
Denne melding til obligasjonseierne er kun utarbeidet på engelsk. For informasjon vennligst kontakt Nordic Trustee AS

To the bondholders in:

ISIN: NO 001 067558.0 - Atlantica Tender Drilling Ltd. Second Lien Callable Bond Issue 2014/2021

Oslo, 2 September 2021

Notice of a Written Bondholders' Resolution

1. INTRODUCTION

Nordic Trustee AS acts as Bond Trustee for the above mentioned Bond Issue.

We refer to the bond agreement made between the Issuer and the Bond Trustee (originally among BassDrill Beta Ltd. and the Bond Trustee), originally dated 23 April 2013, amended and restated on 22 September 2014 and amended by an addendum no. 2 on 19 January 2016, by an amendment agreement on 25 October 2017, by a third amendment agreement dated 19 September 2019, amended and restated on 27 October 2020 and as further amended from time to time (the "**Bond Agreement**") in respect of the above mentioned Bond Issue.

All capitalised terms used herein shall have the meaning assigned to them in the Bond Agreement unless otherwise stated herein. References to Clauses and paragraphs are references to Clauses and paragraphs in the Bond Agreement.

The Issuer has requested that the Bond Trustee issue this request for a written Bondholders' resolution pursuant to Clause 16.5 (*Written Resolution*) of the Bond Agreement to consider approval of the Proposed Resolution (as defined below).

The information in this notice (the "Notice") regarding the Issuer and the described transactions is provided by the Issuer, and the Bond Trustee expressly disclaims all liability whatsoever related to such information.

Bondholders are encouraged to read this notice in its entirety.

2. BACKGROUND

On 10 December 2020, Petrobras informed the Issuer of its non-extension of the Existing Drilling Contract for the "Beta", and instructed the Issuer to commence the demobilisation of the "Beta".

Following such demobilisation instruction, the Issuer has been in ongoing discussions with the Senior Banks under the Senior Bank Facility, the Bond Trustee and a key representative of the Bondholders in relation to its financial difficulties and the future of the Group. All payments of interest and principal under both the Senior Bank Facility and the Bond Agreement were suspended in order to preserve existing liquidity in the Group whilst not giving preference to any of its two creditor groups.

The Issuer has been actively seeking a solution to the financial challenges and have explored options for the future of the Rigs, including any potential new opportunities as well as identifying potential purchasers of the Rigs.

Based on the outcome of the marketing process for the Rigs, lack of new opportunities and unwillingness of stakeholders to continue to finance the Issuer, the board of directors of the Issuer has actively promoted the earn out of the Existing Drilling Contract for the "*Beta*", a sale of the Rigs and a subsequent wind-down of the Group with the remaining proceeds being distributed to the Senior Banks and the Bondholders in accordance with a distribution key agreed between them as the best way forward.

On 9 April 2021 the Senior Banks swept USD 28,000,000 from the bank accounts of the Obligors (the "**Original Cash Sweep Funds**") and on 13 April 2021 the Senior Banks triggered the 90 day Option Period (as defined in the Intercreditor Agreement, see Schedule 2) for the Bondholders to buy-out the debt under the Senior Bank Facility.

On 1 June 2021 a standstill was entered into between the Senior Banks and the Obligors to allow for the orderly completion of Existing Drilling Contract and subsequent lay-up of the "*Beta*".

On 9 June 2021 the Senior Banks swept a further USD 4,000,000 from the bank accounts of the Group, out of which (a) USD 2,000,000 has been transferred back to the Delta Owner and (b) USD 2,000,000 has been deposited in a bank account of the Beta Charterer which is pledged and blocked in favour of the Security Agent (the "**Blocked Additional Cash Sweep Funds**").

On this background, an agreement has now in principle been reached between the Senior Banks and the key representative of the Bondholders in relation to the future of the Group. The terms of such agreement has been stipulated in a recovery agreement, a draft of which is attached as Schedule 3 (the "**Recovery Agreement**"). The key terms of the Recovery Agreement includes the following:

- (a) The "Maturity Date" under the Bond Agreement is extended to 31 January 2025.
- (b) The Senior Banks and Bondholders undertake not to declare a default or take actions against any company in the Group (with certain limited exceptions) during the period up until (i) the sale of both Rigs have been completed (the "**Sale Completion**") or (ii) 30 September 2021, or such later date as agreed between the Issuer, the Senior Banks and Bond Trustee (acting on the instructions of a simple majority of the Bondholders) (the "**Sale Period**").
- (c) The sale of both Rigs in one or several transactions for continued use or recycling as soon as practically possible to one or several purchasers are approved either (i) at a price equal to or higher than the Approved Sale Price (as defined in the Recovery Agreement) or (ii) with the approval of the Senior Banks and the Bond Trustee (acting on the instructions of a simple majority of the Bondholders).
- (d) If certain assets associated with the Rigs are required by a purchaser, they shall be included in the sale of the Rigs. If such assets are not required by any purchaser, the associated assets shall at the request of the Bond Trustee (acting on the instructions of a simple majority of the Bondholders) put forward within 60 days after the Sale Completion be transferred to a special purpose company established to hold such assets on behalf of the Bondholders.
- (e) On the Sale Completion Distribution Date (as defined below) (i) outstanding events of default under the Senior Bank Facility and Bond Agreement shall be waived and (ii) future obligations

regarding repayment requirements, interest accrual, covenants and events of default as further specified in the draft Recovery Agreement shall be generally waived from the Bond Agreement (in each case with certain limited exceptions).

- (f) It is acknowledged that the appropriation of Original Cash Sweep Funds (USD28,000,000) by Senior Banks was done in compliance with the Intercreditor Agreement. An extract from relevant provisions of the Intercreditor Agreement are included in Schedule 2 hereto for ease of reference.
- (g) Upon execution of the Recovery Agreement, the Blocked Additional Cash Sweep Funds (USD 2,000,000) shall be transferred to the Senior Banks.
- (h) The net proceeds from the sale of the Rigs payable to the Rig Owners shall be shared on a 50:50 basis between the Senior Banks and the Bondholders on the date that both Rigs are sold (the "**Sale Completion Distribution Date**"). The further proceeds distributable to the Senior Banks and the Bondholders shall also be shared on a 50:50 basis at times and in accordance with procedures set out in the Recovery Agreement.
- (i) The Recovery Agreement include provisions pursuant to which it may be terminated in certain circumstances, in which case there are mechanisms protecting payment to trade creditors in the Recovery Agreement.

The above is a simplified summary of the content of the Recovery Agreement. Please refer to the draft Recovery Agreement for full details.

3. PROPOSAL

Based on the above, the Issuer hereby proposes (the "**Proposal**") that:

- (1) the Bondholders approve the Recovery Agreement substantially in the form set out in Schedule 3; and
- (2) The Bond Trustee is given authority to (after taking instructions from Bondholders holding more than a simple majority of the Bonds) agree the thresholds for the "Approved Sale Price" (as defined in the draft Recovery Agreement).

4. FURTHER INFORMATION

Bondholders holding more than 2/3 of the Voting Bonds have informed the Issuer that they support the Proposal.

For more detailed information and questions to the Issuer, please contact Reese McNeel at reese.mcneel@atlanticatd.com or telephone +47 415 08 186 or Andreas Fjærvoll-Larsen at afl@wr.no or telephone +47 959 33 614.

For further questions to the Bond Trustee, please contact Vivian Trøsch at mail@nordictrustee.com / trosch@nordictrustee.com or telephone +47 22 87 94 22.

5. EVALUATION OF THE PROPOSED RESOLUTION

The Proposed Resolution is put forward to the Bondholders without further evaluation or recommendation from the Bond Trustee, and the Bond Trustee emphasises that each Bondholder should cast its vote based on its own evaluation of the Proposal. Nothing herein shall constitute a recommendation to the Bondholders by the Bond Trustee. The Bondholders must independently evaluate whether the Proposed Resolution is acceptable and vote accordingly. The Bond Trustee urges each Bondholder to seek advice in order to evaluate the Proposed Resolution.

6. WRITTEN BONDHOLDERS' RESOLUTION

Bondholders are hereby provided with a voting request for a Written Resolution pursuant to Clause 16.5 of the Bond Agreement. For the avoidance of doubt, no Bondholders' Meeting will be held.

It is proposed that the Bondholders resolve the following (the "**Proposed Resolution**"):

"The Bondholders approve by Written Resolution the Proposal as described in Clause 3 of the Notice.

The Bond Trustee is hereby authorised and instructed to prepare, negotiate, finalise and enter into the necessary agreements and documentation in connection with execution, delivery and performance of the Recovery Agreement, and take any other action as may be required in relation thereto."

The Proposed Resolution will be passed if either: (a) Bondholders representing at least a 2/3 majority of the total number of Voting Bonds vote in favour of the relevant Proposed Resolution prior to the expiry of the Voting Period (as set out below); or (b) (i) a quorum representing at least 50% of the total number of Voting Bonds submits a timely response to the Notice, and (ii) the votes cast in favour of the relevant Proposed Resolution represent at least a 2/3 majority of the Voting Bonds that timely responded to the Notice.

If no resolution is passed prior to the expiry of the Voting Period, the number of votes shall be calculated at the close of business on the last day of the Voting Period, and a decision will be made based on the quorum and majority requirements set out in clause 16.3 (*Resolutions passed at Bondholders' Meetings*).

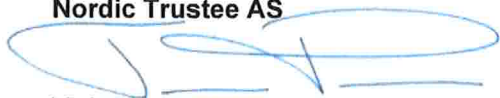
The effective date of a Written Resolution passed prior to the expiry of the Voting Period is the date when the resolution is approved by the last Bondholder that results in the necessary voting majority being achieved.

Voting Period: The Voting Period shall expire ten (10) Business Days after the date of this Notice, being on no later than 20 September 2021 at 12:00 Oslo time. The Bond Trustee must have received all votes necessary in order for the Written Resolution to be passed with the requisite majority under the Bond Agreement prior to the expiration of the Voting Period.

How to vote: A duly completed and signed Voting Form (attached hereto as Schedule 1), together with proof of ownership/holdings must be received by the Bond Trustee no later than at the end of the Voting Period and must be submitted by scanned e-mail to mail@nordictrustee.com.

Yours sincerely

Nordic Trustee AS



Vivian Trøsch

Enclosed: Schedule 1 – Voting Form
 Schedule 2 – Extract from Intercreditor Agreement
 Schedule 3 – Draft Recovery Agreement

SCHEDULE 1 – VOTING FORM

ISIN: NO 001 067558.0

**Atlantica Tender Drilling Ltd. Second Lien Callable Bond Issue
2014/2021**

The undersigned holder or authorised person/entity, votes either in favour of or against the Proposed Resolution in the notice of written resolution dated 2 September 2021.

☐ **In favour** of the Proposed Resolution

☐ **Against** the Proposed Resolution.

ISIN ISIN NO001067558.0	Amount of bonds owned
Custodian name	Account number at Custodian
Company	Day time telephone number
	Email

Enclosed to this form is the complete printout from our custodian/VPS,¹ verifying our bondholding in the bond issue as of: ----

We acknowledge that Nordic Trustee AS in relation to the Written Resolution for verification purposes may obtain information regarding our holding of bonds on the above stated account in the securities register VPS.

.....
Place, date

.....
Authorised signature

Return:

Nordic Trustee AS
P.O. Box 1470 Vika
N-0116 Oslo

Telefax: +47 22 87 94 10
Tel: +47 22 87 94 00
Mail mail@nordictrustee.no

¹ If the bonds are held in custody other than in the VPS, evidence provided from the custodian - confirming that (i) you are the owner of the bonds, (ii) in which account number the bonds are held, and (iii) the amount of bonds owned.

SCHEDULE 2 – EXTRACT FROM INTERCREDITOR AGREEMENT²

"In its capacity as [Agent] and Security Agent, the [Agent] and Security Agent (as applicable) undertakes with the [Bond Trustee] for as long as the [obligations under the Bond Agreement] are outstanding or capable of becoming outstanding that:

- (a) it will, at the same time as giving any formal notice to the [Issuer] that an event of default under the [Senior Bank Facility] has occurred, notify the [Bond Trustee] thereof;*
- (b) it shall in the event it:*
 - (i) instructs any Rig Owner (as applicable) to initiate a voluntary sales process of any of the [Rigs] (or the shares of the Rig Owner (as applicable)) that may result in the amount outstanding under the [Bond Agreement] not being repaid in full, copy such notice to the [Bond Trustee]; or*
 - (ii) intends to enforce any of its rights or powers under any of the Security Documents (other than its right to demand payment of any monies secured thereby) notify as soon as practicable the [Bond Trustee] in writing of such intention and keep the [Bond Trustee] informed of the progress of such enforcement;*

whereupon in both cases the [Bond Trustee] shall have the option (to be exercised within ninety (90) days from receipt of such notification (the "Option Period")) of paying to the [Agent] within fifteen (15) Business Days following the [Bond Trustee]'s exercise of the option, all moneys then outstanding under the [Senior Bank Facility] against a transfer of all rights of the [Senior Banks] under the Security Documents to be without recourse to the [Agent] and without any express or implied warranty or representation by the [Agent] as to the validity or enforceability of the Security Documents and/or such related documents or as to the recoverability of any moneys thereunder. The Security Agent may not complete any sale or enforcement of any security under the Security Documents until expiry of the Option Period and, if the option has been exercised by the [Bond Trustee], expiry of the fifteen (15) Business Days payment period, save for:

- (A) such sale or enforcement which the [Bond Trustee] has expressly consented to in writing (acting on behalf of the Bondholders); and*
- (B) enforcement of the first priority pledge over the [retention account under the Senior Bank Facility], which the [Agent] shall retain its full rights to, including, without limitation, all rights of enforcement thereunder; and*
- (C) a sale (voluntary or by enforcement) of one of the [Rigs] (or the shares of any Rig Owner (as applicable), provided that all three [Rigs] have been*

² Defined terms in [] are changed to the defined term in the Bond Agreement for ease of reference.

delivered from the yard and the [bonds are] partly prepaid in accordance with the [Bond Agreement].

The Security Agent may take actions or steps (other than completing enforcement) to preserve or protect the [Senior Banks] interests, such as blocking of bank accounts for withdrawals by any Obligors, transferring amounts credited on accounts (that are subject to Security Documents) and/or directing payments of claims (if the claims are assigned pursuant to a Security Document) to accounts blocked and pledged in favour of the [Agent] or to accounts held by the [Agent]. The amounts so preserved may not be applied to reduce the [obligations under the Senior Bank Facility] until the Option Period has expired (without the option having been exercised by the [Bond Trustee]) except as set out in [...];

- (c) the surplus (if any) of any sums which may be held by the Security Agent as a result of the exercise or enforcement of the Security Documents after the [obligations under the Senior Bank Facility] have been paid in full, shall to the extent legally permitted (but not in an amount higher than the outstanding [obligations under the Bond Agreement]) be paid to the [Bond Trustee] who shall set them off against any outstanding [obligations under the Bond Agreement];*
- (d) the Security Agent shall use all reasonable endeavours to ensure, upon an enforcement sale or a voluntary sale of the [Rigs] (or the shares of any Rig Owner), that such sale is undertaken in good faith to reflect the market value of the [Rigs] and that it is on arm's length terms; and*
- (e) the Security Agent shall not assign, pledge or otherwise transfer its rights or obligations under the Security Documents unless the Security Agent shall first have procured that on any such assignment, pledge or transfer the assignee or other person so dealing with the Security Agent shall have undertaken to the [Bond Trustee] that such assignee or other person will be bound by and comply with and perform all the obligations of the [Agent] and Security Agent pursuant to this Intercreditor Agreement by acceding to this Intercreditor Agreement by way of an accession letter as set out in [...]."*

SCHEDULE 3 – DRAFT RECOVERY AGREEMENT

Recovery Agreement

ATLANTICA TENDER DRILLING LTD.

as BORROWER

(as well as the other OBLIGORS, the MANAGER and the CREWING COMPANY)

AND

ABN AMRO BANK N.V.

as FIRST AGENT and SECURITY AGENT

AND

NORDIC TRUSTEE AS

as SECOND AGENT

[•] August 2021

TABLE OF CONTENT

1	DEFINITIONS	5
2	SUPPORT OF THE BASE PLAN	14
3	SALE OF RIG ASSETS AND ASSOCIATED ASSETS	16
4	SALE COMPLETION – AMENDMENTS TO FINANCE DOCUMENTS	17
5	WIND-DOWN OF THE GROUP	19
6	DISTRIBUTIONS	28
7	FACILITATION OF SALES AND WIND-DOWN	28
8	INSOLVENCY OFFICER BENEFIT FROM PRIORITY CREDITOR MECHANISM	29
9	CONTINUING OBLIGATIONS AND FURTHER ASSURANCE ...	30
10	MUTUAL RELEASE	30
11	TERMINATION	31
12	NOTICES	34
13	MISCELLANEOUS	34
14	GOVERNING LAW AND JURISDICTION	36
	APPENDIX 1	40
	APPENDIX 2 FORM OF ACCESSION LETTER	41

This recovery agreement (the "**Agreement**") is made on [•] August 2021 between:

- (1) **Atlantica Tender Drilling Ltd.**, a company incorporated in Bermuda, with company registration number 42347 as borrower under the First Loan Agreement and issuer under the Second Loan Agreement (the "**Borrower**");
- (2) **BassDrill Beta Ltd.**, a company incorporated in Malta, with company registration number C55272 as guarantor under the First Loan Agreement and guarantor under the Second Loan Agreement (the "**Beta Owner**");
- (3) **Atlantica Delta Ltd.**, a company incorporated in Malta, with company registration number C59000 as guarantor under the First Loan Agreement and guarantor under the Second Loan Agreement (the "**Delta Owner**");
- (4) **Atlantica (Malta) Holding Ltd.**, a company incorporated in Malta, with company registration number C55269 as guarantor under the First Loan Agreement and guarantor under the Second Loan Agreement (the "**Interco**");
- (5) **BassDrill Beta B.V.**, a company incorporated in the Netherlands, with company registration number 3430478 as guarantor under the First Loan Agreement and guarantor under the Second Loan Agreement (the "**Beta Charterer**");
- (6) **Atlantica Holding B.V.**, a company incorporated in the Netherlands, with company registration number 67619762 as guarantor under the First Loan Agreement and guarantor under the Second Loan Agreement (the "**Dutch Holdco**");
- (7) **BassDrill Brasil Serviços de Petróleo Ltda**, a company incorporated in Brazil, with company registration number 15.265.967/0001 as guarantor under the First Loan Agreement and guarantor under the Second Loan Agreement (the "**Operator**");
- (8) **Atlantica Management (USA) Inc.**, a company incorporated in Texas, with company registration number 45-0577058 (the "**Manager**");
- (9) **Atlantica International B.V.**, a company incorporated in the Netherlands, with company registration number 60418079 (the "**Crewing Company**" and together with the entities in (1) to (8) above the "**Original Group Companies**");
- (10) **ABN AMRO Bank N.V.**, in its capacity as agent (on behalf of itself and the First Finance Parties under the First Loan Agreement) (the "**Original First Agent**");
- (11) **ABN AMRO Bank N.V.**, in its capacity as security agent (on behalf of the Finance Parties under the First Loan Agreement and the Bondholders under the Second Loan Agreement) (the "**Original Security Agent**"); and
- (12) **Nordic Trustee AS**, as second agent (on behalf of itself and the Second Finance Parties under the Second Loan Agreement) (the "**Original Second Agent**").

(each a "**Party**" and together the "**Parties**").

BACKGROUND:

- (A) Following certain events of default under the First Finance Documents and Second Finance Documents in December 2020, the Borrower has been actively seeking a solution to its financial difficulties, appointing Pareto Offshore AS to identify new opportunities and

potential purchasers for the Units and keeping the First Finance Parties and Second Finance Parties updated on the process and potential opportunities.

- (B) Based on the outcome of the marketing process for the Units, lack of new opportunities and unwillingness of stakeholders to continue to finance the Borrower, the Board has actively promoted the earning out of the bareboat charter and service agreement with Petrobras for the Beta Unit, sale of the Units and subsequent wind down of the Group with remaining proceeds being distributed to the First Finance Parties and Second Finance Parties in accordance with a distribution split agreed between them as the best way forward.
- (C) On 9 April 2021 the First Finance Parties swept USD 28,000,000 from the bank accounts of the Obligors (the "**Original Cash Sweep Funds**") and on 13 April 2021 the First Finance Parties triggered the 90 day Option Period as defined in paragraph (b)(ii) in clause 4 of the Intercreditor Agreement.
- (D) On 1 June 2021 a standstill with protection for payment to trade creditors was entered into between the First Finance Parties and the Obligors to allow for the orderly completion of the bareboat charter and service agreement with Petrobras and subsequent lay-up of the Beta Unit (the "**First Standstill Letter**").
- (E) On 9 June 2021 the First Finance Parties swept a further USD 4,000,000 from the bank accounts of the Group (the "**Additional Cash Sweep Funds**"), out of which (I) USD 2,000,000 has been transferred back to the Delta Owner (the "**Delta Additional Cash Sweep Funds**") and (II) USD 2,000,000 has been deposited in a bank account of the Beta Charterer which is pledged and blocked in favour of the Security Agent (the "**Blocked Additional Cash Sweep Funds**").
- (F) On 13 July 2021 the Option Period had expired without any exercise by the Second Finance Parties, and the First Finance Parties gave an offer to representatives of the Second Finance Parties for (I) the Units to be sold, (II) the Group to be wound down through solvent liquidations and (III) funds available for payment to the First Finance Parties and the Second Finance Parties (as such) to be split on a 50:50 basis between the First Finance Parties and the Second Finance Parties, provided that the Original Cash Sweep Funds and an additional USD 2,000,000 should be applied towards repayment of outstanding amounts under the First Finance Documents.
- (G) On 14 July 2021 the First Finance Parties informed the Borrower and the Second Agent that the Original Cash Sweep Funds had been appropriated and applied towards payment of outstanding amounts under the First Finance Documents (the "**Original Cash Sweep Funds Appropriation**").
- (H) On [•] August 2021 the Bondholders passed a bondholder resolution approving the terms of and entry into this Agreement.
- (I) In order to provide a framework for the Base Plan, the Parties have agreed to the terms and conditions set out herein.

AGREED TERMS:**1 DEFINITIONS****1.1** In this Agreement:

"Accession Letter" means an undertaking substantially in the form set out in Appendix 2.

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"Applicable Anti-Corruption Laws" means, with respect to each Group Company, the anti-corruption legislation (a) of its home jurisdiction, (b) in the jurisdiction where it conducts business and (c) otherwise applicable to it.

"Approved Sale Price" means [•]¹

"Associated Assets" means any intellectual property rights of the Group (if any), management systems for the Group and the Units and/or other related systems and documentation.

"Base Plan" means the pursuit of activities related to:

- (a) Sales, as further described in Clause 3;
- (b) Wind-Down, as further described in Clause 5; and
- (c) Distributions, as further described in Clause 6.

"Beta Unit" means the *"BassDrill Beta"*.

"Board" means the board of directors of the Borrower.

"Bondholders" means holders of bonds issued under the Bond Issuances.

"Bond Issuances" means the following bonds issued by the Borrower:

- (a) Atlantica Ten Ltd NO0010675580 IN 300621 with ISIN No. NO0011043614 and outstanding amount of approximately USD 3 984 534 at the date of this Agreement;
- (b) Atlantica Ten Ltd NO0010675580 IN 310321 with ISIN No. NO0010971013 and with outstanding amount of approximately USD 3 984 534 at the date of this Agreement;
- (c) Atlantica Ten Ltd NO0010675580 IN 311220 with ISIN No. NO0010917016 and with outstanding amount of approximately USD 2 656 352 USD at the date of this Agreement; and

¹ **Note to draft:** To be updated based on agreement between the Board and representatives of the Finance Parties.

- (d) Atlantica Ten Ltd 13/21 8,50% USD STEP C with ISIN No. NO0010675580 and with outstanding amount of approximately USD 132 817 969 at the date of this Agreement.

"Business Partner" means any vendor, supplier, contractor, subcontractor, consultant, agent, representative or partner in a Joint Venture, alliance or consortium, engaged by a Group Company with respect to any Unit.

"Change in Ultimate Beneficial Owner" means in respect of an Obligor, any event by which a private individual (a) acquires the legal and/or beneficial ownership (directly or indirectly) of 25 per cent. or more of the issued share capital of that Obligor or (b) acquires the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to (directly or indirectly) cast, or control the casting of, 25 per cent. or more of the votes that might be cast at a general meeting of that Obligor or (c) gains effective control over that Obligor (such private individual being referred to as the **"Ultimate Beneficial Owner"**).

"Collusive Practices" means an arrangement between two or more persons designed to achieve an improper purpose, including to influence improperly the actions of another person.

"Corrupt Practices" means either of the following:

- (a) giving, offering or promising any person, directly or indirectly, an improper advantage, financial or otherwise (including money, gifts, favours or other benefits), in connection with the person's conduct of a position, an office or performance of an assignment, function or activity;
- (b) requesting, receiving or accepting an offer, for oneself or others, of an improper advantage, financial or otherwise (including money, gifts, favours or other benefits), in connection with a person's conduct of a position, an office or performance of an assignment, function or activity; or
- (c) any Facilitation Payments or Trading in Influence.

"Delta Unit" means the *"Atlantica Delta"*.

"Distributions" means the Distributions to Agents, Distribution to First Finance Parties and Distributions to Second Finance Parties (as applicable).

"Distribution to Agents" means any distribution to the First Agent (for application as a Distribution to the First Finance Parties) and/or the Second Paying Agent (for application as a Distribution to the Second Finance Parties) in accordance with Clause 6.

"Distribution to First Finance Parties" means a transfer by the First Agent of the funds received from a Distribution as soon as practical after the First Agent's receipt of such funds as a repayment to the First Finance Parties of the amounts outstanding under the First Finance Documents.

"Distribution to Second Finance Parties" means a transfer by the Second Paying Agent of the funds received from a Distribution as soon as practical after the Second Paying Agent's

receipt of such funds as a repayment to the Second Finance Parties of the amounts outstanding under the Second Finance Documents.

"Effective Date" means the date upon which this Agreement has been duly executed by all Parties hereto.

"Environmental Approval" means any permit, license, consent, approval and other authorisations and the filing of any notification, report or assessment required under any Environmental Law for the operation of the Units.

"Environmental Law" means any applicable law, regulation, convention or treaty in any jurisdiction in which any Group Company conducts business which relates to the pollution or protection of the environment or to the carriage of material which is capable of polluting the environment.

"Event of Default" shall have the meaning given to it in the First Loan Agreement and Second Loan Agreement (as applicable).

"Facilitation Payment(s)" means any improper payment intended to facilitate, expedite or secure the performance of a routine action, or any action to which one has legal or other entitlement.

"Finance Parties" means the First Finance Parties and the Second Finance Parties.

"Financial Indebtedness" means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (h) any amount of any liability under a deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to finance the acquisition or

construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 60 days after the date of supply;

- (i) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under GAAP; and
- (j) (without double-counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) – (i) above.

"Final Liquidation" shall have the meaning given to it in Clause 5.1.2 (b).

"Final Liquidation Surplus" shall have the meaning given to it in Clause 5.2.5.

"First Agent" means (a) the Original First Agent and (b) any entity which has become a Party as the First Agent in accordance with Clause 13.1, which in each case has not ceased to be the First Agent in accordance with the terms of this Agreement.

"First Finance Parties" means the lenders, arrangers, agent and/or security trustee at any time under the First Loan Agreement and any providers of hedging to the Borrower (for the purpose of hedging the floating rate under the First Loan Agreement).

"First Loan Agreement" means the USD 350,000,000 Senior Secured Term Loan Facility Agreement originally dated 1 October 2015 as latest amended and restated by an amendment and restatement agreement dated 28 October 2020, and as amended from time to time.

"Fraudulent Practices" means any act or omission, including misrepresentation, that knowingly or recklessly deceives or misleads, or attempts to deceive or mislead, a person in order to obtain a benefit for oneself or others or to avoid an obligation.

"GAAP" means generally accepted accounting principles in the United States of America.

"Group" means the Borrower and its Subsidiaries from time to time, including but not limited to the Rig Owners, but excluding (other than with respect to any provision herein relating to Sanctions) Atlantica Gamma Ltd. (incorporated in Malta with company registration number C55939), Atlantica BDA Ltd. (incorporated in Malta with company registration no. C77818), Atlantica International Ltd. (incorporated in Bermuda with company registration number 42399) and Atlantica Financing B.V. (incorporated in the Netherlands with company registration number 74882651) for as long as each such company (a) is not involved in any operations or business activities and (b) save for Atlantica Gamma Ltd., does not have any known assets or liabilities in each case in excess of USD 100,000 (or the equivalent in other currencies).

"Group Company" means (a) the Original Group Companies and (b) any entity which has become a Party as a Group Company in accordance with Clause 13.1, which in each case is part of the Group and has not ceased to be a Group Company in accordance with the terms of this Agreement.

"Holding Company" means any company which:

- (a) has direct or indirect control; or
- (b) owns directly or indirectly more than fifty (50) per cent. (votes and capital),

of another company.

"Intra-Group Loans" means the loans between members of the Group, which under any of the First Finance Documents or Second Finance Documents, are or should be subject to security under the Security Documents.

"Insolvency Event" means, in relation to the any Group Company:

- (a) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of that Group Company, a moratorium is declared in relation to any indebtedness of that Group Company or an administrator is appointed to that Group Company;
- (b) any composition, compromise, assignment or arrangement is made with any of its creditors;
- (c) the appointment of any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that Group Company or any of its assets; or
- (d) any analogous procedure or step is taken in any jurisdiction.

"Insolvency Officer" means any person or body primarily responsible for the administration of the assets and/or liabilities of a Group Company following an Insolvency Event relating to such Group Company.

"Intercreditor Agreement" means the amended and restated intercreditor agreement dated 28 October 2020 (and as further amended from time to time) and made between the Borrower, the Obligors, the First Agent, the Second Agent and the Security Agent.

"Joint Venture" means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity in which an Obligor or Group Company, directly or indirectly, has a participation of 50% or more.

"Layup Location" means the layup location for the Beta Unit, being either (a) Walvis Bay, Namibia, (b) Port Elizabeth or Cape Town, South Africa, (c) or such other location as may be agreed with a Purchaser.

"Majority Bondholders" means a simple majority of Bondholders calculated by amount.

"Majority Lenders" means a Lender or Lenders whose Commitments aggregate 66.67 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 66.67 per cent. or more of the Total Commitments immediately prior to that reduction) (with "Lender(s)", "Commitments" and "Total Commitments" having the meaning given to it in the First Loan Agreement).

"Manager Proceeds" means 1 % of the Sale Price which may be paid to and retained by the Manager for the Associated Assets owned by the Manager (if applicable).

"Money Laundering" means:

- (a) providing assistance to another person in safeguarding the proceeds derived from criminal activity, including any Corrupt Practices, or from an act of participation in such activity. Such assistance may include, for example, collecting, storing, concealing, transporting, sending, transferring, converting, disposing, pawning or investing the proceeds;
- (b) converting or transferring assets to conceal or disguise the proceeds of a criminal act one has personally committed, or participated in. Such activity may include, for example, concealing and disguising the proceeds true nature, source, location, disposition, movement, or rights associated with them;
- (c) acquiring, receiving or obtaining proceeds derived from criminal activity.

"Non-Waived Event of Default" means any unremedied Event of Default (as such term is defined in the First Loan Agreement) occurring as a result of a misrepresentation under or breach of the provisions of clauses of the First Loan Agreement which are similar or equal to the representations and undertakings included in Clause 5.3 and 5.5 herein.

"Priority Creditor Claims" means claims of the Priority Creditors (including tax claims and contingent claims) against the Group Companies which were outstanding on the Effective Date and/or arose thereafter, provided that such claims shall (a) be covered by the Wind-Down Forecast (after it has been approved by the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on the instructions of the Majority Bondholders)) and (b) not in aggregate exceed USD 22,000,000 (or the equivalent in other currencies) unless the claim or an increased aggregate maximum amount of claims have been approved in writing by the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on the instructions of the Majority Bondholders).

"Priority Creditors" means the creditors of the Obligors, the Manager and/or the Crewing Company, other than:

- (a) creditors for Financial Indebtedness; and
- (b) creditors who are also an Affiliate of any Group Company, save for (i) Obligors who are creditors under Intra-Group Loans (to the extent payment under such Intra-Group Loans are required in order to make payment to third party Priority Creditors) and (ii) the Manager and Crewing Company in respect of its provision of management and crewing services to the Group.

"Purchaser" means any purchaser of Rig Assets and/or (if applicable) Associated Assets pursuant to a Sale.

"Released Claims" means any liabilities of any Released Party and any claim that the Releasing Party may now or in the future have against each Released Party, in relation to:

- (a) a Released Party's participation in relation to any steps and/or actions taken in the period from about the time of the Events of Default under the First Finance Documents and Second Finance Documents from 1 December 2020 until the Effective Date, including but not limited to the decision to continue to trade by the Group Companies thereafter; and
- (b) a Released Party's participation in relation to any steps and/or actions taken for the purpose of achieving the Base Plan, including, the negotiation of the Base Plan, the negotiation and execution of this Agreement and the carrying out of the steps and actions contemplated hereby.

"Released Party" means:

- (a) each of the Parties to this Agreement (including, for the avoidance of doubt, each Bondholder);
- (b) each Group Company (that is not a Party);
- (c) all of the current and former officers, managers, directors, predecessors, partners, equity holders, principals, members, employees, agents, managed accounts or funds, management companies, fund advisors, advisory board members, successors, assigns and any advisors of any person that falls under paragraph (a) to (c) (inclusive).

"Releasing Party" means each Party to this Agreement.

"Restricted Party" means a person:

- (a) listed on or directly or indirectly owned or controlled by, or acting on behalf, at the direction or for the benefit of, a person or entity listed on any Sanctions List (whether designated by name or by reason of being included in a class of person or entities); or
- (b) domiciled, located or registered located in, organised under the laws of or owned or controlled by, or acting on behalf of, a person or entity located in or organised under the laws of a country or territory which is or whose government is subject to or a target of comprehensive, country- or territory-wide Sanctions (including, without limitation, at the date of this Agreement, Cuba, Iran, North Korea, Syria and Sudan); or
- (c) otherwise a subject or target of Sanctions (whether designated by name or by reason of being included in a class of person); or
- (d) directly or indirectly owned or controlled by, or acting on behalf, at the direction or for the benefit of, a person referred to in (c) and/or (to the extent relevant under Sanctions) (b) above.

"Rig Assets" means each of the Beta Unit and the Delta Unit, as well as everything belonging to the Units as requested by a Purchaser, or the shares in the Rig Owners (as the case may be).

"Rig Owners" means the Beta Owner and the Delta Owner.

"Sale" means the sale of Rig Assets for continued use or recycling and (if relevant) any associated Assets.

"Sale Completion" means the completion of the sale of both Units (either directly or indirectly via sale of shares in Rig Owners) to one or more Purchasers, with or without Associated Assets.

"Sale Completion Distribution Date" means the date when, after Sale Completion, the Borrower has completed the Distributions set out in Clause 6.3.

"Sale Expenses" means taxes, commissions, brokerage fees, and other costs related to the Sale, but excluding any internal costs.

"Sale Longstop Date" means 30 September 2021, or such later date as may be agreed between the Borrower, the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on the instructions of the Majority Bondholders).

"Sale Period" means the period from the Effective Date until the earlier of (a) the Sale Completion Distribution Date or (b) the termination of this Agreement in accordance with Clause 11.1.

"Sale Price" means the gross purchase price achieved for the Rig Assets and (if relevant) any Associated Assets, in each case from a Purchaser.

"Sale Proceeds" means the Sale Price, net of Sale Expenses and the Manager Proceeds.

"Sanctions" means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority.

"Sanctions Authority" means:

- (a) the Security Council of the United Nations;
- (b) the United States;
- (c) the United Kingdom;
- (d) the Norwegian State;
- (e) the European Union;
- (f) any member state of the European Union and the European Economic Area (including, without limitation, The Netherlands);

- (g) any country in which any Obligor is registered or has material (financial or otherwise) interests or operations; and
- (h) the governments and official institutions or agencies of any of paragraphs (a) to (g) above, including without limitation the U.S. Office of Foreign Asset Control ("**OFAC**"), the U.S. Department of State, and Her Majesty's Treasury ("**HMT**") and the Security Council of the United Nations.

"Sanctions List" means any list of Sanctions designations and/or targets maintained by, or public announcement of a Sanctions designation or target made by, a Sanctions Authority, each as amended, supplemented or substituted from time to time, including the Specially Designated Nationals and Blocked Persons list maintained by OFAC and the Consolidated List of Financial Sanctions Targets maintained by HMT.

"Second Agent" means (a) the Original Second Agent and (b) any entity which has become a Party as the Second Agent in accordance with Clause 13.1, which in each case has not ceased to be the Second Agent in accordance with the terms of this Agreement.

"Second Finance Parties" means the Second Agent and the Bondholders.

"Second Loan Agreement" means the bond loan agreement governing the Bond Issuances.

"Security Agent" means (a) the Original Security Agent and (b) any entity which has become a Party as the Security Agent in accordance with Clause 13.1, which in each case has not ceased to be the Security Agent in accordance with the terms of this Agreement.

"Second Paying Agent" means the legal entity appointed by the Borrower to act as its paying agent in the securities registry with respect to the Second Loan Agreement.

"Subsidiary" means an entity of which a person:

- (a) has direct or indirect control; or
- (b) owns directly or indirectly more than fifty (50) per cent. (votes and capital).

"Subsidiary Liquidation" means the solvent or insolvent liquidation of a Subsidiary of the Borrower.

"Termination Proceeds" shall have the meaning given to it in Clause 11.4.

"Trading in Influence" means either of the following:

- (a) giving or offering any person an improper advantage in return for influencing the conduct of another person's position, office or assignment;
- (b) for oneself or others requesting, accepting or receiving an improper advantage in return for influencing the conduct of another person's position, office or assignment.

"Units" means the Beta Unit and the Delta Unit.

"Wind-Down" means the wind-down of the Group Companies as further set out in Clause 5 below.

"Wind-Down Approval Date" shall have the meaning given to it in Clause 5.2.3.

"Wind-Down Default" means a Wind-Down Event of Default or any event or circumstance specified in Clause 11.2 which would (with the expiry of a grace period, the giving of notice, the making of any determination under this Agreement or any combination of any of the foregoing) be a Wind-Down Event of Default.

"Wind-Down Event of Default" shall have the meaning given to it in Clause 11.2.

"Wind-Down Forecast" shall have the meaning given to it in Clause 5.2.1.

"Wind-Down Period" means the period from the Sale Completion Distribution Date until the Final Liquidation.

"Wind-Down Retainer" shall have the meaning given to it in Clause 5.2.2.

"Wind-Down Revision Date" shall have the meaning given to it in Clause 5.2.3.

"Wind-Down Surplus" shall have the meaning given to it in Clause 5.2.4.

"Wind-Down Update" shall have the meaning given to it in Clause 5.4.1.

2 SUPPORT OF THE BASE PLAN

2.1 Acknowledgements from Finance Parties

The First Agent (on behalf of the First Finance Parties) and the Second Agent (on behalf of the Second Finance Parties):

- (a) acknowledge the Base Plan and that the Base Plan will not provide a full recovery under the First Finance Documents and/or Second Finance Documents;
- (b) acknowledge that no payments of interest or principal will be made under the First Finance Documents and/or Second Finance Documents during the Sale Period, provided that this acknowledgement shall not be regarded as a consent or approval thereto or a waiver of the rights of the Finance Parties in respect thereof;
- (c) acknowledge that several Events of Default have already occurred under the First Finance Document and Second Finance Document and that additional Events of Default may occur and will continue un-remedied during the Sale Period, provided

that this acknowledgement shall not be regarded as a consent or approval thereto or a waiver of the rights of the Finance Parties in respect thereof;

- (d) acknowledge that severance payments to key management and personnel and payments due under existing management retention program in an amount not exceeding USD 2,200,000 shall be made at the time of Sale Completion;
- (e) acknowledge that the Borrower and the other Group Companies may, during the Sale Period and Wind-Down Period and subject to the provisions of this Agreement, continue to trade, provided that the decision to continue to trade shall be the sole responsibility of the Borrower and the other Group Companies and shall not be regarded as a decision made by the Finance Parties or a decision for which any Finance Party shall be responsible or liable;
- (f) acknowledge that the Borrower and the other Group Companies may, during the Sale Period and the Wind-Down Period, make payments and service interest under Intra-Group Loans, provided that (unless approved by the First Agent (acting on the instruction of the Majority Lenders and the Second Agent (acting on the instruction of the Majority Bondholders)) during the Sale Period no payments may be made and no interest may be serviced under Intra-Group Loans by any Obligor to a Group Company which is not an Obligor, it being understood that settlement of outstanding balances between Group Companies arising from management and operational services provided by a Group Company in the ordinary course of business, including management fees and salaries, shall not be restricted by this provision;
- (g) agree that they will not use the Borrower's or any other Group Company's decision to continue to trade prior to and/or during the Sale Period and/or Wind-Down Period and incur Priority Creditor Claims as a basis for claims in damages or similar claim against board members in or senior management of any Group Company (save in the event of losses caused by wilful misconduct or gross negligence); and
- (h) agree and approve that the Beta Unit shall be transported to the Layup Location for Sale or layup.

2.2 Standstill

Subject to the terms and conditions set out in this Agreement, the First Agent (on behalf of the First Finance Parties) and the Second Agent (on behalf of the Second Finance Parties) agrees and undertakes not to, until this Agreement is terminated according to Clause 11 (and after any such termination, subject to the terms of the Intercreditor Agreement) declare any default, accelerate any claim or take any action to enforce any claim or exercise any of its rights or powers of enforcement under this Agreement (other than any termination pursuant to Clause 11), the First Finance Documents or the Second Finance Documents (except in each case for any Non-Waived Events of Default), it being understood that this shall not in any respect constitute a waiver or deferral of outstanding events of default under the First Finance Documents or the Second Finance Documents, nor any waiver of any of the rights of the First Agent, the First Finance Parties, Second Agent or the Second Finance Parties due to the occurrence of any future events of default under the First Finance Documents or the Second Finance Documents, all of which remain fully reserved unless otherwise agreed herein, including any right of acceleration and enforcement of existing or

future Event of Defaults following termination of this Agreement in accordance with Clause 11 and subject to the Intercreditor Agreement.

2.3 Extension of maturity dates

2.3.1 The First Finance Parties and the Obligors hereby agree that on the Effective Date the "Final Maturity Date" under and as defined in the First Loan Agreement shall be extended to 31 December 2024.

2.3.2 The Second Agent (on behalf of the Second Finance Parties) and the Obligors hereby agree that on the Effective Date, the "Maturity Date" under and as defined in the Second Loan Agreement shall be extended to 31 January 2025.

2.4 Insurance values

Notwithstanding anything else contained in the First Finance Documents and/or Second Finance Documents, the insured value may be reduced to USD10,000,000 for each of the Units after the Effective Date.

2.5 Conditions subsequent

2.5.1 The Borrower shall within 30 Business Days after the Effective Date provide the documents and evidence specified in Appendix 1 to this Agreement, each in form and substance satisfactory to the First Agent. The First Agent shall notify the Borrower upon being so satisfied.

2.5.2 The First Agent (acting upon the instructions of the Majority Lenders) and the Second Agent (acting upon the instructions of the Majority Bondholders) may waive or accept a delay of the requirement to provide the documents and other evidence listed in Appendix 1.

2.5.3 The Parties hereby authorise (but do not require) the First Agent to give the notification described in Clause 2.5.2. The First Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

3 SALE OF RIG ASSETS AND ASSOCIATED ASSETS

3.1 Subject to the terms of this Agreement, the Rig Assets shall be sold in one or several transactions for continued use or recycling as soon as practically possible to one or several Purchasers and on terms approved by the Board (subject to the below).

3.2 Any Associated Assets shall be included in a Sale if required by any Purchaser of the relevant Rig Assets. If the Associated Assets are not purchased by any Purchaser by the Sale Completion, the Associated Assets shall at the request of the Second Agent (acting on the instructions of the Majority Bondholders) put forward within 60 days after the Sale Completion be transferred to a special purpose company established to hold the Associated Assets on behalf of the Bondholders.

3.3 Any binding agreement for a Sale shall only be entered into by the relevant Group Companies if (a) the agreement is subject to approval by the First Finance Parties as

required by this Clause 3.3 or (b) the First Finance Parties has already provided their approval in accordance with this Clause 3.3. In this respect, the Borrower shall send a written notice which shall include the identity of the Purchaser and the proposed main terms for the Sale to the First Agent for distribution to the First Finance Parties for approval by all First Finance Parties. The Borrower shall provide all such information relating to the Purchaser as each First Finance Party shall request for the purpose of conducting and satisfying relevant "KYC", "Sanctions" and other relevant controls and checks. At the request of any First Finance Party, the Borrower shall provide that First Finance Party with drafts or copies of any long-form or final documentation relating to a Sale, and the Borrower shall ensure that such documentation contains terms allowing the same to be disclosed to each First Finance Party, their advisors and representatives.

- 3.4 Subject always to Clause 3.3 above, if the Sale Price under a Sale is equal to or higher than the Approved Sale Price, the Sale may be completed notwithstanding any other provision of the First Finance Documents and/or the Second Finance Documents whatsoever. If the Sale Price under a Sale is lower than the Approved Sale Price, the Sale shall not be completed unless it is approved by the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on the instructions of the Majority Bondholders).
- 3.5 If the Borrower seeks approval for a Sale in accordance with Clause 3.4 above and the First Agent or the Second Agent does not grant such approval within ten (10) Business Days, this Agreement may be terminated in accordance with Clause 11.1.
- 3.6 Each Sale Price (excluding the Manager Proceeds) shall be transferred to the respective Rig Owners' account held with the Security Agent and pledged and blocked for the benefit of the First Agent (acting on behalf of the First Finance Parties) and the Second Agent (acting on behalf of the Second Finance Parties). The Security Agent shall release documented Sale Expenses (and which are not already deducted from any payments to the relevant Group Companies) to the Group Companies for payment or reimbursement of the same, and the Obligors and the Security Agent shall procure that the Sale Proceeds are distributed in accordance with Clause 6.3. In case any Sale is cancelled or terminated prior to delivery of the relevant Unit to the relevant Purchaser, the Security Agent shall release any deposit paid to the blocked account in relation to such Sale for reimbursement to the Purchaser if requested by the relevant Rig Owner.
- 3.7 If there is a total loss of any of the Unit prior to the completion of a Sale, the proceeds from such total loss shall be distributed as Sale Proceeds in accordance with Clause 6.3.
- 3.8 If the Sale Completion Distribution Date has not occurred within the Sale Longstop Date, this Agreement may be terminated in accordance with Clause 11.1.

4 SALE COMPLETION – AMENDMENTS TO FINANCE DOCUMENTS

- 4.1 Waiver of Events of Default occurred before the Sale Completion Distribution Date: At the time of the Sale Completion Distribution Date, the Finance Parties shall be deemed to have waived any and all Events of Default outstanding under the First Finance Documents and

Second Finance Documents at such time (in each case except any Non-Waived Events of Default).

4.2 Waiver of provisions in First Loan Agreement as from the Sale Completion Distribution Date: At the time of the Sale Completion Distribution Date, the First Finance Parties shall be deemed to have waived the following provisions of the First Loan Agreement as follows until the termination of this Agreement or the Final Liquidation:

- (a) Paragraph (a) and (b) in clause 6.1 (*Repayment of the Loans*) shall be waived (with paragraph (c) remaining in place subject to Clause 2.3.1 above);
- (b) clause 6.2 (*Extraordinary Repayments*) and clause 8 (*Mandatory Prepayment*) shall be waived;
- (c) clause 10 (*Interest*), clause 11 (*Interest Periods*) and clause 12 (*Changes to the Calculation of Interest*) shall be waived, and no further interest shall accrue on the loans under the First Loan Agreement;
- (d) clause 13 (*Fees*), clause 14 (*Tax Gross up and Indemnities*), clause 15 (*Increased Costs*), clause 16 (*Other indemnities*) shall be waived;
- (e) clause 21 (*Representations*), clause 22 (*Information Undertakings*), clause 23 (*Financial Covenants*), clause 24 (*General Undertakings*) and clause 25 (*Vessel Undertakings*) shall be waived; and
- (f) clause 26 (*Events of Default*) shall be waived, provided that paragraph (a) of clause 26.18 shall remain in place for the purpose of the Wind-Down Event of Default that may occur following termination of this Agreement in accordance with Clause 11.2.

4.3 Waiver of provisions in Second Loan Agreement as from the Sale Completion Distribution Date: At the time of the Sale Completion Distribution Date, the Second Finance Parties and the Obligors shall be deemed to have waived the following provisions of the Second Loan Agreement as follows until the termination of this Agreement or the Final Liquidation:

- (a) Clause 7 (*Representations and Warranties*) shall be waived;
- (b) clause 9 (*Interest*) shall be waived, and no further accrue on the bonds issued under the Second Loan Agreement;
- (c) clause 10.2 (*Call Option*), clause 10.3 (*Mandatory Redemption*), clause 10.4 (*Total Loss*), clause 10.5 (*Change of Control*) shall be waived (with clause 10.2 (*Maturity*) remaining in place subject to Clause 2.3.2 above);
- (d) clause 13 (*Covenants*) shall be waived; and
- (e) clause 15 (*Events of Default*) shall be waived, provided that clauses 15.2 to 15.4 shall remain in place for the for the purpose of the Wind-Down Event of Default that may occur following termination of this Agreement in accordance with Clause 11.2.

- 4.4 Waiver of provisions in Security Documents as from the Sale Completion Distribution Date:
The Security Documents shall remain in place, provided that, from the time of Sale Completion Distribution Date, any and all representations, undertakings, repayment requirements, events of default and provisions similar to those waived in Clause 4.2 and Clause 4.3 above shall be waived for a period up to the termination of this Agreement or Final Liquidation, with the exception that any representation or undertaking to (a) provide information, (b) take actions at the direction of the Security Agent, (c) refrain from taking actions which might jeopardize the value of the relevant security asset, the legal, binding and enforceable nature of the Security Document or be detrimental to the interest of any Finance Party shall continue in full force and effect (except in case of (a) and (b) where they relate to provisions similar to those waived in Clause 4.2 and Clause 4.3 above).

5 WIND-DOWN OF THE GROUP

5.1 General

- 5.1.1 Subject to the terms of this Agreement, the Wind-Down shall be accomplished in such manner as may be decided by the board of directors of each Group Company in its discretion.
- 5.1.2 The Group Companies shall be liquidated on a "bottom-up" basis, meaning that:
- (a) for each of the Subsidiaries in the Group, the liquidation proceeds from a solvent liquidation shall have been distributed to the Borrower or an insolvent liquidation shall have been initiated; and thereafter
 - (b) the Final Distribution Proceeds shall have been or be distributed in accordance with Clause 6.5 below and the solvent or insolvent liquidation of the Borrower been initiated (the "**Final Liquidation**").
- 5.1.3 Each Subsidiary Liquidation and the Final Liquidation shall be approved by the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on the instruction of Majority Bondholders).
- 5.1.4 The Group may enter into new consulting agreements with management or staff for support during the Wind-Down Period, subject to approval from the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on instruction of the Majority Bondholders).
- 5.1.5 The Borrower will retain and/or offer to appoint Mr. Kristan Bodden or another representative approved by the Second Agent (acting on the instructions of the Majority Bondholders) as a voting member of the Board, with right to appointment to all relevant board committees, until no amount is outstanding under the Second Loan Agreement.

5.2 Funding and Distributions during Wind-Down

- 5.2.1 Within 45 calendar days after the Sale Completion, the Borrower shall present to the First Agent and the Second Agent a forecast for the cash-flow of the Group for the purpose of the Wind-Down and until Final Liquidation (the "**Wind-Down Forecast**"). The Wind-Down

Forecast shall be approved by the First Agent (acting on instructions of the Majority Lenders) and the Second Agent (acting on instructions from Majority Bondholders) within 60 calendar days after the Sale Completion.

- 5.2.2 The Wind-Down Forecast shall include a description of the estimated remaining liquidity requirement (with a USD 3,000,000 headroom or such lesser amount as the Borrower in its sole discretion may propose) until Final Liquidation (the "**Wind- Down Retainer**"). The Wind-Down Retainer may be used by the Group to facilitate the Wind-Down in accordance with the Wind-Down Forecast.
- 5.2.3 The Wind-Down Forecast and the Wind-Down Retainer shall be updated semi-annually on 31 December and 30 June each year (each a "**Wind-Down Revision Date**") based on similar principles as for the preparation of the original Wind-Down Forecast and the Wind-Down Retainer. The Wind-Down Forecast and Wind-Down Retainer shall be presented to the First Agent and Second Agent on the Wind-Down Revision Date, and approved by the First Agent (acting on instructions of the Majority Lenders) and the Second Agent (acting on instructions from Majority Bondholders) within 30 calendar days thereafter (each a "**Wind-Down Approval Date**").
- 5.2.4 The cash of the Group (except for the Blocked Additional Cash Sweep Funds which shall be subject to a Distribution in accordance with Clause 6.2 and the Sale Proceeds which shall be subject to a Distribution in accordance with Clause 6.3) shall be retained by the Group as working capital to fund the operations of the Group during Wind-Down. However, if the cash of the Group on any Wind-Down Revision Date exceeds the amount of the Wind Down Retainer (as approved in the relevant revised Wind-Down Forecast), the surplus amount (the "**Wind-Down Surplus**") shall be subject to Distributions in accordance with Clause 6.4.
- 5.2.5 On or about the time when the Final Liquidation is to be implemented, the remaining proceeds available for distribution to the Finance Parties shall be determined as part of the liquidation process of the Borrower or reasonably calculated by the Borrower if required prior to initiation of its actual liquidation (in each case the "**Final Liquidation Surplus**") and after approval by the First Agent (acting on instructions from the Majority Lenders) and the Second Agent (acting on instructions from Majority Bondholders) be subject to Distributions in accordance with Clause 6.5.

5.3 **Representations during Wind-Down**

Each of the Group Companies makes the representations and warranties set out in this Clause 5.3 to each of the First Agent, the First Finance Parties and the Second Agent at the Effective Date, the date of the Sale Completion Distribution Date and on each Wind-Down Revision Date, unless such representation and warranty is waived by the First Agent (acting on the instructions of the Majority Lenders):

- 5.3.1 No misleading information: Any factual information provided by any Group Company and/or its advisors in connection with the First Finance Documents and Second Finance Documents was, to each Group Company's knowledge, after having made due and careful enquiries, true and accurate in all material respects as at the date the information is expressed to be given and all projections (if any) contained therein have been prepared in good faith on the

basis of assumptions which were reasonable at the time at which they were prepared and supplied.

5.3.2 Environmental compliance: It has performed and observed all Environmental Laws, Environmental Approvals and all other covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with its on-going operations.

5.3.3 Sanctions:

- (a) Each Group Company, their Joint Ventures, and their respective directors, officers, employees, agents or representatives has been and is in compliance with Sanctions;
- (b) No Group Company, their Joint Ventures, and their respective directors, officers, employees, agents or representatives:
 - (i) is or has been a Restricted Party, or is or has been involved in any transaction, activity or conduct through which it could reasonably be expected to become a Restricted Party;
 - (ii) is or has been in breach of Sanctions; or
 - (iii) has received notice of, is subject to or involved in any inquiry, claim, action, suit, proceeding or investigation against it with respect to Sanctions.

5.3.4 No Corrupt Practices, Fraudulent Practices, Money Laundering or Collusive Practices: No Group Company has in the last three (3) years prior to the Effective Date, conducted, omitted or contributed to anything that may constitute Corrupt Practices, Fraudulent Practices, Money Laundering or Collusive Practices, or otherwise violated Applicable Anti-Corruption laws, that has not already been disclosed in writing to the First Agent or Second Agent. No Group Company is currently engaged in, accused of or under investigation by public authorities or any international organisation or institution, for any such act or omission.

5.4 **Information during Wind-Down**

5.4.1 The Borrower shall provide the First Agent and Second Agent with an updated report (the "**Wind-Down Update**"), which shall include the following:

- (a) Update on the status of the Wind-Down and material developments since the last Wind-Down Update;
- (b) Update on actual alignment with the Wind-Down Forecast; and
- (c) details of anticipated costs and expenses of the Group.

The report shall be provided on a monthly basis during the first six (6) months after the Effective Date, and thereafter on a quarterly basis on 31 March, 30 June, 30 September and 31 December.

- 5.4.2 The Borrower shall supply to the First Agent and/or Second Agent (if the First Agent and/or Second Agent so requests):
- (a) at the same time as they are dispatched, copies of all documents dispatched by each Obligor, to its shareholders generally or its creditors generally;
 - (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current or, to its knowledge, threatened or pending against any of the Obligors or a Group Company, and which might, if adversely determined, be reasonably expected to have a Material Adverse Effect (as defined in any of the First Loan Agreement and Second Loan Agreement respectively), and further details of any such matter previously disclosed to the First Agent and/or Second Agent, if the likelihood of an adverse determination has increased, as the First Agent and/or Second Agent may reasonably request;
 - (c) promptly upon becoming aware of them, the details of any inquiry, claim, action, suit, proceeding or investigation against it, any of its direct or indirect owners, any Group Company, any of their Joint Ventures or any of their respective directors, officers, employees, agents or representatives relating to Sanctions, as well as information on what steps are being taken with regards to answer or oppose such;
 - (d) promptly upon becoming aware that it, any of its direct or indirect owners, Subsidiaries, any Group Company, any of their Joint Ventures or any of their respective directors, officers, employees, agents or representatives has become or is likely to become a Restricted Party;
 - (e) promptly upon becoming aware of it, notification in writing that it has violated any Sanctions;
 - (f) promptly upon becoming aware of it, notification in writing that it has identified a breach or violation of any representation contained in Clause 5.3.3 or any undertaking in Clauses 5.5.5 or 5.5.6;
 - (g) promptly upon becoming aware of any Change in Ultimate Beneficial Owner, the name of the Ultimate Beneficial Owner and such documentation and other evidence as is reasonably requested by the First Agent, the First Finance Parties and/or the Second Agent in order for them to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the Ultimate Beneficial Owner; and
 - (h) promptly on request, such further information as the First Agent and/or Second Agent may reasonably request.
- 5.4.3 The Borrower shall inform the First Agent and the Second Agent in writing as soon as reasonably practicable upon becoming aware of the same:
- (a) if any Environmental Claim has been commenced or (to the best of the Borrower's knowledge and belief) is threatened against any of the Obligors or the Units; and
 - (b) if any fact and circumstances which will or are reasonably likely to result in any Environmental Claim being commenced against any of the Obligors or the Units.

5.4.4 The Borrower shall notify the First Agent and/or the Second Agent of any Wind-Down Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

5.4.5 If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
- (b) any change in the status of an Obligor or the composition of the shareholders of an Obligor, after the date of this Agreement;
- (c) a proposed assignment or transfer by a First Agent, the First Finance Parties or the Second Agent of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer; or
- (d) any anti-money laundering or anti-terrorism financing laws and regulations applicable to the First Agent, the First Finance Parties and/or the Second Agent,

obliges the First Agent, the First Finance Parties and/or the Second Agent (or, in the case of paragraph (c) above, any prospective new First Finance Party) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the First Agent, the First Finance Parties and/or the Second Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the First Agent, the First Finance Parties and/or the Second Agent in order for the First Agent, the First Finance Parties or the Second Agent or, in the case of the event described in paragraph (c) above, any prospective new First Finance Party to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the First Finance Documents and Second Finance Documents.

5.5 Undertakings during Wind-Down

Subject to the other terms of this Agreement, the undertakings in this Clause 5.5 remain in force during the Wind-Down Period and shall be complied with by the relevant Obligors, unless waived by the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on the instructions of the Majority Bondholders).

5.5.1 Arm's length basis: The Group Companies shall not enter into any transaction with an Affiliate except on arm's length terms and for full market value.

5.5.2 Compliance with laws:

- (a) Each Group Company shall comply in all material respects with all laws and regulations to which it or any Unit (until it is subject to a Sale) may be subject, including all Sanctions (which, for the avoidance of doubt, shall be complied with in all respects).
- (b) Without limiting paragraph (a) above, each Group Company will not employ a Unit (or any other vessel owned, controlled, operated or management by it) nor allow its

employment, operation or management in any manner contrary to any law or regulation including but not limited all Sanctions.

5.5.3 Business Integrity

- (c) The Group Companies shall not and shall ensure that their Joint Ventures and their respective directors, officers, employees, agents or representatives or any other persons acting on any of their behalf, will not, conduct, omit or contribute to anything that may constitute Corrupt Practices, Fraudulent Practices, Money Laundering or Collusive Practices, and will ensure compliance with all Applicable Anti-Corruption laws.
- (d) In its selection of and dealings with Business Partners the Borrower shall exercise appropriate due diligence, to verify the identity and ownership of any Business Partners in accordance with general "know your client" principles. The Borrower shall ensure that all agreements with Business Partners are made in writing, containing provisions reflecting zero tolerance of Corrupt Practices, Fraudulent Practices, Collusive Practices and Money Laundering and that the Business Partner undertakes to comply with relevant applicable anti-corruption laws.

5.5.4 Environmental Compliance: The Group Companies shall in all material respects:

- (a) comply with all Environmental Laws;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Approvals; and
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law.

5.5.5 Sanctions: The Group Companies shall ensure that:

- (a) none of them, their Joint Ventures, and their respective directors, officers, employees, agents or representatives or any other persons acting on any of their behalf:
 - (i) is or will become a Restricted Party;
 - (ii) act on behalf of, or as agent of, a Restricted Party, to the extent this would lead to non-compliance by it or any other Party with any Sanctions;
 - (iii) take any action or make any omission that is a breach of Sanctions and/or causes (or will cause) a breach of Sanctions by the First Agent, the First Finance Parties and/or the Second Agent;
 - (iv) is involved in any transaction through which it is likely to become a Restricted Party; or

- (v) is subject to or involved in any inquiry, claim, action, suit, proceeding or investigation against it with respect to Sanctions by any Sanctions Authority; and
- (b) it, its Joint Ventures, and its respective directors, officers, employees, agents or representatives or any other persons acting on any of their behalf, complies with Sanctions in all respects, and each Obligor shall at all times maintain policies and procedures designed to promote such compliance and compliance with Clause 5.5.6;
- (c) none of them, their Joint Ventures, and their respective directors, officers, employees, agents or representatives or any other persons acting on any of their behalf will) take any action or make any omission that results, or is reasonably likely to result, in it or the First Agent, the First Finance Parties and/or the Second Agent becoming a Restricted Party;
- (d) none of them, nor any Group Company, will use any revenue or benefit derived from any activity or dealing with a Restricted Party in discharging any obligation due or owing to the First Agent, the First Finance Parties and/or the Second Agent to the extent such use would lead to non-compliance by it or any other Party with any applicable Sanctions; and
- (e) each of them and any other Group Company procures that no proceeds from any activity or dealing with a Restricted Party are credited to any bank account held with any the First Agent, the First Finance Parties and/or the Second Agent or any Affiliate of a First Finance Party, to the extent crediting such bank account would lead to non-compliance by it, any First Finance Party or any Affiliate of a First Finance Party with any applicable Sanctions,

however so that the undertaking set out in paragraph (b) above shall be deemed not to be given in favour of First Finance Parties resident in a member state of the European Union to the extent a breach of this undertaking results in a violation of or conflict with EU Regulation (EC) 2271/96 of 22 November 1996. As a consequence, any First Finance Party resident in a member state of the European Union may not vote in favour of the First Agent and/or Security Agent exercising any rights under the First Finance Documents if the relevant Event of Default arises solely out of a breach of the undertaking set out in paragraph (b) which at the same time results in a violation of or conflict with EU Regulation (EC) 2271/96 of 22 November 1996, which are then not given for the benefit of such First Finance Parties and, in ascertaining the Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Commitments (as defined in the First Loan Agreement) has been obtained in respect of such vote, that First Finance Party's Commitments and/or participations in the relevant Loan (as defined in the First Loan Agreement) then outstanding will be deemed to be zero.

5.5.6 Use of Proceeds

- (a) No Obligor shall (and the Borrower shall procure that no Group Company will) use, lend, contribute or otherwise make available the proceeds of any loan or other transaction contemplated by the First Loan Agreement or this Agreement directly or indirectly for the purpose of financing any trade, business or other activities with any Restricted Party and/or in a manner or for a purpose prohibited by Sanctions and/or

in a manner that causes (or will cause) a breach of Sanctions by it, any the of First Agent, the First Finance Parties and/or the Second Agent or any person or entity, or in a manner that results, or is likely to result, in it or any of the First Agent, the First Finance Parties and/or the Second Agent becoming a Restricted Party or otherwise a target of Sanctions.

- (b) Each Obligor shall (and the Borrower shall procure that each Group Company will) procure that no proceeds from any activity or dealing with a Restricted Party are credited to any bank account held with any of the First Agent, the First Finance Parties and/or the Second Agent or any Affiliate of a First Finance Party, to the extent crediting such bank account would lead to non-compliance by it, any First Finance Party or any Affiliate of a First Finance Party with any applicable Sanctions.

- 5.5.7 Hazardous materials: The Borrower shall ensure that a certificate of *Inventory of Hazardous Materials (IHM)*, being a document listing all the potentially hazardous materials, is kept and maintained on board of the Delta Unit (until it is subject to a Sale). (At the Effective Date the equivalent provision in clause 25.14 of the First Loan Agreement, shall be deemed amended to excluded the Beta Unit.)
- 5.5.8 Recycling: The Borrower shall ensure that the Units and each other vessel directly or indirectly owned or controlled by a Group Company or sold to an intermediary with the intention of being scrapped, is recycled at a recycling yard which conducts it recycling business in a socially and environmentally responsible manner in accordance with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships of 2009 and/or the EU Ship Recycling Regulation of 2013.
- 5.5.9 Ranking: The Obligors shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the First Finance Documents and Second Finance Document rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies (provided that this Clause 5.5.9 shall not regulate the internal ranking of claims under the First Finance Documents and claims under the Second Finance Documents).
- 5.5.10 Security Documents: The Obligors shall ensure that the Security Documents shall remain in full force and effect.
- 5.5.11 Business: The Group Companies shall not take part in any business activities during the Wind-Down Period other than the Wind-Down or any activities related thereto.
- 5.5.12 Financial Indebtedness: No Obligor (other than the Borrower) shall incur, create or permit to subsist any Financial Indebtedness, except for Financial Indebtedness (a) incurred under the Finance Documents, (b) incurred under any Intercompany Loans and subject to Security in favour of the Security Agent (on behalf of the Finance Parties) under a Security Document on first priority and/or (c) consented to in writing by the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on the instructions of the Majority Bondholders).

Negative Pledge: The Obligors shall not create or permit to subsist any security over (a) any of the assets that are subject to security under the Security Documents and/or (b) the shares or ownership or equity interests in the Manager.

5.5.13 Accounts: The Obligors shall maintain its cash in bank accounts which are subject to security under the Security Documents, provided that the Obligors may hold cash in unsecured bank accounts for the purpose of covering expenses related to day to day operations, payment to suppliers and services providers, or for general administrative convenience as long as the aggregated amount deposited on such unpledged accounts shall not at any time exceed USD 200,000 (or the equivalent thereof in any other currencies).

5.5.14 Dividends: The Borrower shall not (whether directly or indirectly) and shall, in respect of paragraph (e) only, procure that no Group Company will:

- (a) declare, make or pay any dividend, charge, fee or other distribution (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
- (b) pay any interest or repay any principal amount (or capitalised interest) on any debt to any of the Borrower's shareholders;
- (c) repay or distribute any dividend or share premium reserve;
- (d) redeem, repurchase or repay any of its share capital or resolve to do so;
- (e) redeem, issue, buy back or repay any bond under the Second Loan Agreement until all amounts outstanding under the First Finance Documents have been fully repaid and discharged (unless explicitly contemplated by this Agreement); or
- (f) enter into any transaction or arrangement having a similar effect as described in paragraphs (a) to (e),

except with the prior written consent of all the First Finance Parties and the Second Agent (acting on the instructions of the Majority Bondholders).

5.5.15 Payments to Finance Parties: Other than the Distributions, the Obligors shall not, and the Borrower shall ensure that no other Group Company will, during the Wind-Down Period make or direct (a) payments of interest or principal under the First Finance Documents or Second Finance Documents, (b) payments of fees, costs and expenses on or related to the First Finance Documents and/or Second Finance Documents (save for reasonable legal fees and fees and costs to First Agent, Second Agent and Security Agent) and/or (c) payments into any bank account which are pledged separately as security for the amounts outstanding under the First Finance Documents and/or the Second Finance Documents.

5.5.16 EU Bail-in: In the event that any First Finance Document will be governed by the laws of a non-EEA Member Country, then to the extent the First Agent (acting reasonably) determines it is necessary such Finance Document shall either prior to its entry, or if already in force be amended to, contain the current form of EU bail-in provisions recommended by the Loan Market Association provided the provisions are tailored for the type of First Finance Document, have been reviewed and agreed with relevant local counsel (such counsel to be selected by the Borrower in consultation with the First Agent) and any optional wording is agreed between the First Agent (acting reasonably) and the Borrower.

6 DISTRIBUTIONS

- 6.1 The Parties acknowledge and agree that the Original Cash Sweep Funds Appropriation in the amount of USD28,000,000 was done in compliance with the Intercreditor Agreement.
- 6.2 At the Effective Date, the Blocked Additional Cash Sweep Funds (USD2,000,000) shall be released by the Security Agent and transferred from the Obligors to the First Agent for application as a Distribution to the First Finance Parties.
- 6.3 At the time of the Sale Completion, 50 % of the Sale Proceeds shall be transferred to the First Agent for application as a Distribution to the First Finance Parties and 50 % of the Sale Proceeds shall be transferred to the Second Paying Agent for application as a Distribution to the Second Finance Parties.
- 6.4 On the date falling no later than 5 Business Days after each Wind-Down Approval Date, 50 % of any relevant Wind-Down Surplus shall be transferred from the Obligors to the First Agent for application as a Distribution to the First Finance Parties and 50 % of any relevant Wind-Down Surplus shall be transferred to the Second Paying Agent for application as a Distribution to the Second Finance Parties.
- 6.5 On or about the date of the Final Liquidation, 50 % of any Final Liquidation Surplus shall be transferred from the Obligors to the First Agent for application as a Distribution to the First Finance Parties and 50 % of any Final Liquidation Surplus shall be transferred to the Second Paying Agent for application as a Distribution to the Second Finance Parties.
- 6.6 At the time when any Distribution to Agents is made to the Second Paying Agent, the Borrower shall issue a call notice to the Bondholders for redemption of bonds under the Second Loan Agreement at par value in the amount of the Distribution to Second Finance Parties. The record date for such repayment shall be set in accordance with the procedures of the securities depository.

7 FACILITATION OF SALES AND WIND-DOWN

- 7.1 If requested by the Borrower and being necessary in order to accomplish a Sale, a Subsidiary Liquidation and/or any action or process in relation thereto, the First Agent, the other First Finance Parties, the Second Agent (on behalf of itself and/or the Bondholders) and/or the Security Agent shall and is irrevocably authorised (at the cost of the Borrower and without any consent, sanction, authority or further confirmation from any Finance Party) to at the time of the closing of the relevant Sale or at the time required in order to facilitate the Subsidiary Liquidation:
 - (a) to release any Security Document or any other claim (relating to the First Finance Document and/or Second Finance Document) over the asset subject to the Sale or Subsidiary Liquidation;

- (b) where that asset consists of shares in the capital of Group Company, to release the Security Document or any other claim (relating to a First Finance Document and/or Second Finance Document) over that member of the Group's property; and
- (c) to execute and deliver or enter into any release of the Security Documents or any claim described in paragraphs (a) and (b) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Borrower, be considered necessary or desirable.

7.2 If requested by the Borrower and being necessary in order to accomplish a sale, written confirmations (at the cost of the Borrower) shall be provided to any Purchaser from the First Agent, the other First Finance Parties, Second Agent (on behalf of itself and/or the Bondholders) and/or Security Agent (each of which is hereby authorised to issue such confirmations with binding effect without any consent, sanction, authority or further confirmation from any Finance Party) confirming that they do not have any claim against the Purchaser in relation to the Sale and/or in relation to the relevant Rig Assets and/or (if applicable) any Associated Assets.

7.3 Any remaining amounts outstanding under the First Finance Documents and/or Second Finance Documents against a Group Company at the time of the Final Liquidation is to be implemented shall be released by the First Agent, the other First Finance Parties, Second Agent (on behalf of itself and/or the Bondholders) and/or Security Agent (at the cost of the Borrower and without any consent, sanction, authority or further confirmation from any Finance Party) against transfer of the Final Liquidation Surplus (if any) in accordance with Clause 6.5.

7.4 Subject to the other terms of this Agreement, each of the First Agent, the other First Finance Parties, Second Agent (on behalf of itself and/or the Bondholders) and/or Security Agent will (a) do all things that the Borrower reasonably requests as being necessary in order to give effect to a Sale, a Subsidiary Liquidation, the Final Liquidation and/or any action or process in relation thereto (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Borrower are necessary to give effect to the releases or disposals contemplated).

7.5 If requested by the Borrower and necessary in order to accomplish a Sale, a Subsidiary Liquidation, the Final Liquidation and/or any action or process in relation thereto and/or any other part of the Wind-Down, any Obligor or Intra-Group Creditor shall release any Intra-Group Loan or other claim it may have against other Group Companies.

8 INSOLVENCY OFFICER BENEFIT FROM PRIORITY CREDITOR MECHANISM

8.1 The Finance Parties acknowledge and agree that in case any of the Group Companies are subject to an Insolvency Event following a termination of this Agreement in accordance with Clause 11.2, any Insolvency Officers of the relevant Group Companies shall have the right to require that, out of the funds (a) deposited on any bank account held by and in the name of a Group Company, excluding any account holding the Sale Proceeds or funds to be distributed in accordance with Clause 6.3, immediately prior to the Insolvency Event and/or (b) payable

to the Group Companies under the bareboat charter and service agreement with Petrobras for the Beta Unit at such time, the Priority Creditors of that Group Company shall be repaid their Priority Creditor Claims out of such funds available to the Group at such time in priority to the claims of the Finance Parties under the First Finance Documents and Second Finance Documents, provided that such funds shall not be used for that purpose until other funds readily available to the relevant Group Company for such purpose have been exhausted.

- 8.2 The rights of the Insolvency Officers set out in Clause 8.1 are independent rights which the parties to this Agreement expressly agree shall be enforceable directly by the Insolvency Officers against the Finance Parties. However, the ability for the parties to this Agreement to enter into an agreement to rescind or vary this Agreement are not subject to the consent of any Insolvency Officer.
- 8.3 This Clause 8 shall remain enforceable by the Insolvency Officers irrespective of any unenforceability, illegality or invalidity of any right or obligation of the Group Companies under this Agreement.

9 CONTINUING OBLIGATIONS AND FURTHER ASSURANCE

By signing this Agreement, each of the Obligors acknowledge and confirm that in any and all capacities it may have under the Finance Documents, the provisions of the First Finance Documents, Second Finance Documents and any Security created or guarantee or indemnity given by it in favour of the Finance Parties, save as adjusted by this Agreement or contemplated hereby, shall (and were always intended to):

- (a) remain in full force and effect unless explicitly amended or waived hereunder, and the Finance Parties hereby expressly reserve all rights under the First Finance Documents and Second Finance Documents;
- (b) continue to secure all obligations under or in connection with clause 13.3 (*Parallel Debt*) under the Intercreditor Agreement; and
- (c) extend to all the liabilities and obligations of the Obligors to the Finance Parties under the First Finance Documents and Second Finance Documents as adjusted pursuant to this Agreement.

10 MUTUAL RELEASE

- 10.1 Subject to Clause 10.2, upon the occurrence of the Sale Completion Distribution Date each Releasing Party irrevocably, unconditionally, fully and absolutely, in any capacity and to the fullest extent permitted by law, waives, settles discharges and released, fully and absolutely, each and every Released Claim.
- 10.2 The releases, waivers, settlements and discharges effected by Clause 10.1 shall not apply in respect of:

- (a) Any claim which has arisen due to wilful misconduct or gross negligence by any Released Party;
- (b) Any claim which a Released Party who is a member of the Group may be entitled to bring against another member of the Group, in each case, in connection with Intra-Group Loans or liabilities, operational, commercial and/or ordinary course contracts which do not relate to and/or are not impaired or otherwise rejected pursuant to the terms of this Agreement;
- (c) Any and all claims for indemnity or reimbursement that a director and/or officer of the Group may now or hereafter own, hold or control pursuant to the organisational documents or insurance policies of the Group in respect of which it is a director and/or officer, or pursuant to any contract or applicable law;
- (d) Any claim which the Finance Parties have to receive payments under or pursuant to the First Finance Documents and/or Second Finance Documents.

11 TERMINATION

11.1 Prior to the Sale Completion Distribution Date, this Agreement may be terminated:

- (a) by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on instructions from Majority Bondholders) if the Borrower or any Obligor is in breach of the terms and conditions of this Agreement;
- (b) by the by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on instructions from Majority Bondholders) if the Borrower seeks approval for a Sale in accordance with Clauses 3.3 or 3.4 above and the First Agent or the Second Agent (as relevant in each case) does not grant such approval within 10 (ten) Business Days; and/or
- (c) by the by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on the instructions of the Majority Bondholders) if the Sale Completion and Sale Completion Distribution Date has not occurred prior to the Sale Longstop Date,

and in case of such termination the contractual position of the Parties prior to entry into the Agreement shall be restored, subject to (i) that the First Standstill Letter shall be deemed in place between the First Finance Parties and the Obligors, subject to the "Standstill Period" thereunder being deemed extended until a date falling ten (10) Business Days after such termination and with "Lay-up Location" being given the same meaning as defined herein, (ii) the provisions mentioned in Clause 11.3 shall remain effective and (iii) Termination Proceeds shall be applied as set out in Clause 11.4 to 11.6.

11.2 After the Sale Completion Distribution Date, this Agreement may be terminated:

- (a) by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on the instructions of the Majority Bondholders) in case there has been a Non-Waived Event of Default;

- (b) by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on instructions from Majority Bondholders) if the Borrower seeks approval for the original Wind-Down Forecast in accordance with Clause 5.2.1 and the First Agent or the Second Agent does not grant such approval within 60 (sixty) days after the Sale Completion;
- (c) by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on the instructions of the Majority Bondholders) if the Borrower seeks approval for a revision of the Wind-Down Forecast in accordance with Clause 5.2.3 and the First Agent or the Second Agent does not grant such approval within thirty (30) calendar days after the relevant Wind-Down Revision Date;
- (d) by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on the instructions of the Majority Bondholders) if the Borrower or any Obligor fails to make Distributions as provided for in Clause 6 above;
- (e) by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on the instructions of the Majority Bondholders) if the Borrower or any Obligor is otherwise in breach of the terms and conditions of this Agreement;
- (f) by the First Agent (acting on the instruction of the Majority Lenders) if the Borrower or the Obligors fail to make payment on the "Final Maturity Date" under the First Loan Agreement (as extended pursuant to Clause 2.3.1);
- (g) by the Second Agent (acting on the instruction of a simple majority of the Bondholders) if the Borrower or any Obligor fails to make payment on the "Maturity Date" under the Second Loan Agreement (as extended pursuant to Clause 2.3.2); and/or
- (h) by the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on the instructions of the Majority Bondholders) if the First Agent (acting on the instruction of the Majority Lenders) or the Second Agent (acting on the instructions of the Majority Bondholders) fail to approve the Final Liquidation Surplus under Clause 5.2.5 within 30 days after the first calculation thereof was presented to the First Agent and the Second Agent,

and in case of such termination all amendments implemented and actions taken under the Agreement up until the date of the termination shall remain in effect, but (i) the Agreement shall (subject to paragraph (ii) and (iii)) not have any effect on actions taken after the termination, (ii) the provisions mentioned in Clause 11.3 shall remain effective, (iii) Termination Proceeds shall be applied as set out in Clause 11.4 to 11.6, and (iv) an Event of Default shall be considered to have occurred under the First Loan Agreement and Second Loan Agreement (a "**Wind-Down Event of Default**") and the Security Documents shall be enforceable in accordance with the Intercreditor Agreement.

- 11.3 Notwithstanding any termination of this Agreement in accordance with Clause 11.1 and 11.2 above, the following provisions of this Agreement shall survive the termination and remain in full force and effect: Clause 8 (*Insolvency Officer Benefit from Priority Creditor Mechanism*), Clause 10 (*Mutual Release*), Clause 11 (*Termination*), Clause 12 (*Notices*), Clause 13 (*Miscellaneous*) and Clause 14 (*Governing Law and Jurisdiction*).

11.4 In case of termination of this Agreement, subject to the provisions in Clause 8 (*Insolvency Officer Benefit from Priority Creditor Mechanism*), (a) any proceeds from completion of sale of any of the Units, either by forced auction or private treaty (including but not limited to the amount standing to the credit of the accounts mentioned in Clause 3.6), (b) any insurance proceeds in respect of the Units, (c) any proceeds from the sale/transfer of any other assets subject to the Security Documents, or (d) payments or proceeds under the Security Documents, all payments and/or proceeds received or recovered by the Security Agent (on behalf of the Finance Parties) or by any Finance Party separately under any Security Document or in connection with the realisation and enforcement of the Security Documents, except in each case of the Blocked Additional Cash Sweep Funds, (together the "**Termination Proceeds**") shall be applied as follows:

- (a) Firstly, in respect of all costs and expenses whatsoever incurred by the Security Agent in or about and incidental to the sale or enforcement ("**Relevant Costs**"); and
- (b) Secondly, 50 % of the remaining Termination Proceeds shall be transferred to the First Agent for application as a Distribution to the First Finance Parties and 50 % of the remaining Termination Proceeds shall be transferred to the Second Paying Agent for application as a Distribution to the Second Finance Parties,

provided that in case of a termination of this Agreement under Clause 11.1 by the First Agent or the Second Agent following the Second Agent's (on behalf of the relevant Bondholders) refusal or failure to approve a Sale:

- (a) of one Unit under Clause 3.4 or otherwise to provide such cooperation in relation thereto as it is required to under the provisions of this Agreement in order to complete such Sale, the part of the Termination Proceeds that shall be transferred to the Second Paying Agent for application as a Distribution to the Second Finance Parties shall be limited to an amount equal to 50 % of the Sales Proceeds from any Sale of any one Unit completed under Clauses 3.3 or 3.4 prior to termination - and whereby all other existing and future remaining Termination Proceeds and other proceeds or funds available for distribution or payment to the First Finance Parties and the Second Finance Parties shall be distributed or paid in accordance with the provisions of the Intercreditor Agreement; and
- (b) of both Units under Clause 3.4 or otherwise to provide such cooperation in relation as it is required to under the provisions of this Agreement in order to reach Sale Completion, the existing and future Termination Proceeds and all other proceeds or funds available for distribution or payment to the First Finance Parties and the Second Finance Parties shall fully be distributed or paid in accordance with the provisions of the Intercreditor Agreement.

11.5 In case of termination of this Agreement, the Blocked Additional Cash Sweep Funds (USD2,000,000) shall be released by the Security Agent and transferred from the Obligors to the First Agent for application as a Distribution to the First Finance Parties.

11.6 Subject to Clause 11.7, if at any time any Finance Party receives or recovers any (i) Termination Proceeds other than as permitted by the terms of this Agreement (including as permitted in accordance with Clause 11.4 and 11.5) (ii) or any other recovery proceeds from a Group Company or under the First Finance Documents or Second Finance Documents in

amounts above what would have been allocated to that Finance Party if such recovery proceeds were distributed as Termination Proceeds under Clause 11.4, that Finance Party will (after deducting its applicable costs and expenses):

- (a) in relation to receipts and recoveries not received or recovered by way of set-off, hold an amount equal to the amount received or recovered on behalf of the Security Agent and promptly pay or distribute that amount to the Security Agent for payment to the relevant Finance Parties in accordance with the terms of this Agreement; and
- (b) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for payment to the relevant Finance Parties in accordance with the terms of this Agreement.

11.7 Nothing in this Agreement shall restrict the ability of any Finance Party to:

- (a) arrange with any person which is not a member of the Group any assurance against loss in respect of, or reduction of its credit exposure to, an Obligor (including assurance by way of credit based derivative or sub-participation); or
- (b) make any assignment or transfer permitted by Clause 13.1 (Changes to the Parties),

and that Finance Party shall not be obliged to account to any other Party for any sum received by it as a result of that action.

11.8 Notwithstanding any other provision of this Agreement the Second Agent shall not be liable for any failure by any Bondholder to comply with any obligation such Bondholder may have under this Agreement, including (without limitation) under Clause 11.6, to make any payment or repayment, or any distribution or redistribution, to the Security Agent of any amount received or recovered by that Bondholder under or in respect of any Second Finance Document.

12 NOTICES

All notices or other communications under this Agreement shall be in writing and shall be deemed to be duly given or made and received when delivered (in the case of personal delivery or letter) and when despatched (in case of facsimile or other electronic communication) to such party addresses to it at the address appearing at the beginning of this Agreement (or at such address as such party may hereafter notify to the other).

13 MISCELLANEOUS

13.1 Changes to the Parties

13.1.1 Subject to Clause 13.1.4, none of the Parties (for the avoidance of doubt excluding the Bondholders) may transfer, assign, pledge or otherwise convey their rights and obligations under this Agreement, unless:

- (a) in case of the Group Companies, the prior written consent is obtained from the Security Agent, the First Agent and the Second Agent and the new Group Company accedes to this Agreement in accordance with Clause 13.1.2;
- (b) in case of the First Agent, this is in accordance with the First Finance Documents and the new First Agent accedes to this Agreement in accordance with Clause 13.1.2;
- (c) in case of the Second Agent, this is in accordance with the Second Finance Documents and the new Second Agent accedes to this Agreement in accordance with Clause 13.1.2;
- (d) in case of the Security Agent, this is in accordance with the First Finance Documents and the New Second Agent accedes to this Agreement in accordance with Clause 13.1.2.

13.1.2 With effect from the date of acceptance by the Security Agent of an Accession Letter duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Accession Letter:

- (a) any Party ceasing entirely to be a Party shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and
- (b) as from that date, the replacement or new Party shall assume the same obligations and become entitled to the same rights, as if it had been an original Party in the capacity specified in the Accession Letter.

13.1.3 Each of the Parties appoints the Security Agent to receive on its behalf each Accession Letter delivered to the Security Agent (including but not limited in relation to a change of the role as Security Agent) and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement.

13.1.4 Any assignment or transfer by a Lender (as defined in the First Loan Agreement) of any of its rights and obligations under the First Loan Agreement in accordance with the provisions of the First Loan Agreement shall include that Lender's corresponding rights and obligations under this Agreement.

13.2 **Process agent**

13.2.1 Each Obligor hereby irrevocably:

- (a) appoints Marinelaw AS (company no. 944 932 712) as its agent for the service of process and/or any other writ, notice, order or judgment in respect of this Agreement and/or the matters arising therefrom; and
- (b) agrees that failure by such process agent to notify any Obligor of the process will not invalidate the proceedings concerned.

- 13.2.2 If the process agent appointed shall cease to exist for any reason, the Obligors shall forthwith appoint another process agent in Norway.

13.3 Severability of provisions

Each of the provisions in this Agreement are severable and distinct from the others, and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

13.4 Conflict

In the event of conflict, inconsistency or incompatibility between the terms and provisions of this Agreement on the one hand and of the First Finance Documents, the Second Finance Documents and/or the Intercreditor Agreement, the terms and provisions of this Agreement shall prevail.

13.5 Finance Document

For the purpose of the First Loan Agreement, this Agreement is designated as and shall be deemed to be a "Finance Document".

14 GOVERNING LAW AND JURISDICTION

- 14.1 This Agreement shall be governed by and construed in accordance with Norwegian law.
- 14.2 Each of the parties hereto hereby irrevocably submits to the non-exclusive jurisdiction of Oslo City Court (*Oslo tingrett*).

[SIGNATURE PAGE FOLLOWS]

SIGNATORIES:

ABN AMRO Bank N.V. (as First Agent and
Security Agent)

Nordic Trustee AS (as Second Agent)

By:

By:

Name:

Name:

Title:

Title:

Atlantica Tender Drilling Ltd.

Atlantica (Malta) Holding Ltd.:

By:

By:

Name:

Name:

Title:

Title:

BassDrill Beta Ltd.:

BassDrill Beta B.V.:

By:

By:

Name:

Name:

Title:

Title:

BassDrill Brasil Serviços de Petróleo Ltda:

Atlantica Delta Ltd.:

By:

By:

Name:

Name:

Title:

Title:

Atlantica Holding B.V.:

By:

Name:

Title:

In the presence of:

Witness' name:

Witness' name:

Atlantica International B.V.:

By:

Name:

Title:

In the presence of:

Witness' name:

Witness' name:

Atlantica Management (USA) Inc.:

By:

Name:

Title:

APPENDIX 1

CONDITIONS SUBSEQUENT

Conditions subsequent to be provided within 30 Business Days after the Effective Date, unless waived by the First Agent (acting on the instructions of the Majority Lenders) and the Second Agent (acting on instructions from the Majority Bondholders):

- (a) A copy of the constitutional documents of each Group Company, including any memorandum and articles of association.
- (b) A copy of a resolution of the board directors and any other corporate authority, including shareholder consent or shareholders' resolution, as applicable, of each Group Company
 - (vi) approving the terms of, and the transactions contemplated by, this Agreement;
 - (vii) authorising a specified person or persons to execute this Agreement on its behalf; and
- (c) If required, a copy of a separate power-of-attorney authorizing the relevant signatories to execute the Agreement as approved under item (b) above.
- (d) A certificate of an authorised signatory of each Group Company certifying that each copy document relating to it specified in this Appendix 1 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.
- (e) This Agreement duly executed by the parties thereto.

APPENDIX 2

FORM OF ACCESSION LETTER

To: *[Insert full name of current Security Agent]* for itself and each of the other parties to the Recovery Agreement referred to below

From: *[Acceding First Agent, Second Agent, Security Agent or Group Company]*

THIS ACCESSION LETTER (the "**Accession Letter**") is made on [●] by *[insert full name of new First Agent, Second Agent, Security Agent or Group Company]* (the "**Acceding [First Agent, Second Agent, Security Agent or Group Company]**") in relation to the recovery agreement (the "**Recovery Agreement**") dated [●] between, amongst others, [●] as First Agent, [●] as Second Agent, [●] as Security Agent and [●] Borrower, as well as the other Group Companies (each as defined in the Recovery Agreement). Terms defined in the Recovery Agreement shall, unless otherwise defined in this Accession Letter, bear the same meanings when used in this Accession Letter.

In consideration of the Acceding *[First Agent, Second Agent, Security Agent or Group Company]* being accepted as a *[First Agent, Second Agent, Security Agent or Group Company]* for the purposes of the Recovery Agreement, the Acceding *[First Agent, Second Agent, Security Agent or Group Company]* confirms that, as from [date], it intends to be party to the Recovery Agreement as a *[First Agent, Second Agent, Security Agent or Group Company]* and undertakes to perform all the obligations expressed in the Recovery Agreement to be assumed by a *[First Agent, Second Agent, Security Agent or Group Company]* and agrees that it shall be bound by all the provisions of the Recovery Agreement, as if it had been an original party to the Recovery Agreement.

This Undertaking and any non-contractual obligations arising out of or in connection with it are governed by Norwegian law.

THIS UNDERTAKING has been entered into on the date stated above.

Acceding *[First Agent, Second Agent, Security Agent or Group Company]*
[insert full name]

By:

Address:

E-mail:

Accepted by the Security Agent

 for and on behalf of

[insert full name of current Security Agent]

Date: