

# Torosa Apportionment Deed of Agreement

Commonwealth-Western Australia Offshore Petroleum  
Joint Authority

Western Australian Minister for Mines and Petroleum

BP Developments Australia Pty Ltd

Japan Australia LNG (MIMI Browse) Pty Ltd

PetroChina International Investment (Australia) Pty Ltd

Shell Australia Pty Ltd

Woodside Browse Pty Ltd

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THIS DEED is made on 22 JULY 2015

**BETWEEN:**

- (1) **The Honourable Ian Elgin Macfarlane MP**, the Minister for Industry and Science, and **The Honourable William Richard Marmion MLA**, the Minister for Mines and Petroleum, referred to in this Deed as the **Commonwealth Minister** and the **Western Australian Minister** respectively, in their capacities as responsible Commonwealth Minister and responsible Western Australian Minister respectively as members of the Commonwealth-Western Australia Offshore Petroleum Joint Authority constituted under section 56 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth);
- (2) **The Honourable William Richard Marmion MLA**, the Minister for Mines and Petroleum, being the Minister of the Crown to whom the administration of the *Petroleum (Submerged Lands) Act 1982* (WA) and the *Petroleum and Geothermal Energy Resources Act 1967* (WA) is for the time being committed by the Governor of the State acting for and on behalf of the said State and its instrumentalities from time to time; and
- (3) **BP Developments Australia Pty Ltd** (ABN 54 081 102 856) of Level 8, 250 St Georges Terrace, Perth, Western Australia;
- (4) **Japan Australia LNG (MIMI Browse) Pty Ltd** (ABN 94 157 922 211) of Level 41, 152-158 St Georges Terrace, Perth, Western Australia;
- (5) **PetroChina International Investment (Australia) Pty Ltd** (ABN 47 152 953 529) of Level 28, 111 Eagle Street, Brisbane, Queensland;
- (6) **Shell Australia Pty Ltd** (ABN 14 009 663 576) of 2 Victoria Avenue, Perth, Western Australia; and
- (7) **Woodside Browse Pty Ltd** (ABN 11 120 237 381) of 240 St Georges Terrace, Perth, Western Australia,

collectively referred to in this Deed as the **Torosa Titleholder**.

**RECITALS:**

- (A) The Torosa Titleholder is proposing to develop the Browse resources.
- (B) The Browse resources include the discovered Petroleum resource known as Torosa, which is partly in each of the Torosa Retention Leases held by the Torosa Titleholder.
- (C) Section 54 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) (**OPGGSA**), section 9 of the *Petroleum (Submerged Lands) Act 1982* (WA) (**PSLA**) and section 7A of the *Petroleum and Geothermal Energy Resources Act 1967* (WA) (**PGERA**) provide for agreements to be entered into for the purpose of determining the proportion of petroleum recovered from a petroleum pool that is taken to be recovered from each relevant title area.
- (D) The Parties have agreed to the proportions of petroleum recovered from the Torosa Petroleum Pool that are taken to be recovered from each relevant title area and to enter into a deed of agreement pursuant to the legislative provisions referred to in Recital C.
- (E) Legislative amendments to the PSLA and PGERA are proposed to make provision for agreements pursuant to the Western Australian legislative provisions referred to in Recital C to apply to petroleum pools that are partly in the title areas of titles granted under each of the OPGGSA, PSLA and PGERA.

- (F) Additional legislative amendments to the OPGGSA, PSLA and PGERA are also proposed to enable satisfaction of the Conditions Precedent set out in clauses 3.2(a)(ii) and 3.2(a)(iii) of this Deed.

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this Deed:

**Conditions Precedent** means the conditions precedent described in clause 3.2.

**J40 Regional Play Interval** means the J40 regional play interval as defined in Figure 4 of Marshall, N.G. and Lang, S.C. 2013, A New Sequence Stratigraphic Framework for the North West Shelf, Australia.

**Joint Authority** means the 'Commonwealth-Western Australia Offshore Petroleum Joint Authority' (as constituted under section 56 of the OPGGSA).

**Parties** means the parties to this Deed and **Party** means any one of them.

**Petroleum** means 'petroleum' (as defined in section 7 of the OPGGSA, section 4 of the PSLA and section 5 of the PGERA).

**Torosa Petroleum Pool** means, subject to clause 6, the 'petroleum pool' (as defined in section 7 of the OPGGSA, section 4 of the PSLA and section 5 of the PGERA) that:

- (a) in respect of areal extent, is bounded by the outer boundary of the title areas of the Torosa Retention Leases when viewed as a single area; and
- (b) in respect of vertical extent, is within the following depth range:
  - (i) at and below the J40 Regional Play Interval; and
  - (ii) at and above 4758 mTVDss MSL (true vertical depth subsea relative to mean sea level).

**Torosa Petroleum Titles** means the Torosa Retention Leases and any other titles derived from the Torosa Retention Leases under each of the OPGGSA, PSLA and PGERA.

**Torosa Retention Leases** means petroleum retention leases WA-30-R, TR/5 and R2 under the OPGGSA, PSLA and PGERA respectively.

**1.2 Interpretation**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this Deed, except where the context requires otherwise:

- (a) a reference to:
  - (i) a legislative provision or legislation is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) this Deed, or a provision of this Deed, is to this Deed or that provision as amended, supplemented, replaced or novated;

- (iii) a Party includes a successor, permitted substitute or a permitted assign of that Party; and
- (iv) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (d) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (e) The expression **this Deed** includes the agreement, arrangement, understanding or transaction recorded in this Deed.

## 2. **SCOPE**

- (a) This Deed applies to the Torosa Petroleum Pool and Petroleum that is recovered by the Torosa Titleholder from the Torosa Petroleum Pool.
- (b) This Deed does not apply to any petroleum pool (as defined in the OPPGSA, PSLA and PGERA) that is not contained within the areal and vertical extents of the Torosa Petroleum Pool.

## 3. **CONDITIONS PRECEDENT**

### 3.1 **Commencement**

This Deed will not commence until each of the Conditions Precedent has been satisfied, except for the provisions contained in:

- (a) Clause 1 (Definitions and Interpretation);
- (b) Clause 3 (Conditions Precedent);
- (c) Clause 7 (Approval and Registration as Dealing);
- (d) Clause 8 (Permitted Assignments);
- (e) Clause 9 (Governing Law);
- (f) Clause 10 (No amendments);
- (g) Clause 11 (Notices);
- (h) Clause 12 (Public Announcements);
- (i) Clause 13 (No Fetter); and
- (j) Clause 14 (Entire Agreement),

which will commence on the date of this Deed.

### 3.2 **Conditions Precedent**

- (a) The Conditions Precedent are:

- (i) notification to the other Parties by the Western Australian Minister of the commencement of an enactment to make provision for agreements entered into pursuant to section 9 of the PSLA and section 7A of the PGERA to apply to petroleum pools that are partly in title areas of titles granted under each of the OPGGSA, PSLA and PGERA; and
  - (ii) notification to the other Parties by the Western Australian Minister of the commencement of an enactment which authorises the Parties to enter into an agreement in the terms of clause 6 of this Deed; and
  - (iii) notification to the other Parties by the Joint Authority of the commencement of an enactment which authorises the Parties to enter into an agreement in the terms of clause 6 of this Deed.
- (b) The Joint Authority and the Western Australian Minister must keep the Torosa Titleholder apprised of progress in satisfying the Conditions Precedent.
  - (c) Upon satisfaction of the Conditions Precedent, this Deed will be of full force and legal effect until the termination of this Deed in accordance with clause 3.3.
  - (d) The date for satisfying the Conditions Precedent is the day that is 24 months after the date of this Deed (**Cut-Off Date**). If all of the Conditions Precedent are not satisfied by the Cut-Off Date, then during the period commencing on the Cut-Off Date and ending when the Conditions Precedent have been satisfied, the Torosa Titleholder may give written notice to the other Parties terminating this Deed with immediate effect.

### 3.3 Termination

This Deed will terminate when the Torosa Titleholder ceases to have authority to explore for, or recover, Petroleum from any part of the Torosa Petroleum Pool.

## 4. APPORTIONMENT

- (a) For the purposes of section 54 of the OPGGSA, section 9 of the PSLA and section 7A of the PGERA, there will be taken to be recovered in:
  - (i) the title area of any Torosa Petroleum Title under the OPGGSA 34.6% of all of the Petroleum recovered from the Torosa Petroleum Pool by the Torosa Titleholder;
  - (ii) the title area of any Torosa Petroleum Title under the PSLA 65.39% of all of the Petroleum recovered from the Torosa Petroleum Pool by the Torosa Titleholder; and
  - (iii) the title area of any Torosa Petroleum Title under the PGERA 0.01% of all of the Petroleum recovered from the Torosa Petroleum Pool by the Torosa Titleholder.
- (b) The Parties agree that the apportionment of the Torosa Petroleum Pool in clause 4(a) has been agreed between the Parties:
  - (i) having regard to the nature and probable extent of the Torosa Petroleum Pool; and
  - (ii) on the basis that there is an even distribution across the title areas of the Torosa Retention Leases of the levels of the non-hydrocarbon substances listed in paragraph (c) of the definition of 'petroleum' in each of the OPGGSA, PSLA and PGERA, the levels of which might otherwise have

impacted differently on recoverability of hydrocarbons from the Torosa Petroleum Pool in a particular title area or title areas.

5. **NO REDETERMINATIONS**

There will be no redeterminations in relation to the apportionment of the Torosa Petroleum Pool agreed between the Parties in clause 4 (including if it becomes apparent that the matters set out in clause 4(b)(ii) change in any way).

6. **MULTIPLE PETROLEUM POOLS**

If, at any time after the date of satisfaction of the Conditions Precedent, it becomes apparent that the areal and vertical extents of the Torosa Petroleum Pool as described in clause 1.1 comprise or are likely to comprise more than one petroleum pool (as defined in section 7 of the OPGGSA, section 4 of the PSLA and section 5 of the PGERA), the apportionment set out in clause 4 will apply to the Petroleum recovered from any or all of those petroleum pools regardless of their location but within those vertical and areal extents. For the purposes of this Deed, the expression 'Torosa Petroleum Pool' is to be read as including all the petroleum pools contained within the areal and vertical extents of the Torosa Petroleum Pool as described in clause 1.1.

7. **APPROVAL AND REGISTRATION AS DEALING**

- (a) The Parties that comprise the Torosa Titleholder will apply for approval and registration of this Deed as a dealing against the Torosa Petroleum Titles pursuant to the OPGGSA, PSLA and PGERA.
- (b) The Parties agree that the mutual promises between the Parties contained in this Deed is the sole consideration under this Deed.

8. **ASSIGNMENTS**

- (a) If any of the Parties that comprise the Torosa Titleholder (**Transferor**) transfers the whole or any part of its interest in all of the Torosa Petroleum Titles to one of the other Parties that comprise the Torosa Titleholder or a new titleholder (**Transferee**) in accordance with the OPGGSA, PSLA and PGERA, then:
  - (i) the Transferor must assign the benefit of this Deed to the Transferee to the extent of that interest, without any requirement for prior approval from the other Parties for the purposes of this Deed; and
  - (ii) the persons that will constitute the Torosa Titleholder (after the transfer) will execute a deed of covenant in favour of the Parties (in the form of Annexure A to this Deed) to comply with, observe and perform the provisions of this Deed.
- (b) If it is proposed that the Torosa Titleholder will be differently constituted in respect of any of the Torosa Petroleum Titles, then:
  - (i) the Torosa Titleholder will notify the other Parties; and
  - (ii) the Parties will meet and discuss on a commercial in confidence basis and use best endeavours to agree a mutually acceptable solution in relation to the apportionment of the Torosa Petroleum Pool, including, if necessary, reaching agreement on a replacement for this Deed or another agreement that is consistent with the apportionment in and principles and intent of this Deed.

9. **GOVERNING LAW**

This Deed will be governed by the laws in force in the State of Western Australia.

10. **NO AMENDMENTS**

There will be no amendment to the terms of this Deed except where agreed in writing by all of the Parties.

11. **NOTICES**

(a) Any notices to be given or sent in relation to this Deed by:

- (i) the Joint Authority, will be given or sent in accordance with section 63 of the OPGGSA and section 65 of the OPGGSA (which is deemed to apply for the purposes of this Deed);
- (ii) the Western Australian Minister, will be given or sent by any person or persons authorised by the Western Australian Minister by prepaid post or hand delivery; and
- (iii) the Torosa Titleholder, will be given or sent collectively by notice signed by all of the Parties that comprise the Torosa Titleholder by persons authorised by those Parties and forwarded by prepaid post or hand delivery.

(b) Any notices given or sent in relation to this Deed will be deemed to have been duly given or sent on the day on which it was hand delivered or, if delivered in the ordinary post, the day on which it would be delivered in the ordinary post.

(c) For the avoidance of doubt, nothing in this clause 11 constitutes any notice or communications to or by any Party for the purpose of any statutory requirements.

12. **PUBLIC ANNOUNCEMENTS**

Except for disclosure:

- (a) required pursuant to any laws or any rules or requirements of any government or stock exchange having jurisdiction over a Party (or its affiliates);
- (b) required pursuant to any legal proceedings or because of any order of any court or legislative or administrative body binding upon a Party (or its affiliates); and
- (c) to satisfy the requirements of parliamentary accountability or any other reporting or recognised public obligations of the Commonwealth of Australia or State of Western Australia (as applicable),

any public announcements in relation to this Deed must be pre-agreed in writing by all of the Parties.

13. **NO FETTER**

Nothing contained in this Deed or contemplated by this Deed has the effect of constraining the Joint Authority or the Western Australian Minister or placing any fetter on the Joint Authority's or the Western Australian Minister's discretion to exercise or not to exercise any of their respective statutory rights, duties, powers or functions.



14. **ENTIRE AGREEMENT**

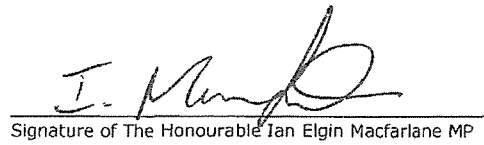
This Deed contains the entire agreement between the Parties in relation to the matters covered by this Deed.

**EXECUTED** as a deed by  
**THE HONOURABLE IAN ELGIN  
MACFARLANE MP**

in his capacity as responsible  
Commonwealth Minister and  
Commonwealth member of the  
Commonwealth-Western Australia  
Offshore Petroleum Joint Authority:

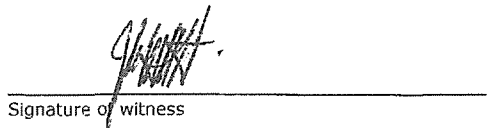
  
Signature of witness

Demius King  
Name

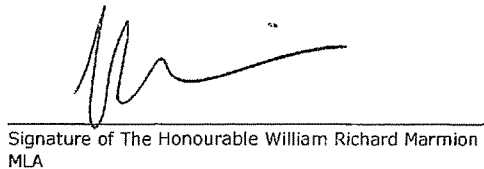
  
Signature of The Honourable Ian Elgin Macfarlane MP

IAN MACFARLANE  
Name

**EXECUTED** as a deed by  
**THE HONOURABLE WILLIAM  
RICHARD MARMION MLA**  
in his capacity as responsible Western  
Australian Minister and Western Australian  
member of the Commonwealth-Western  
Australia Offshore Petroleum Joint  
Authority and in his capacity as Western  
Australian Minister for Mines and  
Petroleum:

  
Signature of witness

JEFFREY HUNTLY HAWORTH  
Name

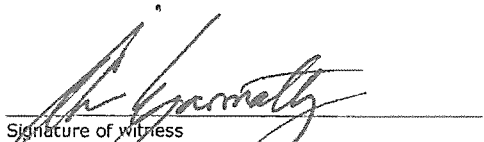
  
Signature of The Honourable William Richard Marmion  
MLA

WILLIAM RICHARD MARMION  
Name

**EXECUTED** as a deed by  
**BP DEVELOPMENTS AUSTRALIA PTY  
LTD** by its duly appointed attorney in the  
presence of:

  
Signature of attorney

CLAIRE HELEN FITZPATRICK  
Name

  
Signature of witness

AKOS GYARMATHY  
Name

**EXECUTED** as a deed by  
**JAPAN AUSTRALIA LNG (MIMI  
BROWSE) PTY LTD** in accordance with  
section 127(1) of the Corporations Act  
2001 (Cth):



Signature of director

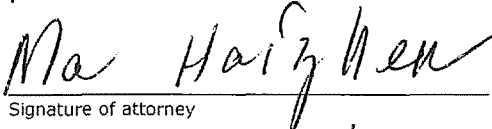
MASASHI SHIRATSUKI  
Name



Signature of director/secretary

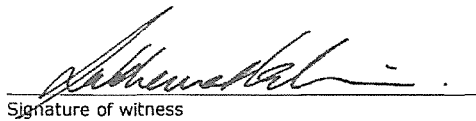
Tak Ogawa  
Name

**EXECUTED** as a deed by  
**PETROCHINA INTERNATIONAL  
INVERSTMENT (AUSTRALIA) PTY LTD**  
by its duly appointed attorney in the  
presence of:



Signature of attorney

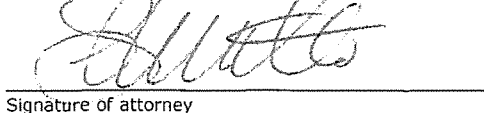
Ma Haizhen  
Name



Signature of witness

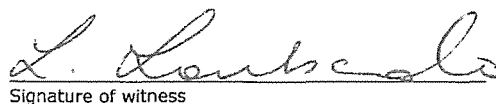
SAKHANAT KABIR  
Name

**EXECUTED** as a deed by  
**SHELL AUSTRALIA PTY LTD** by its duly  
appointed attorney in the presence of:



Signature of attorney

STEVE PAIMISTER  
Name



Signature of witness

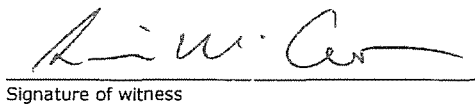
Lucia Maria Lombardo  
Name

**EXECUTED** as a deed by  
**WOODSIDE BROWSE PTY LTD** by its  
duly appointed attorney in the presence  
of:



Signature of attorney

Robert Edwards  
Name



Signature of witness

Pionon M'Carthy  
Name

## ANNEXURE A

### Deed of Covenant

**THIS DEED POLL** is made on [insert date]

#### **BETWEEN:**

- (1) [insert]
- (2) [insert]
- (3) [insert]
- (4) [insert]; and
- (5) [insert],

collectively referred to in this Deed as the **Torosa Titleholder**;

in favour of:

- (6) each of the other parties to the Apportionment Deed.

#### **RECITALS:**

- (A) The Transferee is acquiring an interest from the Transferor.
- (B) The Apportionment Deed requires the Torosa Titleholder to enter into this Deed.
- (C) The Torosa Titleholder therefore enters into this Deed.

#### **THE TRANSFEREE AGREES AS FOLLOWS:**

##### **1. INTERPRETATION**

###### **1.1 Definitions**

- (a) The following definitions apply in this Deed.

**Apportionment Deed** means the Torosa Apportionment Deed of Agreement between the Commonwealth-Western Australia Offshore Petroleum Joint Authority, the Western Australian Minister for Mines and Petroleum and BP Developments Australia Pty Ltd, Japan Australia LNG (MIMI Browse) Pty Ltd, PetroChina International Investment (Australia) Pty Ltd, Shell Australia Pty Ltd and Woodside Browse Pty Ltd dated [insert].

**Transferee** means [insert].

**Transferor** means [insert].

- (b) Unless the context otherwise requires, capitalised terms in this Deed not otherwise defined herein shall have the same meaning as given to such terms in the Apportionment Deed.

###### **1.2 Rules for interpreting this Deed**

The provisions set out in clause 1.2 (interpretation) of the Apportionment Deed apply to this Deed as if set out in full herein.

2. **COVENANT BY TOROSA TITLEHOLDER**

From the date of execution of this Deed, the Torosa Titleholder agrees to comply with, observe and perform the provisions of the Apportionment Deed.

3. **GENERAL**

3.1 **Governing Law**

This Deed will be governed by the laws in force in the State of Western Australia.

3.2 **Liability for expenses**

The Transferee must pay its expenses incurred in negotiating and executing this Deed.

4. **APPROVAL AND REGISTRATION AS DEALING**

The parties that comprise the Torosa Titleholder will apply for approval and registration of this Deed as a dealing against the Torosa Petroleum Titles pursuant to the OPGGSA, PSLA and PGERA.

**EXECUTED** as a deed.

**EXECUTED** by **[INSERT]**:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **[INSERT]**:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **[INSERT]**:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by [INSERT]:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by [INSERT]:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

