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COMPANIES FORM No. 466(Scot)

1CSTD

466

Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

CHFP025

Please do not
write in this
margin

A fee of £13 is payable to Companies House in respect
of each register entry for a mortgage or charge.

Pursuant to section 410 and 466 of the Companies Act 1985

To the Registrar of Companies
(Address overleaf - Note 6)

For official use

Company number

Please complete
legibly, preferably
in black type, or
bold block lettering



SC403892

Name of company

* ATR Offshore Group Limited (the "Chargor")

* insert full name
of Company

Date of creation of the charge (note 1)

28 June 2012

Description of the instrument creating or evidencing the charge or of any ancillary document which has
been altered (note 1)

Bond and floating charge (the "Charge")

Names of the persons entitled to charge

NBGI Private Equity (Tranche II) LP

Short particulars of all the property charged

Undertaking & all property & assets present & future, including uncalled capital. Contains floating
charge.

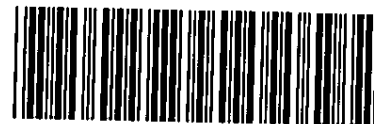
Presenter's name address and
reference (if any):

BURNES PAULL LLP
UNION PLAZA
1 UNION WYND
ABERDEEN
AB10 1DQ
AB35 ABERDEEN

For official use (06/2005)
Charges Section

1. Post room

FRIDAY



S4BCHEEZ

SCT

10/07/2015

#304

COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

NBGI Private Equity (Tranche II) LP - 1 Royal Plaza, Royal Avenue, St Peter Port, Guernsey (acting by its investment manager – NBGI Private Equity Limited - Old Change House, 128 Queen Victoria Street, London EC4V 4BJ);

Keith Moorhouse - 20 Charleston Way, Cove Bay, Aberdeen AB12 3FA;

Euan Leask - 10 Moray Place, Aberdeen, AB15 4AF;

Mark Hislop - 9 Bramble Way, Portlethen, Aberdeenshire, AB12 4UE;

Iain Andrew Ferguson - 25 Braecroft Drive, Westhill, Aberdeenshire, AB32 6FF;

Continued on the paper apart to this form M466

*Please do not
write in
this margin*

*Please complete
legibly, preferably
in black type, or
bold block lettering*

Date(s) of execution of the instrument of alteration

29 June 2015

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

All capitalised terms used in this form M466 shall have the meaning given to them in the paper apart to this form M466.

1.1 So long as the Loan Note Liabilities are outstanding no Obligor shall create or allow to exist any Security over any of its assets for, or any guarantee for or in respect of, any of the Loan Note Liabilities except:

1.1.1 pursuant to the Security Documents; or

1.1.2 with the prior written consent of each Loan Note Holder (other than the STH Note Holders).

2.1 Each NBGI Note Holder covenants with each Management Note Holder and each STH Note Holder that, so long as any of the Management Liabilities or the STH Liabilities are outstanding it shall not allow to exist or receive the benefit of any Security or receive the benefit of any guarantee, from any person in respect of the NBGI Liabilities except:

2.1.1 pursuant to the Security Documents; or

2.1.2 with the prior written consent of each Loan Note Holder (other than the STH Note Holders).

Continued on the paper apart to this form M466

Short particulars of any property released from the floating charge

N/A

The amount, if any, by which the amount secured by the floating charge has been increased

N/A

Please do not
write in
this margin

Please complete
legibly, preferably
in black type or
bold block lettering

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

The Loan Note Holders and the Obligors each agree that the Loan Note Liabilities shall rank for all purposes and at all times in the following order of priority:

1. first, the STH Security for all sums secured thereby;
2. second, the NBGI/Management Security for all NBGI Additional Liabilities; and
3. third, the NBGI/Management Security for the NBGI Original Liabilities and the Management Liabilities secured thereby *pari passu* and *pro rata* without any preference between them.

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

Signed  for Burness Paul LLP Date 08/07/2015

On behalf of [company] ~~[chargee]~~ †

A fee is payable to Companies House in respect of each register entry for a mortgage or charge.
(See Note 5)

Notes

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc, as the case may be, should be given. For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders are to be made payable to **Companies House**.
6. The address of the Registrar of Companies is: Companies House, 139 Fountainbridge, Edinburgh, EH3 9FF DX 235 Edinburgh or LP - 4 Edinburgh 2

† delete as appropriate

This is the paper apart referred to in the foregoing form M466 in respect of the floating charge granted by ATR Offshore Group Limited in favour of NBGI Private Equity (Tranche II) LP dated 28 June 2012.

Definitions

- "Intercreditor Agreement" means the intercreditor agreement between, *inter alia*, Wells Fargo Bank International and ATR Holdings Limited dated 29 June 2015, and is the "instrument of alteration" referred to by the M466;
- "Liabilities" means all present and future monies, obligations or liabilities (whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever);
- "Loan Note Liabilities" means together the Management Liabilities, the NBGI Liabilities and the STH Liabilities, or any part of them;
- "Loan Note Holder" means the Management Note Holders, the NBGI Note Holders and the STH Note Holders;
- "Management Liabilities" means the Liabilities of each Obligor to any NBGI/Management Secured Party under any Management Loan Note Document together with all costs, charges and expenses incurred by any NBGI/Management Secured Party in connection with the protection, preservation or enforcement of its rights under any Management Loan Note Document or any other document evidencing or securing any such liabilities;
- "Management Loan Note Document" means (a) the Management Loan Note Instrument, (b) the NBGI/Management Security Documents, (c) the Intercreditor Agreement; and (d) the Senior Intercreditor Agreement;
- "Management Loan Note Instrument" means the loan note instrument entered into by the Chargor dated 29 February 2012, relative to the issue of up to £110,005 12% fixed rate secured loan notes 2020 by the Chargor as such instrument is amended, supplemented, restated, novated and replaced from time to time (including, without limitation, any amendment, supplement, restatement, novation or replacement entered into to increase the principal indebtedness under the Management Loan Note Instrument);
- "Management Loan Notes" means the loan notes issued by the Chargor under the Management Loan Note Instrument;
- "Management Note Holders" means the Original Management Noteholder, Euan Leask and each other person who holds Management Loan Notes from time to time;
- "NBGI Additional Liabilities" means the liabilities of each Obligor to any NBGI/Management Secured Party that are not NBGI Original Liabilities, together with all costs, charges and expenses incurred by any NBGI/Management Secured Party in connection with the protection, preservation or enforcement of its rights;
- "NBGI Liabilities" means the NBGI Original Liabilities and the NBGI Additional Liabilities;
- "NBGI Loan Note Document" means: (a) the NBGI Loan Note Instruments; (b) the NBGI/Management Security Documents; (c) the Intercreditor Agreement; and (d) the Senior Intercreditor Agreement; and any other document designated as an "NBGI Loan Note Document" by the Security Trustee and any Obligor;
- "NBGI Loan Note Instruments" means (1) the loan note instrument entered into by the Chargor dated 29 February 2012 relative to the issue of up to £11,005,056 fixed rate secured loan notes 2020 by the Chargor as such instrument is amended, supplemented, restated,

novated and replaced from time to time (including, without limitation, any amendment, supplement, restatement, novation or replacement entered into to increase the principal indebtedness under the Original Loan Note Instrument) and (2) each other agreement, loan note instrument or other document constituting an NBGI Additional Liability;

- "NBGI Note Holder" means the Original NBGI Noteholder and each other person who holds NBGI Loan Notes from time to time;
- "NBGI Loan Notes" means the loan notes issued by the Chargor under the NBGI Loan Note Instruments;
- "NBGI Original Liabilities" means the Liabilities of each Obligor to any NBGI/Management Secured Party under any NBGI Loan Note Document entered into prior to 28 June 2012, together with all costs, charges and expenses incurred by any NBGI/Management Secured Party in connection with the protection, preservation or enforcement of its rights under any NBGI Loan Note Document or any other document evidencing or securing any such liabilities;
- "NBGI/Management Floating Charge" means (a) each bond and floating charge dated 29 February 2012 granted by each Obligor (other than Underwater Engineering Services Limited, Cosalt Offshore Group Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee; (b) the Charge and each bond and floating charge dated 28 June 2012, granted by each Obligor (other than Cosalt Offshore Group Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee; (c) the bond and floating charge dated 1 November 2013 granted by Cosalt Offshore Group Limited in favour of the Security Trustee; and (d) the bond and floating charge dated 1 November 2013 granted by ATR Lifting Solutions Limited in favour of the Security Trustee;
- "NBGI/Management Guarantee" means (a) the guarantee and indemnity dated 29 February 2012 granted by each Obligor (other than Underwater Engineering Services Limited, Cosalt Offshore Group Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee; and (b) the guarantee and indemnity dated on 28 June 2012, granted by each Obligor (other than Cosalt Offshore Group Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee and acceded to by each of Cosalt Offshore Group Limited and ATR Lifting Solutions Limited on 1 November 2013;
- "NBGI/Management Secured Parties" means the Security Trustee, the NBGI Note Holder and the Management Note Holders and NBGI/Management Secured Party means any of them;
- "NBGI/Management Security" means the Security constituted under the NBGI/Management Security Documents;
- "NBGI/Management Security Documents" means (a) each NBGI/Management Floating Charge; (b) the NBGI/Management Guarantee; and (c) each other document creating Security in favour of the Security Trustee in respect of the Secured Liabilities or designed by the Obligors and the Security Trustee as a Security Document;
- "Obligors" means ATR Holdings Limited, the Chargor, ATR Equipment Solutions Ltd, ATR Power Solutions Ltd, ATR Overseas Limited, Underwater Engineering Services Limited, Cosalt Offshore Group Limited and ATR Lifting Solutions Limited;
- "Original Management Noteholder" means Keith Moorhouse;
- "Original NBGI Noteholder" means NBGI Private Equity (Tranche II) LP;
- "Original STH Noteholders" means Mark Hislop, Iain Andrew Ferguson and Stuart Innes Morrison;
- "Secured Liabilities" shall have the meaning given to it in any Security Document;

- "Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect;
- "Security Documents" means (a) each STH Security Document; and (b) each NBGI/Management Security Document;
- "Security Trustee" means NBGI Private Equity (Tranche II) LP;
- "Senior Intercreditor Agreement" means the intercreditor agreement dated 29 June 2015 between, amongst others, Clydesdale Bank PLC, Wells Fargo Bank N.A. and the Obligors (as may be further amended, restated, supplemented and/or adhered to from time to time);
- "STH Floating Charges" means each bond and floating charge dated 29 June 2015 granted by the Chargor and ATR Holdings Limited in favour of the STH Note Holders;
- "STH Guarantee" means the guarantee and indemnity dated 29 June 2015 granted by ATR Holdings Limited in favour of the STH Note Holders;
- "STH Liabilities" means the Liabilities of each Obligor to any STH Note Holder under any STH Loan Note Document together with all costs, charges and expenses incurred by any STH Note Holder in connection with the protection, preservation or enforcement of its rights under any STH Loan Note Document or any other document evidencing or securing any such liabilities;
- "STH Loan Note Document" means: (a) the STH Loan Note Instrument; (b) the STH Security Documents; (c) the Intercreditor Agreement; and (d) the Senior Intercreditor Agreement;
- "STH Loan Note Instrument" means the loan note instrument entered into by the Chargor dated 29 June 2015, relative to the issue of up to £1,596,500 8% fixed rate secured loan notes 017 by the Chargor;
- "STH Loan Notes" means the loan notes issued by the Chargor under the STH Loan Note Instrument";
- "STH Note Holder" means the Original STH Noteholders and each other person who holds STH Loan Notes from time to time;
- "STH Security" means the Security constituted by the STH Security Documents; and
- "STH Security Documents" means (a) the STH Floating Charges; and (b) the STH Guarantee.

Names, and addresses of the persons who have executed the instrument of alteration

- Stuart Innes Morrison – 69 Caiesdykes Crescent, Kincorth, Aberdeen, AB12 5JL;
- the Chargor – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ;
- ATR Holdings Limited – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ;
- ATR Equipment Solutions Ltd – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ;
- ATR Power Solutions Ltd – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ;
- ATR Overseas Limited – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ;
- Underwater Engineering Services Limited – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ;
- Cosalt Offshore Group Limited – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ; and
- ATR Lifting Solutions Limited – Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ.

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the Chargor of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

- 3.1 Each Management Note Holder covenants with each NBGI Note Holder and each STH Note Holder that, so long as any of the NBGI Liabilities or the STH Liabilities are outstanding, it shall not allow to exist or receive any benefit of any Security or receive the benefit of any guarantee, from any person in respect of the Management Liabilities except:
 - 3.1.1 pursuant to the Security Documents; or
 - 3.1.2 with the prior written consent of each Loan Note Holder (other than the STH Note Holders).

- 4.1 Each STH Note Holder covenants with each Management Note Holder and each NBGI Note Holder that, so long as any of the Management Liabilities or the NBGI Liabilities are outstanding, it shall not allow to exist or receive the benefit of any Security or receive the benefit of any guarantee, from any person in respect of the STH Liabilities except:
 - 4.1.1 pursuant to the Security Documents; or
 - 4.1.2 with the prior written consent of each other Loan Note Holder.



FILE COPY

**CERTIFICATE OF THE REGISTRATION
OF AN ALTERATION TO A FLOATING CHARGE**

COMPANY NO. 403892

CHARGE NO. 4

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT
OF ALTERATION DATED 29 JUNE 2015 WERE DELIVERED
PURSUANT TO SECTION 878 OF THE COMPANIES ACT 2006
ON 10 JULY 2015

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 28
JUNE 2012

BY ATR OFFSHORE GROUP LIMITED

IN FAVOUR OF
NBGI PRIVATE EQUITY (TRANCHE II) LP

FOR SECURING ALL SUMS DUE OR TO BECOME DUE

GIVEN AT COMPANIES HOUSE, EDINBURGH 16 JULY 2015



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Certified a true copy

Aberdeen

8 JUL 2015


for and on behalf of Burness Paul LLP

~~Burness Paul~~

INTERCREDITOR AND SECURITY TRUST DEED

among

**NBGI PRIVATE EQUITY (TRANCHE II) LP
AS SECURITY TRUSTEE**

and

ATR OFFSHORE GROUP LIMITED

and

KEITH MOORHOUSE

and

EUAN LEASK

and

THE STH NOTE HOLDERS

INDEX

Clause No.	Heading	Page No.
1	DEFINITIONS AND CONSTRUCTION	1
2	PRIORITIES	9
3	OBLIGOR COVENANTS.....	10
4	LOAN NOTE HOLDER COVENANTS.....	10
5	PERMITTED PAYMENTS.....	12
6	PRESERVATION OF RIGHTS	13
7	ACCELERATION ACTION.....	13
8	EFFECT OF INSOLVENCY EVENT.....	14
9	TURNOVER.....	15
10	REDISTRIBUTION.....	17
11	ENFORCEMENT OF LOAN NOTE SECURITY.....	17
12	CONTINUING PROVISIONS	19
13	RELEASE OF SECURITY.....	20
14	APPLICATION OF PROCEEDS	21
15	ROLE OF THE SECURITY TRUSTEE	23
16	POWER OF ATTORNEY	30
17	NOTICES	30
18	CHANGES TO PARTIES	32
19	MISCELLANEOUS	33
20	SENIOR INTERCREDITOR AGREEMENT	33
21	GOVERNING LAW	34
	PART 1 THE OBLIGORS.....	46
	PART 2	47
	PART 3	48
	INTERCREDITOR ACCESSION DEED	48

THIS INTERCREDITOR AND SECURITY TRUST DEED is made between

- (1) **NBGI PRIVATE EQUITY (TRANCHE II) LP.**, registered in Guernsey (with number 1511) whose registered office is at office is at 1 Royal Plaza, Royal Avenue, St Peter Port, Guernsey acting by its investment manager **NBGI PRIVATE EQUITY LIMITED** (registered number 3942388) whose registered office is at Old Change House, 128 Queen Victoria Street, London EC4V 4BJ as agent and security trustee for the **NBGI/Management Secured Parties** (as defined below) (the **Security Trustee**);
- (2) **NBGI PRIVATE EQUITY (TRANCHE II) LP** registered in Guernsey (with number 1511) whose registered office is at office is at 1 Royal Plaza, Royal Avenue, St Peter Port, Guernsey, acting by its investment manager **NBGI PRIVATE EQUITY LIMITED** (registered number 3942388) whose registered office is at Old Change House, 128 Queen Victoria Street, London EC4V 4BJ as a beneficiary (the **Original NBGI Noteholder**);
- (3) **KEITH MOORHOUSE** of 20 Charleston Way, Cove Bay, Aberdeen AB12 3FA, as a beneficiary (the **Original Management Noteholder**);
- (4) **EUAN LEASK** of 10 Moray Place, Aberdeen, AB15 4AF (**Mr Leask**);
- (5) **STH NOTE HOLDERS** being the persons listed in Part 2 of the Schedule (each a **STH Note Holder** and together the **STH Note Holders**); and
- (6) **THE COMPANY** (as defined below) together with the **COMPANIES** listed in Part 1 of the Schedule (each an **Obligor** and together the **Obligors**).

AGREED TERMS:

1 DEFINITIONS AND CONSTRUCTION

1.1 Definitions

In this Deed the following terms shall have the following meanings:

"Acceleration Action" means a Loan Note Holder exercising any of its rights under Clause 12 of the NBGI Loan Note Instruments and/or Clause 12 of the Management Loan Note Instrument and/or Clause 12 of the STH Loan Note Instrument (as applicable);

"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;

"Business Day" means a day (other than a Saturday or Sunday) on which commercial banks are open for general business in London and Aberdeen;

"Charged Assets" means all assets secured by or under the Security Documents;

"Company" means ATR Offshore Group Limited, a company incorporated in Scotland (Company Number SC403892) and having its registered office at Union Plaza 6th Floor, 1 Union Wynd, Aberdeen, AB10 1DQ;

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee;

"Distress Event" means:

- (a) the taking of Acceleration Action;
- (b) an Insolvency Event; or
- (c) the enforcement of any Loan Note Security in accordance with this Deed;

"Enforcement Action" means:

- (a) means a Loan Note Holder exercising any of its rights under Clause 15 of the NBI Loan Note Instruments and/or Clause 15 of the Management Loan Note Instrument and/or Clause 15 of the STH Loan Note Instrument;
- (b) the enforcement of any Loan Note Security.

"Event of Default" means any "Event of Default" as defined in any Loan Note Document;

"Holding Company" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary;

"Insolvency Event" means, in relation to any Obligor:

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

"Intercreditor Accession Deed" means a deed substantially in the form set out in Part 3 of the Schedule (Intercreditor Accession Deed);

"Liabilities" means all present and future monies, obligations or liabilities (whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever);

"Loan Note Documents" means the NBGI Loan Note Documents, the Management Loan Note Documents and the STH Loan Note Instrument;

"Loan Note Holder" means the Management Note Holders, the NBGI Note Holders and the STH Loan Note Holders;

"Loan Note Liabilities" means together the Management Liabilities, the NBGI Liabilities and the STH Liabilities, or any part of them;

"Loan Notes" means the NBGI Loan Notes, the Management Loan Notes and the STH Loan Notes;

"Loan Note Security" means the Security constituted pursuant to the terms of the Security Documents;

"Majority Secured Parties" means the NBGI Note Holders who in aggregate hold more than 66.6% of the NBGI Loan Notes, or, if the NBGI Loan Notes have been irrevocably repaid in full, the Management Note Holders who in aggregate hold more than 66.6% of the Management Loan Notes;

"Management Liabilities" means the Liabilities of each Obligor to any NBGI/Management Secured Party under any Management Loan Note Document together with all costs, charges and expenses incurred by any NBGI/Management Secured Party in connection with the protection, preservation or enforcement of its rights under any Management Loan Note Document or any other document evidencing or securing any such liabilities;

"Management Loan Note Document" means:

- (a) the Management Loan Note Instrument;
- (b) the NBGI/Management Security Documents;
- (c) this Deed;
- (d) the Senior Intercreditor Agreement,

and any other document designated as a "Management Loan Note Document" by the Security Trustee and any Obligor;

"Management Loan Note Instrument" means the loan note instrument entered into by the Company dated 29 February 2012, relative to the issue of up to £110,005 12% fixed rate secured loan notes 2020 by the Company as such instrument is amended, supplemented, restated, novated and replaced from time to time (including, without limitation, any amendment, supplement, restatement, novation or replacement entered into to increase the principal indebtedness under the Management Loan Note Instrument);

"Management Loan Notes" means the loan notes issued by the Company under the Management Loan Note Instrument;

"Management Note Holder" means the Original Management Noteholder, Mr Leask and each other person who holds Management Loan Notes from time to time;

"NBGI Additional Liabilities" means the Liabilities of each Obligor to any NBGI/Management Secured Party that are not NBGI Original Liabilities, together with all costs, charges and expenses incurred by any NBGI/Management Secured Party in connection with the protection, preservation or enforcement of its rights;

"NBGI/Management Floating Charge" means:

- (a) each bond and floating charge dated 29 February 2012 granted by each Obligor (other than Underwater Engineering Services Limited, Cosalt Offshore Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee;
- (b) each bond and floating charge dated 28 June 2012, granted by each Obligor (other than Cosalt Offshore Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee;
- (c) the bond and floating charge dated 1 November 2013 granted by Cosalt Offshore Limited in favour of the Security Trustee; and
- (d) the bond and floating charge dated 1 November 2013 granted by ATR Lifting Solutions Limited in favour of the Security Trustee;

and **NBGI/Management Floating Charge** means any of them;

"NBGI/Management Guarantee" means:

- (a) the guarantee and indemnity dated 29 February 2012 granted by each Obligor (other than Underwater Engineering Services Limited, Cosalt Offshore Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee; and

- (b) the guarantee and indemnity dated on 28 June 2012, granted by each Obligor (other than Cosalt Offshore Limited and ATR Lifting Solutions Limited) in favour of the Security Trustee and acceded to by each of Cosalt Offshore Limited and ATR Lifting Solutions Limited on 1 November 2013.

"NBGI Liabilities" means the NBGI Original Liabilities and the NBGI Additional Liabilities.

"NBGI Loan Note Instruments" means (1) the loan note instrument entered into by the Company dated 29 February 2012 relative to the issue of up to £11,005,056 fixed rate secured loan notes 2020 by the Company as such instrument is amended, supplemented, restated, novated and replaced from time to time (including, without limitation, any amendment, supplement, restatement, novation or replacement entered into to increase the principal indebtedness under the Original Loan Note Instrument) and (2) each other agreement, loan note instrument or other document constituting an NBGI Additional Liabilities;

"NBGI Loan Note Document" means:

- (a) the NBGI Loan Note Instruments;
- (b) the NBGI/Management Security Documents;
- (c) this Deed; and
- (d) the Senior Intercreditor Agreement,

and any other document designated as an "NBGI Loan Note Document" by the Security Trustee and any Obligor;

"NBGI Loan Notes" means the loan notes issued by the Company under the NBGI Loan Note Instruments;

"NBGI Note Holder" means the Original NBGI Noteholder and each other person who holds NBGI Loan Notes from time to time;

"NBGI/Management Secured Parties" means the Security Trustee, the NBGI Noteholders and the Management Noteholders and **NBGI/Management Secured Party** means any of them;

"NBGI/Management Security" means the Security constituted under the NBGI/Management Security Documents;

"NBGI/Management Security Documents" means:

- (a) each NBGI/Management Floating Charge;

- (b) the NBGI/Management Guarantee; and
- (c) each other document creating Security in favour of the Security Trustee in respect of the Secured Liabilities or designated by the Obligor and the Security Trustee as a Security Document;

"NBGI Original Liabilities" means the Liabilities of each Obligor to any NBGI/Management Secured Party under any NBGI Loan Note Document entered into prior to 28 June 2012, together with all costs, charges and expenses incurred by any NBGI/Management Secured Party in connection with the protection, preservation or enforcement of its rights under any NBGI Loan Note Document or any other document evidencing or securing any such liabilities;

"Payment" means, in respect of any Liabilities, a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities;

"Permitted Payment" means the Payments described in Clause 5;

"Party" means each party to this Deed including each party who accedes to this Deed by subscribing for Management Loan Notes or NBGI Loan Notes;

"Proceeds" means all receipts, revenues and/or recoveries made by the Security Trustee pursuant to, or on enforcement of any Loan Note Document or in connection with the realisation or enforcement of any Loan Note Security after deducting (to the extent not already deducted) all sums which the Security Trustee is required by the terms of the Security Documents or by applicable law to pay to any other person before distributing any such receipts or recoveries to any of the Secured Parties;

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Assets;

"Restatement Date" means the date of last signature of this Agreement;

"Secured Parties" means the Security Trustee, the NBGI Noteholders, the Management Noteholders and the STH Note Holders and **Secured Party** means any of them;

"Secured Liabilities" shall have the meaning given to it in any Security Document;

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect;

"Security Documents" means:

- (a) each STH Security Document; and

(b) each NBGI/Management Security Document.

"Senior Intercreditor Agreement" means the Intercreditor Agreement dated on or around the date hereof between, amongst others, Clydesdale Bank plc, Wells Fargo Bank N.A. and the Obligors (as may be further amended, restated, supplemented and/or adhered to from time to time);

"STH Floating Charges" means each bond and floating charge dated on or around the date of this agreement granted by each of the Company and ATR Holdings Limited in favour of the STH Note Holders and **STH Floating Charge** means any of them;

"STH Guarantee" means the guarantee and indemnity dated on or around the date of this agreement granted by ATR Holdings in favour of the STH Note Holders;

"STH Liabilities" means the Liabilities of each Obligor to any STH Note Holder under any STH Loan Note Document together with all costs, charges and expenses incurred by any STH Note Holder in connection with the protection, preservation or enforcement of its rights under any STH Loan Note Document or any other document evidencing or securing any such liabilities;

"STH Loan Note Document" means:

- (a) the STH Loan Note Instrument;
- (b) the STH Security Documents;
- (c) this Deed; and
- (d) the Senior Intercreditor Agreement;

"STH Loan Note Instrument" means the loan note instrument entered into by the Company dated on or around the date hereof, relative to the issue of up to £1,596,500 8% fixed rate secured loan notes 2017 by the Company as such instrument is amended, supplemented, restated, novated and replaced from time to time (including, without limitation, any amendment, supplement, restatement, novation or replacement entered into to increase the principal indebtedness under the STH Loan Note Instrument);

"STH Loan Notes" means the loan notes issued by the Company under the STH Loan Note Instrument;

"STH Note Holder" means the Original STH Noteholder and each other person who holds STH Loan Notes from time to time;

"STH Security" means the Security constituted by the STH Security Documents;

"STH Security Documents" means:

- (a) the STH Floating Charges; and
- (b) the STH Guarantee;

"Subsidiary" means a subsidiary within the meaning of Section 1159 of the Companies Act 2006;

"Trust Property" means all assets, rights and interests vested in the Security Trustee pursuant to any NBGI/Management Security Document and/or the Proceeds from any NBGI/Management Security.

1.2 Construction

- 1.2.1 The term this Deed means this instrument.
- 1.2.2 References to this Deed and to any provisions of it or to any other document referred to in this Deed (including, without limitation, the Security Documents) shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted, novated or replaced from time to time.
- 1.2.3 References in this Deed to statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation.
- 1.2.4 In this Deed "including" shall not be construed as limiting the generality of the words preceding it.
- 1.2.5 In this Deed words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 1.2.6 References in this Deed to any person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity.
- 1.2.7 References in this Deed to the Security Trustee, any Secured Party, any Loan Note Holder and any other person are to be construed to include the assignees or transferees or successors in title, whether direct or indirect of the Security Trustee, any Secured Party, any Loan Note Holder or any other person (as applicable).

- 1.2.8 References in this Deed to Clause headings and Clause numbers are for ease of reference only and are not to affect the interpretation of this Deed.
- 1.2.9 References in this Deed to the Security Trustee include any Delegates of the Security Trustee.
- 1.3 The Security Trustee, the Original NBGI Noteholder, the Original Management Noteholder, Mr Leask and each of the Obligors acknowledge and agree that this Deed replaces and supersedes the intercreditor and security trust deed, entered into by amongst others, the Security Trustee and the Original NBGI Noteholder, dated 29 February 2012 and as amended and restated on 28 June 2012.
- 1.4 The Security Trustee, the Original NBGI Noteholder, the Original Management Noteholder, Mr Leask and each of the Obligors acknowledge and agree that any references in the NBGI /Management Security Documents to "Intercreditor and Security Trust Deed" shall be to this Deed, as amended, varied, supplemented, restated, substituted, novated or replaced from time to time.
- 2 PRIORITIES**
- 2.1 The Loan Note Holders each consent to the creation of the Security pursuant to the terms of the Security Documents.
- 2.2 The Loan Note Holders and the Obligors each agree that the Loan Note Liabilities shall rank for all purposes and at all times in the following order of priority:
- 2.2.1 the STH Liabilities shall rank first;
- 2.2.2 the NBGI Additional Liabilities shall rank second; and
- 2.2.3 thirdly the NBGI Original Liabilities and the Management Liabilities rank pari passu and pro rata without any preference between them.
- 2.3 The Loan Note Holders and the Obligors each agree that the Security created pursuant to the Security Documents rank in the following order of priority:
- 2.3.1 first, the STH Security for all sums secured thereby;
- 2.3.2 second, the NBGI/Management Security for all NBGI Additional Liabilities; and
- 2.3.3 third, the NBGI/Management Security for the NBGI Original Liabilities and the Management Liabilities secured thereby pari passu and pro rata without any preference between them.

2.4 Nothing in this Deed shall affect the status of the Security Documents as continuing security, nor shall the ranking of the Security in Clause 2.3 be affected by any act, omission, transaction, limitation, matter, thing or circumstance whatsoever which but for this provision might operate to affect the relative priorities of the Security constituted by the Security Documents, including, but not limited to:

2.4.1 the respective date (or dates) on which monies may be, or have been, advanced or become owing or payable under a Loan Note Document or secured under a Security Document;

2.4.2 any fluctuation from time to time in the amount of the Loan Note Liabilities or any of them and in particular, without limitation, any reduction to nil of any part of the Loan Note Liabilities;

2.4.3 the appointment of any liquidator, Receiver, administrator or other similar officer either in respect of any Obligor or over all or any part of an Obligor's assets; or

2.4.4 any amendment or supplement to, or variation of, any Loan Note Document.

3 OBLIGOR COVENANTS

3.1 So long as the Loan Note Liabilities are outstanding no Obligor shall create or allow to exist any Security over any of its assets for, or any guarantee for or in respect of, any of the Loan Note Liabilities except:

3.1.1 pursuant to the Security Documents; or

3.1.2 with the prior written consent of each Loan Note Holder (other than the STH Note Holders).

3.2 So long as the Loan Note Liabilities are outstanding no Obligor shall:

3.2.1 pay, repay or make any distribution in respect of any of the Loan Note Liabilities in cash or in kind except for a Permitted Payment; or

3.2.2 take, or omit to take, any action which may impair the ranking or the subordination set out in this Deed.

4 LOAN NOTE HOLDER COVENANTS

4.1 Each NBGI Note Holder covenants with each Management Note Holder and each STH Loan Note Holder that, so long as any of the Management Liabilities or the STH Liabilities are outstanding, it shall not:

- 4.1.1 demand, take, accept or receive any payment or distribution in respect, or on account of, the NBGI Liabilities in cash or in kind, or apply any money or property in discharge of the NBGI Liabilities except a Permitted Payment;
- 4.1.2 allow to exist or receive the benefit of any Security or receive the benefit of any guarantee, from any person in respect of the NBGI Liabilities except:
 - (a) pursuant to the Security Documents; or
 - (b) with the prior written consent of each Loan Note Holder (other than the STH Note Holders);
- 4.1.3 take, or omit to take, any action which may impair the ranking or the subordination set out in this Deed;
- 4.1.4 take any Enforcement Action except in accordance with the provisions of this Deed.
- 4.2 No NBGI Note Holder shall claim any right of set-off, abatement or any other extinction or reduction in respect of any liability which it has to any Obligor, other than in respect of a Permitted Payment or as otherwise permitted under this Deed.
- 4.3 Each Management Note Holder covenants with each NBGI Note Holder and each STH Note Holder that, so long as any of the NBGI Liabilities or the STH Liabilities are outstanding, it shall not:
 - 4.3.1 demand, take, accept or receive any payment or distribution in respect, or on account of, the Management Liabilities in cash or in kind, or apply any money or property in discharge of the Management Liabilities except a Permitted Payment;
 - 4.3.2 allow to exist or receive the benefit of any Security or receive the benefit of any guarantee, from any person in respect of the Management Liabilities except:
 - (a) pursuant to the Security Documents; or
 - (b) with the prior written consent of each Loan Note Holder (other than the STH Note Holders);
 - (c) take, or omit to take, any action which may impair the ranking or the subordination set out in this Deed;

(d) take any Enforcement Action except in accordance with the provisions of this Deed.

4.4 No Management Note Holder shall claim any right of set-off, abatement or any other extinction or reduction in respect of any liability which it has to any Obligor, other than in respect of a Permitted Payment or as otherwise permitted under this Deed.

4.5 Each STH Note Holder covenants with each Management Note Holder and each NBGI Note Holder that, so long as any of the Management Liabilities or the NBGI Liabilities are outstanding, it shall not:

4.5.1 demand, take, accept or receive any payment or distribution in respect, or on account of, the STH Liabilities in cash or in kind, or apply any money or property in discharge of the STH Liabilities except a Permitted Payment;

4.5.2 allow to exist or receive the benefit of any Security or receive the benefit of any guarantee, from any person in respect of the STH Liabilities except:

(a) pursuant to the Security Documents; or

(b) with the prior written consent of each other Loan Note Holder;

4.5.3 take, or omit to take, any action which may impair the ranking or the subordination set out in this Deed; or

4.5.4 take any Enforcement Action except in accordance with the provisions of this Deed.

4.6 No STH Note Holder shall claim any right of set-off, abatement or any other extinction or reduction in respect of any liability which it has to any Obligor, other than in respect of a Permitted Payment or as otherwise permitted under this Deed.

4.7 Nothing in this Deed shall create, or be deemed to create any Security.

5 PERMITTED PAYMENTS

5.1 Prior to a Distress Event the Obligors may make Payments of:

5.1.1 the NBGI Liabilities and the NBGI Note Holders may receive Payments at any time in accordance with the NBGI Loan Note Documents;

5.1.2 the Management Liabilities and the Management Note Holders may receive Payments of the Management Liabilities at any time in accordance with the Management Loan Note Documents; and

- 5.1.3 the STH Liabilities and the STH Note Holders may receive Payments of the STH Liabilities at any time in accordance with the STH Loan Note Documents.

6 PRESERVATION OF RIGHTS

- 6.1 No delay in exercising rights and remedies in respect of the Loan Note Liabilities or the Loan Note Security, because of any term of this Deed postponing, restricting or preventing such exercise shall operate as a waiver of any of those rights and remedies.
- 6.2 The Loan Note Liabilities shall remain owing, or due and payable, from the Obligors, and interest and default interest will accrue on missed payments in accordance with the terms of the Loan Note Documents, despite any term of this Deed that might postpone, subordinate or prevent payment of those Liabilities.

7 ACCELERATION ACTION

- 7.1 After the occurrence of an Insolvency Event in relation to any Obligor, each Loan Note Holder may (unless otherwise directed by the Security Trustee or unless the Security Trustee has taken, or has given notice that it intends to take, action on behalf of the Loan Note Holder in accordance with Clause 8.5), exercise any right it may otherwise have against that Obligor to:
 - 7.1.1 accelerate any of that Obligor's Liabilities due to it or declare them prematurely due and payable or payable on demand;
 - 7.1.2 make a demand under any guarantee, indemnity or other assurance against loss given by that Obligor in respect of any Liabilities due to it;
 - 7.1.3 exercise any right of set off or take or receive any Payment in respect of any Liabilities of that Obligor due to it; or
 - 7.1.4 claim and prove in the liquidation of that Obligor for the Liabilities owing to it.
- 7.2 Each Loan Note Holder shall use reasonable endeavours to consult the other Loan Note Holders before taking any Acceleration Action.
- 7.3 If a Loan Note Holder consults each of the other Loan Note Holders under Clause 7.2:
 - 7.3.1 the other Loan Note Holders shall respond as quickly as is reasonably practicable; and

- 7.3.2 the Loan Note Holders shall consult together with a view to agreeing the method of enforcement or other relevant action.
- 7.4 A Loan Note Holder may take any action referred to in Clause 7.1 without consulting or reaching agreement with the other Loan Note Holders if it reasonably believes that taking any such action immediately is necessary to protect its interests.
- 7.5 No action taken by a Loan Note Holder shall be invalid or ineffective because of its failure to consult with the other Loan Note Holders under this Clause 7, or because of its failure to reach agreement with the other Loan Note Holders under Clause 7.3.
- 7.6 As soon as reasonably practicable after taking any action in accordance with Clause 7.1 or 7.4, each Loan Note Holder shall inform the other Loan Note Holders of the action taken.
- 7.7 The Loan Note Security will be enforced in accordance with Clause 11 (*Enforcement of Loan Note Security*).

8 EFFECT OF INSOLVENCY EVENT

- 8.1 After the occurrence of an Insolvency Event in relation to an Obligor, any Party entitled to receive a distribution out of the assets of such Obligor in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that Obligor to pay that distribution to the Security Trustee until the Liabilities owing to the Secured Parties have been paid in full.
- 8.2 The Security Trustee shall apply distributions paid to it under Clause 8.1 above in accordance with Clause 14 (*Application of Proceeds*).
- 8.3 To the extent that any Obligor's Liabilities are discharged by way of set off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that Obligor, any Party which benefited from that set off shall pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set off to the Security Trustee for application in accordance with Clause 14 (*Application of Proceeds*).
- 8.4 If the Security Trustee or any other Secured Party receives a distribution in a form other than in cash in respect of any of the Liabilities, the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.
- 8.5 After the occurrence of an Insolvency Event in relation to any Obligor, each Loan Note Holder irrevocably authorises the Security Trustee (acting in accordance with Clause 8.7), on its behalf, to:

- 8.5.1 take any Enforcement Action (in accordance with the terms of this Agreement) against that Obligor;
 - 8.5.2 demand, sue, prove and give receipt for any or all of that Obligor's Liabilities;
 - 8.5.3 collect and receive all distributions on, or on account of, any or all of that Obligor's Liabilities; and
 - 8.5.4 file claims, take proceedings and do all other things the Security Trustee considers reasonably necessary to recover that Obligor's Liabilities.
- 8.6 Each Loan Note Holder will:
- 8.6.1 do all things that the Security Trustee (acting in accordance with Clause 8.7) requests in order to give effect to this Clause 8; and
 - 8.6.2 if the Security Trustee is not entitled or elects not to take any of the actions contemplated by this Clause 8 or if the Security Trustee (acting in accordance with Clause 8.7) requests that a Loan Note Holder take that action, undertake that action itself in accordance with the instructions of the Security Trustee (acting in accordance with Clause 8.7 (Security Trustee Instructions)) or grant a power of attorney to the Security Trustee (on such terms as the Security Trustee (acting in accordance with Clause 8.7) may reasonably require) to enable the Security Trustee to take such action.
- 8.7 For the purposes of Clause 8.5 and Clause 8.6 the Security Trustee shall act or refrain from acting:
- 8.7.1 on the instructions of the Majority Secured Parties; or
 - 8.7.2 in the absence of any such instructions, as the Security Trustee sees fit.

9 **TURNOVER**

- 9.1 If at any time any Loan Note Holder receives or recovers:
- 9.1.1 any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:
 - (a) a Permitted Payment; or
 - (b) made in accordance with Clause 14 (Application of Proceeds);

- 9.1.2 other than where Clause 8.3 applies, any amount by way of set off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;
- 9.1.3 notwithstanding Clauses 9.1.2 and 9.1.3 above, and other than where Clause 8.3 applies, any amount:
- (a) on account of, or in relation to, any of the Liabilities after the occurrence of a Distress Event; or
 - (b) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event;
- 9.1.4 the proceeds of any enforcement of any Loan Note Security except in accordance with Clause 14 (Application of Proceeds); or
- 9.1.5 other than where Clause 8.3 applies, any distribution in cash or in kind or Payment of, or on account of or in relation to, any of the Liabilities owed by any Obligor which is not in accordance with Clause 14 (Application of Proceeds) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that Obligor,

that Loan Note Holder will:

- (i) in relation to receipts and recoveries not received or recovered by way of set-off hold an amount of that receipt or recovery on trust for the Security Trustee and promptly pay that amount to the Security Trustee for application in accordance with the terms of this Deed; and:
 - (ii) 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 Trustee for application in accordance with the terms of this Agreement.
- 9.2 If any of the Obligors receives or recovers any sum which, under the terms of any of the Loan Note Documents should have been paid to the Security Trustee, that Obligor will hold an amount of that receipt or recovery on trust for the Security Trustee and promptly pay that amount to the Security Trustee for application in accordance with the terms of this Deed.
- 9.3 If, for any reason, any of the trusts expressed to be created in this Clause 9 (*Turnover*) should fail or be unenforceable, the affected Loan Note Holder or Obligor will promptly pay an amount equal to that receipt or recovery to the Security Trustee to be held on trust by the Security Trustee for application in accordance with the terms of this Deed.

10 REDISTRIBUTION

- 10.1 Any amount paid by a Loan Note Holder (a Recovering Creditor) to the Security Trustee under Clause 8 (Effect of Insolvency Event) or Clause 9 (Turnover) shall be treated as having been paid by the relevant Obligor and will be distributed by the Security Trustee to the Loan Note Holders in accordance with the terms of this Deed.
- 10.2 On a distribution by the Security Trustee under Clause 10.1 above of a Payment received by a Recovering Creditor from an Obligor, as between the relevant Obligor and the Recovering Creditor an amount equal to the amount received or recovered by the Recovering Creditor and paid to the Security Trustee will be treated as not having been paid by that Obligor.

11 ENFORCEMENT OF LOAN NOTE SECURITY

- 11.1 The Security Trustee may refrain from enforcing the Loan Note Security unless instructed otherwise by the Majority Secured Parties and the STH Note Holders will refrain from enforcing the STH Security unless instructed otherwise by the Majority Secured Parties.
- 11.2 Subject to the Loan Note Security having become enforceable in accordance with its terms the Majority Secured Parties may give or refrain from giving instructions to:
 - 11.2.1 the Security Trustee to enforce or refrain from enforcing the Loan Note Security;
 - 11.2.2 the STH Note Holders to enforce or refrain from enforcing the STH Security,as they see fit, but shall use reasonable endeavours to consult with all the Secured Parties before giving or refraining from giving such instructions.
- 11.3 The Majority Secured Parties may give or refrain from giving instructions to the Security Trustee and/or the STH Note Holders to enforce or refrain from enforcing the Loan Note Security (or any part thereof) without consulting all the Secured Parties if they reasonably believe that issuing such instructions immediately is necessary to protect the interests of the Secured Parties (or any of them).
- 11.4 No action taken by the Majority Secured Parties, the STH Note Holders or the Security Trustee shall be invalid or ineffective because of failure by the Majority Secured Parties to consult with all the Secured Parties under Clause 11.2.
- 11.5 The Security Trustee and the STH Note Holders are entitled to rely on and comply with instructions given in accordance with this Clause 11 (Enforcement of Loan Note Security).

- 11.6 In the absence of instructions from the Majority Secured Parties (or any of them), the Security Trustee may act (or refrain from taking action) as it considers to be in the best interests of the Secured Parties.
- 11.7 The Security Trustee may refrain from acting in accordance with the instructions of the Secured Parties until it has received such Security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.
- 11.8 If the Loan Note Security is being enforced pursuant to this Clause 11 (Enforcement of Loan Note Security), the Security Trustee or the STH Note Holders (as applicable) shall enforce the applicable Loan Note Security in such manner (including, without limitation, the selection of any administrator of any Obligor to be appointed) as the Majority Secured Parties shall jointly instruct or, in the absence of any such instructions, as the Security Trustee or the STH Note Holders (as applicable) see fit.
- 11.9 The Security Trustee and the STH Note Holders may each seek clarification from any Secured Party of any instructions issued by the Secured Parties and may elect not to act pending receipt of such clarifications to its reasonable satisfaction.
- 11.10 Each Loan Note Holder agrees with the Security Trustee that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre insolvency or rehabilitation or similar proceedings relating to any Obligor as instructed by the Security Trustee.
- 11.11 The Security Trustee shall give instructions for the purposes of Clause 11.10 as directed by the Majority Secured Parties or, in the absence of any such instructions, as the Security Trustee sees fit.
- 11.12 The Security Trustee not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with the instructions of the Majority Secured Parties.
- 11.13 To the extent permitted under applicable law and subject to the terms of this Clause 11 (Enforcement of Loan Note Security) and Clause 14 (Application of Proceeds) each of the Secured Parties and the Obligors waives all rights it may otherwise have to require that the Loan Note Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Loan Note Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

12 CONTINUING PROVISIONS

12.1 The ranking and priority provisions in this Deed constitute continuing ranking and priority and shall benefit the ultimate balance of all the Loan Note Liabilities, regardless of any intermediate payment or discharge in whole or in part.

12.2 The ranking and priority arrangements in this Deed, and the obligations of the Loan Note Holders under this Deed, will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the ranking and priority arrangements, or any of those obligations, including (without limitation and whether or not known to any party):

12.2.1 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which a Loan Note Holder may now, or after the date of this Deed, have from or against an Obligor or any other person;

12.2.2 any act or omission by a Loan Note Holder or any other person in taking up, perfecting or enforcing any Security Interest, indemnity, or guarantee from or against an Obligor or any other person;

12.2.3 any termination, amendment, variation, novation or supplement of or to any Loan Note Document;

12.2.4 any grant of time, indulgence, waiver or concession to an Obligor or any other person;

12.2.5 any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, discharge by operation of law, or any change in the constitution, name or style of an Obligor or any other person;

12.2.6 any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, an Obligor or any other person under any Loan Note Document or any other document or Security; or

12.2.7 any claim or enforcement of payment from an Obligor or any other person.

12.3 Each Loan Note Holder waives any right it may have to require the other Loan Note Holders to:

12.3.1 to take any action or obtain judgment in any court against an Obligor or any other person;

12.3.2 to make or file any claim in a bankruptcy, liquidation, administration or insolvency of an Obligor or any other person; or

- 12.3.3 to make, demand, enforce or seek to enforce any claim, right or remedy against an Obligor or any other person,

before claiming the benefit of this Deed.

13 RELEASE OF SECURITY

- 13.1 If prior to any Enforcement Action there is a disposal of an asset by an Obligor or a disposal of an asset which is subject to the Loan Note Security and in each case each Loan Note Holder notifies the Security Trustee that the disposal is not prohibited under the terms of the Loan Note Documents, the Security Trustee is irrevocably authorised under the terms of this Deed by each Loan Note Holder to:

13.1.1 release in any manner whatsoever any Loan Note Security over the relevant asset or any other Security created in favour of any Loan Note Holder over that asset and to issue any letters of non-crystallisation of any floating charge or any consent to dealing that may in the discretion of the Security Trustee be necessary or desirable; and

13.1.2 (if the relevant asset comprises all of the shares in the capital of an Obligor subject to any Loan Note Security) release in any manner whatsoever that Obligor from all its past, present and future liabilities (both actual and contingent) and/or obligations owed by it in its capacity as a guarantor of any Liabilities or a borrower or issuer of any Liabilities and to release any Security granted by that Obligor in favour of the Loan Note Holders.

- 13.2 If in connection with any Enforcement Action:

13.2.1 the Security Trustee (or any nominee or Delegate acting on its behalf) acting in accordance with the provisions of this Deed sells or otherwise disposes of (or proposes to sell or otherwise dispose of) any asset under any Security Document; or

13.2.2 an Obligor sells or otherwise disposes of (or proposes to sell or otherwise dispose of) any asset at the request of the relevant Security Trustee (or any nominee or Delegate acting on its behalf) acting in accordance with the provisions of this Deed,

the Security Trustee is irrevocably authorised under the terms of this Deed by each Loan Note Holder to:

(a) release in any manner whatsoever any Loan Note Security over the relevant asset or any other Security created in favour of any Loan Note Holder over that asset and to issue any letters of non-crystallisation of any floating charge or any consent to dealing that

may in the discretion of the Security Trustee be necessary or desirable; and

- (b) (if the relevant asset comprises all of the shares in the capital of an Obligor subject to any Loan Note Security) release in any manner whatsoever that Obligor from all its past, present and future liabilities (both actual and contingent) and/or obligations owed by it in its capacity as a guarantor of any Liabilities or a borrower or issuer of any Liabilities and to release any Security granted by that Obligor in favour of the Loan Note Holders.

13.3 Each Loan Note Holder undertakes in favour of the Security Trustee to execute any releases or other documents and take any action which the Security Trustee requires in order to give effect to this Clause 13.

13.4 Each Loan Note Holder hereby irrevocably appoints the Security Trustee (with full power as its attorney (with full power of substitution and delegation) in its name and on its behalf to sign and effect any release of Security, to sign any other document and/or take any other action which it has authorised the Security Trustee to do under this Clause 13.

13.5 The release of any Obligor contemplated in this Clause 13 will not affect or otherwise reduce the obligations and/or liabilities of any other Obligor to the Loan Note Holders.

14 APPLICATION OF PROCEEDS

14.1 Subject to Clause 14.2, all Proceeds received by the Security Trustee shall be held by the Security Trustee on trust to apply them at any time the Security Trustee sees fit in the following order of priority:

14.1.1 in discharging any sums owing to the Security Trustee, any Receiver or any Delegate;

14.1.2 in payment of all costs and expenses incurred by any Secured Party in connection with any realisation or enforcement of the Loan Note Security taken in accordance with the terms of this Deed or any action taken at the request of the Security Trustee under Clause 8.6;

14.1.3 in payment to the Loan Note Holders for application towards the discharge of the Loan Note Liabilities in the order specified in Clause 2.2 (Priorities) above;

14.1.4 if none of the Obligors is under any further actual or contingent liability under any Loan Note Document, in payment to any person to whom the Security Trustee is obliged to pay in priority to any Obligor; and

- 14.1.5 the balance, if any, to the Obligors.
- 14.2 The Security Trustee may, in its discretion, hold any amount of the Proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) for application from time to time in the Security Trustee's discretion in accordance with the provisions of Clause 14.1.
- 14.3 For the purpose of, or pending the discharge of, any of the Liabilities due to the Loan Note Holders the Security Trustee may convert any moneys received or recovered by the Security Trustee from one currency to another.
- 14.4 The obligations of any Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.
- 14.5 The Security Trustee shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Deed, and to pay all taxes which may be assessed against it in respect of any of the property secured by the Loan Note Security, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under any of the Loan Note Documents or otherwise.
- 14.6 Any payment to be made by the Security Trustee shall be made directly to the Loan Note Holders and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Trustee.
- 14.7 The Security Trustee is under no obligation to make the payments to the Loan Note Holders in the same currency as that in which the Liabilities owing to the relevant Loan Note Holder are denominated.
- 14.8 For the purpose of calculating any person's share of any sum payable to or by it, the Security Trustee shall be entitled to:
- 14.8.1 notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Trustee), that notional conversion to be made at the spot rate at which the Security Trustee is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and
- 14.8.2 assume that all moneys received or recovered as a result of the enforcement or realisation of the property secured by the Loan Note

Security are applied in discharge of the Liabilities in accordance with the terms of the Loan Note Documents under which those Liabilities have arisen.

15 ROLE OF THE SECURITY TRUSTEE

15.1 Appointment by the NBGI/Management Secured Parties and Declaration of Trust

15.1.1 Each NBGI/Management Secured Party (other than the Security Trustee) irrevocably appoints the Security Trustee to act as its trustee under and in connection with the NBGI/Management Security Documents, and irrevocably authorises the Security Trustee on its behalf to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the NBGI/Management Security Documents, together with any other incidental rights, powers and discretions and to execute each NBGI/Management Security Document expressed to be executed by the Security Trustee on behalf of each of the NBGI/Management Secured Parties. The Security Trustee shall have only those duties, obligations and responsibilities which are expressly specified in this Deed and the NBGI/Management Security Documents (and no others shall be implied).

15.1.2 The NBGI/Management Secured Parties shall not have any independent power to enforce, or have recourse to, any of the NBGI/Management Security or to exercise any rights or powers arising under the NBGI/Management Security Documents except through the Security Trustee.

15.1.3 The Security Trustee shall hold the Trust Property on trust for the NBGI/Management Secured Parties on the terms set out in this Deed.

15.2 Relationship

Except as otherwise expressly provided in this Deed, nothing in this Deed constitutes the Security Trustee as trustee or fiduciary for any party to this Deed or any other person.

15.3 Delegation

The Security Trustee may act under the Security Documents through its Delegates.

15.4 Responsibility for documentation

The Security Trustee is not responsible to any other party to this Deed for:

- 15.4.1 the execution, genuineness, validity, enforceability or sufficiency of any Security Document or any other document;
- 15.4.2 the collectability of amounts payable under any Security Document; or
- 15.4.3 the accuracy of any statements (whether written or oral) made in or in connection with any Security Document.

15.5 Default

- 15.5.1 The Security Trustee is not obliged to monitor or enquire as to whether or not an Event of Default has occurred. The Security Trustee will not be deemed to have knowledge of the occurrence of an Event of Default.
- 15.5.2 The Security Trustee may require from the Secured Parties the receipt of security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it will or may incur in taking any proceedings or action arising out of or in connection with any Security Document before it commences those proceedings or takes that action.

15.6 Exoneration

- 15.6.1 Without limiting Clause 15.6.2 below, the Security Trustee will not be liable to any other party to this Deed for any action taken or not taken by it under or in connection with any Security Document, unless directly caused by its wilful misconduct or that of its agents.
- 15.6.2 No party to this Deed may take any proceedings against any officer, employee or agent of the Security Trustee in respect of any claim it might have against the Security Trustee or in respect of any act or omission of any kind (including negligence or wilful misconduct) by that officer, employee or agent in relation to any Security Document.
- 15.6.3 The Security Trustee shall not be required to take any action or exercise any rights, remedies, powers or discretion under or in connection with this Deed beyond those which the Majority Secured Parties shall specifically instruct the Security Trustee in writing to take or exercise and then only to the extent stated in the Secured Parties' specific instructions in writing.

15.7 Reliance

The Security Trustee may:

- 15.7.1 rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;

15.7.2 rely on any statement made by a director or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify; and

15.7.3 engage, pay for and rely on legal or other professional advisers selected by it (including those in the Security Trustee's employment and those representing a party to this Deed other than the Security Trustee).

15.8 Information

15.8.1 The Security Trustee shall promptly forward to the person concerned the original or a copy of any document which is delivered to the Security Trustee by a party to this Deed for that person.

15.8.2 The Security Trustee is not obliged to review or check the accuracy or completeness of any document it forwards to another party to this Deed.

15.8.3 The Security Trustee has no duty:

(a) either initially or on a continuing basis to provide any Secured Party with any credit or other information concerning the financial condition or affairs of the Obligors or any related entity of it whether coming into its possession or that of any of its related entities before, on or after the date of this Deed; or

(b) to request any certificates or other documents from the Obligors.

15.9 The Security Trustee

15.9.1 If it is also a Secured Party, the Security Trustee has the same rights and powers under the Security Documents as any other Secured Party and may exercise those rights and powers as though it were not the Security Trustee.

15.9.2 The Security Trustee may:

(a) carry on any business with the Obligors or their related entities;

(b) act as agent or trustee for, or in relation to any financing involving, the Obligors or their related entities; and

(c) retain any profits or remuneration in connection with its activities under this Deed or in relation to any of the foregoing.

15.9.3 The Security Trustee may deduct from any amount received by it for the Secured Parties pro rata any unpaid fees, costs and expenses of the Security Trustee incurred by it in connection with the Security Documents.

15.9.4 The Security Trustee shall, as soon as practicable upon receipt, send to the Secured Parties copies of each formal notice received by it as Security Trustee from the Obligors.

15.10 Indemnity

15.10.1

(a) the Obligors shall promptly indemnify the Security Trustee and every Receiver and Delegate (each an Indemnified Person) against any properly incurred cost, loss or liability together with any associated VAT incurred by any of them as a result of:

(i) the taking, holding, protection or enforcement of any Security Document;

(ii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee and each Receiver and Delegate by the Security Documents, or by law; and

(iii) any default by an Obligor in the performance of any of the obligations expressed to be assumed by it in the Security Documents.

(b) The Security Trustee may, in priority to any payment to the Secured Parties, indemnify itself out of the Trust Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 15.10 and shall have a lien on the proceeds of the enforcement of the Security Documents for all monies payable to it.

15.10.2 If an Obligor fails to perform its obligations under Clause 15.10.1 each NBGI/Management Secured Party (other than the Security Trustee) shall indemnify each Indemnified Person in the proportion which the Secured Liabilities due, owing or incurred to that NBGI/Management Secured Party bears to the aggregate amount of all Secured Liabilities against any properly incurred cost, expenses, loss or liability suffered or incurred by any Indemnified Person as a result of such failure.

15.10.3 Resignation or Incapacity of Security Trustee

15.10.3.1 Notwithstanding its irrevocable appointment, the Security Trustee may resign by giving notice to the NBGI/Management Secured

Parties, in which case the Security Trustee may appoint any one of the other NBGI/Management Secured Parties as successor Security Trustee.

15.10.3.2 The resignation of the retiring Security Trustee and the appointment of any successor Security Trustee will both become effective only upon the successor Security Trustee notifying all the NBGI/Management Secured Parties that it accepts the appointment. On giving the notification, the successor Security Trustee will succeed to the position of the retiring Security Trustee and the term Security Trustee will mean the successor Security Trustee.

15.10.3.3 Upon its resignation becoming effective, Clause 15.10 shall continue to benefit the retiring Security Trustee in respect of any action taken or not taken by it under or in connection with the Security Documents while it was the Security Trustee, and, it shall have no further obligation under any Security Document.

15.10.3.4 By notice to the Security Trustee, the other Secured Parties may require it to resign in accordance with Clause 15.10.3.1 above but they shall not be entitled to appoint one of their Affiliates as successor Security Trustee.

15.11 Assignments

The Security Trustee may treat each Secured Party named as a party to this Deed as continuing to be such a party, as entitled to payments under the Security Documents and as acting hereunder through its address notified by it to the Security Trustee as being its address for the service of notices and other communications until it has received notice to the contrary.

15.12 Security Trustee as trustee

15.12.1 The Security Trustee in its capacity as trustee under any of the NBGI/Management Security Documents and this Deed or otherwise shall not be liable for any failure, omission, or defect in perfecting the Security constituted by any Security Document.

15.12.2 The Security Trustee in its capacity as trustee or otherwise may accept without enquiry such title as the relevant security provider may have to the property over which Security is intended to be created by any NBGI/Management Security Document.

15.12.3 Save as otherwise provided in the Security Documents, all moneys which under the trusts herein or therein contained are received by the Security Trustee in its capacity as trustee or otherwise may be invested in the name of or under the control of the Security Trustee in any investment for the

time being authorised by English or Scottish law for the investment by trustees of trust money or in any other investments which may be selected by the Security Trustee. Additionally, the same may be placed on deposit in the name of or under the control of the Security Trustee at such bank or institution and upon such terms as the Security Trustee may think fit.

15.12.4 The trusts constituted by this Deed in respect of the property subject to the NBGI/Management Security Documents shall remain in full force and effect until whichever is the earlier of:

- (a) the date on which the Security Trustee receives unconditional confirmation in writing from all the NBGI/Management Secured Parties that there is no longer outstanding any Secured Liabilities which are secured by the NBGI/Management Security Documents nor are any of the NBGI/Management Secured Parties under an obligation to permit such Secured Liabilities to be incurred, such confirmation to be promptly provided by the NBGI/Management Secured Parties; and
- (b) the unconditional release of the Obligors from all their respective obligations under the NBGI/Management Security Documents.

15.12.5 In its capacity as trustee in relation to the NBGI/Management Security Documents, the Security Trustee shall, without prejudice to any of the powers, discretions and immunities conferred upon trustees by law or otherwise (and to the extent not inconsistent with the provisions of this Deed or any of the NBGI/Management Security Documents), have all the same powers and discretions as a natural person acting as the beneficial owner of such property and/or as are conferred upon the Security Trustee by this Deed and/or any NBGI/Management Security Document provided that the Security Trustee may only exercise such powers and discretions to the extent that the Security Trustee is authorised so to exercise the same in accordance with the provisions of this Deed and, in exercising such powers and discretions, the Security Trustee shall have regard to and comply with any applicable constraints and/or restrictions imposed by this Deed.

15.13 Compliance

15.13.1 The Security Trustee may refrain from doing anything which might, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation of any relevant jurisdiction.

15.13.2 Without limiting Clause 15.13.1 above, the Security Trustee need not disclose any information relating to the Obligors or any of its related entities if the disclosure might, in the opinion of the Security Trustee,

constitute a breach of any law or regulation or any duty of secrecy or confidentiality or be otherwise actionable at the suit of any person.

15.14 Credit approval and appraisal

Without affecting the responsibility of the Obligors for information supplied by it or on its behalf in connection with any NBGI/Management Security Document, each NBGI/Management Secured Party confirms that it:

15.14.1 has made its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with the NBGI/Management Security Documents and has not relied exclusively on any information provided to it by the Security Trustee in connection with any NBGI/Management Security Documents; and

15.14.2 will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities while any amount is or may be outstanding under the NBGI/Management Security Documents.

15.15 Other Capacity and Business

The Security Trustee may, from time to time, act in any other capacity and shall in such event be entitled, notwithstanding that it is also Security Trustee, to take, or refrain from taking, any action which it would be entitled so to take if it was not the Security Trustee and shall not be precluded, by virtue of it acting in any other capacity, from exercising any of its discretions, powers and duties as Security Trustee. The Security Trustee may enter into any financial or business contracts or any other transaction or arrangement with each Obligor or any other person and the Security Trustee shall be in no way accountable to each Obligor or any other person for any profits or benefits arising from any such contract or transaction.

15.16 Execution of Documents

Each NBGI/Management Secured Party (other than the Security Trustee) irrevocably authorises the Security Trustee on its behalf to execute each NBGI/Management Security Document expressed to be executed by the Security Trustee on that NBGI/Management Secured Party's behalf.

15.17 Title Documents

The Security Trustee shall be entitled, but not obliged to hold each title or other document relating to any asset subject to the Loan Note Security.

16 POWER OF ATTORNEY

- 16.1 By way of security, each Loan Note Holder and each Obligor irrevocably appoints the Security Trustee to be its attorney and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which a Loan Note Holder or an Obligor is required to execute and do under this Deed but has failed to do.
- 16.2 Each of Obligor and each Loan Note Holder ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in Clause 16.1.

17 NOTICES

- 17.1 Each notice or other communication required to be given under, or in connection with this Deed shall be:

17.1.1 in writing, delivered personally or sent by pre-paid first-class letter, recorded delivery or fax; and

17.1.2 sent:

- (a) to the Original NBGI Note Holder at:

Old Change House, 128 Queen Victoria Street, London EC4V 4BJ

Fax: 020 7661 5667

Laurence Dean

- (b) to each other NBGI Note Holder to an address and fax number in the United Kingdom notified to the Security Trustee on that NBGI Note Holder's accession to this Deed;

- (c) to the Original Management Note Holder at:

20 Charleston Way, Cove Bay, Aberdeen, Aberdeenshire, AB12 3FA

Fax: 01224 222478

Keith Moorhouse

with a copy to Helen Dickson, c/o Burness Paull LLP, Union Plaza, 1 Union Wynd, Aberdeen AB10 1DQ;

(d) to Mr Leask at:

10 Moray Place, Aberdeen, AB15 4AF

Euan Leask

with a copy to Helen Dickson, c/o Burness Paul LLP, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ;

(e) to each other Management Note Holder to an address and fax number in the United Kingdom notified to the Security Trustee on that Management Note Holder's accession to this Deed;

(f) to the STH Note Holders at:

Unit 3, Badentoy Place, Portlethen, Aberdeen, AB12 4YF

Fax: 01224 781666

Mark Hislop

with a copy to Innes Miller, c/o James & George Collie LLP, 1 East Craibstone Street, Aberdeen, AB11 6YQ;

(g) to each Obligor at:

Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ

Fax: +44 1224 627437

The Directors

(h) to the Security Trustee at:

Old Change House, 128 Queen Victoria Street, London EC4V 4BJ

Fax: 020 7661 5667

Laurence Dean

or to such other address or fax number in the United Kingdom as is notified in writing by one party to the other from time to time.

17.2 Any notice or other communication given shall be deemed to be received:

17.2.1 if sent by fax, when received in legible form;

17.2.2 if given by hand, at the time of actual delivery; and

17.2.3 if posted, on the second Business Day after the day on which it was sent by pre-paid first-class recorded delivery post.

17.3 Any notice or other communication given as described in 17.2.1 or 17.2.2 on a day which is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

18 CHANGES TO PARTIES

18.1 Successors and assigns

This Deed will be binding upon, and enure for the benefit of, the successors and assigns of the Parties.

18.2 Obligors

No Obligor may assign any of its rights (if any) or transfer any of its rights (if any) or obligations under this Deed.

18.3 New Obligors

The Company will procure that any of its subsidiaries which is not already an Obligor which borrows or grants any Security or guarantee in respect of, or otherwise becomes liable (whether actually or contingently) for any NBGI Liabilities or Management Liabilities (each such entity being a **New Obligor**) becomes party to this Deed as an Obligor, by executing and delivering to the Security Trustee a duly completed Intercreditor Accession Deed together with certified copies of such corporate resolutions and other corporate documentation as the Security Trustee may reasonably require.

18.4 Secured Parties

18.4.1 No Secured Party may assign any of its rights or transfer any of its rights and obligations in respect of any of the Loan Note Documents unless such assignee or transferee executes and delivers to the Security Trustee a duly completed Intercreditor Accession Deed as an NBGI Note Holder, a Management Note Holder or a STH Note Holder (as applicable).

18.4.2 Notwithstanding the provisions of Clause 18.4.1 a transfer by a Loan Note Holder may be effected in accordance with the terms of the NBGI Loan Note Instruments or the Management Loan Note Instrument (as applicable) and on the date such transfer becomes effective the relevant transferor shall be deemed to have transferred its rights and obligations under this Deed to the same extent without the need for any Intercreditor Accession

Deed to be executed (whether or not an Intercreditor Accession Deed has been so executed) and the execution of any documentation required under the terms of the NBGI Loan Note Instruments or the Management Loan Note Instrument shall be deemed to be the execution and delivery of a duly completed Intercreditor Accession Deed to the Security Trustee.

18.5 General

- 18.5.1 Each of the Parties (other than any acceding party in the case only of the Intercreditor Accession Deed by which it becomes party to this Deed) irrevocably appoints the Security Trustee to execute acting on its behalf each Intercreditor Accession Deed which has been duly completed and executed on behalf of an acceding party.
- 18.5.2 The Security Trustee will notify the other Parties of the receipt by it of any such Intercreditor Accession Deed.
- 18.5.3 The Parties acknowledge and agree that the Senior Security Trustee may agree reasonable changes to the Intercreditor Accession Deed provided that the ranking provided for in this Deed is not affected.

19 MISCELLANEOUS

- 19.1 If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will be in any way affected or impaired.
- 19.2 No failure or delay by the Secured Parties in exercising any right or remedy under any Security Document shall operate as a waiver, and no single or partial exercise shall prevent further exercise, of any right or remedy.

20 SENIOR INTERCREDITOR AGREEMENT

This Deed (and all obligations of each Obligor under this Deed and rights of the Security Trustee under this Deed) is subject to the terms of the Senior Intercreditor Agreement.

21 **GOVERNING LAW**

21.1 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed according to the laws of Scotland.

21.2 The Courts of Scotland shall have exclusive jurisdiction in relation to any claim, dispute or indifference concerning this Deed and any matter arising in relation to them and the parties waive any right to object to an action being brought in these Courts, to claim that the action has been brought in an inconvenient forum or to claim that those Courts do not have jurisdiction.

IN WITNESS WHEREOF these presents consisting of this and the preceding 33 pages together with the Schedule (in three parts) have been subscribed by the each of the Parties and the Company as follows:

Security Trustee

SIGNED on behalf of **NBGI PRIVATE EQUITY (TRANCHE II) LP** acting by its investment manager **NBGI PRIVATE EQUITY LIMITED** as Security Trustee acting under Power of Attorney

Rupert Brown
(Signature)

RUPERT BROWN (Attorney)
(Print Full Name)

in the presence of:
H/ROSS HELEN ROSS
15 REDVERS GATE
BISHOPS STORTFORD
CM23 2DE

[Signature]
(Signature)

Antoine RAGUX (Attorney)
(Print Full Name)

in the presence of:

[Signature]
(Signature)

Charlotte Röber (Witness)
(Print Full Name)

1A Portrevar Road
SW6 5AX London

(Address)

all together at

on the day of 2015

Secured Parties

SIGNED on behalf of **NBGI PRIVATE EQUITY (TRANCHE II) LP** acting by its investment manager **NBGI PRIVATE EQUITY LIMITED** as beneficiary acting under Power of Attorney

Rupert Brown

(Signature)

RUPERT BROWN (Attorney)

(Print Full Name)

IN THE PRESENCE OF
JESSICA HELEN ROSS
18 REDVERS GREEN
BISHOPS COTTAGE
CM23 2DE.

[Signature]

(Signature)

Antoine RAOUX (Attorney)

(Print Full Name)

in the presence of:

[Signature]

(Signature)

Charlotte Feijen (Witness)

(Print Full Name)

1 A Rostrevor Road

(Address)

SW6 5AX London.

SIGNED by KEITH MOORHOUSE as beneficiary:



(Signature)

in the presence of:

Laura-May McManis

(Signature)

LAURA-MAY McMANIS (Witness)

(Print Full Name)

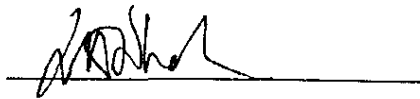
BURGESS PARK W, ABERDEEN

(Address)

PLAZA (6TH FLOOR), LONDON
W4 1ND, ABERDEEN, ABERDEEN
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED by EUAN LEASK as beneficiary:

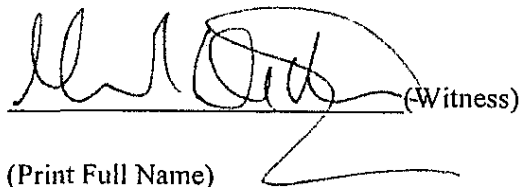


(Signature)

in the presence of:

EUAN ALEXANDER EDMUNDSON
LEASK

(Signature)



(Witness)

(Print Full Name)

BULNESS CANNAL W.P.

(Address) HELEN MARY DICKSON

UNION PLAZA (6th Floor)

1 UNION WIND, ABERDEEN, AB9 0DG
all together at ABERDEEN

on the 29th day of JUNE 2015

The Obligors

SIGNED on behalf of ATR OFFSHORE GROUP LIMITED acting by:

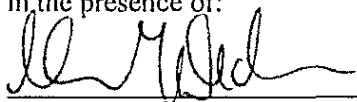


(Signature)

EUAN ALEXANDER EDMONDSON (Director)
LEASK

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY NICKSON (Witness)

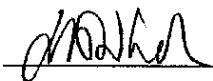
(Print Full Name)

BURNES PAULUP, UNION (Address)

PLAZA (6th Floor), UNION WYND,
ABERDEEN, AB10 1DQ
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED on behalf of ATR HOLDINGS LIMITED acting by:

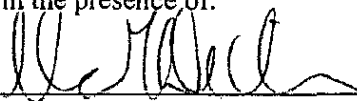


(Signature)

EUAN ALEXANDER EDMONDSON (Director)
LEASK

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY NICKSON (Witness)

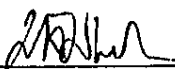
(Print Full Name)

BURNES PAULUP, UNION (Address)

PLAZA, UNION WYND,
ABERDEEN, AB10 1DQ
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED on behalf of ATR EQUIPMENT SOLUTIONS LTD acting by:



(Signature)

EUAN ALEXANDER EDMONSTON (Director)
LEASK

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY DICKSON (Witness)

(Print Full Name)

BURNES PAUL W

(Address)

UNION PLAZA (6th Floor)
1 UNION WYND, ABERDEEN, AB10 1DG
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED on behalf of ATR POWER SOLUTIONS LTD acting by:

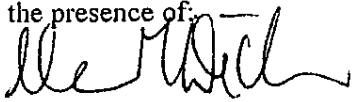


(Signature)

EUAN ALEXANDER EDMONSTON (Director)
LEASK

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY DICKSON (Witness)

(Print Full Name)

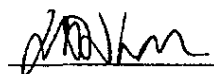
BURNES PAUL W

(Address)

UNION PLAZA (6th Floor)
1 UNION WYND, ABERDEEN, AB10 1DG
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED on behalf of ATR OVERSEAS LIMITED acting by:

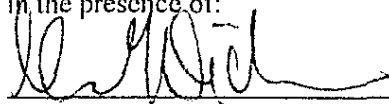


(Signature)

EUAN ALEXANDER EDMONDSON (Director)
LEASK

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY DICKSON (Witness)

(Print Full Name)

BUSINESS PARK W.P.

(Address)

UNION PLAZA (6TH FLOOR)

1 UNION WAY NO, ABERDEEN, AB10 1DQ
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED on behalf of UNDERWATER ENGINEERING SERVICES LIMITED acting by:

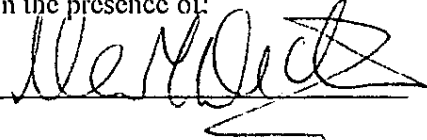


(Signature)

EUAN ALEXANDER EDMONDSON (Director)
LEASK

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY DICKSON (Witness)

(Print Full Name)

BURNES PAUL UP (Address)

UNION PLAZA (6th FLOOR)
1 UNION WYND, ABERDEEN, AB10 1DQ
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED on behalf of COSALT OFFSHORE GROUP LIMITED acting by:

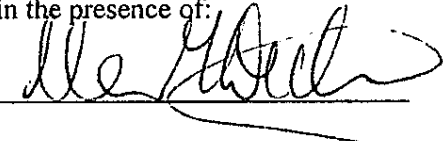


(Signature)

EUAN ALEXANDER EDMONDSON (Director)
LEASK

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY DICKSON (Witness)


(Print Full Name)

BURNES PAUL UP (Address)

UNION PLAZA (6th FLOOR)
1 UNION WYND, ABERDEEN, AB10 1DQ
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED on behalf of ATR LIFTING SOLUTIONS LIMITED acting by:

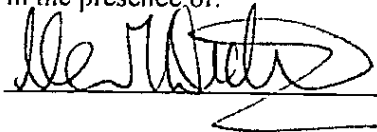


(Signature)

EUAN ALEXANDER EDMOND (Director)
LEWIS

(Print Full Name)

in the presence of:



(Signature)

HELEN MARY DICKSON (Witness)

(Print Full Name)

BUSINESS PARK U.P., UNIONAMA (Address)

(6th Floor), UNIONAMA
ASERDEEN, ASIO, DC
all together at ASERDEEN

on the 29th day of JUNE 2015

The STH Note Holders

SIGNED by MARK HISLOP as beneficiary:

Mark Hislop

(Signature)

in the presence of:

Heather Wilson

(Signature)

HEATHER MARY DICKSON (Witness)

(Print Full Name)

BUSINESS PARK WILSON (Address)

PLAZA (6TH FLOOR), 1 UNION
WYND, ABERDEEN, AB10 1DQ
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED by IAIN ANDREW FERGUSON as beneficiary:

Iain Ferguson

(Signature)

in the presence of:

[Signature]

(Signature)

HELEN MARY DICKSON (Witness)

(Print Full Name)

BUSINESS PARK, 118, UNION (Address)

PLAZA, UNION WYND,
ABERDEEN, AB10 1DG
all together at ABERDEEN

on the 29th day of JUNE 2015

SIGNED by STUART INNES MORRISON as beneficiary:

Stuart Morrison

(Signature)

in the presence of:

[Signature]

HELEN MARY DICKSON (Witness)

(Signature)

(Print Full Name)

BURGESS TOWN HALL, UNION (Address)

FLAT 2A (6TH FLOOR), UNION
WIND, ABERDEEN, AB10 1DQ
all together at ABERDEEN

on the 29th day of JUNE 2015

This is the Schedule referred to in the preceding Intercreditor and Security Trust Deed dated 29 June 2015 among NBGI Private Equity (Tranche II) LP, Keith Moorhouse, Euan Leask, the STH Note Holders and the Obligors

**PART 1
THE OBLIGORS**

Company	Company Number	Registered Office
ATR Offshore Group Limited	SC403892	Union Plaza (6th Floor), 1 Union Wynd, Aberdeen AB10 1DQ
ATR Holdings Limited	SC305588	Union Plaza (6th Floor), 1 Union Wynd, Aberdeen AB10 1DQ
ATR Equipment Solutions Ltd	SC153427	Union Plaza (6th Floor), 1 Union Wynd, Aberdeen AB10 1DQ
ATR Power Solutions Ltd	SC221515	Union Plaza (6th Floor), 1 Union Wynd, Aberdeen AB10 1DQ
ATR Overseas Limited	SC317260	Union Plaza (6th Floor), 1 Union Wynd, Aberdeen AB10 1DQ
Underwater Engineering Services Limited	SC272679	Union Plaza (6 th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ
Cosalt Offshore Group Limited	SC442522	Union Plaza (6th Floor), 1 Union Wynd, Aberdeen AB10 1DQ
ATR Lifting Solutions Limited	SC122818	Union Plaza (6th Floor), 1 Union Wynd, Aberdeen AB10 1DQ

PART 2

STH NOTE HOLDERS

MARK HISLOP	9 Bramble Way, Portlethen, Aberdeenshire, AB12 4UE
IAIN ANDREW FERGUSON	25 Braecroft Drive, Westhill, Aberdeenshire, AB32 6FF
STUART INNES MORRISON	69 Caiesdykes Crescent, Kincorth, Aberdeen, AB12 5JL

PART 3

INTERCREDITOR ACCESSION DEED

This Deed is made between:

- (1) [NAME OF ACCEDING ENTITY] (the [New NBGI Note Holder] [New Management Note Holder] [New STH Note Holder] [New Obligor]); and
- (2) NBGI PRIVATE EQUITY (TRANCHE II) LP., registered in Guernsey (with number 1511) whose registered office is at office is at 1 Royal Plaza, Royal Avenue, St Peter Port, Guernsey acting by its investment manager NBGI PRIVATE EQUITY LIMITED (registered number 3942388) whose registered office is at Old Change House, 128 Queen Victoria Street, London EC4V 4BJ as Security Trustee under the Intercreditor and Security Trust Deed.

WHEREAS

This Deed is supplemental to an Intercreditor and Security Trust Deed dated • (Intercreditor Deed) between •.

It is agreed

1 Definitions

Terms defined in the Intercreditor Deed shall have the same meaning when used in this Deed.

2 Accession

The [New NBGI Note Holder] [New Management Note Holder] [New STH Note Holder] [New Obligor] hereby agrees to become, with immediate effect, [a] [an] [NBGI Note Holder] [Management Note Holder] [New STH Note Holder] [Obligor] and agrees to be bound by all of the terms of the Intercreditor Deed as if it had originally been party to the Intercreditor Deed as [a] [an] [NBGI Note Holder] [Management Note Holder] [New STH Note Holder] [Obligor].

3 Notices

The [New NBGI Note Holder] [New Management Note Holder] [New STH Note Holder] [New Obligor] confirms that its United Kingdom details for notices in relation to Clause 17 (Notices) of the Intercreditor Deed is:

Address: •

Fax: •

Telephone: •

Attention: •

4 Acceptance

By its signature below, the Security Trustee confirms the acceptance of the [New NBGI Note Holder] [New Management Note Holder] [New STH Note Holder] [New Obligor] as [a] [an] [NBGI Note Holder] [Management Note Holder] [New STH Note Holder] [Obligor] for all purposes under the Intercreditor Deed in accordance with Clause 18 (Changes to Parties) of the Intercreditor Deed.

5 Law

This Deed shall be governed by and construed in all respects in accordance with Scots law.

IN WITNESS WHEREOF these presents consisting of this and the preceding page have been subscribed as follows: