

SERVITUDE AGREEMENT (MSP PIPELINE)

1. PARTIES

THE REPUBLIC OF MOZAMBIQUE PIPELINE INVESTMENTS COMPANY PROPRIETARY LIMITED

(Registration number 2000/013994/07)

a Company incorporated with limited liability in the Republic of South Africa

(hereinafter referred to as ROMPCO)

and

herein represented by:

Identity number/registration number:
(hereinafter referred to as the OWNER)

2. RECORDAL

- 2.1. ROMPCO is desirous of acquiring servitudes over the PROPERTY for the purposes of construction, maintenance and use of the PIPELINE and WORKS;
- 2.2. The OWNER as registered owner of the PROPERTY is prepared to grant the acquired servitudes over the PROPERTY in favour of ROMPCO subject to payment of the consideration as set out hereinafter.

3. DEFINITIONS

In this AGREEMENT, the following expressions have the meaning respectively set opposite them unless it appears otherwise from the context;

- ◆ "PROPERTY" shall mean the Property known as:

Measuring (hectares)

Province Mpumalanga

Held by the OWNER by virtue of Deed of Transfer:

T.....

- ◆ "AGREEMENT" means the servitude agreement as recorded herein and any annexures hereto;
- ◆ "PARTIES" means ROMPCO and the OWNER;
- ◆ "PIPELINE" means an underground pipeline or pipelines which pipeline or pipelines may be used and/or leased for the conveyance of solids, gases and liquids and which may not be installed nearer to the surface than 1 (one) metre;
- ◆ "PIPELINE MARKERS" means markers at intervals sufficient to indicate visually on a continuous basis, the exact location of the PIPELINE;
- ◆ "PERMANENT SERVITUDE AREA" means an area which does not exceed 6 (six) meters in width along a route as approximately indicated by the letters on the attached diagram marked "A" within which the PIPELINE and WORKS will be accommodated. The boundaries of such area will be determined by a land surveyor to be appointed by ROMPCO, after construction of the first pipeline over the PROPERTY and the extent of such area shall be approximatelym². The said land surveyor shall frame a servitude diagram of such area with co-ordinates and will have such diagram approved by the Surveyor General.
- ◆ "TEMPORARY SERVITUDE AREA" means an area over the PROPERTY 20 (twenty) metres wide which includes the PERMANENT SERVITUDE AREA and of which the boundaries run parallel to that of the PERMANENT SERVITUDE AREA.
- ◆ "TEST POSTS" means testing apparatus, approximately 600mm in height above natural ground level located along the route of the PIPELINE;
- ◆ "WORKS" means all power cables, communication cables, transformer units, cathodic protection equipment, TEST POSTS, PIPELINE MARKERS, valve boxes, and any other constructions, appurtenances, additions or fittings which in ROMPCO's discretion may be necessary or convenient for the purpose hereof and which are installed or erected by ROMPCO on the surface or underground.

4. SERVITUDE

4.1. The OWNER hereby gives and grants to ROMPCO two perpetual servitudes over the PROPERTY within the PERMANENT SERVITUDE AREA for the installation, maintenance

and use of the PIPELINE and WORKS and the right to patrol, inspect, maintain, repair, renew, remove and re-lay the PIPELINE and WORKS.

- 4.2. The OWNER hereby gives and grants to ROMPCO a temporary servitude over the PROPERTY for the duration of the construction of the PIPELINE and WORKS within the TEMPORARY SERVITUDE AREA.

5. ACCESS TO PROPERTY

- 5.1. ROMPCO, its contractors, or agents, or its or their servants, together with all necessary vehicles and equipment shall have such right of ingress to and egress from the PROPERTY as may be necessary or convenient, for the exercise of any or all of the rights granted to ROMPCO in terms of this AGREEMENT.
- 5.2. For the purpose of unrestricted ingress to and egress from the PIPELINE and WORKS by ROMPCO, its contractors, or agents, or its or their servants, for the exercise by ROMPCO of its rights in terms of this AGREEMENT, the OWNER, tenant or occupier shall not erect any buildings, fences or other structures, or plant any trees, or deposit any materials in the PERMANENT SERVITUDE AREA, or reduce, disturb, or interfere with any soil deposit over the PIPELINE and WORKS, or elsewhere in the PERMANENT SERVITUDE AREA without the written consent of ROMPCO.
- 5.3. Notwithstanding the provisions of clause 5.2, the OWNER shall be entitled to cultivate such land within the PERMANENT SERVITUDE AREA which is available and suitable for this purpose, to a depth of not more than 0,50 metres for agricultural purposes, excluding orchards and plantations, provided however, that the OWNER does not thereby reduce the soil deposit, or in any manner cause damage to the PIPELINE and WORKS, or interfere with the rights of ROMPCO in terms of this AGREEMENT.
- 5.4. ROMPCO shall in its sole discretion and at its own cost, decide whether to install suitable gates at places where existing fences cross the PERMANENT SERVITUDE AREA, or where access to the PERMANENT SERVITUDE AREA is hindered by existing fences. The OWNER undertakes to install suitable gates, at his own cost, at places where fences are hereafter erected with the consent of ROMPCO on or over or adjacent to the PERMANENT SERVITUDE AREA. All the aforementioned gates shall be locked by ROMPCO and if the OWNER shall also require the said gates to be locked, this shall be done in a manner approved by ROMPCO. The OWNER shall be responsible to maintain all such gates used by him in good order, provided that he shall not be responsible to

repair any damage caused by ROMPCO, its contractors, or agents, or its or their servants, acting as such.

6. CESSION

ROMPCO may, at any time, cede its rights and delegate its obligations in respect of each of the servitudes granted in terms of this AGREEMENT to any third party(ies).

7. MINERAL RIGHTS

7.1. In the event of the OWNER being the holder of the mineral rights in respect of the PROPERTY the following conditions shall be applicable:

7.2. Should the presence of the PIPELINE at any stage in any way whatsoever, interfere with, restrict, or prevent the exploitation of minerals (excluding sand, stone and clay) the OWNER shall inform ROMPCO accordingly in writing and should ROMPCO within 90 (ninety) days thereafter not be able to offer an alternative solution which is reasonably acceptable to the OWNER other than to remove the PIPELINE and WORKS, ROMPCO will remove and relocate the PIPELINE and WORKS along a route over the PROPERTY to be determined by ROMPCO and the OWNER jointly.

7.3. The OWNER undertakes to provide a new servitude, similar to the servitude contained herein, to ROMPCO should it become necessary to remove and relocate the PIPELINE insofar that the new route traverses the PROPERTY.

7.4. All costs for and incidental to the removal and relocation of the PIPELINE and WORKS, including the cost of obtaining and registering servitudes to protect the PIPELINE, will be for ROMPCO's account.

8. SERVITUDE

8.1. The provisions of this AGREEMENT shall be registered in notarial form against the Title Deed of the PROPERTY.

8.2. The OWNER undertakes to deliver to ROMPCO, on demand, the Title Deed and diagrams relating to the PROPERTY and to sign, or obtain such other documents and consents as may be necessary for the registration of the notarial agreements.

8.3. The OWNER nominates, constitutes and appoints.....

..... as agent with the power of substitution to sign all documentation that may be required to execute and register notarial servitudes which have been drafted according to the conditions set out in this AGREEMENT and to

make all necessary alterations for registration purposes; and generally for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, for all intents and purposes, as the OWNER might or could do if personally present and acting herein - hereby the OWNER ratifies everything his or her agent shall lawfully do, or cause to do.

- 8.4. ROMPCO shall, at its own cost, procure the execution and registration of such notarial agreements. The costs aforementioned shall include the cost of the preparation of notarial agreements and all attendances, documents and papers which may be necessary for preparation and registration thereof, the transfer duty and stamp duty payable, including the cost of survey, preparation and approval of diagrams and in general any cost whatsoever to obtain execution and registration of the notarial agreements.
- 8.5. ROMPCO shall be entitled to exercise all the rights granted in terms of this AGREEMENT notwithstanding that registration of the notarial agreements have not been effected.

9. CONSIDERATION

- 9.1. As compensation for the rights granted in 4.1 above, ROMPCO shall pay the OWNER the amount of R..... (.....).
- 9.2. As compensation for the rights granted in 4.2 above, ROMPCO shall pay to the OWNER an amount equal to the OWNER's actual financial loss caused by the granting of the rights in 4.2 above, which amount will be agreed upon by ROMPCO and the OWNER within 3 (three) months after the PIPELINE and WORKS have been completed to such an extent that in the opinion of ROMPCO the extent of the actual financial loss of the OWNER can be ascertained and in the absence of an agreement on the amount of such compensation, an amount as to be determined in accordance with Clause 13 hereof.
- 9.3. As compensation for the use of the PERMANENT SERVITUDE AREA and the TEMPORARY SERVITUDE AREA, before the amounts of the OWNER's actual financial loss has been determined as envisaged in 9.2, ROMPCO shall pay to the OWNER interest at a rate of 10% (ten percent) per annum calculated on such amounts as from the date on which ROMPCO enters the mentioned servitude areas to install the PIPELINE and

WORKS until date of payment.

- 9.4. The compensation in respect of the PERMANENT SERVITUDE AREA, together with interest intended in 9.3, shall be payable within 30 (thirty) days after registration of the servitude against the title deed of the property.
- 9.5. The compensation in respect of the TEMPORARY SERVITUDE AREA, together with interest intended in 9.3, shall be payable within 30 (thirty) days after such compensation has been determined as envisaged in 9.2
- 9.6. ROMPCO shall pay reasonable compensation for all damage caused on the PROPERTY, outside the servitude areas by ROMPCO (its contractors, agents or its or their servants acting as such), arising from the exercise of any of the rights granted in terms of this AGREEMENT, but shall not be liable for any damage caused within the PERMANENT SERVITUDE AREA except when the second pipeline is constructed in which event ROMPCO shall be liable for direct damage caused within the PERMANENT SERVITUDE AREA.
- 9.7. The compensation excludes Value Added Tax and should such tax be payable, ROMPCO shall pay the amount of such tax on submission of an acceptable tax invoice.

10. EXERCISE OF SERVITUDE RIGHTS

- 10.1. To the extent that the rights of the holder of a servitude granted in terms of this AGREEMENT may conflict with the rights of the other servitude holder, the rights of the holder of the servitude which first exercised its rights by the construction of a pipeline, shall prevail.
- 10.2. In exercising its rights in terms of this AGREEMENT a holder of a servitude shall exercise its rights *civilliter modo* and in such a manner that the other servitude holder is able to exercise its rights meaningfully and on an equitable basis.

11. GENERAL CONDITIONS APPLICABLE TO OWNER

- 11.1. The conditions and provisions of this AGREEMENT shall be binding on the OWNER, his heirs, executors, assigns, administrators or successors in title.
- 11.2. In event of the OWNER disposing of the PROPERTY during the currency of this AGREEMENT and before the registration thereof in notarial form, he shall advise the

purchaser in writing of the provisions of this AGREEMENT and if he fails to do so, he shall be responsible to ROMPCO for all damages which ROMPCO may suffer as a result of his failure to do so.

12. DOMICILIUM

12.1. The PARTIES do hereby respectively choose the following addresses as their domicilia citandi et executandi for purposes of this AGREEMENT :

OWNER:

ROMPCO:

The Manager
Sasol Mineral Rights, Estates and Servitudes
1 Sturdee Avenue

ROSEBANK

12.2 The PARTIES do hereby respectively choose the following addresses for the delivery or despatch of any correspondence or any documents in pursuance of this AGREEMENT:

OWNER:

ROMPCO:

The Manager
Sasol Mineral Rights, Estates and Servitudes
P O Box 699

TRICHARDT

2300

12.3 A notice by pre-paid registered post as aforesaid, shall be deemed to have been received by the party to whom it is addressed on the tenth day following the date on which it was posted.

12.4 The PARTIES shall be entitled, by written notice sent by registered post, to change their addresses aforesaid to another address within the Republic of South Africa.

13 DISPUTES ON COMPENSATION

13.2 The OWNER shall be entitled to refer any dispute in respect of the determination of the amount of the compensation as intended in 4.2 hereof to an umpire as though the servitude rights granted to ROMPCO were obtained by means of expropriation in accordance with the provisions of the Expropriation Act, 63 of 1975 on the date on which this AGREEMENT had been concluded, provided that such referral takes place within the period of 3 (three) months as intended in 9.2 above and failing to do so the OWNER shall be deemed to have accepted the amount referred to in 9.2.

13.3 For purposes of the determination of the compensation intended in 13.1 the norms of Section 12(1)(b) read together with the provisions of Section 12(5), as well as the provisions of Section 12(2) of the abovementioned Expropriation Act will be applicable and for these purposes any reference to the said sub-sections of the Expropriation Act to:

13.3.1 "State" - shall be interpreted as a reference to ROMPCO; and

13.3.2 "Owner" - shall be interpreted as a reference to the OWNER; and

13.3.3 "Property" - shall be interpreted as a reference to the servitude rights granted by the OWNER to ROMPCO in terms hereof.

13.4 In the event of a dispute as intended in 9.2 hereof, such dispute will be referred to a person as agreed upon by the parties and failing such an agreement within 14 (fourteen) days after the date upon which the dispute arose, the dispute will be referred to a practising senior advocate of the Pretoria Bar or a practising attorney of Pretoria with at least 15 (fifteen) years practical experience and appointed by the then President of the Law Society of the Transvaal.

13.5 Any person appointed in terms of the agreement as set out above ("the UMPIRE) shall

always act as an expert and not as an arbitrator.

- 13.6 The procedure and method to be followed in the hearing of the dispute and the hearing of expert evidence and anything which is necessary to be done to reach a decision, shall remain in the full discretion of the UMPIRE.
- 13.7 The PARTIES shall use their best endeavours to procure a decision by the UMPIRE within 21 (twenty-one) days or as soon as possible thereafter, after the dispute was referred to the UMPIRE.
- 13.8 The decision of the UMPIRE will be final and binding upon the disputing parties and may be made an order of any court of competent jurisdiction upon the application of a party to the dispute.
- 13.9 The provisions of this clause 13 :
- 13.9.1 serve as an irrevocable consent by all the PARTIES to any of the proceedings in terms hereof and the PARTIES shall not be entitled to withdraw from the proceedings or to maintain that they are not bound by such provisions; and
 - 13.9.2 be divisible from the rest of this agreement and will remain of full force and effect notwithstanding termination of this agreement for any reason whatsoever.
- 13.10 In respect of the costs in the arbitration proceedings, the PARTIES agree as follows :
- 13.10.1 The UMPIRE shall be empowered to make such award or awards in respect of costs as he in his discretion may deem fit in respect of the following :
 - 13.10.1.1 interim awards in respect of wasted costs;
 - 13.10.1.2 on request of any party determine whether a particular item or items claimed by any party in terms of an order to costs made by the arbitrator, should be allowed or disallowed against the other party.
 - 13.10.2 The provisions of Section 15(2) and (3) of the Expropriation Act, 63 of 1975 in respect of costs is mutatis mutandis applicable on the arbitration proceedings.
 - 13.10.3 Costs shall be allowed as between party and party in accordance with the provisions of the tariff applicable in the Supreme Court of South Africa.

14 MANAGEMENT APPROVAL

This AGREEMENT is subject to the suspensive condition that management of ROMPCO approve this AGREEMENT within 30 (thirty) days from signature thereof.

15 TERMINATION

ROMPCO shall be entitled to at any time prior to the commencement of construction of the first PIPELINE, terminate this AGREEMENT should it appear that the route of the PIPELINE is diverted not to effect the PROPERTY. On termination, this AGREEMENT will lapse and neither of the PARTIES will have any claim against the other as a result of such termination.

SIGNED AT on the DAY OF 2002.

WITNESSES:

1

2

OWNER
who warrants that he is duly authorised thereto

SIGNED AT on the DAY OF 2002.

WITNESSES:

1

2

ROMPCO
who warrants that he is duly authorised thereto

MANAGEMENT APPROVAL:

MANAGER : MINERAL RIGHTS,
ESTATES AND SERVITUDES

DATE