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Energy: Oil & Gas

Ghana

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Law and Practice

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Contents

1. General Structure of Petroleum Ownership and Regulation	p.3	3.5	Income or Profits Tax Regime Applicable to Midstream/Downstream Operations	p.10
1.1 System of Petroleum Ownership	p.3	3.6	Special Rights for National Oil or Gas Companies	p.10
1.2 Regulatory Bodies	p.3	3.7	Local Content Requirements Applicable to Midstream/Downstream Operations	p.10
1.3 National Oil or Gas Company	p.3	3.8	Other Key Terms of Each Type of Downstream Licence	p.11
1.4 Principal Petroleum Law(s) and Regulations	p.3	3.9	Condemnation/Eminent Domain Rights	p.11
2. Private Investment in Petroleum: Upstream	p.4	3.10	Rules for Third-Party Access to Infrastructure	p.11
2.1 Forms of Allowed Private Investment in Upstream Interests	p.4	3.11	Restrictions on Product Sales into the Local Market	p.11
2.2 Issuing Upstream Licences/Obtaining Petroleum Rights	p.5	3.12	Laws and Regulations Governing Exports	p.11
2.3 Typical Fiscal Terms Under Upstream Licences/Leases	p.5	3.13	Requirements for Transfers of Interest in Downstream Licences	p.11
2.4 Income or Profits Tax Regime Applicable to Upstream Operations	p.6	4. Foreign Investment		p.11
2.5 National Oil or Gas Companies	p.6	4.1	Foreign Investment Rules Applicable to Investments in Petroleum	p.11
2.6 Local Content Requirements Applicable to Upstream Operations	p.6	5. Environmental, Health and Safety (EHS)		p.12
2.7 Requirements for a Licence/Lease-Holder to Proceed to Development and Production	p.6	5.1	Principal Environmental Laws and Environmental Regulator(s)	p.12
2.8 Other Key Terms of Each Type of Upstream Licence	p.7	5.2	Environmental Obligations for a Major Petroleum Project	p.13
2.9 Requirements for Transfers of Interest in Upstream Licences	p.7	5.3	EHS Requirements Applicable to Offshore Development	p.14
2.10 Legal or Regulatory Restrictions on Production Rates	p.8	5.4	Requirements for Decommissioning	p.14
3. Private Investment in Petroleum: Midstream/Downstream	p.8	5.5	Climate Change Laws	p.15
3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations	p.8	5.6	Local Government Limits on Oil and Gas Development	p.15
3.2 Rights and Terms of Access to Any Downstream Operation Run by a National Monopoly	p.9	6. Miscellaneous		p.15
3.3 Issuing Downstream Licences	p.9	6.1	Unconventional Upstream Interests	p.15
3.4 Typical Fiscal Terms and Commercial Arrangements for Midstream/Downstream Operations	p.10	6.2	Liquefied Natural Gas (LNG) Projects	p.15
		6.3	Unique or Interesting Aspects of the Petroleum Industry	p.16
		6.4	Material Changes in Oil and Gas Law or Regulation	p.16

1. General Structure of Petroleum Ownership and Regulation

1.1 System of Petroleum Ownership

Article 257 of the 1992 Constitution of the Republic of Ghana stipulates that the country's mineral resources, including petroleum resources, are vested in the President on behalf of the people of the Republic of Ghana. There are no local, district or municipal agencies that exercise control or ownership over oil and gas resources in the country, and all petroleum resources are managed by agencies of the central government.

1.2 Regulatory Bodies

The primary state agencies responsible for the regulation of petroleum resources and activities are the Ministry of Energy and Petroleum (MoE) and the Petroleum Commission (PC). The MoE is headed by the Minister of Energy and Petroleum, and is the ultimate decision-making body.

The PC was established by the enactment of the Petroleum Commission Act, 2011 (Act 821), and is charged with the promotion, planning and execution of policies for the optimal realisation of benefits from the exploitation of petroleum resources in the country. The PC is tasked with the day-to-day regulation of upstream oil and gas activities, with the Minister being the final decision-making authority. Its foremost task is to ensure that the State obtains the best value from its petroleum resources. The PC is the authority that processes and grants applications for the exploration and production of petroleum. It also ensures strict adherence to the provisions of laws and policies dealing with the conduct of petroleum activities in Ghana. All Petroleum Agreements (agreements which grant rights to the exploration and production of petroleum resources) are entered into by the Minister on behalf of the State, upon the advice of the PC.

Ministry of Energy: www.energymin.gov.gh

Petroleum Commission: www.petrocom.gov.gh

1.3 National Oil or Gas Company

The Ghana National Petroleum Corporation (GNPC) was established by the Ghana National Petroleum Corporation Act 1983 (PNDC 64) to lead the nation's efforts towards the efficient exploration and exploitation of its potential oil and gas resources. The GNPC also had regulatory functions before the establishment of the PC in 2011, but has since had its mandate reviewed to take away its regulatory functions. The GNPC is, however, a party to all Petroleum Agreements, which are the instruments that grant petroleum exploration licences/rights to private investors for the exploration and exploitation of petroleum, and thereby represents the State's participation interests in oil blocs. The GNPC has been appointed as the national gas sec-

tor aggregator, by way of Government policy, and is tasked with the management of all gas resources for the efficient use and development of the nation's gas resources. www.gnpcghana.com

1.4 Principal Petroleum Law(s) and Regulations Ghana National Petroleum Corporation Act 1983 (PNDC 64)

This Act established the Ghana National Petroleum Corporation and gave it the mandate to explore and exploit the nation's petroleum resources in its capacity as the national oil and gas company.

Petroleum (Exploration and Production) Act, 2016 (Act 919)

The object of this legislation is to ensure the safe, secure and efficient execution of upstream petroleum activities, and for the State to derive the optimal benefit from the exploitation of petroleum resources. The parameters and conditions of licensing for various petroleum activities are set out in this legislation. The powers and obligations of the Minister of Energy and the other state agencies in the sector are also provided for in the Act.

Petroleum Commission Act, 2011 (Act 821)

This Act established the Petroleum Commission as the regulator of upstream oil and gas activities, with the object of regulating and managing the utilisation of petroleum resources in Ghana and co-ordinating the policies in relation to them. This Act also empowers the PC to plan for the development of petroleum transportation, processing and treatment facilities, and to regulate decommissioning plans for petroleum fields and petroleum infrastructure.

The PC is again mandated to issue an annual public report on petroleum resources and activities in Ghana, in accordance with the Act, which shall be published in the Gazette. The PC also receives information from contractors, as provided for under applicable laws and regulations, analyses petroleum economic information and submits economic forecasts on petroleum to the Minister.

Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I. 2204)

The State promulgated these Regulations in its bid to facilitate and ensure the growth of local expertise and knowledge in the upstream petroleum sector. The objective is to promote the use of local goods and services in the exploitation of the country's upstream petroleum resources, to the fullest extent possible, with a view to equipping Ghanaians with the knowledge, skills and expertise to compete in the upstream oil and gas sector in Ghana.

Petroleum (Exploration and Production – Health Safety Environment) Regulations 2017 (L.I. 2258)

These Regulations operate to ensure that petroleum activities are undertaken with the strictest observation of health and safety and environment standards, and to prevent the adverse effect of petroleum activities on health, safety and the environment. The Regulations also seek to contribute to the development and improvement of the health, safety and environmental standards in the upstream petroleum sector.

Petroleum Revenue Management Act, 2011 (Act 815)

This Act provides for the receipt, distribution and utilisation of petroleum revenue due to the Republic of Ghana from the commercial exploitation of the country's upstream petroleum resources. The Act establishes the various petroleum funds, including the Petroleum Holding Fund (into which all petroleum revenue due to the State should first be paid), the Stabilisation Fund and the Heritage Fund.

Others are the Petroleum (Exploration and Production) (Measurement) Regulations, 2016, L.I. 2246, the Petroleum Exploration and Production – Data Management Regulations, 2017, L.I. 2257, the Petroleum (Exploration and Production) (General) Regulations L.I. 2359 and the Petroleum Commission (Fees and Charges) Regulations, 2015 (LI 2221)

2. Private Investment in Petroleum: Upstream

2.1 Forms of Allowed Private Investment in Upstream Interests

The Petroleum (Exploration and Production) Act 2016 (Act 919) states that a body corporate may only undertake the exploration, development and production of petroleum subject to the execution of a Petroleum Agreement (PA) with the Republic of Ghana and the GNPC. The PA sets out the terms between the parties regarding the rights, obligations, timelines, etc, for the conduct of a petroleum activity. The Local Content Regulations stipulate that, in addition to the carried Participating Interest held by the GNPC, a local indigenous company must hold at least 5% Participating Interest in any PA. The PA is a hybrid of a concession agreement and a Product Sharing Agreement over a defined acreage and under current applicable legislation, for a term of 25 years.

The Petroleum (Exploration and Production) Act, 2016, Act 919, states that petroleum activities may only be undertaken by a private entity when it has successfully executed a PA with the MoE. The PA may be obtained in two ways. Firstly, through a successful tender or direct negotiations in response to an invitation to tender, or by entering into direct negotiations as

published by the MoE. Where an invitation to tender or to enter into direct negotiations is published, the MoE is required to do so in at least two state-owned daily newspapers and any other media of its choice.

The second mode of acquiring a PA is through successful direct negotiations following the Minister opting to exercise his option to approach a qualified body corporate directly and enter into direct negotiations with it, and subsequently execute a PA in respect of the Contract Area. However, this may only be done by the MoE in a situation where a PA has not already been entered into in respect of that particular area.

The entity that seeks to enter into a PA must possess the requisite technical expertise and financial capacity to fulfil its obligations and undertake the contemplated petroleum activities. The MoE has the power to require the formation of a consortium as a condition for the PA where it believes this to be the best way of ensuring the satisfaction of the technical and financial obligations.

The PA is required to confer on the GNPC an initial carried Participating Interest of at least 15% for exploration and development. The PA may also provide for an option for the GNPC to acquire additional paid Participating Interest, although this option is time-bound and must be exercised after commercial discovery. The paying interest covers costs incurred in petroleum activities other than exploration costs. The MoE is required to obtain parliamentary approval and ratification for every PA that is entered before the PA can have legal effect.

The MoE reserves the right to require a pre-qualification process to be undertaken by all entities interested in responding to a published invitation to tender. The pre-qualification notice should state the nature of the petroleum activities contemplated to be undertaken, the Contract Area, the schedule for the tender process, and instructions on how to prepare and submit applications for the pre-qualification process. Each interested applicant's application must disclose its name, address, nationality and ownership particulars (including that of beneficial owners), among other details. The essence of the pre-qualification process is to provide the MoE with as much information about the applicant as possible, to assist the MoE in making a determination in relation to the legal status of the applicant, its financial capacity, and its technical and managerial expertise. A pre-qualification application may be submitted jointly by two or more applicants. A joint application must clearly state which of the applicants is designated as the operator in the group.

Before L. I. 2395 came into force, an applicant interested in acquiring upstream petroleum exploration rights in a Contract Area first had to submit a letter expressing their interest

to the MoE. The applicant then needed to request from the PC an appointment to visit the data room, which contained information on all the country's petroleum resources. Based on the information procured from the data room, the applicant would then submit four hardcopies and a digital copy, in PDF format, of an application to be granted petroleum rights in relation to a Contract Area of its choice. The application was to be submitted with a non-refundable processing fee of USD10,000, payable by bankers' draft/cheque. The application was then reviewed and evaluated by an Evaluation Committee, which would send a report with its recommendations to the Minister. The Minister would make a decision on the application, and the applicant would be advised accordingly. If the applicant was successful, the Minister would constitute a Government Negotiation Team to negotiate a PA with the applicant. The Government Negotiation Team would typically comprise persons from the Ministry of Finance, the Ministry of Energy, the Ministry of Environment Science and Technology, the Ministry of Justice & Attorney General's Department, the PC and the GNPC. The PA would be negotiated based on the Model Petroleum Agreement, which is publicly available on the PC's website (www.petrocom.gov.gh). Upon conclusion of the negotiations, the PA would be submitted to Cabinet for approval, and would only become legally binding upon approval by Members of Parliament by way of a Parliamentary Resolution.

2.2 Issuing Upstream Licences/Obtaining Petroleum Rights

Licences for operating in upstream activities are granted by the PC. Registration must be completed with the PC, and a permit must be obtained for the activity sought to be engaged in – ie, exploration and production. The registration requirements are that the contractor must be fully incorporated in Ghana as a limited liability company. The application for registration is done by the submission of a completed application form together with a cover letter, copies of the contractor's certificates of incorporation and commencement of business, constitution (articles of association), company profile and audited accounts, the company profile, a business plan and copies of receipts for payments made for the purchase of the application pack.

The application may also be made by a joint venture company (JV), which will be required to file the shareholders' agreement as well as the company documents stated above. The shareholders' agreement must clearly state the identity of the parties, the equity split, the obligations of the parties, the dividend policy, the transfer of shares, deadlock provisions, the process for the appointment of executive and non-executive directors, and the considerations for the transfer of technology and knowledge to the local partner of the JV.

Under the Petroleum (Local Content And Local Participation) Regulations, 2013 (L.I. 2204), an indigenous Ghanaian company is required to hold a minimum of 5% of the participation interest in the PA in respect of which an application for a licence is made.

The MoE requires a contractor to provide security to guarantee the performance of that contractor's obligations under the PA. This security is typically satisfied by the presentation of a parent company guarantee.

The contractor's financial capacity and expertise will be evaluated by the PC to determine whether the contractor meets the minimum thresholds required to undertake the works for which the licence is sought.

The PC considers all applications for registration, and may undertake site visits. It may approve the application, request clarification or explanation, or reject the application outright. If the application for registration is successful, the applicant will be required to pay the appropriate fees based on their annual turnover (for already existing companies) or projected revenue (for newly formed companies), in accordance with the Petroleum Commission (Fees and Charges) Regulations, 2015 (L.I. 2221). Upon satisfaction of the conditions and the payment of fees, the permit should be ready for collection by the authorised representative of the contractor within five days. The permit is subject to annual renewal.

2.3 Typical Fiscal Terms Under Upstream Licences/Leases

The key fiscal terms that apply to an applicant are subject to negotiation during the conclusion of the PA. Therefore, profit-sharing, excess profit payment, royalties and bonuses are all subject to contract.

However, the PA must state the rate of royalty payments due to the country from petroleum activities. Although the model PA provides for 12.5% of the gross production of crude oil to be paid to the State as royalty, royalties may be negotiated, with some PAs setting the royalty payment obligation as low as 4% of gross petroleum volume produced and saved. The MoE may stipulate that the cash equivalent of the stipulated royalty under the PA should be paid instead of delivery of the crude oil equivalent. The MoE may also stipulate that the cash payment is made by the contractor either to the GNPC, which will in turn make the payment to the State, or directly to the State. Where the MoE accepts royalty payments in kind, it may instruct the Contractor to transport, process and store the royalty petroleum on terms not less favourable than those used for the contractor's own entitlement of the petroleum produced.

Another key fiscal term of a PA is the stipulation of an annual acreage fee for the Contracting Area in question. Although the PA is required to state the applicable acreage fee, the MoE reserves the right to amend the fee payable in respect of any applicable renewal.

Contractors are liable for the payment of taxes on the gains accruing from their operations under the PA. Such taxes include petroleum income tax and capital gains tax.

The State is entitled to bonus payments from the contractor, as may be prescribed; where the type and quantum of the bonus payable are not prescribed, the bonus shall be paid as otherwise provided in accordance with the terms of a PA. The State is also entitled to a portion of a contractor's share of petroleum produced from each field on the basis of after-tax inflation-adjusted rate of return that the contractor achieved with respect to each field.

2.4 Income or Profits Tax Regime Applicable to Upstream Operations

The general applicable income tax stipulated by the Income Tax Act 2015 (Act 896) and as stated in the Model Petroleum Agreement is 35%. Unless specifically stated otherwise in the PA, the income tax rate is currently 35%.

Contractors are generally allowed to capitalise their cost of exploration until production, and are granted capital allowance on capital expenditure over a five-year period on a straight line basis. They are therefore allowed to carry over losses incurred over a period of five years under the Income Tax Act. Hydrocarbons, natural petroleum gas, etc, are exempt from value-added tax.

2.5 National Oil or Gas Companies

The GNPC has a free carried interest in all PAs. Costs expended in carrying the GNPC are set off against production and paid to the contractor as reimbursement. The GNPC usually acquires additional interest in a PA through a company known as the GNPC Exploration and Production Company (-GNPC Explorco). The GNPC has a right to acquire additional participating interest, which is usually subject to the GNPC making payment towards both exploratory and production expenses in relation to the additional interest only.

The GNPC also has pre-emption rights in the direct or indirect disposal of a contractor's interest in a PA, and has the right to match, in monetary terms, any consideration agreed between a contractor and any purchaser.

Ownership of physical assets purchased, installed or constructed for petroleum activities shall be transferred to the GNPC at

the election of the GNPC, either when the full cost of the assets has been recovered in accordance with the terms of the relevant PA or upon the termination of that PA.

2.6 Local Content Requirements Applicable to Upstream Operations

Local content requirements to be observed in relation to upstream operations are found in the Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I. 2204), which defines an indigenous Ghanaian company as one that has at least 51% of its equity and 80% of its management positions held by a citizen of Ghana.

Indigenous Ghanaian companies are to be given preferred consideration in the award of petroleum rights for the execution of upstream petroleum operations. However, where no such indigenous company is qualified for the petroleum right, an interested non-indigenous Ghanaian company may apply for the petroleum right only if it affords an indigenous Ghanaian at least 5% percent of the participating interest in the PA it intends to execute.

Where a non-indigenous company seeks to provide goods and services in the upstream sector, it is required to enter into a joint-venture agreement with an indigenous Ghanaian company to incorporate a joint-venture company in which the indigenous Ghanaian company must hold at least 10% equity in the joint-venture company.

A contractor or subcontractor is required to submit a local content plan stating the roles and responsibilities of the indigenous company, the extent of equity held by that company and the strategy for the transfer of know-how and tech to that company.

Other local content requirements to note include the opening of a bank account with a local bank and running all operations through that local bank account. Regarding insurance policies, satisfaction of the obligations under the National Insurance Act 2006 (Act 724) must be done through an indigenous brokerage firm or, where applicable, an indigenous reinsurance broker.

2.7 Requirements for a Licence/Lease-Holder to Proceed to Development and Production

The licence-holder is required to notify the MoE and the PC in writing within 48 hours of a discovery. The written notice should give sufficient details to enable the MoE and the PC to identify the particular area of the discovery. Within 100 days of the date of notification of the discovery, a comprehensive report on the particulars of the discovery must be submitted to the MoE and the PC. The licence-holder is then required to notify the MoE and the PC of its decision as to whether the discovery merits appraisal. Where the decision is in the negative, the

area of the discovery will be deemed to have been relinquished. Where the decision is for an appraisal to be done, a schedule detailing the programme for the appraisal is required to be submitted to the MoE and the PC.

An approval of the appraisal programme may be given by the MoE simpliciter or may be given subject to certain conditions. A licence-holder may not enter into any binding obligations regarding the appraisal of the discovery before receiving the approval of the appraisal schedule from the MoE. The licence-holder is required to revert to the MoE within 90 days of the date of approval of the appraisal schedule, providing a report on the commerciality of the discovery. Where the report indicates that the discovery is not commercial, the Contract Area encompassing the geological structure where the discovery is situated will be deemed relinquished within five days of receipt of the report.

Where the appraisal finds the discovery to be commercial, an exploitation and production programme must be submitted for the approval of the MoE, providing for the efficient, timely and beneficial exploitation of the discovered petroleum resource. Sufficient safeguards catering for environmental and safety concerns are highly considered in the approval of a development programme. Other key considerations are plans for the employment and training of Ghanaians, and the financial capacity of the licence-holder to execute the programme. The MoE will consider the recommendations of the PC and other State agencies, such as the Environmental Protection Agency, in arriving at a decision to approve or reject a production programme.

A licence-holder is required to obtain a production licence from the PC before commencing the production or injection of petroleum. The production licence is subject to renewal annually.

2.8 Other Key Terms of Each Type of Upstream Licence

A PA stipulates the parameters upon which a contractor shall undertake exploration and production of a Contract Area. Every PA is required to stipulate a period of less than seven years as the exploration period. The exploration period must contain clear working periods under which specified works and expenditure are stated as the minimum obligations that must be satisfied before the expiry of the period. Upon satisfaction of the minimum obligations, a contractor is required to notify the PC in writing before commencing the next working period. An exploration period may not have more than three extensions to the component working periods.

If the contractor fails to satisfy the works and expenditure obligations under a particular working period, a request for an extension of that working period must be submitted to the PC before the expiry of that particular working period. The PC

may not grant more than three extensions under an exploration period, and must consider whether the obligations under a working period have been satisfied before deciding on approving a request for extension.

The exploration period may be extended only in the event of a discovery being made in the last year of the period, or in exceptional circumstances. Where an extension is sought as a result of a discovery in the last year of the exploration period, the extension must be restricted to the geological structure of the Contract Area where the discovery is made, and must be extended only so far as reasonably to allow for an appraisal to be undertaken for the determination of the commerciality of the discovery. Either way, the MoE shall grant the extension only following consultation with the PC. If the exploration period expires with no extension being granted, the PA will be deemed terminated.

Every PA is required to state a percentage of the petroleum entitlements that will be supplied domestically at prevailing market price. The licence-holder may export petroleum produced in so far as it does not breach its domestic supply obligation. The domestic supply is calculated as the total volume of entitlement of the State and that of the GNPC, and the total volume of the local demand for petroleum products. A licence-holder is required to supply a volume of petroleum which is calculated based on the pro rata share of the petroleum entitlements.

In a time of war or other emergency that threatens the energy supplies of the country, the MoE may direct that all or part of the petroleum produced under a PA be supplied at the prevailing market price to the State or other agency of the State.

The liabilities arising out of petroleum activities undertaken in satisfaction of obligations under a PA are generally borne jointly and severally by the contractor or contracting parties, as the case may be. This is because the parties undertake to indemnify the State and the GNPC against all such liabilities. As regards claims by subcontractors who are brought in by a contractor to undertake a task, the liability is to be borne jointly and severally by the contractor or contractor parties.

However, all the contracting parties, including the GNPC, may be liable for a subcontractor's default in satisfaction of an obligation of that party. In such an event, that party shall be jointly and severally liable with that subcontractor or, where applicable, with the employer of that third party.

2.9 Requirements for Transfers of Interest in Upstream Licences

A party to a petroleum agreement may only transfer its interest to another entity with the consent and approval of the Minister

of Energy. In granting consent to an assignment, the Minister may consider the status of satisfaction of obligations of the transferring party and the suitability and qualifications of the assignee and approve, reject or impose any conditions to be satisfied by the parties before the request for consent will be granted. A request from the Minister for consent to assign may take between three and six months.

The GNPC has pre-emption rights in the direct or indirect assignment of a contractor's interest in a PA, and has the right to match in monetary terms any consideration agreed between a contractor and any purchaser.

There is currently no specific procedure to be followed or restrictions to be adhered to in respect of a request by a contractor for consent to assign.

2.10 Legal or Regulatory Restrictions on Production Rates

Ghana does not currently have restrictions on production rates. The State is not a party to any international petroleum pacts that require it to ensure restrictions on the rates of production of oil products.

3. Private Investment in Petroleum: Midstream/Downstream

3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations

The National Petroleum Authority (NPA) regulates, monitors and oversees the petroleum downstream sector, and is responsible for granting licences and permits to persons engaged in a business or commercial activity in such sector. The NPA was established by the National Petroleum Authority Act, 2005 (Act 691), which vests the NPA with the powers and obligations required for the efficient regulation of the State's downstream industry (www.npa.gov.gh).

A licence or permit may be granted to a citizen of Ghana, a body corporate registered under the Companies Act 1963 (Act 179), a partnership registered under the Incorporated Private Partnership Act 1962 (Act 152) or a foreign company or foreign individual in a registered joint venture with a citizen of Ghana or a Ghanaian company (a Ghanaian company is a company incorporated in Ghana in which a citizen of Ghana has at least 51% of issued shares). The NPA Board grants these licences and permits on terms and conditions that it considers fit. The requirements to obtain a licence may differ slightly, depending on the business or commercial activity that a person intends to engage in, but the following are commonly applied:

- a detailed business plan for a minimum of five years;
- a corporate environmental policy culminating in the grant and issue of an environmental permit by the Environmental Protection Agency (EPA);
- evidence of local participation – ie, at least 50% (or 51% as the case may be) shares are to be held by Ghanaian citizens;
- business registration documents such as a certificate of incorporation, certificate to commence business, company regulations, Forms 3 & 4 from the Companies Registry, Tax Clearance Certificates and annual returns as filed at the Registrar General's Department (RGD) (where applicable);
- minimum capital requirement (where applicable);
- evidence of relevant infrastructure availability; and
- evidence of agreement or MOU to offtake products to be manufactured or sold (where applicable).

In most cases, a provisional licence will initially be granted and issued to the applicant, to enable it to obtain further documents/permits and to complete set-up. A person must not commence business with a provisional licence unless otherwise authorised.

The NPA Act prohibits unfair competition and the formation of cartels and monopolies in the petroleum industry, and enjoins the Board of the NPA to ensure compliance with the Protection Against Unfair Competition Act 2000 (Act 589).

The Energy Commission 1997 (Act 541) establishes the Energy Commission (EC) as the regulator of the midstream oil and gas operations. The EC grants licences for Natural Gas Processing, Liquefied Natural Gas (LNG) facilities, Natural Gas Wholesale Supply, Natural Gas Transmission, Natural Gas Distribution and Natural Gas Sale. In 2015, the Ministry of Energy designated the GNPC as the Gas Sector Aggregator (GSA) on behalf of the Government of Ghana. In this role, the GNPC is required to act as the sole buyer and seller of bulk natural gas. There are, however, reports that the Presidency, as of May 11, 2020, has arrogated the role of gas aggregator to the Ghana National Gas Company Ltd (GNGC) (www.myjoyonline.com/business/energy/presidency-reportedly-approves-ghana-gas-companys-proposal-to-make-it-a-gas-aggregator/).

There can be only one Natural Gas Transmission Utility (NGTU) at a time in Ghana. The GNGC is currently the NGTU in Ghana. The NGTU is responsible for the Natural Gas Inter-connected Transmission System (NGITS), which includes all pipelines from regulatory and metering stations, compressor stations, natural gas storage facilities and liquefied natural gas terminals, or directly from a processing facility to distribution centres, storage facilities and bulk customers, associated regulating and metering equipment or supply equipment for shared or common use, irrespective of ownership but excluding the West African Gas Pipeline. Other entities may be granted access to

this NGITS on stated terms and conditions. Others may also acquire a natural gas distribution licence issued on a concession, which permits such entities to construct and operate a network to distribute natural gas without discrimination to consumers who own or occupy premises within the concession zone.

See www.npa.gov.gh
www.energycom.gov.gh
www.ghanagas.com.gh

3.2 Rights and Terms of Access to Any Downstream Operation Run by a National Monopoly

The NGTU shall not discriminate between shippers, bulk customers and distribution companies. Persons who require access to the natural gas interconnected transmission system are given access subject to the terms and conditions stipulated in the agreements they have with the NGTU and approved by the Energy Commission, with the tariffs approved by the Public Utilities Regulatory Commission (PURC). In August 2014, the Energy Commission published a Draft Natural Gas Transmission Access Code, pursuant to its powers under the Energy Commission Act, to establish the requirements, procedures, practices and standards that govern how a shipper interconnects to the NGITS and the general terms and conditions for the provision of transmission services by the NGTU. The Code has yet to be adopted, but its purpose is to ensure that the Gas Utility provides the fair, transparent, non-discriminatory, safe, reliable, secure, efficient and cost-effective delivery of natural gas.

Agreements for access to the NGITS may be entered with the NGTU, including a Framework Agreement, a Network Connection Agreement and a Gas Transmission Services Agreement.

The Framework Agreement is typically entered into between a shipper and the NGTU, and will set out the procedure for obtaining and terminating transmission and interconnection services for natural gas, the method of response to a request for the utility's services, and maps and diagrams of the utility's transmission facilities in the country. The Network Connection Agreement will define the terms and conditions between the NGTU and the shipper for the physical connection of the shipper's facility to the NGITS for the sale and delivery of gas, and the Gas Transmission Services Agreement will define the terms and conditions between the NGTU and the shipper for the transportation of gas through the NGITS.

Tariffs are derived by calculation from the Approved Tariff Methodology of the PURC.

3.3 Issuing Downstream Licences

The two regulators of the downstream/midstream industry are the NPA and the EC. Downstream licences are typically granted pursuant to an application by persons interested in engaging in a business or commercial activity in the industry.

A licence or permit may be granted to a citizen of Ghana, a body corporate registered under the Companies Act of Ghana, a partnership registered under the Incorporated Private Partnership Act of Ghana or a foreign company or foreign individual in a registered joint venture with a citizen of Ghana or a Ghanaian company (a Ghanaian company is a company incorporated in Ghana in which a citizen of Ghana has at least 51% of issued shares).

The NPA Boards grants these licences and permits on terms and conditions that it considers fit. The requirements to obtain a licence may differ slightly depending on the business or commercial activity that a person intends to engage in, but the following are typically required:

- a detailed business plan for a minimum of five years;
- a corporate environmental policy culminating in the grant and issue of an environmental permit by the EPA;
- evidence of local participation – ie, at least 50% (sometimes 51%) shares are to be held by Ghanaian citizens;
- business registration documents such as certificate of incorporation, certificate to commence business, company regulations, Forms 3 & 4 from the Registrar General's Department (RGD), Tax Clearance Certificates and annual returns as filed at the RGD (where applicable);
- minimum capital requirement (where applicable);
- evidence of infrastructure requirement; and
- evidence of agreement or MOU to offtake products to be manufactured or sold (where applicable).

The major permits/licences include the following:

- Oil Marketing Company (OMC);
- LPG Marketing Company (LPGMC);
- transport by lake, sea or rail;
- bunkering services companies;
- onshore bunkering;
- calibrating companies;
- manufacturing of lubricating oil;
- lubricant blending companies;
- safety audit and installation;
- petroleum product storage tank cleaning service;
- BRV inspection facility;
- Bulk Distributing Companies (BDC);
- offshore bunkering;
- joint user hydrant installations (JUHI);

- Pipeline Operating Licence;
- oil trading companies;
- export companies;
- single point mooring/conventional buoy mooring (SPM/CBM) operators;
- storage depot operating;
- refinery construction;
- depot construction;
- pipeline construction;
- waste oil recycling plant construction;
- lubricating oil manufacturing plant construction;
- single buoy mooring (SBM) project construction; and
- outlet construction – service stations, filling stations, LPG filling stations.

Natural Gas Licences Issued by the EC

- Natural Gas Processing Licence;
- Natural Gas Transmission Licence;
- Natural Gas Distribution Licence;
- Natural Gas Wholesale Supply Licence;
- Natural Gas Sales Licence; and
- Natural Gas Bulk Customer Permit.

3.4 Typical Fiscal Terms and Commercial Arrangements for Midstream/Downstream Operations

Typical fiscal terms in the downstream industry come in the form of licence/permit application fees and renewals of licences/permit, operating fees, taxes on specific products and income tax. There may be penalties/sanctions for various offences.

The price build-up for petroleum products, for example, as of 1 July 2020, takes the following into consideration:

Indicative Maximum Price (Ex-pump Price)

Ex-refinery price – core

- marine mix;
- cost of blue dye;
- recovery margin.

Ex-refinery price

- energy debt recovery levy;
- energy fund levy;
- fuel marking levy.

Ex-depot

- unified petroleum price fund;
- marketers' margin;
- dealers' (retailers'/operators') margin;
- premix admin cost.

Export prices of petroleum products = ex-refinery price + export duty.

Taxes/Levies and Margins applicable to Marine Gasol(Foreign), Gasoil to the Mines and Rigs(excluding UPPF)

- energy debt recovery levy;
- road fund levy;
- energy fund levy;
- price stabilisation and recovery;
- primary distribution margin;
- BOST margin;
- fuel marking margin;
- special petroleum tax;
- marketers' margin; and
- (dealers' retailers'/operators') margin.

3.5 Income or Profits Tax Regime Applicable to Midstream/Downstream Operations

A company is liable to pay income tax out of its profits. Certain products have levies and taxes imposed on them by law; for example, petrol has many levies and taxes built up in its price, including the energy debt recovery levy, the road fund levy, the energy fund levy and the price stabilisation levy, among others.

Supply of the following crude oil and hydrocarbon products is exempt from VAT:

- petrol;
- diesel;
- liquefied petroleum gas;
- natural petroleum gas; and
- kerosene.

3.6 Special Rights for National Oil or Gas Companies

An application for any of the downstream licences must meet the conditions for the licence before the licence can be granted. Strictly speaking, there is no national oil company in the downstream sector. Ghana Oil Company (GOIL) is a public company licensed to market petroleum products, while the Tema Oil Refinery (TOR), is a state-owned oil refinery. Regarding gas, there is one public utility (NGTU): the GNGC, which must obtain a licence from the Energy Commission in order to operate. It is responsible for the NGITS. There are no special rights.

3.7 Local Content Requirements Applicable to Midstream/Downstream Operations

The NPA Act requires a foreign individual or foreign company to be in an incorporated joint-venture relationship with a citizen of Ghana or a Ghanaian company in order for it to qualify for a licence. The minimum equity that a Ghanaian must have in a

registered joint venture is not stated in the Act. However, in its various public notices on licensing, the NPA has stated that the Ghanaian must have a minimum of 50% (in some cases 51%) equity in the registered joint venture.

3.8 Other Key Terms of Each Type of Downstream Licence

The conditions of the licences differ depending on the products they cover and for which activity they are issued. However, there are a few common trends in the conditions of the grant of the licence, including non-discrimination, obtaining approval for fees and charges, and displaying fees in the local currency. Persons granted licences are to sell, supply, store or transport petroleum products to all persons without discrimination. Licences must be displayed in a prominent place on the business premises of the licence-holder. A licence may be revoked, suspended or not renewed in cases where the laws are not being satisfactorily complied with, where the activity of the licence-holder poses a threat to public health, safety and security, where service standards are unsatisfactory, or when there has been a failure to comply with the conditions of the grant of the licence.

3.9 Condemnation/Eminent Domain Rights

Private investors do not have condemnation rights. They would have to negotiate with land owners, pay them to acquire the requisite leasehold interest in the land to be used for the project, and register the parcel in order to acquire a land title certificate.

However, pursuant to the provisions of the State Lands Act 1962 (Act 125), the Government may compulsorily acquire land for use by statutory corporations, subject to the prompt payment of adequate compensation.

3.10 Rules for Third-Party Access to Infrastructure

The NPA Act requires that a licensee shall not discriminate in the provision of its services to third parties. Third-party access is usually acquired by way of a direct agreement between the service provider and the third party. The holder of a licence either to sell, store, supply or transport petroleum products shall not discriminate as to whom it provides such services, as a condition of the grant. The Energy Commission has a draft access code (which has yet to come into force) to regulate access to the NGITS under the control of the NGTU.

To the extent that a licensee is not creating a cartel or monopoly, which is prohibited by law, there are no prohibitions on an entity providing services in multiple segments of the market.

3.11 Restrictions on Product Sales into the Local Market

Beyond procuring the requisite licence, there are no restrictions on product sales into the local market. An OMC licence entitles the holder to procure and sell petroleum products to bulk consumers and to the general public at retail stations and outlets. There are also no express restrictions on ownership, nor limitations on concurrent ownership. However, based purely on a policy standpoint, the regulator may decline a licence application for a particular activity. Three companies have been licensed to operate refineries in Ghana. The Tema Oil Refinery is owned by the State, while the other two are privately owned.

3.12 Laws and Regulations Governing Exports

The laws and regulations that govern the export of crude oil, natural gas and petroleum products are as follows:

- the National Petroleum Authority Act, 2005 (Act 691);
- the Energy Commission Act, 1997 (Act 541);
- the Natural Gas Distribution and Sale (Technical and Operational) Rules, 2007 (L.I. 1911);
- the Natural Gas Distribution and Sales (Standard of Performance) Regulations, 2007 (L.I. 1912);
- the Natural Gas Transmission Utility (Technical and Operational) Rules, 2007 (L.I. 1913);
- the Natural Gas Transmission Utility (Standards of Performance) Regulations, 2008 (L.I. 1936); and
- the Natural Gas Pipeline Safety (Construction, Operation and Maintenance) Regulations, 2012 (L.I. 2189).

3.13 Requirements for Transfers of Interest in Downstream Licences

Under both the NPA Act and the Energy Commission Act, a licence granted by the NPA and the EC shall not be transferred to another person without the prior approval of the Board of the NPA or the EC. The transferee must meet the requirement for the grant of a licence. Where a transfer is sought, the transferor needs to obtain the prior approval of the NPA or the EC. The NPA or the EC, as the case may be, will assess the technical and financial capacity of the transferee and make a determination as to whether or not the transferee is a fit and proper licensee. The State has no pre-emptive rights in relation to downstream licences.

4. Foreign Investment

4.1 Foreign Investment Rules Applicable to Investments in Petroleum

Any enterprise in Ghana involving a foreigner must be registered with the Ghana Investment Promotion Centre (GIPC) under the provisions of the Ghana Investment Promotion

Centre Act 2013 (Act 865). The foreign partner must invest a foreign capital of not less than USD200,000 in cash or capital goods relevant to the investment, or a combination of both, by way of equity participation. The NPA has stipulated a minimum of 50% (51% in some cases) Ghanaian equity participation in the joint venture.

The GIPC grants a foreign investor some investment guarantees, including prohibition against discrimination, guarantees against expropriation, transfer of capital, profits and dividends and personal remittances, speedy dispute-resolution procedures and automatic expatriate quotas for work permits. An enterprise shall not be nationalised or expropriated by the Government. Where it becomes necessary for an enterprise to be acquired by the State, under the national interest or for a public purpose, fair and adequate compensation must be paid without undue delay, in convertible currency. Disputes between a foreign investor and the Government which are not resolved amicably shall be submitted to arbitration within six months under the rules of procedure for arbitration of the United Nations Commission of International Trade or within the framework of a bilateral investment treaty to which the Government of Ghana and the country of the investor are parties.

www.gipcghana.com

5. Environmental, Health and Safety (EHS)

5.1 Principal Environmental Laws and Environmental Regulator(s)

The principal environmental laws relating to the exploration, development and production of oil and gas are as follows:

- the Environmental Protection Agency Act, 1994 (Act 490);
- the Environmental Impact Assessment Regulations, 1999 (L.I. 1652);
- the Petroleum Commission Act, 2011 (Act 821);
- the Petroleum Local Content and Local Participation) Regulations, 2013 (Act 2204);
- the Petroleum (Exploration and Production) (Health, Safety and Environment) Regulations, 2017 (L.I. 2258);
- the Petroleum (Exploration and Production Act), 2016 (Act 919);
- the Petroleum (Exploration and Production) (General Regulations), 2018 (L.I. 2359);
- the Ghana National Petroleum Corporation Act, 1983 (Act 64);
- the Ghana Maritime Authority Act, 2002 (Act 630); and
- the National Petroleum Authority Act, 2005 (Act 691).

Environmental Protection Agency (EPA)

The EPA (www.epa.gov.gh) is the statutory agency established under the Environmental Protection Act, 1994 (Act 490) as an independent entity to advise the Minister responsible for the environment on the formulation of policies regarding the environment, and in particular to make recommendations for the protection of the environment and ensure compliance with the environmental impact assessment procedures in the planning and execution of development projects, including existing projects. The Environmental Impact Assessment Regulations, 1999 (L.I. 1652) was promulgated in 1999 to give comprehensive legal coverage to the Ghana Environmental Impact Assessment procedures and require that all developmental activities likely to have an adverse impact on the environment must be subject to an Environmental Assessment. In particular, L.I. 1652 states at Regulation (1) that no person shall commence any of the undertakings specified in Schedule (1) (including crude oil and natural gas production and facilities) without having been issued with an environmental permit.

Petroleum Commission

The Petroleum Commission (PC – www.petrocom.gov.gh) was established pursuant to the Petroleum Commission Act, 2011 (Act 821) to promote planned, well-executed, sustainable and cost-efficient petroleum activities to achieve optimal levels of resource exploitation for the overall benefit and welfare of citizens. Significantly, it requires compliance with health, safety and environmental standards in petroleum activities, in accordance with applicable laws, regulations and agreements.

The Petroleum (Exploration and Production Act), 2016 (Act 919) also contains provisions relating to health, safety and the environment, with the object of providing for and ensuring safe, secure, sustainable and efficient petroleum activities in order to achieve optimal long-term petroleum resource exploitation and utilisation for the benefit and welfare of the people of Ghana. Act 919 further requires that petroleum activities should be carried out in such a manner as to ensure that they satisfy safety requirements, standards and precautions, and imposes an obligation on contractors, subcontractors, licensees and GNPC to suspend petroleum operations in cases where an accident or emergency may lead to or has resulted in a loss of life or personal injury, pollution or major damage to property.

The Petroleum (Exploration and Production) (General Regulations) 2018 (L.I. 2359) impose obligations on contractors, subcontractors and licensees to carry out petroleum activities in an environmentally sustainable manner. The Regulations require the Minister for Petroleum to carry out a strategic assessment of any programme for opening areas for petroleum activities, including assessing the impact of the petroleum activities on

the environment, trade, fisheries, shipping, maritime and other industries, and risk pollution.

The Petroleum (Exploration and Production) (Health, Safety and Environment) Regulations, 2017 (L.I. 2258) specifically regulate the impact of the exploration, development and production of oil and gas on the environment. The Regulations aim to prevent the adverse effects of petroleum activities on health, safety and the environment; to provide the minimum health, safety and environment requirements for contractors, subcontractors, licensees, the corporation and any other person engaged in a petroleum activity; to promote high standards for health, safety and the environment in carrying out a petroleum activity; to ensure the systematic implementation of measures to comply with requirements and achieve goals in an applicable working environment and safety standards; and to contribute to the development and improvement of health, safety and environment standards.

Ghana National Petroleum Corporation

The GNPC (www.gnpcghana.com) was established as the national oil company in the upstream sector pursuant to the Ghana National Petroleum Corporation Act, 1983 (PNDCL 64). One of the key objects of the GNPC is to ensure that the exploration, development, production and disposal of petroleum resources in Ghana are conducted in such a manner as to prevent adverse effects on the environment, resources and the people of Ghana.

Ghana Maritime Authority

The responsibilities of the Ghana Maritime Authority (www.ghanamaritime.org) include monitoring, regulating and coordinating activities in the maritime industry, issuing safety permits, ensuring the protection of the marine environment and responding to marine environment incidents. Accordingly, a contractor, subcontractor or licensee that intends to carry out the offshore exploration, development and production of oil and gas must secure the appropriate permit from the Ghana Maritime Authority.

National Petroleum Authority

The NPA (www.npa.gov.gh) was established pursuant to the National Petroleum Authority Act, 2005 (Act 691) to regulate, oversee and monitor the downstream petroleum industry in Ghana. The NPA is empowered by Act 691 to grant or revoke licences for the transportation of crude oil, crude oil products and designated products. Pursuant to Act 691, NPA grants licences for the design, procurement, construction, operation and maintenance of all infrastructure and facilities, including refineries, process plants, petrochemical plants and petroleum transportation. Section 14 of Act 691 requires that, as a condition precedent to granting a licence, the NPA must ensure that

the EPA has issued the applicant with the appropriate permit. As part of efforts to strengthen environmental protection, the NPA issues periodic health, safety and environmental standards for players in the downstream sector. Typically, the NPA issues national specifications for maximum sulphur content levels for imported petroleum products in Ghana.

5.2 Environmental Obligations for a Major Petroleum Project

Section 81 of the Petroleum (Exploration and Production Act), 2016 (Act 919) requires a contractor, subcontractor or licensee who intends to undertake petroleum activities to take into account and give effect to the environmental principles prescribed in the Environmental Protection Agency Act, 1994 (Act 490), the subsidiary legislation made under that Act and any other applicable enactments.

A private investor, contractor, subcontractor or licensee who intends to carry out a petroleum activity is required to satisfy several environmental obligations. The Environmental Protection Agency Act, 1994 (Act 490) and Environmental Impact Assessment Regulations, 1999 (L.I. 1652) provide that a person who is required to register an undertaking and obtain an environmental permit from the EPA shall submit an application (Environmental Assessment registration application form) to the Agency in such form as the Agency shall determine.

A prescribed fee determined by the EPA shall be paid by the private investor. In addition to any information that an applicant/private investor is required to provide on the application form, L.I. 1652 empowers the Agency to require an applicant to submit any other information on the undertaking that it considers necessary for the initial assessment of the environmental impact of the undertaking.

An evaluation is conducted by the EPA to ascertain whether or not an environmental impact assessment (EIA) is required for the major petroleum project. In situations where an EIA is required, the private investor is required to conduct a scoping report (there will be terms of reference, which may include a public hearing) and an environmental impact assessment study.

The draft Environmental Impact Statement is reviewed by the EPA with other regulators (the Petroleum Commission, the Energy Commission, the National Authority) and the public. Upon reviewing the draft Environmental Impact Statement, the EPA together with the appropriate regulator will decline, approve, issue recommendations or direct the private investor to revise the draft Environmental Impact Statement before it is finalised and approved. After the environmental impact statement is finalised, the EPA issues an environmental permit.

A committee duly constituted for the review of the EIA will typically take 90 days to complete its work.

Regulation 35 of the Petroleum (Exploration and Production) (Health, Safety and Environment) Regulations, 2017 (L.I. 2258) provides that the corporation or any other person engaged in a petroleum activity shall do the following:

- before entering on land, engage the communities in which the licensed area is situated in consultation with the appropriate authorities to ensure that landowners are adequately informed of the type of operation to be undertaken, the approximate duration of the operation and the potential damage that could be caused to property;
- obtain the required approvals and permits before the commencement of upstream petroleum activity onshore; and
- notify the Commission in writing of the intentions at least three months before entering on land.

Section 82 of the Petroleum (Exploration and Production) Act, 2016 (Act 919) provides that a person shall not conduct petroleum activities in an area unless the required EIA has been conducted or any other relevant environmental statutory requirement as prescribed in the Environmental Protection Agency Act, 1994 (Act 490) and other applicable enactments have been complied with, including reconnaissance activities under section 9; exploration drilling under section 27; construction of transportation, treatment and storage facilities under section 38; decommissioning under section 43; and plugging and abandonment of a well under section 46. Section 7 of Act 919 requires the conduct of a strategic impact assessment before the opening of a new area.

5.3 EHS Requirements Applicable to Offshore Development

The Petroleum (Exploration and Production) Act, 2016 (Act 919), the Petroleum (Exploration and Production) (Health Safety and Environment) Regulations, 2017 (L.I. 2258) and the Environmental Protection Agency's Guidelines for Offshore Development provide the requirements applicable to offshore development.

Act 919 provides that a person shall not conduct petroleum activities in an area unless the required EIA has been conducted or any other relevant statutory requirement as prescribed in the Environmental Protection Agency Act, 1994 (Act 490) and other applicable enactment have been complied with, including reconnaissance activities; exploration drilling, development and operation; the construction of transportation, treatment and storage facilities; decommissioning; and plugging and abandonment of a well, amongst other offshore developments.

L.I. 2258 gives the basic requirement for an offshore development to include setting up a Health, Safety and Environment (HSE) management system and submitting an HSE plan for every stage of the activity three months prior to actual implementation by a contractor, subcontractor, licensee, the corporation or any other person – eg, the HSE plan for drilling, construction and offshore installations should be submitted three months before any actual activity is done.

Operationally, L.I. 2258 provides for risk and emergency preparedness analysis, the identification of hazard and accident situations, and the assessment of risks of deliberate attacks or security threats; the possible causes of incidents or hazards, accident sequences and potential consequences and risk-reduction analyses must be undertaken and implemented.

The EPA's Guidelines for Offshore Development provide the specific actions required of the EPA, persons undertaking offshore development, the public and other key stakeholders in petroleum activities.

5.4 Requirements for Decommissioning

Section 43 (1) of the Petroleum (Exploration and Production) Act, 2016 (Act 919) provides that a licensee or contractor who operates a petroleum facility shall submit a decommissioning plan to the Minister, covering all petroleum facilities described in the plan of development and operation that are operated by the licensee or contractor. The decommissioning plan shall include the following:

- an overview of all the facilities and wells, including locations, depths and types of material;
- the anticipated date for permanent cessation of the use of each facility or the date of expiry of the relevant licence or petroleum agreement; and
- an overview of the field history, including:
 - (a) a description of all wells, including those already plugged and abandoned;
 - (b) plans for the plugging and abandonment of all other existing wells in the Contract Area;
 - (c) information on the deposit of drill cuttings and other materials; and
 - (d) production and the possibilities for continued production.

Except where the Minister determines otherwise, the decommissioning plan shall be submitted between five and two years before the date on which the use of the petroleum facility to which the decommissioning plan relates is expected to cease operation permanently or the licence or the petroleum agreement to which the decommissioning plans relates will expire. The decommissioning plan must contain the necessary informa-

tion and evaluations for the Minister to make a decision relating to disposal of the petroleum facilities. The Minister may approve the decommissioning plan and is required, upon approval, to set out a schedule for the implementation of the plan. Where the Minister disapproves the decommissioning plan, the Minister is required to notify the contractor or licensee in writing, stating the reasons for the disapproval and indicating the conditions that must be satisfied by the contractor or licensee, or by a new or amended decommissioning plan submitted to the Minister.

Furthermore, the contractor is required to contribute to the decommissioning fund to be used to execute the approved decommissioning plan at the time indicated for decommissioning. The amount to be contributed to the fund will generally take into consideration the cost of decommissioning, restoration of the site and abandonment operations.

The Petroleum (Exploration and Production) (Health Safety and Environment) Regulations, 2017 (L.I. 2258) provide general requirements for decommissioning, including the permanent plugging and abandonment of wells, decommissioning planning, decommissioning, abandonment and removal of petroleum facility. The Ministry of Energy and the Petroleum Commission have developed guidelines to guide decommissioning plans, but they have yet to be published.

On the question of liability, the Petroleum (Exploration and Production) (General) Regulations, 2018 (L.I. 2359) also provide that, where implementation of an approved decommissioning plan involves the abandonment of the whole of the facility or parts of a facility, the contractor or licensee concerned is liable for any loss or damage caused in connection with the abandoned facility or part abandonment of a facility after the termination or expiry of the petroleum agreement or the licence. However, where the Minister decides otherwise, the contractor or licensee has paid the agreed compensation, or the facility has been transferred to the GNPC in accordance with Act 919, the contractor or licensee shall not be liable.

Under L.I. 2359, where more than one person is liable for any default in relation to decommissioning obligations, those persons are deemed under the Regulation as being jointly and severally liable for financial obligations, unless otherwise decided by the Minister. Under Section 93 of Act 919, a company that fails to submit a decommissioning plan as specified under Section 43 of Act 919 is liable to the Petroleum Commission for an administrative penalty for each day that the decommissioning plan is not submitted, or a summary conviction.

5.5 Climate Change Laws

Ghana does not have any specific laws relating to climate change, but there is a United Nations-funded policy paper and

implementation plan currently ongoing to track and reduce the country's carbon footprint, both onshore and offshore.

5.6 Local Government Limits on Oil and Gas Development

Regulation 38 of the Petroleum (Exploration and Production) (Health, Safety and Environment) Regulations, 2017 (L.I. 2258) provides that a contractor, subcontractor, licensee, corporation or any other person engaged in a petroleum activity shall not drill a well in a prohibited area unless they are authorised to do so by the Commission. The prohibition indicated under Regulation 38 is intended to safeguard environmental and other necessary concerns that may arise in the exploration, development and production of oil and gas in Ghana. The legal regime for regulating the exploration, development and production of oil and gas does not specifically set out any rules regarding permitted local government restrictions and prohibitions by local government actions. It must be noted, however, that Local Governments (Municipal and District Assemblies) make representations during the EIA stage, and this may pose some restriction on the proposed activity.

The Local Government Act, 2016 (Act 936) and the Land Use and Spatial Planning Act, 2016 (Act 925) provide that a building permit and a development permit are required under the relevant district planning authority in order to engage in oil and gas development onshore. With regard to the downstream sector, the Hydrological Services Department (a government agency) assesses, approves or declines hydrological reports submitted by prospective developers of petrol filling stations.

6. Miscellaneous

6.1 Unconventional Upstream Interests

Current upstream interest relates to the ownership interest in petroleum that is in the ground, and to the right to explore, develop and produce that petroleum. Accordingly, the legal and regulatory regime has been designed to regulate pertinent legal issues relating to the exploration, development and production of oil and gas. It is submitted that, in the event that unconventional oil and gas sources such as shale, heavy oil and coal-bed methane are discovered in commercial quantities, it would become necessary for the appropriate legal and regulatory regime to be put in place to address the relevant issues pertaining to the exploration, development and production of the unconventional oil and gas.

6.2 Liquefied Natural Gas (LNG) Projects

There is no regime in place that specifically addresses LNG projects. However, there is legislation of general application that is relevant to any LNG project.

The Ghana Maritime Authority Act, 2002 (Act 630) (as amended by Act 825) empowers the Ghana Maritime Authority to issue permits to operate a vessel, site an installation or storage facility, or lay a pipeline, cable, equipment or any other infrastructure, facility or device on the seabed in an area within Ghana's maritime jurisdiction.

The Ghana Shipping Act 2003, (Act 645) provides that prior written approval from the Minister responsible for Transport is required to import a vessel into Ghana.

The Energy Commission Act 1997 (Act 541) provides that a licence is required from the EC to engage in a business or commercial activity for the transmission, wholesale supply or distribution and sale of natural gas. Act 541 empowers the EC to issue licences for the commencement of construction, installation, operation or modification of a pipeline or infrastructure within the midstream sector of the petroleum industry.

6.3 Unique or Interesting Aspects of the Petroleum Industry

There are no other aspects of the petroleum industry that are worthy of mention.

6.4 Material Changes in Oil and Gas Law or Regulation

The Petroleum (Exploration and Production) (General Regulations) 2018 (L.I. 2359) set out the matters necessary for carrying out or giving effect to Act 919, including procedures for direct negotiation with international oil companies and competitive open tender processes in the award of oil blocks to any person or company.

The Licensing Bid Rounds and Negotiation Committee was inaugurated in March 2018 to supervise the open competitive bidding for three of Ghana's oil blocks.

In July 2019, the Ministry of Energy issued a statement confirming the winners of the competitive open tender for two blocks after the bidding process had ended. The statement provided that, pursuant to Regulation 18 (L.I. 2359), Ghana has invited the winners for negotiations, leading to the execution of PAs with the successful bidders.

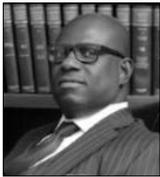
GHANA LAW AND PRACTICE

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Africa Legal Associates serves as a one-stop primary resource centre, providing strategic legal advice and related services in Ghana and through its relationships in West Africa. The firm's key practice areas include oil and gas, power, project finance, M&A, special situations and crisis advisory, and dispute resolution. The firm provides pioneering expertise in relation to oil and gas-related mandates in the country, and is noted for its work advising clients on the oil and gas regulatory regime in

Ghana, particularly in the areas of establishment and licensing and the "local content" regime. In the power generation sector, ALA has immense expertise in advising independent power producers on entering into power purchase agreements. The firm's expertise also extends to the project financing of power producers in Ghana, both on the side of lenders and the side of project sponsors.

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