

**DATED 18 November 2008**

**H OIL & MINERALS LIMITED**

*And*

**SHAREHOLDERS OF NESSERGY LIMITED**

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**HEADS OF TERMS FOR THE**

**SALE AND PURCHASE OF**

**NESSERGY LIMITED**

**AND**

**FOR THE CREATION OF A JOINT VENTURE**

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This Agreement is made on 18 November 2008 by and between:

1. H Oil & Minerals Limited, a company registered in the British Virgin Islands with registration number 1004728, with its registered address at 197 Main Street, Trust Offices, P.O. Box 3540, Road Town, Tortola, British Virgin Islands ("H Oil"); and
2. The Persons listed in Schedule I ("Sellers");

individually herein referred to as a Party or together as the Parties.

**WHEREAS:**

- A) The Sellers own all of the issued capital of Nessergy.
- B) The Parties have conducted negotiations in respect of:
  - 1) H Oil acquiring one hundred percent of the shares of Nessergy, a special purpose vehicle with no debt holding as its sole asset a 47.5% participating interest in the jointly-administered oil and gas exploration block in the *Zone d'Interet Comun* ("ZIC"), located between the Republic of Angola ("Angola") and the Democratic Republic of Congo ("DRC"), which block contains the Negage oil and gas field as well as other fields (collectively referred to as "Fields"), held through its 95% participating interest in the *Contrat de Partage de Production* ("CPP") signed by Nessergy and the DRC Government on 7 October 2006 (the "Asset").
  - 2) the undertaking of a joint venture ("Joint Venture") for H Oil and the Sellers to collaborate on pan-African oil & gas exploration via H Oil offering the Sellers an opportunity to participate in H Oil's current upstream activities, and to collaborate for future upstream asset acquisitions.
- C) The Parties propose to conduct the sale and purchase of Nessergy on the terms outlined in this Agreement.
- D) The Parties recognise that they are conducting negotiations in respect of B 1) and 2) above under special circumstances regarding the political and security situation in the DRC.

**NOW IT IS HEREBY AGREED AS FOLLOWS:**

**1. ASSET TO BE PURCHASED BY H OIL**

Subject to the terms of this Agreement, H Oil shall purchase one hundred percent (100%) of the outstanding share capital of Nessergy.

**2. ACQUISITION PRICE PAYABLE TO NESSERGY SHAREHOLDERS**

**2.1 Proposed initial cash payment on Closing**

On Closing, H Oil shall pay to Sellers an initial cash payment ("Initial Cash Payment") of one hundred and ninety four million United States Dollars (US\$194,000,000).

**2.2 Negage Field Reserves upside payment within 36 months**

H Oil shall make an additional cash payment to Sellers not later than 36 months after Closing of an amount calculated by the product of: (a) 47.5% of the increase (capped at 120 M bbl) over and above 180 million barrels of proved and probable (2P) reserves of the Negage field based on the final 2P reserves agreed within that 36 month period in the joint (Angola and DRC) government approved development plans for the Negage field ("2P Reserves"); and (b) seventy eight United States cents (US\$0.78) per barrel.

Consequently the Parties further agree that:

- (a) no more than forty four million, four hundred and sixty thousand United States dollars (US\$44,460,000) shall be paid to the Sellers for this increase in finally approved 2P Reserves, based on a value of seventy eight cents (\$0.78) per barrel up to a maximum of a 120 million barrel increase in 2P Reserves and Nesserger's 47.5% participating interest in the ZIC;
- (b) if finally approved 2P Reserves are less than 180 million barrels, there shall be no cash refunded to H Oil by Sellers; and
- (c) if the Negage field 2P Reserves are not determined and approved by the DRC and Angola within 36 months of Closing, no additional cash payment shall be due under this Clause 2.2.

**2.3 Annual payment based on production**

During production of the Fields, H Oil shall make an additional annual cash payment to Sellers not later than 1 month after the completion of the annual accounts (to be completed within 90 days of year end and audited by an internationally-recognised audit firm appointed by the parties) for the Asset of an amount equivalent to the net cash received and held by Nesserger or any other entity holding the Asset from time to time, in respect of the previous financial year resulting from any difference between the Applied Tax System and the Angolan Tax System, to be determined by the independent auditor.

**3. FUTURE OBLIGATIONS OF NESSERGER & THE PARTIES**

For the avoidance of doubt, after Closing:

- a) the Sellers shall have no responsibility for the future commitments of Nesserger under the CPP and under any Joint Operating Agreement reached among the ZIC partners. H Oil shall provide in the Definitive Agreements a standard indemnity to the Sellers for any claims vis-a-vis the Sellers in respect of any obligations of Nesserger after transfer of Nesserger to H Oil.
- b) Nesserger, acting through its board of directors, shall be solely responsible for decisions regarding its future participation in exploration, development or production of the Fields and the exercise of its rights under any Joint Operating Agreement among the ZIC partners or the CPP.
- c) Should H Oil transfer or assign the Asset or any part of the Asset to an affiliate or any third party it undertakes that the Seller's rights hereunder and under the Definitive

Agreements shall survive such transfer and the relevant transferee shall, as a condition to such transfer, accede as a party to the Definitive Agreements to which H Oil was a party.

#### 4. CONDITIONS PRECEDENT

Closing shall be subject to:

- a) the prior official and complete DRC government approval of the sale of Nessergy to H Oil, in a form satisfactory to H Oil counsel.
- b) Sellers shall procure a meeting within 14 days of this Agreement, between one of the final decision making authorities of the DRC with regards to the Asset and H Oil's President, or other nominated representative, for the purpose of confirming the proposed purchase of Nessergy shares by H Oil, to H Oil's satisfaction (the "Meeting")
- c) Definitive Agreements being executed between the Parties;
- d) Confirmation, in a form satisfactory to H Oil counsel and board of directors, by the DRC government, of the validity of the CPP and Nessergy's title to the Asset.

#### 5. TIMELINE

The Parties estimate that the following timelines will apply to the proposed transaction:

- a) The Meeting shall occur within 14 days of the execution on this Agreement;
- b) H Oil shall provide the Sellers with a Letter of Comfort (defined below in Clause 8) within 7 business days of the Meeting;
- c) Exclusivity as per Clause 6 below shall commence on the day the Meeting occurs and shall terminate if (b) above does not occur.
- d) H Oil financial, legal and technical due diligence until the execution of the Definitive Agreements;
- e) Drafting, negotiation and signing of Definitive Agreements by the end of Exclusivity; and
- f) Closing upon satisfaction of the Conditions Precedent.

#### 6. EXCLUSIVITY

Immediately following the Meeting, the Sellers undertake that H Oil has a forty five (45) day period of exclusivity ("Exclusivity") in which H Oil endeavours to complete its due diligence. Prior to the expiry of that 45 day Exclusivity, if the due diligence has been substantially started and H Oil requests an extension, the Sellers will grant a thirty (30) day extension (the "Extension") to that Exclusivity, however, Sellers shall have the right, during the Extension, to engage in substantive discussions and negotiations with other parties in respect of the Asset, but shall still be subject to Exclusivity with regards to agreeing to sell the Asset during the Extension and shall continue negotiations with H Oil in good faith using best efforts to conclude Definitive Agreements within the Extension. During Exclusivity, the Sellers shall not, directly or indirectly,

market or solicit any marketing of any of the Nessergy shareholding and shall procure that Nessergy does not, directly or indirectly, market or solicit the marketing of any of its assets.

**7. DEFINITIVE AGREEMENTS**

Clauses 1 to 5 and 14 of this Agreement are non-binding. Clauses 6 to 13 of this Agreement are binding on the Parties. The Parties shall reasonably co-operate in H Oil's conducting of due diligence, and in negotiating the Definitive Agreements, which shall be based on this Agreement.

**8. LETTER OF COMFORT**

Within 7 business days of the Meeting, H Oil shall provide Sellers with a letter from a reputable financial institution in form and substance satisfactory to the Sellers ("Letter of Comfort") verifying that H Oil has the necessary financing to complete the purchase of Nessergy on the terms under discussion by the Parties. If the Letter of Comfort has not been provided within 7 business days of the Meeting, Exclusivity shall terminate.

**9. TERMINATION**

9.1 Subject to the other provisions herein, this Agreement shall terminate on the occurrence of the first occurring of the following events:

- a) the parties enter into the Definitive Agreements; or
- b) the expiry of Exclusivity and the Extension if applicable.

9.2 Upon termination of this Agreement, no Party shall have any obligation to any other under this Agreement except for the provisions of clause 12 which shall continue for the term of that Confidentiality Agreement.

**10. EXPENSES**

Each Party shall be responsible for its own expenses incurred in relation to this Agreement including due diligence and the preparation of the Definitive Agreements.

**11. GENERAL**

11.1 This Agreement shall be governed and construed in accordance with the laws of England.

11.2 Any dispute arising out of or relating to this Agreement, including any question regarding its existence, validity or termination, which cannot be amicably resolved by the Parties, shall be settled before three arbitrators, one to be appointed by each Party. The two arbitrators so appointed shall appoint the third arbitrator, in accordance with the Arbitration Rules of the International Chamber of Commerce (I.C.C.). Judgement upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. A dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect. The place of arbitration shall be London, UK.

**12. GOOD FAITH AND EXCHANGE OF INFORMATION**

As long as Sellers reasonably claim to have any rights under the Definitive Agreements, they shall be provided all necessary information relating to monies owed or claimed to be owed to



Sellers, to which H Oil has rights to access and can access. The Parties shall act in good faith in exercising their rights hereunder and shall agree to do so under the Definitive Agreements.

### 13. CONFIDENTIALITY

The terms of the Confidentiality Agreements previously executed by H Oil and Nessergy shall apply mutatis mutandis to this Agreement and the Parties shall enter into additional confidentiality agreements at the time of execution of the Definitive Agreements to extend the availability of information, as referenced under Clause 12 above, to the Sellers.

### 14. DEFINITIONS

In this Agreement unless the context otherwise requires:

|                         |   |
|-------------------------|---|
| "Angola Tax System"     | The fiscal terms fixed by Angola in the 2006 Bid Round for deep water oil exploration and production.   |
| "Applied Tax System"    | All actual taxes and imposts imposed on the Asset   |
| "Definitive Agreements" | Formal sale and purchase and any other agreements necessary to achieve the purposes of this Agreement.  |
| "Closing"               | The point in time when the conditions precedent are completed, the Initial Cash Payment is paid to Nessergy by H Oil and the shares of Nessergy have been transferred to H Oil. |
| "Nessergy"              | means Nessergy Limited, a company incorporated and registered in Gibraltar with registration number 97099, with registered office at 57/63 Line Wall Road, Gibraltar.           |



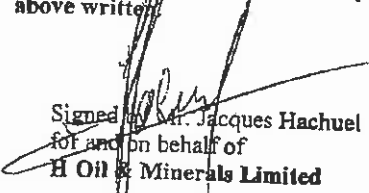
**Schedule 1**

**Sellers**

1. Waterway Enterprises Limited
2. Suf Resources Limited
3. Indus Trading Limited



IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

  
Signed by Mr. Jacques Hachuel  
for and on behalf of  
**H Oil & Minerals Limited**

Signed by **Waterway Enterprises Limited**

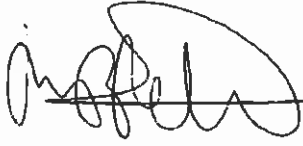
Signed by **Suf Resources Limited**

Signed by **Indus Trading Limited**



**Max Torres**

  
**Stawell Services Limited**



**Ian Felice**