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## NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT, 2010.

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### EXPLANATORY MEMORANDUM

This Act provides for the development of Nigerian content in the Nigerian oil and gas industry, Nigeria content plan, supervision, coordination, monitoring and implementation of Nigerian content.

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## NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT

An Act to provide for the development of Nigerian content in the Nigerian oil and gas industry, Nigerian content plan, supervision, coordination, monitoring and implementation of Nigerian content; and for related matters.

ENACTED by the National Assembly of the Federal Republic of Nigeria-

### PART I- NIGERIAN CONTENT DEVELOPMENT IN OIL AND GAS INDUSTRY

1. Notwithstanding anything to the contrary contained in the Petroleum Act or in any other enactment or law, the provisions of this Act shall apply to all matters pertaining to Nigerian content in respect of all operations or transactions carried out in or connected with the Nigerian oil and gas industry.

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2. All regulatory authorities, operators, contractors, subcontractors, alliance partners and other entities involved in any project, operation, activity or transaction in the Nigerian oil and gas industry shall consider Nigerian content as an important element of their overall project development and management philosophy for project execution.
3. (1) Nigerian independent operators shall be given first consideration in the award of oil blocks, oil field licenses, oil lifting licenses and in all projects for which contract is to be awarded in the Nigerian oil and gas industry subject to the fulfillment of such conditions as may be specified by the Minister.
- (2) There shall be exclusive consideration to Nigerian indigenous service companies which demonstrate ownership of equipment, Nigerian personnel and capacity to execute such work to bid on land and swamp operating areas of the Nigerian oil and gas industry for contracts and services contained in the Schedule to this Act.
- (3) Compliance with the provisions of this Act and promotion of Nigerian content development shall be a major criterion for award of licenses, permits and any other interest in bidding for oil exploration, production, transportation and development or any other operations in Nigerian oil and gas industry.
4. The Nigerian Content Development and Monitoring Board ("the "Board") established in accordance with this Act shall make procedure that will guide, monitor, coordinate and implement the provisions of this Act.
5. The Board shall implement the provisions of this Act with a view to ensuring a measurable and continuous growth of Nigerian content in all oil and gas arrangements, projects, operations, activities or transactions in the Nigerian oil and gas industry.

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6. Upon the commencement of this Act, all subsequent oil and gas arrangements, agreements, contracts or memoranda of understanding relating to any operation or transaction in the Nigerian oil and gas industry shall be in conformity with the provisions of this Act.
7. In the bidding for any license, permit or interest and before carrying out any project in the Nigerian oil and gas industry, an operator shall submit a Nigerian Content Plan ("the Plan") to the Board demonstrating compliance with the Nigerian content requirements of this Act.
8. The Board shall review and assess the plan and, if satisfied that the plan complies with the provisions of this Act, issue a Certificate of Authorization ("the Certificate") to the operator for that project.
9. For the purposes of reviewing or assessing the plan, the Board may conduct a public review in relation to the exercise of any of its functions under this Act provided that any such review or assessment is completed and certificate issued or denied within 30 days from the date of commencement of such review or assessment.
10. (1) A plan shall contain provisions intended to ensure that-
  - (a) first consideration shall be given to services provided from within Nigeria and to goods manufactured in Nigeria; and
  - (b) Nigerians shall be given first consideration for training and employment in the work programme for which the plan was submitted.



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- (2) Any collective agreement entered into by the operator, project promoter or other body submitting the plan with any association of employees respecting terms and conditions of employment in the project shall contain provisions consistent with this section.
11. (1) As from the commencement of this Act, the minimum Nigerian content in any project to be executed in the Nigerian oil and gas industry shall be consistent with the level set in Schedule to this Act.
- (2) Where a project description is not specified in the Schedule to this Act, the Board shall set the minimum content level for that project or project item pending the inclusion of the minimum content level for that project or project item through an amendment of the Schedule to this Act by the National Assembly.
- (3) All operators, alliance partners and contractors shall comply with the minimum Schedule Nigerian content for particular project item, service or product specification set out in the schedule to this Act.
- (4) Notwithstanding the provisions of subsection (1) of this section, where there is inadequate capacity to any of the targets in the Schedule to this Act, the Minister may authorize the continued importation of the relevant items and such approval by the Minister shall not exceed 3 years from the commencement of this Act.
12. Subject to section 7 of this Act, the Nigerian Content Plan submitted to the Board by an operator shall contain a detailed plan, satisfactory to the Board, setting out how the operator and their contractors will give first consideration to Nigerian goods and services, including specific examples showing how first consideration is considered and assessed by the operator in its evaluation of bids for goods and services required by the project.

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13. The Nigerian content plan submitted to the Board by any operator or alliance partner shall contain detailed plan on how the operator or its alliance partner intend to ensure the use of locally manufactured goods where such goods meet the specifications of the industry.
14. All operators and project promoters shall consider Nigerian content when evaluating any bid where the bids are within 1% of each other at commercial stage and the bid containing the highest level of Nigerian content shall be selected provided the Nigerian content in the selected bid is at least 5% higher than its closest competitor.
15. All operators and alliance partners shall maintain a bidding process for acquiring goods and services which shall give full and fair opportunity to Nigerian indigenous contractors and companies.
16. The award of contract shall not be solely based on the principle of the lowest bidder where a Nigerian indigenous company has capacity to execute such job and the company shall not be disqualified exclusively on the basis that it is not the lowest financial bidder, provided the value does not exceed the lowest bid price by 10 percent.
17. (1) For all proposed projects, contracts, subcontracts and purchase orders estimated by operator to be in excess of \$1,000,000 (USD), the operator shall provide to the Board for approval, advertisements, pre-qualification criteria, technical bid documents, technical evaluation criteria and the proposed bidders lists.  
(2) The operator or project promoter shall submit sufficient information with the notifications to enable the Board assess the subject matter and to be satisfied that the requirements for Nigerian content have been complied with by the operator or project promoter.

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18. (1) The operators shall submit to the Board, 30 days prior to the first day of each quarter, a list of all contracts, subcontracts and purchase orders exceeding \$1,000,000 (USD) which will be bided or executed in the upcoming quarter.
- (2) For each contract, subcontract and purchase order, the list shall provide -
  - (a) a description of the service or item to be contracted or purchased (material and equipment specifications shall be provided upon request);
  - (b) estimated value of contract, subcontract or purchase order;
  - (c) the Invitation To Tender (ITT) issuance date, ITT closure date and award date; and
  - (d) any other information requested by the Board for the purposes of implementing the provisions of this Act.
19. Subject to section 17 of this Act, the Board shall advise the operator, by the first day of each quarter, which contracts and sub-contracts have been designated by the Board for review and shall advise the operator of the outcome of such contract review.
20. Prior to issuing of adverts or pre-qualification notification to prospective bidders, the operator or the project promoter shall submit to the Board the following for review and approval:-
  - (a) a description of the scope of work;
  - (b) a copy of the pre-qualification notification, if these documents differ from the standard pre-qualification notification previously reviewed by the Board;

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- (c) a list of companies, indicating locations of head offices, to whom questionnaires shall be issued; and
  - (d) anticipated dates for closure of prequalification and commencement of technical evaluation, issuance of an Invitation To Tender (ITT).
21. For the purposes of compiling a bidding list for any project, the operator, project promoter or alliance partner shall submit to the Board, prior to issuing an Invitation To Tender (ITT) -
- (a) a list of bidders;
  - (b) a copy of the Invitation To Tender (ITT) (the Board shall advise the operator of its requirements in this regard on a case by case basis);
  - (c) a description of corporate ownership (main shareholders by percentage) of bidders;
  - (d) location of any Nigerian based office, plant or facility;
  - (e) anticipated dates for closure of bids and award of contract or purchase order; and
  - (f) any other information requested by the Board.
22. Prior to the award of contract, subcontract or purchase order to the selected bidder, the operator shall submit to the Board --
- (a) the name of the selected contractor or vendor;
  - (b) a list of designated sub-contractors or sub-vendors;

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- (c) where applicable, a list of proposed sub-suppliers;
  - (d) for construction or service contracts; the estimated Nigerian employment (in person-hours);
  - (e) contract or purchase order commencement and completion dates;
  - (f) award Notification Form signed by an appropriate official of the operator; and
  - (g) statement of award rationale (evaluation of bids) showing-
    - (i) percentage difference in price between selected bidder and each bid,
    - (ii) a primary location of work associated with each bidder,
    - (iii) estimates of Nigerian content associated with the bid of each bidder calculated in accordance with the definition of Nigerian content to be provided by the Board, and
    - (iv) other information relevant to the evaluation of bidders including where applicable, a summary of the technical, commercial and Nigerian content aspects of the bid evaluations.
23. Upon assessment of the documentation received in compliance with section 19 of this Designation and Act, the Board shall advise the operator, within 10 days, which contracts, subcontracts and review of purchase orders have been designated by the Board for review, and the designated contracts, contracts, subcontracts and purchase orders shall be reviewed to the satisfaction of the Board.

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24. (1) The operator shall submit to the Board, within 30 days at the end of each quarter, a Quarterly listing of all contracts, subcontracts and purchase orders exceeding \$1,000,000 procurement (USD) or such other limit as the Board may determine, awarded in the previous report. quarter.
- (2) This listing shall provide -
- (a) a list of all items and services;
  - (b) value of contract or purchase order;
  - (c) name of successful contractor or vendor;
  - (d) a primary location of work;
  - (e) estimates of Nigerian content;
  - (j) commencement and completion date; and
  - (g) any other information required by the Board for the purposes of implementing the provisions of this Act.
25. Where applicable, before carrying out any work or activity in Nigeria, the operator or other body submitting a plan shall establish in the Catchment Area where the project is to be located, a project office where project management and procurement decision making are to take place, to the satisfaction of the Board.
26. The operator shall locate, within the project office, personnel with decision-making authority in accordance with a list of personnel to be approved by the Board.

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27. Subject to section 25 of this Act, the Board shall have powers to require any operator to maintain an office in a Community where the operator has significant operations.
28. (1) Subject to section 10(1)(b) of this Act, Nigerians shall be given the first consideration for employment and training in any project executed by any operator or project promoter in the Nigerian oil and gas industry.
- (2) The Board shall ensure that the operator or project promoter maintains a reasonable number of personnel from areas it has significant operation.
29. The plan submitted by any operator or project promoter for any project shall contain an Employment and Training Plan (E and T Plan) which shall include -
- (a) an outline of the-
- (i) hiring and training needs of the operator or project promoter and operator's major contractors with a breakdown of the skills needed,
- (ii) anticipated skill shortages in the Nigerian labour force,
- (iii) project specific training requirements, and
- (iv) anticipated expenditures that will be made directly by the operator in implementing the E and T Plan as a forecasted and actual expenditure;
- (b) a time frame for employment opportunities for each phase of project development and operations, to enable members of the Nigerian workforce to prepare themselves for such opportunities;

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- (c) the operator or project promoter shall report to the Board quarterly on employment and training activities for the reporting period and compare this to the E and T Plan and the report shall include-
    - (i) number of new employees hired during the year,
    - (ii) their place of residence at the time of hiring, and
    - (iii) their employment status; and
  - (d) any other information required by the Board for the purposes of implementing the provisions of this Act.
30. Where Nigerians are not employed because of their lack of training, the operator shall ensure, to the satisfaction of the Board that every reasonable effort is made within a reasonable time to supply such training locally or elsewhere and such effort and the procedure for its execution shall be contained in the operator's E and T Plan.
31. (1) For each of its operations, the operator shall submit to the Board a succession plan for any position not held by Nigerians and the plan shall provide for Nigerians to understudy each incumbent expatriate for a maximum period of four years and at the end of the four year period the position shall become Nigerianised.
- (2) All indigenous (Nigerianised) positions shall attract salaries, wages and benefits as provided for in the operators' conditions of service for Nigerian employees.
  - (3) All conditions of service and staff demography for all operators shall be made available on the Board.



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32. For each of its operations, an operator or project promoter may retain a maximum of five per cent of management positions as may be approved by the Board as expatriate positions to take care of investor interests.
33. (1) Upon the commencement of this Act, the operators shall make application to, and receive the approval of the Board before making any application for expatriate quota to the Ministry of Internal Affairs or any other agency or Ministry of the Federal Government.
  - 2) The application shall be detailed and shall include-
    - (a) job titles;
    - (b) description of responsibilities;
    - (c) the duration of the proposed employment in Nigeria; and
    - (d) any other information required by the Board for purposes of implementing the provision of this Act.
34. Notwithstanding the provisions of the Schedule to this Act, all projects or contracts whose total budget exceeds \$100 million (USD) shall contain a "Labour Clause" mandating the use of a minimum percentage of Nigerian labour in specific cadres as may be stipulated by the Board.
35. All operators and companies operating in the Nigerian oil and gas industry shall employ only Nigerians in their junior and intermediate cadre or any other corresponding grades designated by the operator or company.

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36. The Minister shall make regulations with requirements and targets for the growth of research and development in the Nigerian oil and gas industry.
37. For every project for which a plan is submitted, an operator shall carry out a programme and make expenditure, to the satisfaction of the Board, for the promotion of education, attachments, training, research and development in Nigeria in relation to its work programme and activities.
38. (1) The operator shall submit to the Board and update, every six months, the operator's Research and Development Plan (R and D Plan).
  - (2) The Rand D Plan shall-
    - (a) outline a revolving three to five year plan for oil and gas related research and development initiatives to be undertaken in Nigeria, together with a breakdown of the expected expenditures that will be made in implementing the R and D Plan; and
    - (b) provide for public calls for proposals for research and development initiatives associated with the operator's activities.
39. The operator shall report to the Board, on quarterly basis, with respect to its Rand D activities and the Board shall compare these activities to the operators R and D Plan.
  - (1) The Minister shall make regulations establishing the minimum standards, facilities, personnel and technology for training in the oil and gas industry.
  - (2) The regulations shall specify modalities for involving operators as partners in training and development.

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- 40 (1) The Minister shall make regulations setting out targets to ensure-
- (a) full utilization and steady growth of indigenous companies exploration;
  - (b) seismic data processing; capacity.
  - (c) engineering design;
  - (d) reservoir studies,
  - (e) manufacturing and fabrication of equipment; and
  - (f) other facilities as well as the provisions of other support services for the Nigeria oil and gas industry.
- (2) International or multinational companies working through their Nigerian subsidiaries shall demonstrate that a minimum of 50% of the equipment deployed for execution of work are owned by the Nigerian subsidiaries.
42. The Minister shall make regulations which shall require any operator or company or its professional employees engaged in the provision of engineering or other professional services in the Nigerian oil and gas industry to be registered with the relevant professional bodies in Nigeria.
43. Each operator shall carry out a programme in accordance with the country's own plans and priorities, to the satisfaction of the Board, for the promotion of technology transfer to Nigeria in relation to its oil and gas activities.

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44. The operator shall submit to the Board annually a plan, satisfactory to the Board, setting out a programme of planned initiatives aimed at promoting the effective transfer of technologies from the operator and alliance partners to Nigerian individuals and transfer plan.
45. The operator shall give full and effective support to technology transfer by encouraging and facilitating the formation of joint ventures, partnering and the development of licensing agreements between Nigerian and foreign contractors and service or supplier companies' agreements for all such joint ventures or alliances shall meet the requirements of Nigerian content development to the satisfaction of the Board.
46. The operator or project promoter shall submit a report to the Board annually describing its technology transfer initiatives and their results and the Minister shall make regulations setting targets on the number and type of such joint venture or alliances to be achieved for each project.
47. The Minister shall make regulations which shall require any operator to invest in or set up a facility, factory, production units or other operations within Nigeria for the purposes of carrying out any production, manufacturing or for providing a service otherwise imported into Nigeria.
48. The Minister shall consult with the relevant arms of Government on appropriate fiscal framework and tax incentives for foreign and indigenous companies which establish facilities, factories, production units or other operations in Nigeria for purposes of carrying out production, manufacturing or for providing services and goods otherwise imported into Nigeria.
49. (1) All operators, project promoters, alliance partners and Nigerian indigenous companies engaged in any form of business, operations or contract in the Nigerian oil and gas industry, shall insure all insurable

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risks related to its oil and gas business, operations or contracts with an insurance company, through an insurance broker registered in Nigeria under the provisions of Insurance Act as amended.

- (2) Each operator in subsection (1) of this section shall submit to the Board, a list of all insurance companies and insurance brokers through which insurance covers were obtained in the past six months, the class of insurance cover obtained and the expenditures made by the operator;
- (3) The insurance programme shall include-
  - (a) a comprehensive report of-
    - (i) insurance covers obtained in the past six months of all insurance by expenditure,
    - (ii) a forecast of insurance covers required during the next six months, and
    - (iii) the projected expenditure for the covers;
  - (b) a list of-
    - (i) all insurance companies brokers through which insurance covers were obtained in the past six months,
    - (ii) the class of insurance cover obtained, and
    - (iii) the expenditures made by the operator; and
  - (e) the annual insurance premium budget for the past one year in Naira and foreign currencies.

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50. No insurance risk in the Nigerian oil and gas industry shall be placed offshore without the written approval of the National Insurance Commission which shall ensure that Nigerian local capacity has been fully exhausted.
51. (1) All operators, contractors and other entities engaged in any operation, business or transaction in the Nigerian oil and gas industry requiring legal services shall retain only the services of a Nigerian legal practitioner or a firm of Nigerian legal practitioners whose office is located in any part of Nigeria.
- (2) All operators shall submit to the Board, every six months, its Legal Services Plan (LSP).
- (3) The LSP shall include -
- (a) comprehensive report on-
- (i) legal services utilized in the past six months by expenditure,
- (ii) a forecast of legal services required during the next six months, and
- (iii) the projected expenditure for the services;
- (b) a list of-
- (i) external solicitors utilized for legal services in the past six months,
- (ii) the nature of work done, and
- (iii) the expenditure made by the operator; and

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- (c) the annual legal services budget for the past one year in Naira and foreign currencies.
52. (1) All operators, contractors and any other entity engaged in any operation, business or transaction in the Nigerian oil and gas industry requiring financial services shall retain only the services of Nigerian financial institutions or organizations, except where, to the satisfaction of the Board, this is impracticable.
- (2) All operators shall submit to the Board every six months it's Financial Services Plan (FSP).
- (3) The FSP shall include-
- (a) financial services utilized in the past six months by expenditure;
- (b) a forecast of financial services required during the next six months;
- (c) the projected expenditure for the services;
- (d) A list of -
- (i) financial services utilized in past six months,
- (ii) the nature of financial services provided, and
- (iii) the expenditure for financial services;
- (e) a list of-
- (i) financial services utilized in the past six months,
- (ii) the nature of financial services provided, and

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- (iii) the expenditure for financial services made by the operator or its main contractors;
  - (f) all operators, contractors and sub-contractors shall maintain a bank account in Nigeria in which it shall retain a minimum of 10 per cent of its total revenue accruing from its Nigerian operations.
53. As from the commencement of this Act, all operators, project promoters, contractors and any other entity engaged in the Nigerian oil and gas industry shall carry out all fabrication and welding activities in the country.
54. The Board shall establish an oil and gas e-marketplace which shall -
- (a) provide a virtual platform to facilitate the transactions required for efficient delivery of goods and services in the industry;
  - (b) provide functional interface with the Joint Qualification System and provide a universal and transparent governance structure drawn from industry stakeholder;
  - (c) perform all other functions, roles and responsibilities to be set out in the regulations to be made by the Minister in accordance with the provisions of this Act.
  - (d) track and monitor the Nigerian content performance of operators, project promoters as well as suppliers and service providers with the provision of relevant feedback.
55. The Board shall establish, maintain and operate a Joint Qualification System (JQS) in consultation with industry stakeholders which shall be administered in accordance with provisions set out in the Regulations to be made by the Minister in accordance with the provisions of this Act.



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56. The Joint Qualification System shall constitute an industry databank of available capabilities and shall be used for-
- (a) sole system for Nigerian content registration and pre-qualification of contractors in the industry;
  - (b) verification of contractors' capacities and capabilities;
  - (c) evaluation of application of Nigerian content in the operations of oil companies and contractors;
  - (d) data base for national skills development pool.; and
  - (e) ranking and categorization of old service companies based on capabilities and Nigerian content.
57. The Board shall set up a consultative body to be known as the Nigerian Content Consultative Forum (NCCF) which shall provide a platform for information sharing and collaboration in the Nigerian oil and gas industry with respect to-
- (a) upcoming projects in the oil and gas industry;
  - (b) information on available local capabilities; and
  - (c) other policy proposals that may be relevant to Nigerian content development.
58. The Nigerian Content Consultative Forum shall be made up of key industry stakeholders, government and regulatory agencies and representatives from the following sectors-
- (a) fabrication;

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- (b) engineering;
  - (c) finance services, legal and insurance;
  - (d) shipping and logistics;
  - (e) materials and manufacturing;
  - (f) information and communication technology;
  - (g) petroleum technology association of Nigeria;
  - (h) education and training; and
  - (i) any other professional services nominated by the Board.
59. The Nigerian Content Monitoring Board shall undertake an effective monitoring of the implementation of the provisions of this Act.
60. Within sixty days of the beginning of each year, each operator shall submit to the Board their annual Nigerian Content Performance Report covering all its projects and activities for the year under review.
61. Subject to section 60, the report shall specify by category of expenditure the Nigerian content on both a current and cumulative cost basis and shall set out -
- (a) employment achievement in terms of hours or days worked by Nigerian and foreign workers and their status; and

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- (b) procurement achievement in terms of quantity, tonnage of locally manufactured materials and materials of foreign origin.
62. The Board shall undertake regular assessment and verification of the Nigerian Content Performance Report filed by all operators in compliance with the provisions of this Act as may be considered appropriate by the Board.
63. The Board shall issue directives to operators, contractors and other entities or persons in order to develop a process to facilitate reporting of activities relating to any aspect of this Act.
64. For the purposes of assessment and verification, all operators and contractors shall provide the Board or its designated agent with access to their facilities and all documentation and information required for substantiating the Nigerian content reported.
65. The operator shall ensure that its partners, contractors and subcontractors are contractually bound to report Nigerian content information to the operator and, if so requested by the Board, directly to the Board, and to allow the Board or its designated agent access to their records for the purposes of assessment and verification of Nigerian content information reported to the operator or the Board.
66. The operators shall effectively communicate its Nigerian content policies and procedures to its contractors and subcontractors and to monitor and enforce their compliance.
67. The Board shall conduct workshops, conferences, seminars, symposia and any other public forum considered as appropriate for the benefit of operators, contractors, the public and other stake holders to enhance the implementation of the provisions of this Act.

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68. An operator, contractor or subcontractor who carries out any project contrary to the provisions of this Act, commits an offence and is liable upon conviction to a fine of five per cent of the project sum for each project in which the offence is committed or cancellation of the project.

## PART II--ESTABLISHMENT OF THE NIGERIAN CONTENT MONITORING BOARD

69. (1) There is established the Nigerian Content Monitoring Board (in this Act referred to as "the Board") which shall have the functions and powers conferred on it by this Act.

(2) The Board-

- (a) shall be a body corporate with perpetual succession and a common seal; and
- (b) may sue and be sued in its corporate name.

70. The functions of the Board shall be to-

- (a) implement the provisions of this Act;
- (b) implement the regulations made by the Minister in relation to any aspect of this Act;
- (c) supervise, coordinate, administer, monitor and manage the development of Nigerian content in the Nigerian oil and gas industry;
- (d) supervise, coordinate, administer and monitor the implementation and development of Nigerian content as specified in the Schedule to this Act in the operations of operators, contractors and all other entities in the Nigerian oil and gas industry;

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- (e) appraise, evaluate and approve the Nigerian content plans and reports submitted to the Board in compliance with the provisions of this Act;
- (f) award Certificate of Authorization and conduct reviews of the Nigerian content plans and reports submitted to the Board in compliance with the provisions of this Act;
- (g) administer and operate the e-market place and Joint Qualifications Systems set up in accordance with the provisions of this Act;
- (h) assist local contractors and Nigerian companies to develop their capabilities and capacities to further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;
- (i) make procedures to guide the implementation of this Act and ensure compliance with all the provisions of this Act;
- (j) monitor and coordinate the Nigerian content performance of all operators in accordance with the provisions of this Act;
- (k) make auditing procedures and conduct regular audits for the purposes of monitoring and implementing compliances with the provisions of this Act;
- (l) provide guidelines, definitions and measurement of Nigerian content and Nigerian content indicator to be utilized throughout the industry;
- (m) conduct studies, researches and investigations that may further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;

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- (n) organize conferences, workshops, seminars, symposia, trainings, road shows and other public education fora to further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;
  - (o) delegate any of its functions to any agent or operative appointed by the Council; and
  - (p) do legally anything necessary to be done to facilitate the carrying out of its functions.
71. (1) There is established for the Board the Governing Council (in this Act referred to as the "Council") which shall conduct the affairs of the Board.
- (2) The head office of the Council and the Board shall be located in any of the oil or gas producing States of the Federation.
  - (3) The Council may establish branch offices of the Board in any of the gas or oil producing States of the Federation.
72. The Council shall consist of-
- (a) a Chairman who shall be the Minister of Petroleum Resources;
  - (b) a representative of -
    - (i) Nigerian National Petroleum Corporation,
    - (ii) the agency in charge of technical regulation of the industry,
    - (iii) Ministry of Petroleum Resources,

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- (iv) Petroleum Technology Association of Nigeria,
  - (v) Nigerian Content Consultative Forum,
  - (vi) Council of Registered Engineers of Nigeria,
  - (vii) National Insurance Commission; and
  - (c) Executive Secretary who shall be the Secretary of the Council;
73. (1) The Chairman and members of the Council shall be appointed by the President and shall be persons of proven integrity and ability.
- (2) The membership of the Council shall be on part time basis.
74. The Executive Secretary shall be on full time status.
- 75 (1) The Council shall have power to-
- (a) manage and superintend the affairs of the Board;
  - (b) make rules and regulations for the proper functioning of the Board;
  - (c) employ and pay the staff of the Board appropriate remuneration commensurate in scale with that of staff in organizations of similar stature; and
  - (d) enter into any negotiation, agreement and contractual relationship as may be necessary or expedient for the discharge of the functions of the Board.

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76. Subject to the provisions of section 75 of this Act, the Chairman and members of the Council shall each hold office-
- (a) for a term of four years and may be re-appointed for a further term of four years and no more; and
  - (b) on such terms and conditions as may be specified in their letters of appointment.
77. A person shall cease to hold office as a member of the Council if-
- (a) he dies;
  - (b) he becomes bankrupt;
  - (c) he is convicted of a felony or any offence involving dishonesty or fraud;
  - (d) he becomes of unsound mind or is incapable for any reason of carrying out his duties;
  - (e) he is guilty of a serious misconduct in relation to his duties;
  - (f) in the case of a person possessed of a professional qualification, he is disqualified or suspended, other than at his own request, from practicing his profession in any part of the world by an order of a competent authority made in respect of that member; or
  - (g) he resigns his appointment by written notice under his hand to the President.
78. Where a member ceases to hold office for any reason before the expiration of his term, another person representing the same interest as that member shall be appointed in his place to finish the unexpired residue of the term.



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79. The President may remove a member if he is satisfied that it is not in the interest of the Board or the public that the member continues in that office.
80. A member of the Council shall be paid such allowances and expenses as may be determined by Revenue Mobilization, Allocation and Fiscal Commission using the scale applicable in Nigeria oil and gas industry.
81. (1) There shall be an Executive Secretary for the Board, who shall be appointed by the President.
- (2) The Executive Secretary shall be -
- (a) the Chief Executive and Accounting Officer of the Board;
  - (b) responsible to the Council for the execution of the policies and the administration of the daily affairs of the Board; and
  - (c) a graduate of at least 15 years with cognate experience in the Nigeria oil or gas industry.
- (3) The Executive Secretary-
- (a) shall be appointed for a term of four years in the first instance; and
  - (b) may be appointed for a further term of four years and no more.
82. The Executive Secretary shall be paid such remuneration as may be specified in his letter of appointment or as determined by the Revenue Mobilization, Allocation and Fiscal Commission using the scale applicable in the Nigeria oil and gas industry.

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83. The Executive Secretary shall cease to hold office if any of the conditions specified in section 77 pertaining to cessation of membership of the Council applies to him.
84. The Executive Secretary may resign his appointment by a written notice under his hand delivered to the President.
85. The Council may appoint for the Board such number of employees as may in the opinion of the Council be expedient and necessary for the proper and efficient performance of the functions of the Board and shall pay those remunerations and allowances as it determines using the scale applicable in the Nigeria oil and gas industry.
86. The Council shall have power to appoint for the Board either directly or on secondment from the Public Service of the Federation, such number of employees as may, in the opinion of the Council, be required to assist the Board in the discharge of any of its functions under this Act.
87. The person seconded under section 85 may elect to be transferred to the service of the Board and the previous service he may have rendered in the public service shall count as service to the Board for the purpose of any pension subsequently payable by the Board.
88. There shall be established in the head office of the Board-
  - (a) the Directorate of Finance and Personnel Management;
  - (b) the Directorate of Planning, Research and Statistics;
  - (c) the Directorate of Monitoring and Evaluation;

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- (d) the Directorate of Legal Services; and
  - (e) any other Directorate which the Council may establish.
89. (1) The Service in the Board shall be approved service for the purposes of the Pension Reform Act.
- (2) The officers and other persons employed in the Board shall be entitled to pension, gratuities and other retirement benefits as are enjoyed by persons holding equivalent ranks in the Civil Service of the Federation.
  - (3) Nothing in subsections (1) and (2) of this section shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.
90. (1) The Board shall establish and maintain a fund to which all monies accruing to it shall be paid into or from which shall be defrayed all expenditure incurred by the Board.
- (2) The Fund of the Board shall consist of-
    - (a) all subventions and budgetary allocations provided by the Federal Government;
    - (b) sums accruing to the Board by way of donations, gifts, grants, endowment, bequest or otherwise;
    - (c) interest and revenue accruing from savings and investments made by the Board;
    - (d) loans, which may be required from time to time for the objects of the Board, provided that the Board shall not, without the prior approval of the President, borrow money in compliance with the provisions of the Fiscal Responsibility Act; and

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- (e) other revenues accruing to the board from any other source.
91. The Council shall, not later than 30th September of each year, submit to the Assembly, through the Minister, an estimate of the projected expenditure of the Board estimates during the next succeeding year and shall include a copy of the audited accounts of that report.
92. (1) The Board may accept gifts of money, land or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.
- (2) The Board shall not accept any gift if the conditions attached thereto are inconsistent with the functions of the Board under this Act.
93. The Council shall approve any expenditure of the Board and shall-
- (a) issue proper accounts and records of the transactions and affairs of the Board and ensure that all expenditure is duly authorized;
- (b) prepare in respect of each financial year, a statement of account in such form as the Auditor-General may direct.
94. The audit of the council shall be in accordance with the provisions of the Constitution of the Federal Republic of Nigeria, 1999.
95. (1) For the purpose of providing offices and premises necessary for the performance of its functions under this Act, the Board may, subject to the Land Use Act -
- (a) purchase or lease any interest in land or other property; and

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- (b) construct offices and premises, equip and maintain same.
- (2) The Board may, subject to the Land Use Act, sell or lease out any office or premises held by it, which office or premises is no longer required for the performance of its functions under this Act.
- 96. The provisions of the Public Officer's Protection Act shall apply in relation to any suit instituted against any officer or employee of the Board in his capacity as such.
- 97. A member of the Council, the Executive Secretary, any officer or employee of the Board shall be indemnified out of the assets of the Board against any proceeding, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, if any such proceeding is brought against him in his capacity as a member, Executive Secretary, officer or employee of the Board.
- 98. A notice, summons or other document required or authorized to be served upon the Board under this Act or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the head office of the Board.
- 99. The Executive Secretary may with the approval of the Council engage persons with knowledge or experience in Nigerian content development or in matters relevant to the functions of the Board to assist the Board in the performance of its functions.
- 100. The Minister may issue to the Board directives in relation to Nigerian content development with respect to the application, administration and implementation of this Act.
- 101. (1)The Minister shall make regulations generally for the purpose of carrying out or giving effect to the provisions of this Act.

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- (2) The Minister shall conduct a review of the Schedule to this Act every two years with a view to ensuring a measurable and continuous growth in Nigerian content in all projects, operations, activities and transactions in the Nigerian oil and gas industry.
- (3) The Council shall make standing orders regulating its proceedings or those of its standing committees in consultation with the Minister.
102. Subject to the approval of the Minister, the Board shall conduct a review of the Schedule to this Act at such intervals as it may determine but not later than every two years with a view to ensuring a measurable and continuous growth in Nigerian content in all projects, operations, activities and transactions in the Nigerian oil and gas industry for onward transmission to the National Assembly.
103. Upon the commencement of this Act, all functions and powers conferred on any agency or department of the Federal Government of Nigeria to carry out the implementation of Nigerian content development or policy in the Nigerian oil and gas industry by any law or enactment is hereby transferred to the Nigerian Content Monitoring Board established under this Act.
104. (1) A Fund to be known as the Nigerian Content Development Fund (the "Fund") is established for purposes of funding the implementation of Nigerian content development in the Nigeria oil and gas industry.
  - (2) The sum of one per cent of every contract awarded to any operator, contractor, subcontractor, alliance partner or any other entity involved in any project, operation, activity or transaction in the upstream sector of the Nigeria oil and gas industry shall be deducted at source and paid into the Fund.
  - (3) The Fund shall be managed by the Nigerian Content Development Board and employed for projects, programmes, and activities directed at increasing Nigerian content in the oil and gas industry.

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105. The Nigerian Content Monitoring Board in conjunction with NIMASA shall have powers to enforce compliance with relevant sections of Coastal and Inland Shipping (Cabotage) Act in relation to matters pertaining to Nigerian content development.

106. In this Act-

"Joint Qualification System" means the industry databank of available capacities and capabilities in the Nigerian oil and gas industry;

"Labour Clause" means a clause mandating the use of a minimum percentage of Nigerian Labour in professional cadres in all contracts awarded in the Nigerian petroleum industry above a threshold value as stipulated by the Minister from time to time;

"Minister" means the Minister of Petroleum Resources;

"Nigerian company" means a company formed and registered in Nigeria in accordance with the provision of Companies and Allied Matters Act with not less than 51% equity shares by Nigerians;

"NNPC" means Nigeria National Petroleum Corporation;

"NNPC Joint Ventures Partners" means oil companies that executed various petroleum agreements with NNPC;

"Nigerian content" means the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry;

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"Nigerian content indicator" means a percentage rating of a company based on specific criteria defined on the basis of values ascribed to each criterion;

"Nigerian oil and gas industry" means all activities connected with the exploration, development, exploitation, transportation and sale of Nigerian oil and gas resources including upstream and downstream oil and gas operations;

"Operator" means the Nigeria National Petroleum Company (NNPC), its subsidiaries and joint venture partners and any Nigerian, foreign or international oil and gas company operating in the Nigerian oil and gas industry under any petroleum arrangement;

"Partner" means any foreign company working on any project in partnership or as major contractor to an operator;

"Plan" means a Nigerian content plan submitted in compliance with any aspect of this Act;

"Oil and gas e-market place" means a virtual platform for buyers and sellers of goods and services in the oil and gas industry that allows for speedy and transparent transactions.

107. This Act may be cited as the Nigerian Oil and Gas Industry Content Development Citation Act, 2010.