



Registration of a Charge

Company name: **NAUTICAL PETROLEUM LIMITED**

Company number: **04362104**



X6ACLXIJ

Received for Electronic Filing: **10/07/2017**

Details of Charge

Date of creation: **29/06/2017**

Charge code: **0436 2104 0008**

Persons entitled: **FLOWSTREAM THRUER LTD.**

Brief description:

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

JAMES WILSON



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4362104

Charge code: 0436 2104 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th June 2017 and created by NAUTICAL PETROLEUM LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th July 2017 .

Given at Companies House, Cardiff on 12th July 2017

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

29 JUNE 2017

BOND AND FLOATING CHARGE

granted by

NAUTICAL PETROLEUM LIMITED

as the Chargor

in favour of

FLOWSTREAM THRUER LTD

as the Secured Party

66 Queen's Road Aberdeen AB15 4YE DX AB17
Tel +44 (0)330 222 0050 Fax (0)330 222 0051
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Ref: NXZH/SXF/FLO/0028/00001

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THIS BOND AND FLOATING CHARGE is granted by

- (1) **NAUTICAL PETROLEUM LIMITED**, a company incorporated in England and Wales with registration number 04362104 whose registered office is at 6th Floor, 20 Berkeley Square, London, W1J 6EQ (the "Chargor");

in favour of

- (2) **FLOWSTREAM THRUER LTD**, a company incorporated and registered in Jersey (registered number 120814) whose registered office is at 13-14 Esplanade, St Helier, Jersey, JE1 1EE (the "Secured Party").

WHEREAS:

- (A) It is a condition of the Initial Streaming Deed that the Chargor grants this Floating Charge in favour of the Secured Party.

NOW THIS FLOATING CHARGE WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Initial Streaming Deed shall, unless otherwise defined in this Floating Charge or unless a contrary intention appears, bear the same meaning when used in this Floating Charge and the following terms shall have the following meanings:

"Administrator" means any person appointed as an administrator pursuant to paragraph 14 of Schedule B1 to the Insolvency Act to manage the Chargor's affairs, business and property.

"Charged Assets" means the whole of the property, assets and undertaking (including uncalled capital) both present and future of the Chargor other than, where applicable:

- (a) any rights to and title and interest in, from time to time, any Citibank Account;
- (b) any property, assets, rights and interests located in Norway;

- (c) any rights to and title and interest in the Escrow Account; and
- (d) the Deposit Account (as defined in the Rent Deposit Deed).

"Citibank Accounts" means the bank accounts held by the Chargor (if any) pursuant to the Citibank Agreements.

"Citibank Agreements" means:

- (a) the notional cash pooling agreement dated 23 October 2008 and entered into by (1) Capricorn Energy Limited and (2) Citibank, N.A.;
- (b) the multi entity cash pooling agreement to be entered into by (1) Cairn Energy plc; and (2) Citibank, N.A.;
- (c) the target balancing agreement to be entered into by (1) Cairn Energy plc; and (2) Citibank, N.A; and
- (d) any other agreement entered into by any member of the Cairn Group creating or expressed to create cash pooling arrangements with Citibank, N.A or any replacement treasury transaction service provider.

"Credit Agreement" means the \$575,000,000 senior secured borrowing base facility agreement dated 18 July 2014 between, among others, the Chargor and BNP Paribas as security trustee and facility agent.

"Enforcement Event" means:

- (a) the occurrence of any of the events set out in clauses 13.1.1 to 13.1.3 and clauses 13.1.5 and 13.1.6 of the Initial Streaming Deed;
- (b) the occurrence of any of the events set out in clauses 14.1.1 to 14.1.4 and clause 14.1.6 of the Second Stream Deed; or

- (c) a Termination Notice is served by the Secured Party under either the Initial Streaming Deed or the Second Stream Deed and the relevant Termination Amount is not paid when due.

"Escrow Account"	means the account held by the Chargor at JP Morgan Chase Bank National Association with an account name Nautical Petroleum Escrow Account and account number 41320664, IBAN GB61CHAS60924241320664.
"Existing Floating Charges"	means (i) the Scottish floating charge dated 18 July 2014 entered into between, among others, the Chargor and BNP Paribas as security trustee, (ii) the floating charge contained in English law debenture dated 18 July 2014 entered into between, among others, the Chargor and BNP Paribas as security trustee in connection with the Credit Agreement and (iii) any new, replacement or supplemental security granted by the Chargor which is permitted or not prohibited by the Stream Documents and/or the Intercreditor Agreement.
"Fixed Security"	shall have the meaning given to it in section 486 of the Companies Act 1985;
"Floating Charge"	means this Bond and Floating Charge.
"Insolvency Act"	means the Insolvency Act 1986.
"Initial Streaming Deed"	means the initial streaming deed dated on or about the date of this Floating Charge entered into by the Chargor, Cairn Energy Plc, Capricorn-Energy Limited and the Secured Party.
"Intercreditor Agreement"	means the intercreditor agreement dated on or about the date of this Floating Charge between, among others, the Chargor, the Secured Party and BNP Paribas as security trustee and any replacement, supplemental or additional intercreditor agreement entered into among the Chargor, the Secured Party and any creditor or creditors of the Chargor.

- "Receiver"** includes any person or persons appointed (and any additional person or persons appointed or substituted) as receiver by the Secured Party under this Floating Charge and shall include joint Receivers.
- "Rent Deposit Deed"** means a rent deposit deed dated 24 November 2011 between Nautical Petroleum plc (now known as the Chargor) and Berkeley Square Holdings Limited.
- "Secured Liabilities"** means all monies, obligations and liabilities covenanted to be paid or discharged under or pursuant to Clause 2 (*Covenant to Pay*).
- "Security Period"** means the period from the date of this Floating Charge until the date on which the Secured Party has determined that all of the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full or, where there has been an enforcement of the security created pursuant to this Floating Charge, the Secured Party has received the amount referred to in Clause 8.2 (*Limitation on enforcement*).
- "Stream Documents"** means:
- (a) the Initial Streaming Deed;
 - (b) the Second Stream Deed; and
 - (c) the Joint Marketing Agreement.

1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in this Floating Charge to:

- (a) any **"Chargor"**, **"Secured Party"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (b) **"assets"** includes present and future properties, revenues and rights of every description;
- (c) the **"Initial Streaming Deed"** or any other agreement or instrument is a reference to that Initial Streaming Deed or other agreement or

instrument as from time to time amended, novated, supplemented, replaced, extended or restated in whole or in part;

- (d) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (e) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (f) a provision of law is a reference to that provision as from time to time amended or re-enacted;
- (g) "**disposal**" includes a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary (and "**dispose**" shall be construed accordingly);
- (h) "**document**" includes any deed, instrument (including negotiable instrument) or other document of any kind;
- (i) any matter "**including**" specific instances or examples of such matter shall be construed without limitation to the generality of that matter (and references to "**include**" shall be construed accordingly);
- (j) the "**winding-up**", "**dissolution**" or "**administration**" of a person shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such person is incorporated or established, or any jurisdiction in which such person carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors; and
- (k) Clauses are to the clauses to this Floating Charge.

1.2.2 Clause headings are for ease of reference only.

1.2.3 Words in the singular shall import the plural and *vice versa*.

1.2.4 Words defined in the Companies Act 2006 have the same meanings in this Floating Charge.

1.3 Incorporation

Clause 22 (*Notices*), Clauses 23.2, 23.4, 23.5 and 23.6 (*General*) of the Initial Streaming Deed (and the corresponding provisions in the Second Stream Deed) shall apply to this Floating Charge, *mutatis mutandis*, as if the same had been set out in full herein with references to such clauses to:

- 1.3.1 "Cairn" being construed as the Chargor (as defined herein);
- 1.3.2 "FlowStream" being construed as the Secured Party (as defined herein);
- 1.3.3 the "Deed" being construed as references to this Floating Charge; and
- 1.3.4 the "Parties" or "Party" being construed as references to the parties or, as the case may be, a party to this Floating Charge.

1.4 Prior security

It is acknowledged that the Chargor has previously entered into the Existing Floating Charges pursuant to which the Chargor has purported to grant a first floating charge over the Charged Assets. The Chargor's obligations under this Floating Charge are subject to the provisions of the Existing Floating Charges and the security created hereunder is subject to the security created under the Existing Floating Charges.

1.5 Intercreditor Agreement

The exercise of rights hereunder by the Secured Party are subject as otherwise provided in the Intercreditor Agreement and the security created hereunder is subject to the ranking provided in the Intercreditor Agreement.

1.6 Conflict

In the event of any conflict between the terms of this Floating Charge and the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail.

2. COVENANT TO PAY

2.1 Covenant to pay Secured Liabilities

Subject to Clause 8.2 (*Limitation on enforcement*), the Chargor covenants that it shall on demand pay to the Secured Party all monies and discharge all obligations and liabilities now or hereafter due, owing or incurred by it to the Secured Party under or pursuant to the Stream Documents in each case when the same becomes due for payment or discharge whether by acceleration or otherwise, and whether such monies, obligations or liabilities are express or implied; present, future or

contingent; joint or several; incurred as principal or surety; originally owing to the Secured Party or purchased (whether by assignation or otherwise) or acquired in any other way by it; denominated in dollars or any other currency; or incurred on any current or other banking account or in any other manner whatsoever.

2.2 Potential Invalidity

Neither the covenant to pay in Clause 2.1 (*Covenant to Pay Secured Liabilities*) nor the obligation to pay interest pursuant to Clause 2.3 (*Interest*) nor the security created by this Floating Charge shall extend to or include any liability or sum which would, but for this Clause 2.2, cause such covenant, obligation or security to be unlawful under any applicable law.

2.3 Interest

2.3.1 The Chargor hereby agrees to pay to the Secured Party, in respect of any amount demanded from it in accordance with this Floating Charge (to the extent that interest on such amount is not otherwise being paid pursuant to any agreement between the Chargor and the Secured Party) interest from first demand by the Secured Party of the Chargor at the rate per annum which is four per cent. (4%) per annum above the base rate for the time being of Barclays Bank plc to the Secured Party (as conclusively determined by the Secured Party) of funding the amount demanded, such interest being compounded at monthly rests.

2.3.2 Such interest shall accrue due on a daily basis from the demand by the Secured Party until actual payment by the Chargor (both before and after any further demand or decree or the liquidation of the Chargor).

3. FLOATING CHARGE

3.1 Floating charge

Subject to Clause 8.2 (*Limitation on Enforcement*), the Chargor in security for the payment of all the Secured Liabilities grants with absolute warrandice a floating charge in favour of the Secured Party over the Charged Assets.

3.2 Priority

3.2.1 The floating charge created by Clause 3.1 (*Floating charge*) shall, subject to section 464(2) of the Companies Act 1985 and to the Intercreditor Agreement, rank in priority to any Fixed Security (other than any Fixed Security granted by the Chargor in favour of the Secured Party which shall

rank in priority to the floating charge created by Clause 3.1 (*Floating charge*) and to any other floating charge.

3.2.2 Notwithstanding any other provision of this Floating Charge, the Secured Party's rights under this Floating Charge are, in relation to any current or future joint operating agreements in respect of Petroleum Assets to which the Chargor is a party, subject to and without prejudice to the rights of any joint operating parties thereto (other than the Chargor), but only to the extent that the joint operating agreement in question obliges the Chargor to include a provision such as this Clause 3.2.2 in a security document such as this Floating Charge.

3.2.3 Without prejudice to Clause 3.2.2, the Secured Party reserves its rights to appoint an administrative receiver on and following an Enforcement Event in accordance with sections 72B to H (inclusive) of the Insolvency Act 1986.

3.3 **Qualifying Floating Charge**

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by Clause 3.1 (*Floating charge*) so that the floating charge created by Clause 3.1 (*Floating charge*) shall be a "qualifying floating charge" for the purposes of that paragraph.

4. **FURTHER ASSURANCE**

4.1 During the Security Period, the Chargor shall promptly upon request by the Secured Party execute (in such form as the Secured Party may reasonably require) such documents (including assignments, transfers, standard securities, notices and instructions) in favour of the Secured Party or its nominees and do all such assurances and things as the Secured Party may reasonably require for:

4.1.1 perfecting and/or protecting (by registration or in any other way) the security created or intended to be created by this Floating Charge;

4.1.2 conferring upon the Secured Party such floating security (or the closest equivalent in the relevant jurisdiction) as it may require over the assets of the Chargor outside of Scotland which if in Scotland would form part of or be intended to form part of the Charged Assets;

4.1.3 facilitating, at any time on or after the occurrence of a Enforcement Event, the realisation of all or any part of its assets; and

4.1.4 exercising all powers, authorities and discretions conferred on the Secured Party or any Receiver pursuant to this Floating Charge or by law.

4.2 The Chargor shall, during the Security Period, take all such action as may be available to it for the purpose of creating, perfecting or maintaining the security created or intended to be created pursuant to this Floating Charge including the obtaining of any necessary consent (in form and content satisfactory to the Secured Party) to enable its assets to be charged pursuant to this Floating Charge. Immediately upon obtaining any necessary consent the asset concerned shall become subject to the security created by this Floating Charge. The Chargor shall promptly deliver a copy of each such consent to the Secured Party.

5. PROVISIONS AS TO SECURITY

5.1 Continuing security

5.1.1 The security from time to time created by this Floating Charge shall be a continuing security and shall not be discharged by any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities.

5.1.2 If any purported obligation or liability of the Chargor to the Secured Party which if valid would have been the subject of any obligation or charge created by this Floating Charge is or becomes unenforceable, invalid or illegal on any ground whatsoever whether or not known to the Secured Party, the Chargor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Chargor was the principal debtor in respect thereof. The Chargor hereby agrees to keep the Secured Party fully indemnified against all damages, losses, costs and expenses arising from any failure of the Chargor to carry out any such purported obligation or liability.

5.2 Additional security

This Floating Charge shall be in addition to and not be affected by any other security or guarantee now or hereafter held by the Secured Party for all or any part of the Secured Liabilities nor shall any such other security or guarantee of liability to the Secured Party of or by any person not a party to this Floating Charge be in any way impaired or discharged by this Floating Charge nor shall this Floating Charge in any way impair or discharge such other security or guarantee.

5.3 Variation of security

This Floating Charge shall not in any way be affected or prejudiced by the Secured Party at any time dealing with, exchanging, releasing, varying or abstaining from

perfecting or enforcing any security or guarantee referred to in Clause 5.2 (*Additional Security*) or any rights which the Secured Party may at any time have or giving time for payment or granting any indulgence or compounding with any person whatsoever.

5.4 **Enforcement of Other Security**

The Secured Party shall not be obliged to enforce any other security it may hold, or exercise any other rights it may have in relation to the Secured Liabilities before enforcing any of its rights under this Floating Charge.

5.5 **Waiver of defences**

The obligations of the Chargor under this Floating Charge will not be affected by an act, omission, matter or thing which, but for this Clause 5.5, would reduce, release or prejudice any of its obligations under this Floating Charge (without limitation and whether or not known to the Secured Party) including:

- 5.5.1 any time, waiver or consent granted to, or composition with, the Chargor or any other person;
- 5.5.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of any person;
- 5.5.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 5.5.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 5.5.5 any amendment (however fundamental) or replacement of any Stream Document or any other document or security;
- 5.5.6 any unenforceability, illegality or invalidity of any obligation of any person under any Stream Document or any other document or security; or
- 5.5.7 any insolvency or similar proceedings.

5.6 **Chargor's Intent**

Without prejudice to the generality of Clause 5.5 (*Waiver of Defences*), the Chargor expressly confirms that it intends that this Floating Charge, the security constituted by this Floating Charge and its obligations under this Floating Charge, in each case, shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Stream Documents and/or any amount made available under any of the Stream Documents.

6. **REPRESENTATIONS AND WARRANTIES**

6.1 **Representations and warranties**

The Chargor represents and warrants to the Secured Party that:

- 6.1.1 It is the legal and beneficial owner of the Charged Assets, free from any security other than the security created by the Existing Floating Charges and this Floating Charge;
- 6.1.2 On the date of this Floating Charge only, the Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Assets or any interest in them.
- 6.1.3 At any time after the date of this Floating Charge, the Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Assets or any interest in them which has not been notified to the Secured Party as soon as reasonably practicable and, in any event, within 10 Business Days of its receipt by the Chargor.
- 6.1.4 This Floating Charge constitutes the legal, valid, binding and enforceable obligations of the Chargor and is and will continue to be effective security over all and every part of the Charged Assets in accordance with its terms, subject to the terms of the Existing Floating Charges.
- 6.1.5 No security expressed to be created under this Floating Charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise.

6.2 **Repetition**

The representations and warranties set out in Clause 6.1 (*Representations and warranties*) are made by the Chargor on the date of this Floating Charge and shall be deemed to be repeated by the Chargor on each day of the Security Period with reference to the facts and circumstances then existing.

7. UNDERTAKINGS WITH RESPECT TO CHARGED ASSETS

7.1 The Chargor undertakes to the Secured Party with respect to the Charged Assets that:

7.1.1 Negative Pledge

it shall not, without the prior consent in writing of the Secured Party, create or attempt to create or permit to subsist or arise any security on, over or affecting the Charged Assets or any part of them other than (i) in favour of the Secured Party, (ii) the security granted in favour of BNP Paribas as security trustee under the Credit Agreement or (iii) any security granted to secure Financial Indebtedness which is permitted or not prohibited under the Stream Documents;

7.1.2 Subsequent Charges

subject to Clause 7.1.1 (*Negative Pledge*), it shall procure that any security created by it after the date of this Floating Charge (otherwise than in favour of the Secured Party) which is not subject to the terms of the Intercreditor Agreement shall be expressed to be subject to (i) the Existing Floating Charges and (ii) this Floating Charge; and

7.1.3 Consents and Other Necessary Action

it shall take all such action as may be available to it for the purpose of creating, perfecting or maintaining the security created or intended to be created pursuant to this Floating Charge.

8. WHEN SECURITY BECOMES ENFORCEABLE

8.1 Enforcement

At any time after an Enforcement Event, the security created pursuant to this Floating Charge shall be immediately enforceable.

8.2 Limitation on enforcement

The Secured Party's right to receive the proceeds of any enforcement of the security created pursuant to this Floating Charge shall be limited to the Termination Amount (as defined in the Initial Streaming Deed or Second Stream Deed as applicable and as determined in accordance therewith).

9. RECEIVERS AND ADMINISTRATORS

9.1 Appointment and Removal

9.1.1 Without prejudice to the provisions of the Insolvency Act, at any time after having been requested to do so by the Chargor or at any time after the security created by this Floating Charge has become enforceable in accordance with Clause 8 (*When security becomes enforceable*), the Secured Party may by instrument in writing without prior notice to the Chargor:

- (a) (subject to section 72A of the Insolvency Act) appoint one or more persons to be a Receiver of the whole or any part of the Charged Assets;
- (b) remove (so far as it is lawfully able) any Receiver so appointed;
- (c) appoint another person(s) as an additional or replacement Receiver(s); and
- (d) appoint one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act 1986.

9.1.2 Where more than one Receiver is appointed, each joint Receiver shall have the power to act severally, independently of any other joint Receiver, except to the extent that the Secured Party may specify to the contrary in the appointment.

9.2 Receiver as agent of the Chargor

A Receiver shall be the agent of the Chargor and, except as otherwise required by the Insolvency Act, the Chargor shall be solely responsible for his acts and defaults and liable on any contract or engagements made or entered into or adopted by him. No Receiver shall at any time act as agent of the Secured Party.

9.3 Powers of Receiver

A Receiver shall have (and be entitled to exercise in such manner and on such terms as he may in his absolute discretion think fit) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Floating Charge):

- 9.3.1 all of the powers of a receiver set out in Schedule 2 to the Insolvency Act;
- 9.3.2 power to sell (whether by public auction or private contract or otherwise) all or any of the Charged Assets on any terms and for any consideration

(including without limitation for deferred consideration or a consideration payable wholly or partly in instalments or consisting in whole or in part of shares or securities of any other company or of any other non-cash asset);

- 9.3.3 power to grant any lease or tenancy or right of or affecting the Charged Assets for any term or terms of years at any or no rent and with or without any premium and accept the surrender of any lease or tenancy or right and give a valid receipt for any premium payable on any such grant or surrender and to amend or vary any lease, licence agreement or other arrangement in any way relating to or affecting the Charged Assets;
- 9.3.4 power to grant options to sell, lease, licence or dispose of the Charged Assets;
- 9.3.5 power to enter on or otherwise take possession of the Charged Assets to repair, convert, manufacture, process, decorate, alter, renew, improve, add to or develop or to complete any development or building which may be unfinished and to settle, compound, compromise or submit to arbitration any accounts or claims arising out of the commencement, carrying on or completion of any such development or building;
- 9.3.6 power to redeem any mortgage, charge or other encumbrance on, over or affecting the Charged Assets or any part of it;
- 9.3.7 power to repair, renew or improve plant, machinery, implements, furniture, equipment and other effects of the Chargor in or on the Charged Assets;
- 9.3.8 power to settle or compromise or submit to arbitration any claim or claims on or against the Charged Assets or claim or dispute arising out of the Charged Assets;
- 9.3.9 power to disclaim, abandon or disregard all or any of the outstanding contracts of the Chargor and to allow time for payment by or to the Chargor of any debts either with or without security;
- 9.3.10 power to manage and carry on or concur in managing or carrying on upon the Charged Assets any type of trade or business and to enter and perform such contracts and arrangements and incur any obligations in relation thereto;
- 9.3.11 power to make or exercise an election pursuant to paragraphs 2 and 3 of Schedule 10 to the Value Added Tax Act 1994 in relation to the Charged Assets or exercise any option or right of election available to the Chargor

or the Secured Party or the Receiver that the supplies made in respect of any lease or tenancy of any part of the Charged Assets shall be supplies chargeable or taxable for value added tax purposes at the standard or other applicable rate provided always that neither the Secured Party nor the Receiver shall be liable for any loss suffered by the Chargor as a result and to execute all documents, and perform such acts or things as maybe necessary to permit any disposal of the Charged Assets to be zero-rated for the purposes of value added tax;

- 9.3.12 power to exercise all voting and other rights attaching to stocks, shares and other securities comprising or comprised within the Charged Assets;
- 9.3.13 power to exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Asset; and
- 9.3.14 power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Floating Charge or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargor; the preservation, improvement, collection and/or realisation of Charged Assets; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).

9.4 **Discretions**

Any liberty or power which may be exercised or any determination which may be made under this Floating Charge by the Secured Party or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

9.5 **Powers may be restricted**

The powers granted to a Receiver pursuant to this Floating Charge may be restricted by the instrument (signed by the Secured Party) appointing him but they shall not be restricted by any winding-up or dissolution of the Chargor.

10. PROVISIONS APPLICABLE ON ENFORCEMENT

10.1 Protection of third parties

10.1.1 No purchaser from, or other person dealing with the Secured Party or a Receiver shall be concerned to enquire whether any event has happened upon which any of the powers in this Floating Charge are or may be exercisable or otherwise as to the propriety or regularity of any exercise of such powers or of any act purporting or intended to be an exercise of such powers or whether any amount remains secured by this Floating Charge and a certificate in writing by an officer or agent of the Receiver that the power of sale or other disposal has arisen and is exercisable shall be conclusive evidence of that fact in favour of a purchaser of all or any of the Charged Assets.

10.1.2 The receipt of the Secured Party or any Receiver shall be a conclusive discharge to any purchaser of the Charged Assets.

10.2 Protection of the Secured Party and Receiver

Neither the Secured Party nor any Receiver shall be liable to the Chargor in respect of any loss or damage which arises out of the exercise, the attempted or purported exercise or the failure to exercise any of their respective powers or for any other loss of any nature whatsoever.

10.3 Delegation

The Secured Party and a Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Floating Charge (including the power of attorney) on such terms and conditions as it or he shall see fit which shall not preclude exercise of those powers, authorities or discretions by it or him or any revocation of the delegation or any subsequent delegation.

11. COSTS AND EXPENSES

11.1 Costs and expenses

The Chargor shall promptly on demand reimburse the Secured Party and any Receiver, attorney, manager, agent or other person appointed by the Secured Party under this Floating Charge for all costs and expenses (including legal fees) incurred by the Secured Party, Receiver, attorney, manager, agent or other person (on a full indemnity basis together with any applicable VAT) in connection with the exercise, preservation and/or enforcement or attempted enforcement of the security created by or contemplated by this Floating Charge.

11.2 **Stamp Taxes**

The Chargor covenants to pay to the Secured Party immediately on demand a sum equal to any liability which the Secured Party incurs in respect of stamp duty, registration fees and other taxes which is or becomes payable in connection with the exercise, preservation or enforcement of this Floating Charge (including any interest, penalties, liabilities, costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax).

11.3 **Indemnity**

The Secured Party and every Receiver, attorney, delegate, manager, agent or other person appointed by the Secured Party hereunder shall be entitled to be indemnified out of the Charged Assets or any part thereof in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Floating Charge and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets or any part of them (other than by reason of that person's gross negligence or wilful misconduct). The Secured Party and any such Receiver may retain and pay all sums in respect of which it is indemnified out of any monies received by it under the powers conferred by this Floating Charge.

12. **RELEASE OF SECURITY**

12.1 **Release of security**

The Secured Party shall, at the request and cost of the Chargor, execute or procure the execution by its nominee (in each case in a form acceptable to the Secured Party) and do all such deeds, acts and things as are necessary to release and/or reassign the Charged Assets from the security created by or in accordance with this Floating Charge at the end of the Security Period.

13. **AVOIDANCE OF PAYMENTS**

13.1 No amount paid, repaid or credited to the Secured Party shall be deemed to have been irrevocably paid if the Secured Party considers that the payment or credit of such amount is capable of being avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws.

13.2 If any amount paid, repaid or credited to the Secured Party is avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws then any release, discharge or settlement between the Secured Party and the Chargor shall be deemed not to have occurred and the Secured Party shall be

entitled to enforce this Floating Charge subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made

14. AMOUNTS PAYABLE

The obligation of the Chargor under this Floating Charge to make payments in any currency shall not be discharged or satisfied by any tender, or recovery pursuant to any judgment, decree or otherwise, expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by the Secured Party of the full amount of the currency expressed to be payable under this Floating Charge.

15. CUMULATIVE REMEDIES AND WAIVERS

The rights of the Secured Party and the Receiver may be exercised as often as necessary, are cumulative and are in addition to its respective rights under general law and may be waived only in writing and specifically. Delay in the exercise or non-exercise of any right shall not be a waiver of that right.

16. SEVERABILITY

If any of the provisions of this Floating Charge is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality and enforceability of any other provision in this Floating Charge.

17. APPLICATION OF PROCEEDS

17.1 Application of proceeds

Subject to the terms of the Intercreditor Agreement, all moneys received by the Secured Party or any Receiver after the security created by this Floating Charge has become enforceable in accordance with Clause 8 (*When security becomes enforceable*) shall, subject to the repayment of any claims having priority to this Floating Charge and to any applicable statutory requirement as to (i) the payment of preferential debts or (ii) the payment of unsecured creditors in accordance with section 176A of the Insolvency Act 1986, be applied in the following order of priority:

- 17.1.1 in satisfaction of all costs, charges, expenses and payments (including legal fees and any fees, costs and expenses arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise) made or incurred by the Secured Party or a Receiver under or in connection with this Floating Charge and of remuneration due to a Receiver under or in connection with this Floating

Charge in such order as the Secured Party shall in its absolute discretion decide;

17.1.2 in or towards satisfaction of the Secured Liabilities which shall be applied in such order as the Secured Party shall in its absolute discretion decide; and

17.1.3 the surplus, if any, shall be paid to the Chargor or other person or persons entitled to it,

save that the Secured Party may credit any moneys received under this Floating Charge to a suspense account for so long and in such manner as the Secured Party may from time to time determine and the Receiver may retain the same for such period as he and the Secured Party consider appropriate.

18. **NEW ACCOUNTS**

18.1 **New Accounts**

If the Secured Party receives notice of any subsequent charge or other interest affecting any part of the Charged Assets (the date of receipt of such notice being the "**Notice Date**") it may, without prejudice to its rights under this Floating Charge, open a fresh account or accounts with the Chargor and continue any existing account in the name of the Chargor and may appropriate to any such fresh account any monies paid in, received or realised for the credit of the Chargor after that time without being under any obligation to apply the same or any part of them in discharge of any of the Secured Liabilities. If the Secured Party fails to open a fresh account it will be deemed to have done so and any monies received or realised after the Notice Date will not reduce the Secured Liabilities outstanding on the Notice Date.

19. **POWER OF ATTORNEY**

19.1 **Appointment and powers**

By way of security for the obligations of the Chargor under this Floating Charge, the Chargor irrevocably appoints the Secured Party and every Receiver to be its attorney in its name and on its behalf or otherwise:

19.1.1 to execute and deliver any documents or instruments which the Secured Party or such Receiver may require for perfecting the title of the Secured Party to the Charged Assets or for vesting the same in the Secured Party, its nominee or any purchaser;

19.1.2 to sign, execute, seal and deliver and otherwise perfect any further security document which the Chargor is required to enter into pursuant to this Floating Charge;

19.1.3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements, instrument or act and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Secured Party or any Receiver under this Floating Charge or which it is required to do pursuant to this Floating Charge or which may be deemed expedient by the Secured Party or a Receiver in connection with any preservation, disposition, realisation or getting in by the Secured Party or such Receiver of the Charged Assets or in connection with any other exercise of any other power under this Floating Charge.

19.2 **Exercise of Power**

Any attorney appointed under Clause 19.1 (*Appointment and powers*) above must not exercise any power under Clause 19.1 (*Appointment and powers*) unless (i) a Designated Event has occurred and is continuing; or (ii) the Chargor has failed to do the same within three Business Days following any request by the Secured Party or the Receiver (as the case may be).

19.3 **Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in Clause 19.1 (*Appointment and powers*) does or purports to do in the exercise or purported exercise of all or any of the powers granted in such Clause.

20. **~~ASSIGNATION AND TRANSFERS~~**

20.1 Save as provided in the Stream Documents, no party to this Floating Charge may assign any of its rights or transfer any of its rights or obligations under this Floating Charge.

20.2 This Floating Charge is binding on the successors and assignees of the Chargor.

21. **FINANCIAL COLLATERAL**

21.1 **Right to appropriate**

21.1.1 Without prejudice to the other provisions of this Floating Charge, to the extent that any of the Charged Assets constitute "financial collateral", and this Floating Charge and the obligations of the Chargor hereunder

constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226) (the "**Regulations**")), the Secured Party shall have the right to appropriate all or any part of those Charged Assets in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of any such Charged Assets so appropriated shall be the market price of such Charged Assets at the time the right of appropriation is exercised as determined by the Secured Party by reference to such method or source of valuation as the Secured Party may reasonably select, including by independent valuation. The parties agree that the methods or sources of valuation provided for in this Clause or selected by the Secured Party in accordance with this Clause shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

- 21.1.2 The Secured Party shall notify the Chargor as soon as reasonably practicable of the exercise of its right of appropriation as regards such of the Charged Assets as are specified in such notice.

22. **COUNTERPARTS**

This Floating Charge may be executed in any number of counterparts and on such execution shall be a single document pursuant to the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015.

23. **REGISTRATION**

The Chargor consents to the registration of this Floating Charge for preservation.

24. **GOVERNING LAW AND JURISDICTION**

24.1 **Governing law**

This Floating Charge and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of Scotland.

Jurisdiction

- 24.1.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Floating Charge or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual dispute or claim) (a "**Dispute**").
- 24.1.2 The parties to this Floating Charge agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly the Chargor will not:
- 24.1.3 argue to the contrary; or
- 24.1.4 initiate or pursue any proceedings relating to a Dispute in any jurisdiction other than Scotland.

IN WITNESS WHEREOF this Floating Charge consisting of this and the preceding [21] pages is executed as follows:

Executed (but not delivered until the date of delivery specified below) for and on behalf of

NAUTICAL PETROLEUM LIMITED

by

..... Director

in the presence of this witness:

..... Witness
 PAUL BRVINE Full name
 SOLITHIAN ROAD Address
 EDINBURGH

at EDINBURGH

on 26 JUNE 2017

Executed (but not delivered until the date of delivery specified below) for and on behalf of

as Secured Party

..... Director

in the presence of this witness:

Witness
Harriet Taylor Full name
13-14 Esplanade Address
St Helier, Jersey

Date of delivery: 29 JUNE 2017