

THE CONSTITUTION OF [] HOST COMMUNITY DEVELOPMENT TRUST

incorporated under the Companies and Allied Matters Act, 2020

1. PREAMBLE

We, the members of [•] Host Communities Development Trust, a not for-profit and non-political organisation do firmly and solemnly resolve to provide for ourselves a constitution and to be governed by the provisions therein contained.

2. NAME AND ADDRESS OF BOARD OF TRUSTEES

- 1) The name of the Trust shall be [•] Host Community Development Trust (hereafter referred to as the “Trust”)
- 2) The name of the Board of Trustees registered with the Corporate Affairs Commission shall be **‘Incorporated Trustees of [•] Host Communities’ Development Trust’**
- 3) The registered address of the Trust shall be situated in Nigeria.

3. AIMS AND OBJECTIVES OF THE TRUST

- 1) The aims and objectives of the Trust shall be to;
 - a. efficiently and competently manage the assets and funds of the trust (“Trust Fund”);
 - b. support and liaise with the Settlor in the conduct of needs assessment for the Community
 - c. implement the host communities development plan
 - d. finance and execute projects for the benefit and sustainable development of the Host Communities;
 - e. serve as liaison and manage the relationship between the Community(ies) and the oil companies operating within the Community(ies) (“Settlers”)
 - f. undertake infrastructural development of the Host Communities within the scope of funds available to the Board of Trustees for such purposes;
 - g. facilitate economic empowerment opportunities in the Host Communities;
 - h. advance and propagate educational development for the benefit of members of the Host Communities;
 - i. support healthcare development for the Host Communities;
 - j. support local initiatives within the Host Communities, which seek to enhance protection of the environment;
 - k. support local initiatives within the Host Communities which seek to enhance security;
 - l. invest part of available fund for and on behalf of the Host Communities; and

- m. assist in any other developmental purpose deemed beneficial to the Host Communities as may be determined by the Board of Trustees.
- 2) The income and property of the Trust shall be applied solely towards the promotion of the Objects.

4. THE SETTLOR

1) Duties of the Settlor

Subject to the approval of the Commission, the Settlor shall:

- a. establish and set up the Board of Trustees for the Trust;
- b. determine the composition and membership of the Board of Trustees and the criteria for the appointment of each Trustee;
- c. appoint the members of the Board of Trustees, subject to the provisions of the Act and the Regulations;
- d. remove any member of the Board of Trustees;
- e. appoint a secretary for the Board of Trustees;
- f. establish a fund in the name of the Trust in accordance with the Act;
- g. exercise any other duties that may be required by the Commission in accordance with the Act.

5. BOARD OF TRUSTEES

1) Establishment, Membership and Tenure of Members of Board of Trustees

Subject to the approval of the Commission;

- a. there shall be established, a Board of Trustees for the Trust which shall be set up by the Settlor;
- b. the Settlor shall determine the composition and membership of the Board of Trustees and the criteria for the appointment of each Trustee;
- c. the first members of the Board of Trustees shall be appointed by the Settlor in consultation with the Host Communities pursuant to section 242 of the Act;
- d. subsequent members of the Board of Trustees (other than the first members of the Board of Trustees) shall be appointed by the Settlor in consultation with the Advisory Committee;
- e. Each member of the Board of Trustees shall serve a term of four (4) years in the first instance and may be reappointed for another term of four (4) years and no more.

2) Qualification of Members of The Board of Trustees

The Settlor shall determine the criteria for membership of the Board of Trustees to include persons of high integrity and professional standing, who shall come from the Host Communities, provided that such person;

- a. is not an infant, that is, less than 18 years old;
- b. is not a person of unsound mind having been so found by a court;
- c. is not an undischarged bankrupt; or
- d. has not been convicted of an offence involving fraud or dishonesty within ten (10) years prior to proposed appointment.

3) Removal and Disqualification of Members of The Board of Trustees

a. Removal by the Settlor

The Settlor may remove any member of the Board of Trustees from office in accordance with this constitution, the Act, and the Regulations made by the Commission in relation thereto.

b. Removal on Grounds of Disqualification

A Trustee shall cease to hold office if:

- i. at any time during the trustee's tenure, the trustee becomes disqualified from acting as a trustee under Article 5 (2) of this constitution;
- ii. the trustee ceases to reside in Nigeria;
- iii. the trustee is recommended for removal from office by the unanimous vote of members present at the meeting of the Trust; or
- iv. the Host Community that the trustee represents ceases to be a beneficiary of the Trust.

c. Resignation of Trustee

- i. A Trustee may voluntarily resign his office at any time during his tenure for any reason whatsoever.
- ii. A Trustee shall voluntarily resign his office immediately upon becoming disqualified from acting as a Trustee in accordance with Article 5 (3) of this constitution.

4) Duties of The Board of Trustees

The Board of Trustees shall be responsible for the general management of the Trust and shall be responsible for;

- i. determining the criteria, process and proportion of Fund to be allotted to specific development programs;
- ii. approving the projects for which the Fund shall be utilised;

- iii. providing general oversight of the projects for which the Fund shall be utilised;
- iv. approving the appointment of Fund Managers for purposes of managing the reserve fund;
- v. setting up the Management Committee and appointing its members;
- vi. determining the allocation of funds to Host Communities based on the matrix provided by the Settlor; and
- vii. appointing and removing the Secretary of the Board of Trustees.

5) Appointment of Chairman of the Board of Trustees

There shall be a Chairman of Board of Trustees who shall be elected from the Board of Trustees by its members and shall serve a term of 2 (two) years in the first instance and may be reappointed for another term of 2 (two) years and no more.

6) Duties of the Chairman Board of Trustees

The duties of the chairman of the Board of Trustees shall be as set out below:

- a. to preside over all meetings of the Board of Trustees;
- b. to provide direction and leadership to all committees of the Trust and ensure the efficient utilization of the Fund; and
- c. to perform any other function as may be required by the Commission, the Settlor or the Board of Trustees.

7) Appointment of Secretary of the Board of Trustees

There shall be a secretary of the Board of Trustees who shall be appointed by the Settlor and who shall be a legal practitioner qualified to practice law in Nigeria.

8) Duties of the Secretary of the Board of Trustees

The responsibilities of the Secretary shall include the following;

- a. keeping the books and records of the Board of Trustees;
- b. convening meetings of the Board of Trustees at the request of the Trustees, Settlor or the Chairman;
- c. documenting and taking minutes of all meetings of the Board of Trustees;
- d. effective management of the communication and correspondence of the Board of Trustees; and
- e. such other duties as may be required by the Board of Trustees.

6. MANAGEMENT COMMITTEE

- 1) **Establishment, Membership and Tenure of Members of Management Committee.**

- a. The Board of Trustees shall within Thirty (30) days of the establishment of the Trust, set up a Management Committee.
- b. The membership of the Management Committee shall comprise;
 - i. one (1) representative of each host community, who shall be nominated by the relevant host community as a non-executive member; and
 - ii. executive members, selected by the Board of Trustees, who shall be Nigerians of high integrity and professional standing, who need not be members of the host community and shall include at least:
 - i. one person who is qualified to practice as an accountant in Nigeria, with not less than [ten (10)] years' experience as a practicing accountant in Nigeria;
 - ii. one person who is a member of the Chartered Institute of Project Managers of Nigeria, with not less than [ten (10)] years' experience as a practicing project manager in Nigeria;
 - iii. one person with at least [ten (10)] years' experience working in the finance sector in Nigeria; and
 - iv. one legal practitioner with at least [ten (10)] years' experience; and
- c. No person shall be qualified to act as a member of the Management Committee if such a person:
 - i. is an infant, that is, less than 18 years old;
 - ii. is a lunatic or a person of unsound mind;
 - iii. is an undischarged bankrupt; or
 - iv. has been convicted of an offence relating to fraud, dishonesty or vandalism of any oil and gas assets in Nigeria.
- d. Each member of the Management Committee shall serve a term of 4 years in the first instance and may be reappointed for another term of 4 years and no more.
- e. The Board of Trustees shall determine;
 - i. the selection process, procedure for meetings, financial regulations and administrative procedures of the Management Committee;
 - ii. the remuneration, discipline, qualification, disqualification, suspension and removal of members of the Management Committee; and
 - iii. any other matter relating to the operations and activities of the Management Committee.

2) Duties of the Management Committee

The Management Committee shall be responsible for the general administration of the Trust on an ad hoc basis and be responsible for the following:

- a. preparation of the budget of the Trust and submit it to the Board of Trustees for approval;
- b. development and management of the contracting process for project award on behalf of the Trust subject to approval of the Board of Trustees;
- c. determination of project award winners and contractors to execute projects on behalf of the Trust through a transparent process subject to approval of the Board of Trustees;
- d. supervision of projects execution;
- e. nomination of fund managers for appointment by Board of Trustees to manage the reserve fund;
- f. reporting on the activities of the Management Committee, contractors and other service providers to the Board of Trustees; and
- g. undertaking of any other function and duty that may be assigned to it by the Board of Trustees to enhance the performance of the Trust.

3) Secretary of the Management Committee

There shall be a Secretary of the Management Committee who shall be appointed by the Board of Trustees to perform the duties stated in Article 6 (4)below.

4) Duties of the Secretary of the Management Committee

The responsibilities of the Secretary of the Management Committee shall include the following;

- a. keeping the books and records of the Management Committee;
- b. convening meetings of the Management Committee at the request of the members of the Management Committee;
- c. documenting and taking minutes of all meetings of the Management Committee;
- d. effective management of the communication and correspondence of the Management Committee; and
- e. such other duties as may be required by the Management Committee.

7. ADVISORY COMMITTEE

1) Establishment and Membership of Advisory Committee

- a. The Management Committee shall set up a Host Communities advisory committee (the **Advisory Committee**) within Thirty (30) business days of being

established. The Advisory Committee shall consist of at least a member of each host community.

- b. no person shall be qualified to act as a member of the advisory committee if such a person:
 - i. is an infant, that is, less than 18 years old;
 - ii. is a lunatic or a person of unsound mind;
 - iii. is an undischarged bankrupt; or
 - iv. has been convicted of an offence relating to fraud, dishonesty or vandalism of any oil and gas assets in Nigeria.
- c. The Management Committee shall determine;
 - i. the selection process, procedure for meetings, financial regulations and administrative procedures of the Advisory Committee;
 - ii. the remuneration, discipline, qualification, disqualification, suspension and removal of members of the Advisory Committee; and
 - iii. any other matter relating to the operations and activities of the Advisory Committee.
- d. Decisions of the Management Committee with respect to the matters stated in Article 7 (1) (c) shall be subject to the approval of the Board of Trustees.

2) Duties the Advisory Committee

The Advisory Committee shall perform the following functions;

- i. nominate member to represent the Host Communities on the Management Committee;
- ii. articulate community development projects to be transmitted to the Management Committee;
- iii. monitor and report progress of projects being executed in the community to the Management Committee;
- iv. advise the Management Committee on activities that may lead to improvement of security of infrastructure and enhancement of peace building within the community and the entire area of operation; and
- v. take responsibility for first line protection of facilities and ensure that petroleum operations are uninterrupted by members of their community failing which, benefits from the trust to the host community shall be disallowed.

8. COMMON SEAL

- 1) The Trust shall have a Common seal.

- 2) Such Common seal shall be kept in the custody of the Secretary to the Board of Trustees who shall produce it when required for use by the Board of Trustees.
- 3) All documents to be executed by the Board of Trustees shall be signed by the Chairman, the Trustees and sealed with the Common seal by the Secretary.

9. MEETINGS OF THE BOARD OF TRUSTEES

1) Proceedings of the Board of Trustees

- a. For effective administration of the Trust, the Board of Trustees shall hold meetings at least quarterly.
- b. The secretary of the Board of Trustees shall be responsible for convening the meeting of the Board of Trustees at the request of the Trustees, Settlor or the Chairman.
- c. At least seven (7) Business Days' written notice of a meeting of the Board of Trustees shall be given to all Trustees accompanied by:
 - i. an agenda specifying in reasonable detail the matters to be raised at the Board meeting; and
 - ii. copies of any papers to be discussed at the Board meeting.
- d. All or any of the Trustees may participate in any meeting of the Board of Trustees by means of telephone conference, video conference or other audio or visual communication equipment which allows all those participating in the meeting to hear and speak to each other.
- e. All trustees so participating shall be counted in a quorum and shall be entitled to vote.
- f. A meeting conducted electronically pursuant to this Article shall be deemed to take place at the venue stated in the notice of meeting convening such meeting.
- g. The notice of a meeting of the Board of Trustees shall be sent to every Trustee and shall include the date, time and place of the meeting. An irregularity in the notice of a meeting is waived where all Trustees entitled to receive notice of the meeting attend the meeting without protest as to the irregularity.
- h. Except as provided otherwise in this Constitution, all decisions or questions arising at any meeting of the Board of Trustees shall be put to vote and decided by a simple majority of votes, and in the event of an equality of votes, the Chairman shall have a casting vote.
- i. The Secretary shall keep minutes of meetings of the Board of Trustees including the names of the Trustees present at the meeting, the decisions made at the meetings and where appropriate the reasons for the decisions. Such minutes will be considered and, subject to any amendment being agreed, approved at the

meeting immediately following that which they record. Such minutes will be available to Trustees for inspection at any reasonable time

2) Quorum

- a. The quorum for transacting businesses at any meeting of the Board of Trustees, shall be two-thirds (2/3).
- b. If a quorum is not present within thirty (30) minutes after the time specified for a Board meeting in the notice of the meeting, the meeting shall be adjourned for five (5) Business Days at the same time and place (the **Adjourned Meeting**).
- c. At the Adjourned Board Meeting, the quorum shall be two-thirds (2/3).

3) Voting

- a. Voting at meetings of the Board of Trustees shall be by show of hands, unless a ballot on any question is demanded by a simple majority of members present at such meeting.
- b. Each Trustee shall have one vote only.
- c. At all meetings, the Chairman shall have a casting vote if votes are equal, or he may call for a second voting.

10. MEETINGS OF THE MANAGEMENT COMMITTEE AND THE ADVISORY COMMITTEE

The provision of article 9 applicable to the proceedings of the Board of Trustees shall apply to meetings of the Management Committee and the meetings of the Advisory Committee.

11. HOST COMMUNITIES' DEVELOPMENT TRUST FUND

1) Establishment and operation of the fund accounts

- a. The Settlor (or where applicable, through the operator) shall establish a fund in the name of the Trust in accordance with the Act (the **Fund**).
- b. The fund shall comprise accounts namely, 'Collection Fund', 'Capital Fund', 'Reserve Fund', and 'Administrative Cost Fund' maintained in accordance with the Regulations.
- c. The accounts shall be maintained in a commercial bank duly licensed by the Central Bank of Nigeria with a minimum credit rating of 'BBB' issued by, at least, two rating agencies, one of which must be a rating agency incorporated in Nigeria and registered with the Securities and Exchange Commission
- d. The Settlor shall pay into the Collection Fund annually, an amount equal to three percent (3%) of its actual annual operating expenditure of the preceding financial year in the upstream petroleum operations affecting the Host Communities for which this fund was established.

- e. The funds in the Collection Fund shall be allocated as follows:
 - i. seventy-five per cent (75%) of any amounts standing to the credit of the Collection Fund shall be paid into the Capital Fund and utilised in accordance with the Act and the Regulations;
 - ii. twenty per cent (20%) of any amounts standing to the credit of the Collection Fund shall be paid into the Reserve Fund and utilised in accordance with the Act and the Regulations; and
 - iii. five per cent (5%) of any amounts standing to the credit of the Collection Fund shall be paid into the Administrative Expenses Fund and utilised in accordance with the Act and the Regulations.
- f. The monies in each of the accounts comprising the fund shall remain distinct and shall not be co-mingled.

2) Sources of Host Communities' Development Trust Fund

The sources of income for the Host Communities development trust fund shall include:

- a. three per cent (3%) of the Settlor's actual annual operating expenditure of the preceding financial year in the upstream petroleum operations affecting the Host Communities for which the Fund was established;
- b. donations, gifts, grants, or honoraria provided for the attainment of the objectives of the Trust; and
- c. profits and interest accruing to the Reserve fund.

3) Administrative costs shall consist of:

- a. remuneration in form of sitting allowance for the Board of Trustees pursuant to section 242(3) of the Act;
- b. remuneration for the management committee pursuant to section 247(4)(b) of the Act.
- c. remuneration in form of stipends for the advisory committee pursuant to section 249(2)(b) of the Act.
- d. fees of the fund manager;
- e. fees payable to auditors and other professional advisors to the trust; and
- f. such other costs wholly reasonable and necessary for the administration of the trust and the fund.

12. ACCOUNTS, AUDIT AND ANNUAL REPORTS

- 1) The Board of Trustees shall maintain an account of the financial activities of the Trust which shall provide an accurate record of all income and expenditure of the Trust.

- 2) The Management Committee shall submit a mid-year report of its activities to the Board of Trustees by no later than 31st of August of each year.
- 3) The Management Committee shall submit an annual report accompanied by its audited account to the Board of Trustees by no later than 28th of February of the succeeding year.
- 4) The Board of Trustees shall submit an annual report of the activities of the Trust accompanied by its audited account to the Settlor not later than 31st of March of the succeeding year.
- 5) The Settlor to submit an annual report of the activities of the Trust accompanied by its audited account to the Commission or Authority, as the case may be, not later than 31st May of the succeeding year.
- 6) The financial year of the Trust shall commence on the 1st day of January and end on the 31st December of each year or any other date to be determined by the Board of Trustees.
- 7) The Board of Trustees shall ensure compliance with other accounting records and annual returns obligations under any other law applicable to Trust.

13. REPRESENTATION

The Chairman or Vice-Chairman and the Secretary or any other duly authorised Trustee by a resolution of the Trustees of the Trust, shall represent the Trust in engagements with the Commission, Settlor and other stakeholders.

14. APPOINTMENT AND REMOVAL OF AN AUDITOR

- 1) The Board of Trustees shall appoint an external independent auditor to audit the financial records of the Trust annually and submit an audited report to the Board of Trustees.
- 2) The auditor shall be independent, qualified, and licensed in accordance with Nigerian law.
- 3) The audited financial statements (balance sheet and income and expenditure account) duly certified by independent auditors shall be annexed to the annual returns to be filed with the relevant authorities

15. AMENDMENT OF CONSTITUTION

This Constitution may be altered by a resolution of the Trustees passed by a 2/3 majority of its members, subject to approval by the Commission, provided that no such resolution shall be considered unless notice in writing setting out the terms of the resolution shall have been sent to every member of the Trustee not less than four weeks before the date

of the meeting at which it is to be considered and provided that no alteration to this constitution shall be effective until approved by the Commission.

16. INTERPRETATION

In this constitution unless the context otherwise requires –

“Act” means the Petroleum Industry Act 2021;

“Advisory Committee” has the meaning given to it in Article 7 of this constitution;

“Adjourned Meeting” has the meaning given to it in Article 9 (2) of this constitution

“Authority” means the Nigerian Midstream and Downstream Petroleum Regulatory Authority established under the Act;

“Board of Trustees” means the governing board of the Trust;

“Commission” means the Nigerian Upstream Petroleum Regulatory Commission established under the Act;

“Fund” the host community development trust fund established under Article 10 of this constitution and pursuant to section 235(1) of the Act;

“Fund Manager” means a person or company appointed by the Board of Trustees to manage and invest the reserve fund established under Article 10 of this constitution for the benefit of the Trust;

“Host Community” means [*names of actual Host Communities to be included*];

“Host Community Development Plan” has the meaning given to it in section 252 of the Act;

“Regulations” means the Nigerian Upstream Host Communities Development Regulations [2022]

“Settlor” [*name of Settlor(s) to be included*] ;

“Trustee” is a member of the Board of Trustee established under Article 5 of this constitution.

17. Setting up the Trust

This constitution was adopted onby the people whose signatures appear below. They are the first Trustees and will remain same until they retire, resign or are otherwise removed in accordance with this Constitution.

Signed

Print name and address

TEMPLATE CONSTITUTION