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# LEGAL ALERT

## PUBLIC TENDER RULES AND PROCEDURES FOR OIL & GAS OPERATIONS

Presidential Decree no. 86/18, of 2 April (“PD 86/18”) was enacted and establishes the new rules applicable to public tenders in the oil sector and regulates *(i)* the necessary procedures and requirements to obtain the capacity of associated entity to the National Concessionaire in undertaking oil activities; and *(ii)* the acquisition of assets and services in the performance of oil operations.

### **1. Rules applicable to public tenders to be deemed an associated entity of the National Concessionaire**

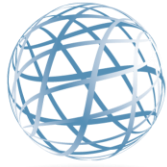
Aiming at promoting new exploration and production areas, PD 86/18 tries to simplify the public tender procedures relating to the classification of entities as associates of the National Concessionaire, as well as changing the deadlines applicable to those tenders by shortening their term.

Within the main changes, we highlight the following:

- Termination of the pre-qualification procedure – which, significantly, reduces the bureaucracy of the public tender procedures; and
- The mandatory requirement that the Operator submit in its bid information regarding safety, environment protection, pollution prevention and employment, integration and training of Angolan personnel – adding a new undertaking to the list of required obligations of the Oil & Gas operator in Angola.

Further, and in addition to the change of the applicable deadlines of public tenders (launch, review, proposal perfection, appeal application, negotiation of the relevant agreements with the negotiation committee), the award of the tender shall, now, be informed to all tenderers within 20 days from the end of the term for submission of the proposals.

Angola’s interest in natural gas is also accounted for in the slight change of the Operators



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and Non-Operators experience requirement from “experience in oil prospection and production” to “experience in hydrocarbons prospection and production”.

Lastly, a form of template bid is also disclosed in the National Concessionaire’s website.

In summary, PD 86/18 has as its main goal the reduction of the total length of the public tender procedure for interested entities to obtain the status of associate of the National Concessionaire, however, mostly maintaining the rules of the former framework (Decree no. 48/06, of 1 September).

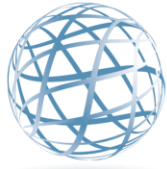
### 2. Rules for contracting service providers and acquiring assets

The new framework has increased the value of contracts and assets subject to the intervention of the National Concessionaire and/or mandatory public tenders. Therefore, the following obligations now apply to the relevant thresholds connected with the acquisition of assets and services for the execution of oil operations:

- a) **Until USD 1,000,000** (or equivalent in local currency) – The Operator may, freely, with no public tender and with no prior approval from the National Concessionaire execute the agreements (threshold under former framework was USD 250,000);
- b) **Between USD 1,000,000 and USD 5,000,000** (or equivalent in local currency), with a term of **up to 5 years** – The Operator must hold a public tender and freely decide and award the agreements, without the need for approval from the National Concessionaire (threshold under the former framework was between USD 250,000 and USD 750,000); and
- c) **Above USD 5,000,000** (or equivalent in local currency) – The Operator must hold a public tender in accordance with the new rules (threshold under the former framework was USD 750,000) with express approval or refusal of the National Concessionaire within 30 days or tacit approval is deemed in case of absence of reply.

Note, however, that the Operator may be released from holding a public tender and/or obtaining consent from the National Concessionaire in certain exceptional events, regardless of the value of the agreement, as long as one of the requirements below is met:

- a) Emergency in the oil operations that requires immediate action from the Operator (through presentation to the National Concessionaire of all necessary



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documentation to evidence the relevant emergency); and

- b) The services and assets to be acquired are scarce and can only be supplied by one supplier in the market – evidence of these technical reasons needs to be submitted.

Additionally, PD 86/18 has removed the list of pre-qualified entities to be hired by the oil sector and determines that all proposals shall be submitted in Portuguese (or in a different language with an official translation enclosed).

PD 86/18 entered into force on 2 April 2018 and revokes all contrary legislation, in particular Decree no. 48/06, of 1 September.

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