Exploration Period. The proposed work programme should be accompanied by Bid support materials which comprise the geo-technical analysis and modelling which support a sound and rational technical and economic basis for the proposed activities.
- 9.6 By law, Bids must be submitted in one of Timor-Leste's official languages (Portuguese or Tetum). Any erasures or amendments on the Bid form should be counter-signed by the Accredited Representative that is submitting the envelope. While the Bid summary document must be submitted in one of the official languages, the Bid support materials referenced in the preceding paragraph may be submitted in either English or Portuguese language.
- 9.7 The winner of the Contract Area will be the company or consortium whose Bid is assessed by the Evaluation Commission to be the best proposal for the exploration of the Contract Area in terms of the scope, scale and nature of the proposed work programme according to the Bid evaluation criteria defined in the Final Tender Protocol.
- 9.8 After the opening of the envelopes, the participants will not be able to withdraw their Bid(s), under penalty of the submitted Bid Bond being executed in favour of Timor-Leste.

- 9.9 Bid evaluation will be based on the guaranteed work programme in the first Exploration period. In order to provide objective evaluation of the Bids the Evaluation Commission will utilise an evaluation matrix which awards points to each type of activity in order to rank the Bids. The composition of this matrix will be disclosed in the Final Tender Protocol.
- 9.10 While the proposed work programme will be the primary basis of evaluation, the Evaluation Commission will review the Bid support materials which provide the technical basis for the Bid and may reject any Bid which it considers to be unresponsive to, or inconsistent with, to the overall objective of the offering which is the rational and cost-effective exploration of the Contract Area. In this circumstance, the Evaluation Commission will detail its reasoning and the technical basis for rejecting any otherwise conforming Bid.
- 9.11 All proposed activities in the first Exploration period must be secured by an irrevocable stand-by letter of credit which may withered (reduced) on an annual basis based on the completion of the physical undertaking. The minimum work programme is a physical obligation, not a financial one.
- 9.12 It should be noted that appraisal and development wells do not count for the purposes of satisfying the minimum exploration programme.
- 9.13 Credit against minimum work programme obligations for non-exclusive activities (e.g., purchase or participation in a non-exclusive seismic survey) carried out in the subject Contract Area may be granted at the discretion of the OGED. Any credit will be applied on a physical as opposed to financial basis.
- 9.14 The time and place for opening all qualified Bids will be set out in the Final Tender Protocol.
- 9.15 In the event that there are two Bids ranked in first place in the evaluation matrix, the Evaluation Commission will determine the winner based on the bidders' Bid support submissions.

## **10. BID ACCEPTANCE**

- 10.1 Upon completion of the evaluation of the Bids, the Evaluation Commission shall prepare an Evaluation Report (“Report”) which shall be submitted to the Minister for acceptance (“homologation” in the *Government Decree XX /2005 of XX of XX, 2005*) within three (3) working days from the end of the evaluation process. The acceptance or refusal of the Report shall take place within five (5) working days from the date in which the Report is received by the Minister.
- 10.2 The Ministry shall notify the Bidders of the contents of the Report within three (3) working days of receipt.
- 10.3 A summary of the Report shall be published in the *Jornal da República*, and in national and international media at the discretion of the Ministry, within seven (7) working days from the date of acceptance.
- 10.4 Certain rights to appeal the Bid Acceptance are provided in *Government Decree XX /2005 of XX of XX, 2005*.

## **11. EXECUTION OF THE PRODUCTION SHARING CONTRACT**

- 11.1 The winner shall be awarded the right, and is obligated to enter in a PSC with the Ministry. The execution of the PSC by the winning company or consortium shall be completed in accordance with the Final Tender Protocol as well as all applicable regulations.
- 11.2 The PSC is expected to be executed within ninety (90) working days of the Ministry's notification to the winning Bidder. Failure to sign the PSC within the specified time may cause the Bid Bond to be executed in favour of Timor-Leste.
- 11.3 It is a condition precedent in the PSC that the winning bidder must be a limited liability corporation or entity with limited liability, incorporated and registered in Timor-Leste in accordance with its law, before the contract enters into force. The Operator shall have its office and management in Timor-Leste.
- 11.4 In the event a joint venture company is formed to sign the PSC, the direct or indirect participation of each controlling company (or its affiliates) should be identical to the participation defined on the bidding envelope. The obligations of the signing company should be fully guaranteed by means of Performance Guarantee from the pre-qualified and designated Operator.
- 11.5 At least fifteen (15) working days before the signing of the PSC's, the winning bidders should provide the following documents:
- (i) In the event the qualified company opts to sign the PSC through one of its subsidiaries or other company created specifically for this purpose, it should provide Constituent Articles and Amendments of the company that will sign the PSC duly filed in the appropriate places;
  - (ii) A legal opinion accepted by the Ministry containing the information concerning the relationship between the qualified company and the company that will sign the PSC;
  - (iii) Duly authenticated documents proving the qualification of the legal representative who will sign the PSC on behalf of the company; and
  - (iv) A Letter of Credit in the form of Annex II guaranteeing the obligations of the minimum work programme bid. This Letter of Credit must be issued by a bank or financial institution which holds a rating of "A" or above in the publications of Standard and Poor's Ratings Group or of Moody's Investors Services, Inc. In the case of consortia, the obligation to present a Letter of Credit can be satisfied by the presentation of more than one letter, as long as the total value is equal to the specified value for the subject Contract Area of the PSC, according to the specifications of the minimum work programme.
  - (v) The Ministry will provide a table in the Final Tender Protocol indicating the required amounts for the Letters of Credit according to the deemed costs of specific work undertakings.
- 11.6 In case the winner is a consortium and one of its companies does not present the necessary documentation, the other companies within the consortium must assume the responsibilities of the non-conforming company. In this situation, under no circumstance will a new company be allowed to enter into the winning consortium before the signing of

the PSC.

- 11.7 In the event the PSC is not signed by the deadline established in this regulation, the Bid Bond may be executed in favour of Timor-Leste.
- 11.8 If a winning company or consortium, for whatever reason, does not execute the PSC by the date given for its signature, the bidder ranked in second place shall be summoned and given the opportunity to sign the PSC for the Contract Area provided such bidder matches the values offered by the winning bidder and also re-submits a Bid Bond. In this event, the Ministry shall establish a new deadline for the execution of the PSC.

## **12. EXPLANATION OF INFORMATION**

- 12.1 The OGED is available to provide clarification or additional information regarding the process, the contract terms, or the Contract Areas to be bid.
- 12.2 Questions may be communicated to the OGED by mail, telephone, fax or e-mail at the numbers or address listed below. While minor queries will be dealt with by phone, more complex questions should be submitted in writing.
- 12.3 Questions or clarifications concerning the PSC or other legal matters should be submitted in writing, preferably via e-mail.
- 12.4 Questions of general interest and their respective responses will be published (without disclosing the identity of the questioning company) on the OGED web-site (<http://www.gov.east-timor.org/emrd>).

**By Mail (via courier):**

Oil, Gas & Energy Directorate  
1st Floor Fomento Building, Mandarin Dili  
Dili, Timor-Leste

**By Telephone:** .....+670 3317143  
**By Fax:** .....+670 3317143  
**By E-mail:** .....emrd@gov.east-timor.org

- 12.5 Further details and advisories will be posted on the OGED web-site (<http://www.gov.east-timor.org/emrd>).
- 12.6 All information requests will be handled on a first-come, first-served basis by the OGED.
- 12.7 No formal data room will exist for this Bidding Round. A Legal, Technical, and Financial workshop will take place in Dili on 17-18 November, 2005.

**13. OGED's RIGHTS**

- 13.1 The OGED may revoke, in full or in part, at any time, the current Offering.
- 13.2 The OGED reserves the right to unilaterally revise the timetable and related procedures of the Bidding Round, as well as to disqualify any previously pre-qualified Company.

**ANNEXES**

ANNEX I

**POWER OF ATTORNEY FOR NOMINATION OF THE ACCREDITED REPRESENTATIVE**

Each company participating in the Bidding Round shall nominate one or more individuals as Accredited Representatives for the company before the Ministry with respect to any and all correspondence related to the Bidding Round. The Accredited Representative(s) will be nominated by the Power of Attorney in the form attached duly signed by an authorised signatory of the company. It is recommended that the Accredited Representative(s) nominated be an executive who will be available throughout the process to ensure that the information requests and other communications are properly and efficiently handled within the company. It is emphasized that the PSC does not necessarily have to be executed by the Accredited Representative(s).

By the present mandate instrument, [*insert name of company*]\_\_\_\_\_, constituted and existing in accordance with the laws of \_\_[*insert company's country of origin*]\_\_, with headquarters in \_\_[*insert address of company headquarters*] \_\_\_\_\_, through its legal representative, \_\_[*insert name(s) of legal representative(s) of company*]\_\_\_\_\_, in this act nominates \_\_[*insert name of and full title of Accredited Representative*]\_\_\_\_\_, as its adequate Attorney empowered to represent us before the OGED, especially for the Bidding Round, and with specific power for the practice of the acts and assume responsibility relative to negotiate and to propose that which is being presented, able to, in this regard, receive, submit and sign documents, pay fees/taxes, propose, resort to/obtain, agree, and also able to practice other acts necessary for the faithful compliance of this mandate.

IN WITNESS WHEREOF, this certificate has been executed on and as of ....., 2005.

Name:.....

Title:.....

The undersigned, of the company, hereby certifies that the person whose signature appears immediately above is the duly elected..... of the company and that the signature set forth above is that of such person.

Name:.....

Title:.....

## ANNEX II

### **BID BOND**

1. In order to guarantee the winning bidder's obligation to sign the PSC for the relevant Contract Area(s), each company or consortium should present to the OGED a Bid Bond for each Contract Area on which the company presents a bid. Such Bid Bond(s) must be presented before the date for the submission of Bids. The Bid Bond will be in the amount of US\$500,000 (five hundred thousand United States Dollars). This Bid Bond, in the form of a Letter of Credit consistent with the models in *Annex XX* of this Tender Protocol, must be delivered to the OGED before [INSERT DEADLINE].
2. In order for a company to present bids for any Contract Area, it is necessary to have previously submitted a Bid Bond to the OGED in the form and within the timeframe herein defined. Similarly, in order for a consortium to present bids, one of the companies belonging to the consortium should have previously presented a Bid Bond. In this case the bid envelope should indicate whose Bid Bond will be used by the consortium to guarantee the execution of the PSC.
3. Companies or consortia that have the intention of presenting bids for more than one Contract Area should ensure that they have a sufficient number of Bid Bonds, so that they will not be limited in their capacity to present bids.
4. Bid Bonds will take the form of Letters of Credit issued by banks or financial institution which are rated "A" or better in the publications of Standard & Poor's Rating Group or of Moody's Investors Service Inc.
5. The Bid Bonds of the participants that were not winners in the relevant Contract Area will be returned in the week following the bidding, along with all other documentation necessary for their cancellation. All other documentation sent to the OGED will not be returned.
6. The OGED may draw on the Bid Bond in the following circumstances:
  - (a) The winning company, or any participating company in the winning consortium, or an affiliated company of the company or winning consortium does not sign the PSC within ninety (90) days after the homologation of the results and in accordance with the procedures described in this Tender Protocol.
  - (b) The Letter of Credit for the Minimum Exploration Programme, is not provided to the OGED, precluding the execution of the PSC;
  - (c) In the case of an affiliate signing the PSC, if a company does not present a Performance Guarantee for that affiliate in accordance with the model and conditions in *Annex XX* of this Tender Protocol.
7. If none of the foregoing events occur, the OGED will return the Bid Bond to the company that presented it, along with the documentation necessary for its cancellation.

**I. MODEL BID BOND**

**IRREVOCABLE STAND-BY LETTER OF CREDIT**

Issued by [Name of Bank]

Date: \_\_\_\_\_

No.: \_\_\_\_\_

Face Amount: US\$500,000

**Oil, Gas & Energy Directorate**

Ministry of Natural Resources, Minerals and Energy Policy

1st Floor Fomento Building, Mandarin Dili

Dili, Timor-Leste

Dear Sirs:

1. [Name of Bank], a \_\_\_\_\_ organized under the laws of \_\_\_\_\_ (the "Issuer"), hereby establishes in favour of the OGED of the Republic of Timor-Leste, its irrevocable stand-by Letter of Credit No. \_\_\_\_\_ (this "Letter of Credit"), whereby the Issuer authorises the OGED to draw hereunder, in a single drawing, the sum of US\$500,000 (the "Face Amount") by presentation of a Draft and a Drawing Certificate (each as defined below) at the Issuer's office specified in Clause 3 of this Letter of Credit.
2. The Face Amount of this Letter of Credit may be drawn by the OGED in the manner specified in Clause 3 of this Letter of Credit between 9:00 a.m. and 5:00 p.m., New York City time, on any Banking Day, on or after [date] and prior to the expiration of this Letter of Credit. A "Banking Day" is any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are authorised or required by law, regulation or executive order to close.
3. A drawing may be made hereunder only by the presentation by the OGED to the Issuer of a sight draft of the OGED drawn on the Issuer in the form attached hereto as Exhibit 1 (a "Draft") and a certificate executed by the OGED in the form attached hereto as Exhibit 2 (a "Drawing Certificate"). Presentation of a Draft and Drawing Certificate must be made at the Issuer's office in New York City located at \_\_\_\_\_, or at such other address in New York City as the Issuer may designate to the OGED by notice given in accordance with Clause 8 of this Letter of Credit.
4. Upon the presentation by the OGED to the Issuer of the Draft and Drawing Certificate at the office of the Issuer designated pursuant to Clause 3 of this Letter of Credit, the Issuer shall pay the Face Amount by wire transfer of immediately available funds to the OGED's account with a financial institution in New York City designated in the Drawing Certificate. If presentation is duly made at or prior to 11:00 a.m., New York City time, on any Banking Day, payment shall be made by the Issuer at or prior to 5:00 p.m., New York City time, on the same Banking Day. If presentation is duly made after 11:00 a.m., New York City time, on any Banking Day, payment shall be made by the Issuer at or prior to 1:00 p.m., New York City time, on the immediately following Banking Day.
5. This Letter of Credit shall expire upon the earliest of (i) the date on which a certificate executed by the OGED, in the form attached hereto as Exhibit 3 (an "Expiration Certificate"), is presented to the Issuer, (ii) the indefeasible payment by the Issuer to the OGED in the manner set forth in Clause 4 of this Letter of Credit of the Face Amount upon a drawing properly made hereunder, and (iii) 5:00 p.m., New York City time, on December 31, 2006. Notwithstanding the foregoing,

any drawing properly made hereunder prior to the expiration of this Letter of Credit shall be honoured by the Issuer. Notwithstanding anything contained in Article 17 of the Uniform Customs (defined below) or herein, in the event that the Issuer's office designated in Clause 3 of this Letter of Credit is closed on the date set forth in (iii) of this Clause 5, the expiration date of this Letter of Credit shall be extended to the next Banking Day on which such office is open.

6. This Letter of Credit may only be drawn by, and other rights hereunder may only be exercised by, the OGED.
7. This Letter of Credit is subject to the *Uniform Customs and Practice for Documentary Credits (1993 Revision)*, *International Chamber of Commerce Publication No. 500 (the "Uniform Customs")*. As to matters not covered by the Uniform Customs, this Letter of Credit shall be governed by, and construed in accordance with, the laws of the State of New York, including without limitation Article 5 of the Uniform Commercial Code as in effect in the State of New York.
8. All notices, demands, instructions, waivers or other communications to be provided pursuant to this Letter of Credit shall be in writing in English, shall be effective upon receipt, and shall be sent by personal delivery, courier, first class mail or fax, to the following addresses:

**If to the Issuer, to:**

**If to the OGED, to:**

1st Floor Fomento Building, Mandarin Dili  
Dili, Timor-Leste

The addresses and fax numbers for notices given pursuant to this Letter of Credit may be changed by the Issuer or the OGED by means of a written notice given to the other at least fifteen (15) Banking Days prior to the effective date of such change.

9. This Letter of Credit sets forth in full the Issuer's undertaking, and such undertaking shall not in any way be modified or amended by reference to any document, instrument or agreement referred to herein, except the Draft, the Drawing Certificate and any Expiration Certificate.

Very truly yours,

[NAME OF BANK]

By:.....

Name:.....

Title:.....

**EXHIBIT 1**

**[FORM OF DRAFT]**

Letter of Credit No. \_\_\_\_\_  
[New York, New York]  
[Date of Draft]

At sight

PAY TO THE ORDER OF THE OIL, GAS & ENERGY DIRECTORATE the sum of US\$500,000 (Five Hundred Thousand U.S. Dollars), FOR VALUE RECEIVED. DRAWN UNDER [NAME OF ISSUER] LETTER OF CREDIT NO. \_\_\_\_\_.

**The Oil, Gas & Energy Directorate**

By:.....  
Name:.....  
Title:.....

To: [Name of Issuer] .....  
[Address of Issuer] .....

**EXHIBIT 2**

**[FORM OF DRAWING CERTIFICATE]**

Reference is made to the Letter of Credit (the “Letter of Credit”), No. \_\_\_\_\_, dated \_\_\_\_\_, issued by \_\_\_\_\_ in favour of the Oil, Gas & Energy Directorate. Capitalized terms used herein and not defined have the respective meanings set forth in the Letter of Credit or the Tender Protocol dated [date].

The undersigned, being duly authorised to execute this certificate on behalf of the Oil, Gas & Energy Directorate, hereby certifies that pursuant to a licensing round held in 2006 \_\_\_\_\_ [insert name of single bidder or members of bidding consortium, as applicable] (each a “Selected Contractor” and collectively, the “Selected Contractors”) were selected to enter into a Production Sharing Contract with the Oil, Gas & Energy Directorate, and that either:

1. Any Selected Contractor (or any duly designated Jointly Held company or Affiliate of such Selected Contractor) did not sign the Production Sharing Contract (and provide the related guarantees) by [\_\_\_\_\_,] 2006; or
2. Any required Letter of Credit for the Minimum Work Obligation was not delivered to the Oil, Gas & Energy Directorate simultaneously with or prior to execution of the Production Sharing Contract; or

Payment of the Face Amount of the Letter of Credit is to be made by the Issuer to the following account: (to be communicated by the Oil, Gas & Energy Directorate in due course).

This certificate has been duly executed by the undersigned as of the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**Oil, Gas & Energy Directorate**

By:.....

Name:.....

Title:.....

**EXHIBIT 3**

**[FORM OF EXPIRATION CERTIFICATE]**

Reference is made to the Letter of Credit (the "Letter of Credit") No. \_\_\_\_\_, dated \_\_\_\_\_, issued by \_\_\_\_\_ in favour of the Oil, Gas & Energy Directorate. Capitalized terms used herein and not defined have the respective meanings set forth in the Letter of Credit.

The undersigned, being duly authorised to execute this certificate on behalf of the Oil, Gas & Energy Directorate, hereby certifies that conditions permitting the expiration of the Letter of Credit have occurred, and that accordingly the Letter of Credit shall expire as of the date of this Certificate.

This certificate has been duly executed by the undersigned as of the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**Oil, Gas & Energy Directorate**

By: .....

Name: .....

Title: .....

## **II. MODEL PERFORMANCE GUARANTEE**

Reference is made to the Production Sharing Contract No. \_\_\_\_\_ (the "Agreement") of even date herewith among the Oil, Gas & Energy Directorate (the "Oil, Gas & Energy Directorate"), an agency of the Government of the Federal Republic of Timor-Leste, \_\_\_\_\_ (the "Guaranteed Entity"), a \_\_\_\_\_ organized under the laws of Timor-Leste, and \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of Timor-Leste.

With regard to the obligations assumed by the Guaranteed Entity under the Agreement or that may be imposed upon the Guaranteed Entity under or in connection with the Agreement, \_\_\_\_\_ (the "Guarantor"), a \_\_\_\_\_ organized under the laws of \_\_\_\_\_, an Affiliate of the Guaranteed Entity, agrees as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Agreement.
2. The Guarantor hereby expressly represents and warrants to the Oil, Gas & Energy Directorate that: (i) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) it has all requisite corporate power and authority to execute, deliver and perform this Guarantee, (iii) the execution, delivery and performance of this Guarantee have been duly authorised by all necessary corporate action, (iv) this Guarantee constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, (v) no governmental approvals are required in connection with the execution, delivery and performance of this Guarantee, except as have been obtained and are in force, and (vi) the execution, delivery and performance of this Guarantee by the Guarantor will not violate any provision of any existing law or regulation to which the Guarantor is subject or any provision of the Guarantor's constitutive documents or of any material agreements to which it may be a party.
3. The Guarantor hereby unconditionally and irrevocably guarantees to the Oil, Gas & Energy Directorate, as a primary obligor, the due and punctual performance of all of the obligations of the Guaranteed Entity under or in connection with the Agreement. If the Guaranteed Entity fails to perform any such obligation in the manner and at the time required, the Guarantor shall perform or procure the performance of such obligation upon demand by the Oil, Gas & Energy Directorate.
4. This Guarantee is irrevocable and unconditional and shall remain in full force and effect until all obligations of the Guaranteed Entity under or in connection with the Agreement are fully and irrevocably satisfied and discharged, notwithstanding (a) any amendment or termination of the Agreement, (b) any extension of time or other indulgence or concession granted by the Oil, Gas & Energy Directorate, or (c) any delay or failure by the Oil, Gas & Energy Directorate in pursuing any remedies available against the Guaranteed Entity. Notwithstanding the foregoing, this Guarantee shall terminate with respect to liabilities arising from improper abandonment of wells or facilities in any area subject to the referenced Agreement in accordance with applicable legislation.
5. The Oil, Gas & Energy Directorate shall have no obligation to pursue any remedy or take any action against or in respect of the Guaranteed Entity prior to enforcing its rights under this Guarantee directly against the Guarantor. In addition, the Guarantor may not claim that the Oil, Gas & Energy Directorate could have avoided or mitigated, in any manner or through any action, the damages resulting from a default of the Guaranteed Entity under the Agreement or resort to any other guarantee held at any time in its favour, before proceeding against the Guarantor in connection with its obligations under this Guarantee. The Guarantor's obligations under this

Guarantee shall be independent and absolute, and the Guarantor shall have no right of set-off or counterclaim with respect to any other claims it may have against the Oil, Gas & Energy Directorate or any other Person.

6. All of the obligations of the Guarantor set forth herein shall bind the Guarantor and its successors. The Guarantor may not assign or delegate its duties or obligations hereunder without the prior written consent of the Oil, Gas & Energy Directorate, and any purported assignment or delegation without such consent shall be null and void. The Guarantor confirms that this Guarantee shall remain in effect with respect to any assignee of the Guaranteed Entity under the Agreement that is an Affiliate of the Guaranteed Entity. Upon any such assignment the assignee shall be considered the Guaranteed Entity for all purposes hereunder to the extent of the assigned obligations. The Guarantor additionally confirms that any assignee of the Oil, Gas & Energy Directorate under the Agreement permitted in accordance with the Agreement may exercise all rights and remedies of the Oil, Gas & Energy Directorate under this Guarantee. No other person or entity shall be a beneficiary of this Guarantee or have or acquire any rights by reason of this Guarantee.
7. This Guarantee shall be governed by and construed in accordance with the laws of the Republic of Timor-Leste.
8. Any failure or delay by the Oil, Gas & Energy Directorate to exercise any right, in whole or in part, hereunder shall not be construed as a waiver of the right to exercise the same or any other right.
9. No amendment or modification of this Guarantee shall be effective unless in writing and signed by the Guarantor and the Oil, Gas & Energy Directorate.
10. Any dispute concerning the legal interpretation or construction of this Guarantee shall be settled exclusively and finally by arbitration conducted in accordance with the ICC Rules.
11. The Guarantor shall pay upon demand and presentation of invoices all reasonable and actual costs and expenses incurred by the Oil, Gas & Energy Directorate in connection with the successful enforcement of this Guarantee, including, without limitation, reasonable fees and expenses of counsel.
12. All notices, demands, instructions, waivers or other communications to be provided pursuant to this Guarantee, and any consents contemplated in this Guarantee, shall be in writing in Portuguese or English, shall be effective upon receipt, and shall be sent by personal delivery, courier, first class mail or fax to the following addresses:

(i) If to the Guarantor, to:

**[Insert address of Guarantor]**

(ii) If to the Oil, Gas & Energy Directorate, to:

Oil, Gas & Energy Directorate  
1st Floor Fomento Building, Mandarin Dili  
Dili, Timor-Leste

**By Fax:**.....+670 3317143

The addresses and fax numbers of either party for notices given pursuant to this Guarantee may be changed by means of a written notice given to the other party at least fifteen (15) Business

Days prior to the effective date of such change.

This Guarantee may be executed in any number of counterparts, each of which shall be deemed to be an original.

- 13. This Guarantee has been duly executed by the Guarantor and the Oil, Gas & Energy Directorate by their respective officer's thereunto duly authorised as of the \_\_\_\_ day of \_\_\_\_\_, 2006.

[NAME OF GUARANTOR]

By:.....

Name:.....

Title:.....

ACKNOWLEDGED AND ACCEPTED:

Oil, Gas & Energy Directorate

By:.....

Name:.....

Title:.....