



Department of Petroleum Resources

GUIDELINES AND PROCEDURES FOR OBTAINING MINISTER'S CONSENT TO THE ASSIGNMENT OF INTEREST IN OIL AND GAS ASSETS PURSUANT TO PARAGRAPHS 14-16 OF THE FIRST SCHEDULE TO THE PETROLEUM ACT CAP P10 LFN 2004, SECTION 17 (5) (d) OF THE OIL PIPELINES ACT CAP 07 LFN 2004 AND THE PETROLEUM (DRILLING AND PRODUCTION) REGULATIONS 1969 AS AMENDED

1. PREAMBLE

- 1.1. These Guidelines are issued pursuant to the provisions of Paragraphs 14 – 16 of the First Schedule to the Petroleum Act, Cap P10 Laws of the Federation of Nigeria (LFN) 2004, Section 17 (5) (d) of the Oil Pipelines Act, Cap. 07 LFN 2004 and the Petroleum (Drilling and Production) Regulations 1969 as amended.
- 1.2. The purpose of these Guidelines is to establish the procedure for obtaining the consent of the Minister of Petroleum Resources to any assignment of any right, power or interest in an Oil Prospecting Licence (OPL), Oil Mining Lease (OML), Marginal Field (MF) or Oil and Gas Pipelines Licence (OGPL) in accordance with the Petroleum Act and the Oil Pipelines Act.

2. DEFINITION OF TERMS

“Asset” means OPL, OML, MF and OGPL as well as the surface facilities and sub surface resources within them.

“Assignor” means the party wishing to dispose of an Asset or interest herein, whether in whole or in part, by way of assignment, as defined in these Guidelines.

“Assignee” means the recipient of an asset or interest therein, whether in whole or in part, by way of assignment, as defined in these Guidelines.

“DPR” means Department of Petroleum Resources.

“Interest in a licence or lease” means any arrangement such as Production Sharing Contract (PSC), Production Sharing Agreement (PSA), Farm-in or Farm-out agreement, sale, purchase, mortgage, charge, lien or other business arrangements by which a right, privilege, power, benefit, gain or advantage in a licence or lease is transferred to or conferred either directly or indirectly on a third party.

“Minister” means Minister of Petroleum Resources

“Reassignment” means a situation where there has been consent to an assignment of interest and the parties subsequently, whether by mutual consent or by operation of law, sever their relationship and the Assignor wishes to obtain the



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consent of the Minister to revert the interest. A Reassignment, under these circumstances, can only be made to the original Assignor and not a third party.

3. WHAT CONSTITUTES AN ASSIGNMENT

3.1. In these Guidelines an Assignment involves the transfer of an OPL, OML, MF or OGPL or an interest, power or right therein by any company or person with equity, participating, contractual or working interest in the said OPL, OML, MF or OGPL, through merger, acquisition, take-over, divestment or any such transaction that may alter the ownership, equity, rights or interest of the assigning company in question, not minding the nature of upstream arrangement that the assigning company may be involved in, including but not limited to Joint Venture (JV), Production Sharing Contract (PSC), Production Sharing Agreement (PSA), Service Contract (SC), Sole Risk (SR) or Marginal Fields operation. Instances of an assignment shall include, but not limited to, the following:

- 3.1.1. Assignment by way of exchange or transfer of shares: This shall entail the acquisition of part or all of the shares of a company which holds an OPL, OML, MF or OGPL in Nigeria.
- 3.1.2. Assignment by way of private placement or public listing, in any Stock Exchange, of a part or of the whole of the shares of a company which holds an OPL, OML, MF or OGPL.
- 3.1.3. Assignment by way of merger, wherein a company which holds an OPL, OML, MF or OGPL, combines with one or more companies to form another company by way of payment, exchange of shares or by any other means whatsoever.
- 3.1.4. Assignment by way of acquisition, wherein the acquiring company directly or indirectly takes over or acquires the entire rights or interest in an OPL, OML, MF or OGPL, and associated assets of the assigning company, including acquisition of interest by an entity in a parent company whose affiliate has interest in an OPL, OML, MF or OGPL, or associated assets in Nigeria.
- 3.1.5. Assignment to a company in a group of which the Assignor is a member and is to be made for the purpose of re-organisation in order to achieve greater efficiency and to acquire resources for more effective petroleum operations.
- 3.1.6. Assignment brought about by reason of devolution of ownership of shares or interest in ownership of shares by way of operation of law or testamentary device. Operation of law may refer to a judgment of a competent court of law, an award from an Arbitration Panel, the appointment of a Receiver, Receiver/Manager or Administrator under the Companies and Allied Matters Act Cap C20 LFN 2004 or any comparable legislation in a foreign jurisdiction. Testamentary device shall refer to the transfer of shares through a Will or Letters of Administration.



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4. PROCEDURE FOR AN ASSIGNMENT Except in the case of an Assignment by reason of operation of law as defined in Article 3.1.6, it shall be the responsibility of the Assignor to secure the consent of the Minister with respect to any Assignment of interest in an Asset.

4.2. NOTIFICATION OF INTENTION TO ASSIGN

- 4.2.1. The Assignor shall notify the DPR in writing of its intention to carry out an Assignment.
- 4.2.2. The Assignor shall not proceed with any process incidental to the Assignment, including making announcements, advertisements, publications or press releases, in respect of the assignment, without the prior approval of the DPR.
- 4.2.3. The notification to DPR shall state the reason for the proposed assignment, the method for the conduct of the assignment, and the possible technical and economic value such assignment would bring to the operation of the license or lease.
- 4.2.4. Where the Assignor intends to carry out such transaction through selective tendering, negotiated transfer or an open bidding process (involving pre-qualification, technical and commercial stages), such procedure shall be stated in the notification of intention.
- 4.2.5. The Assignor shall undertake that the process for Assignment shall be transparent and in accordance with global best practices.
- 4.2.6. The DPR shall respond within 10 working days from date of receipt of the notification, failing which the Assignor may proceed to the next stage of the Assignment process.

4.3. NOTIFICATION OF PROSPECTIVE ASSIGNEE(S)

- 4.3.1. The Assignor shall upon the completion of the technical evaluation of companies shortlisted for any transaction that may constitute an Assignment, submit to the DPR the list of such qualified companies.
- 4.3.2. Upon receipt of the list of qualified candidates, the DPR shall determine whether such companies are acceptable to the Government of the Federal Republic of Nigeria. Any company found unacceptable shall not be permitted to proceed to the commercial stage of the transaction.
- 4.3.3. Where the Assignor fails to submit to the DPR the list of qualified candidates and proceeds to the commercial stage, such transaction shall not be eligible for the consent of the Minister.
- 4.3.4. Within Ten (10) working days from the date of receipt of the notification of qualified companies, the DPR shall respond on whether such companies are acceptable to the Government of the Federal Republic of Nigeria.



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5. APPLICATION FOR CONSENT

- 5.1. Upon the successful completion of the notification stages in paragraph 4 above, an Assignor shall submit a written application to the Director of Petroleum Resources requesting the Minister's consent.
- 5.2. The Assignor shall attach the following documents to the application:
 - 5.2.1. Deed of Assignment;
 - 5.2.2. Copy of existing Joint Operating Agreement (JOA) or PSC, where applicable;
 - 5.2.3. In the case of a Marginal Field, a Farm-in Agreement between the Assignor and Assignee;
 - 5.2.4. A catalogue of the Assignor's exploration and production activities carried out in the Asset to date;
 - 5.2.5. The Assignee's technical and financial track records in exploration and production operations;
 - 5.2.6. The Assignee's incorporation documents;
 - 5.2.7. Technical and Financial Services Agreement where applicable;
 - 5.2.8. The Sale and Purchase Agreement (SPA) between the parties;
 - 5.2.9. In the case of an Assignment of interest in the Asset through private placement or public listing in any stock exchange, the approvals, documents and rules governing such listings in the stock exchange involved;
 - 5.2.10. In the case of an Assignment by way of a Reorganisation of a company (through merger, acquisition, takeover, etc), a copy of relevant approvals, documents and rules governing the re-organisation in the relevant jurisdiction;
 - 5.2.11. In the case of an Assignment by operation of law, the details of the court judgment or of the appointment of the Receiver, Receiver/Manager or Administrator;
 - 5.2.12. In the case of an Assignment by way of testamentary disposition, the letters of administration of the estate or letter of probate;
 - 5.2.13. In the case of a Reassignment where the original Assignor and Assignee mutually agree to terminate their relationship, the resolutions of the boards of directors of both companies and the contractual document executed by both companies evidencing the termination of the relationship;
 - 5.2.14. In the case of a Reassignment by operation of law, the certified true copy of the final award, order or judgement terminating the relationship between the parties.
 - 5.2.15. Any other documents as may be required by the DPR.



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- 5.3. The Assignor shall pay the application fees provided in the Petroleum (Drilling and Production) Regulations (Amendment) Regulations, 2019, by way of telegraphic transfer, to an account to be provided by the DPR.
- 5.4. Where required, the DPR shall within sixty (60) calendar days from the date of receipt of the complete application, conduct due diligence to determine the following:
 - 5.4.1. The legal status, technical competence and financial capability of the Assignee.
 - 5.4.2. The history of the Assignor's relationships with previous Assignee(s).
 - 5.4.3. The history of compliance with the provisions of the Petroleum Act or Oil Pipelines Act.
 - 5.4.4. The Assignor's track record on the operation of the Asset.

6. GENERAL PROVISIONS

6.1. ASSIGNMENT BY DIVESTMENT

- 6.1.1. The Assignor shall not impose on the Assignee, a crude handling/purchase agreement as a condition for the consummation of the transaction, or other conditions that may impede the takeover and/or operation of the asset in a business-like manner.
- 6.1.2. Where the Assignment is by way of transfer of interest in an Asset held in JV with the NNPC and involves the execution of a crude handling/purchase agreement, the Assignor shall submit a copy the draft agreement to DPR before execution.
- 6.1.3. Where the investment on surface facilities has been fully amortised through cost recovery, the Assignor shall not include such facilities as part of its valuation of the Asset.
- 6.1.4. The DPR shall, as part of its due diligence, consider the pricing of the Asset to ensure that there is no adverse effect on the revenue of the Federation. Ordinarily, reference value of the Asset should be the **book value**.
- 6.1.5. The Assignor shall not impose Domestic Gas Supply Obligations (DGSO) volumes on the Assignee without DPR's authorisation. Any unauthorised imposition of DGSO volumes shall be set aside by the DPR.
- 6.1.6. Where the Assignor is in a JV arrangement involving the NNPC, the application of the Assignor for the consent of the Minister must be accompanied by a letter of waiver of right of pre-emption by the non-assigning parties in the JV as provided for in the JOA.
- 6.1.7. Where the Assignor is in a PSC arrangement as Contractor or a member of the Contractor Party to the NNPC as the Concessionaire of an Asset, the application of the Assignor for the consent of the Minister shall be accompanied by a letter from the NNPC acceding to the assignment as may be provided for in the PSC.
- 6.1.8. Where the right of pre-emption is contained in the PSA involving a Contractor Party, a letter from the other members of the Contractor Party,



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waiving their right of pre-emption shall accompany the application for the consent of the Minister.

6.1.9. Where the Assignor is the operator in an Asset in which the NNPC is either a JV partner or Concessionaire, the Assignor shall not purport to transfer the right of operatorship to the Assignee without approval of the DPR and shall therefore not make the right of operatorship a part of the commercial consideration in the transaction.

6.1.10. Where the Assignment is by way of transfer of interest in an Asset held in JV with the NNPC, the Assignor shall submit to the DPR an agreement between the parties on the treatment of the Assignor's abandonment and decommissioning liabilities. The agreement shall contain the cost of the abandonment and decommissioning liabilities and such costs shall be deducted pro-rata from the transaction purse.

6.1.11. Where the Assignment is by way of transfer of interest in an Asset held in JV with the NNPC, the application for consent to the transfer of the sub-surface rights shall be separate and distinct from the application for consent to the transfer of interest in any associated pipelines.

6.2. OTHER FORMS OF ASSIGNMENT

6.2.1. Where the Assignment involves a sole risk asset, not more than 40% of the overall interest in the Asset shall be assigned to a company whose promoters are not Nigerians except that in the case of a marginal field, where the total interest assignable shall be no more than 49% of the total overall interest in the Asset.

6.2.2. Where the parent company of a company holding interest in an Asset in Nigeria is taken over by or merged with another company overseas, the veil of incorporation shall be lifted in such circumstances, to determine if such transaction constitutes an Assignment.

7. MINISTER'S CONSENT

- 7.1. The Minister's consent may only be granted where the Minister is satisfied that:
- 7.1.1. The proposed Assignee is of good reputation, or is a member of a group of companies of good reputation, or is owned by a company or companies of good reputation
 - 7.1.2. The proposed Assignee is in all other respects acceptable to the Federal Government, and
 - 7.1.3. There is likely to be available to the proposed Assignee sufficient technical knowledge, experience and financial resources to work the licence, lease or marginal field, which is being assigned.
- 7.2. Pursuant to paragraphs 14 to 16 of the First Schedule to the Petroleum Act, the Minister reserves the right to impose a fee or premium or both which shall range from 5 to 10% of the total value of the transaction.
- 7.3. The Minister's consent shall not be conveyed until the appropriate fee or premium has been fully paid.



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7.4. The DPR shall maintain a register of Assignments to which the Minister has consented.

8. CITATION

These Guidelines may be cited as the Guidelines and Procedures for Obtaining Minister's Consent to the Assignment of Interest in Oil and Gas Assets 2021.

9. REPEAL

The Guidelines and Procedures for Obtaining Minister's Consent to the Assignment of Interest in Oil and Gas Assets 2014 are hereby repealed and replaced with these Guidelines.

MADE THIS DAY 12TH DAY OF MARCH 2021

SIGNED BY: Director/CEO, Department of Petroleum Resources