



Registration of a Charge

Company Name: **DIAMOND OFFSHORE DRILLING (UK) LIMITED.**

Company Number: **02767959**



Received for filing in Electronic Format on the: **17/04/2024**

XD18HNYQ

Details of Charge

Date of creation: **02/04/2024**

Charge code: **0276 7959 0016**

Persons entitled: **HSBC BANK USA, NATIONAL ASSOCIATION (AS 'COLLATERAL AGENT' AS DEFINED IN THE INSTRUMENT EVIDENCING THE CHARGE ACCOMPANYING THIS FORM MR01)**

Brief description:

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **STUART FITZSIMMONS ON BEHALF OF DENTONS UK AND MIDDLE EAST LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2767959

Charge code: 0276 7959 0016

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd April 2024 and created by DIAMOND OFFSHORE DRILLING (UK) LIMITED. was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th April 2024 .

Given at Companies House, Cardiff on 18th April 2024

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



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**



SHEPHERD+WEDDERBURN

EXECUTION VERSION

FLOATING CHARGE (EQUIPMENT)

by

Diamond Offshore Drilling (UK) Limited,
as Chargor,

in favour of

HSBC Bank USA, National Association,
as Collateral Agent

This Floating Charge is entered into subject to the terms of the Collateral Agency and Intercreditor Agreement originally dated 23 April 2021 and as amended and restated on 21 September 2023 (as further amended from time to time)

CONTENTS

| Clause | Page Number |
|---|--------------------|
| 1. Definitions and interpretation | 1 |
| 2. Undertaking to pay | 4 |
| 3. Grant of Security | 4 |
| 4. Confirmation of subordination | 4 |
| 5. Further assurance, waiver of defences and others | 4 |
| 6. Representations and warranties | 6 |
| 7. General covenants | 7 |
| 8. When Security becomes enforceable | 8 |
| 9. Powers of the Collateral Agent | 8 |
| 10. Enforcement of Security | 10 |
| 11. Receiver | 11 |
| 12. Powers of Receiver | 12 |
| 13. Delegation | 13 |
| 14. Application of proceeds | 13 |
| 15. Power of Attorney | 14 |
| 16. Release | 14 |
| 17. Assignment and transfer | 14 |
| 18. Further provisions | 15 |
| 19. Notices | 17 |
| 20. Governing law | 17 |
| 21. Enforcement | 17 |

This Floating Charge (this "**Floating Charge**") is made by:

- (1) **DIAMOND OFFSHORE DRILLING (UK) LIMITED**, a company incorporated in England and Wales (Company Number 02767959) and having its registered office at One Fleet Place, London, England, EC4M 7WS (the "**Chargor**");

in favour of

- (2) **HSBC BANK USA, NATIONAL ASSOCIATION ("HSBC")**, in its capacity as collateral agent and trustee for the Secured Parties (the "**Collateral Agent**").

BACKGROUND

- (A) Diamond Foreign Asset Company and Diamond Finance, LLC (as Issuers) have issued Senior Secured Second Lien Notes due 2030 (the "**Notes**") pursuant to the Indenture (as defined below).
- (B) The Chargor is required under the Indenture to provide security to the Collateral Agent for the benefit of each Secured Party (as agent and trustee for the Secured Parties) under this Floating Charge.
- (C) The board of directors of the Chargor is satisfied that the Chargor granting the security contained or provided for in this Floating Charge is in the best interests of the Chargor and has passed a resolution to that effect.

IT IS AGREED as follows:

1. Definitions and interpretation

1.1 Definitions

Unless otherwise defined herein or the context otherwise requires, capitalised terms used in this Floating Charge have the meanings provided in the Intercreditor Agreement or, if not defined in the Intercreditor Agreement, have the meaning provided in the Indenture. In addition, the following definitions apply in this Floating Charge:

"Aberdeen Property" means the property at Moss Side Facility, Parkhill, Dyce, Aberdeen AB21 7AS.

"Administrator" means an administrator appointed pursuant to Clause 9.7 (*Appointment of an Administrator*) to manage the affairs, business and property of the Chargor.

"Authorisation" means any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"Credit Party" means the Chargor, the Issuers and each Guarantor.

"Default Rate" means the rate of interest on overdue principal determined pursuant to section 4.02 (*Payment of Notes*) of the Indenture.

"Delegate" means any person appointed by the Collateral Agent or any Receiver pursuant to Clause 13 (*Delegation*) and any person appointed as attorney of the Collateral Agent, Receiver or Delegate.

"Discharge Date" means the date on which the Discharge of the First Lien Obligations occurs.

"Equipment and Inventory" means the plant, machinery, equipment and other goods of any kind now or hereafter owned by the Chargor or in its possession and located in, or subject to the laws of, Scotland (including, without limitation such plant, machinery, equipment and other goods of any kind located at the Aberdeen Property), and all proceeds of sale or other disposal thereof and all other rights in relation thereto, to the extent not constituting Excluded Property, and **"Equipment and Inventory"** includes any part of any of them.

"Excluded Property" has the meaning given to that expression in the Security Agreement.

"Financial Collateral" has the meaning given to that expression in the Financial Collateral Regulations.

"Financial Collateral Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*).

"Guarantor" has the meaning given to that expression in the Indenture.

"Indenture" means the indenture dated 21 September 2023 between, amongst others, Diamond Foreign Asset Company and Diamond Finance, LLC (as Issuers) and HSBC (as trustee with regards to the Notes and as collateral agent for the Secured Parties).

"Intercreditor Agreement" means the amended and restated collateral agency and intercreditor agreement originally dated 23 April 2021 and as amended and restated on 21 September 2023 between, amongst others, Diamond Offshore Drilling, Inc., as parent, Diamond Foreign Asset Company, the Chargor and the Collateral Agent.

"Issuer" has the meaning given to that expression in the Indenture.

"Party" means a party to this Floating Charge.

"Permitted Lien" has the meaning given to that expression in the Security Agreement.

"Receiver" means a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets (in whole or part or parts) appointed by the Collateral Agent under Clause 11 (*Receiver*).

"Relevant Jurisdiction" means:

- (a) England and Wales;
- (b) Scotland;
- (c) any jurisdiction where any asset subject to or intended to be subject to the Security created or expressed to be created by the Chargor in favour of the Collateral Agent is situated or governed;
- (d) any jurisdiction where it conducts its business; and
- (e) the jurisdiction whose laws govern the perfection of any Security created or expressed to be created by the Chargor in favour of, and entered into by, the Collateral Agent.

"Secured Assets" means all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this Floating Charge.

"Secured Obligations" has the meaning given to that expression in the Security Agreement.

"Secured Parties" means the "Secured Parties" as defined in the Security Agreement.

"Security" means any assignation in security, 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 Agreement" has the meaning given to that expression in the Indenture.

"Security Financial Collateral Arrangement" has the meaning given to that expression in the Financial Collateral Regulations.

"Security Period" means the period starting on the effective date of this Floating Charge and ending on the date on which the Collateral Agent is satisfied that all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and no further Secured Obligations are capable of being outstanding.

1.2 Interpretation

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

- (i) **"asset"** or **"assets"** includes present and future assets and rights of every description;
- (ii) **"disposal"** means any sale, lease, transfer or other disposal and **"dispose"** will be construed accordingly;
- (iii) a **"Junior Lien Document"** or any other agreement or instrument is a reference to that Junior Lien Document or any other agreement or instrument as amended, amended and restated, novated, supplemented, extended or restated;
- (iv) **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- (v) **"indebtedness"** includes any obligation (whether incurred as principal or as a surety or guarantor) for the payment or repayment of money, whether present or future, actual or contingent;
 - (vi) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
 - (vii) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (viii) the **"Collateral Agent"**, the **"Chargor"**, any **"Secured Party"**, any **"Party"**, any **"Credit Party"** or any other person shall be construed so as to include its successors in title, permitted assignees and permitted transferees to, or of, its rights and/or obligations under this Floating Charge and, in the case of the Collateral Agent, shall include any person for the time being appointed as a collateral agent and trustee in accordance with the Intercreditor Agreement;
 - (ix) a provision of law is a reference to that provision as amended or re-enacted;
 - (x) a time of day is a reference to London time; and
 - (xi) the singular includes the plural (and vice versa).
- 1.2.2 The words **"other"** or **"otherwise"** and **"whatsoever"** when used in this Floating Charge shall not be construed ejusdem generis or construed in a narrower way by reference to any preceding words.
- 1.2.3 Any words following the terms **"including"**, **"include"**, **"in particular"**, **"for example"** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.4 Section and Clause headings are for ease of reference only.
- 1.2.5 A Default (other than an Event of Default) is **"continuing"** if it has not been remedied or waived and an Event of Default is **"continuing"** if it has not been remedied or waived.
- 1.2.6 To the extent the provisions of this Floating Charge conflict with the provisions of the Indenture, the provisions of the Indenture shall prevail.

1.3 **Third party rights**

A person who is not a Party (other than a permitted successor or assignee, any receiver or any Delegate or other person on whom a right is expressly conferred hereunder) has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or enjoy the benefit of any term of this Floating Charge.

1.4 **Collateral Agent provisions**

The Chargor agrees that the terms of sections 3.01 (*Appointment and Undertaking of the Collateral Agent*), 3.04(c) and (d) (*Application of Proceeds*), 3.05 (*Powers of the Collateral Agent*) and articles V (*Immunities of the Collateral Agent*) and VI (*Resignation and Removal of the Collateral Agent*) of the Intercreditor Agreement are incorporated into this Floating Charge as if those terms were set out in full in this Floating Charge, with references to "this Agreement" being construed as a reference to this Floating Charge, it being confirmed that the Collateral Agent holds the Security under this Floating Charge as security trustee for itself and the other Secured Parties for the purposes of and otherwise in accordance with the Junior Lien Documents.

1.5 **Conflict**

In the event of a conflict between the terms of this Floating Charge and the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail, to the extent permitted by law.

1.6 **Priority**

- 1.6.1 It is acknowledged that the Chargor has entered into the Security Agreement under which the Chargor has granted Security over the Secured Assets. The Parties intend that to the extent that the Security created under the Security Agreement is fixed security and attaches to any Secured Assets, such Security ranks in priority to the Security created over such Secured Assets pursuant to this Floating Charge and, to the extent that the Security created under the Security Agreement is a floating security, such Security ranks *pari passu* with the Security created or purported to be created over such Secured Assets pursuant to this Floating Charge.
- 1.6.2 The Security from time to time constituted by this Floating Charge is created in addition and without prejudice to the Security created or purported to be created pursuant to the Security Agreement.
- 1.6.3 The Security created by or pursuant to this Floating Charge shall rank in point of priority behind the security created by the First Lien Security Documents under and in accordance with the terms of the Intercreditor Agreement.

2. **Undertaking to pay**

The Chargor shall, on demand, pay to the Collateral Agent and discharge the Secured Obligations when they become due.

3. **Grant of Security**

3.1 **Floating charge**

As a continuing security for the payment, performance and discharge of the Secured Obligations, the Chargor hereby grants a floating charge in favour of the Collateral Agent, for the benefit of each Secured Party (as trustee for itself and the other Secured Parties), over all of its present and future Equipment and Inventory.

3.2 **Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3.1 (*Floating charge*).

4. **Confirmation of subordination**

Notwithstanding anything herein to the contrary:

- 4.1 the Security granted to the Collateral Agent for the benefit of the Secured Parties pursuant to this Floating Charge and the exercise of any right or remedy by the Collateral Agent for the benefit of the Secured Parties hereunder are subject to the provisions of the Intercreditor Agreement (including, without limitation, section 2.15 (*Confirmation of Subordination in Parity Lien Security Documents*) thereunder);
- 4.2 the First Lien Security Documents shall remain in full force and effect until the Discharge Date; and
- 4.3 the Chargor agrees that the execution of this Floating Charge shall in no way prejudice or affect the Security granted by it (or the undertakings given by it) under the First Lien Security Documents.

5. **Further assurance, waiver of defences and others**

5.1 **Further assurance**

- 5.1.1 The Chargor shall, at its own expense, take whatever action is required in accordance with section 4.5 (*Further Assurances, etc.*) of the Security Agreement relative to the Secured Assets.
- 5.1.2 Without prejudice to the obligations of the Chargor under Clause 5.1.1 above, the Chargor shall, at the direction of the Collateral Agent given at any time during the Security Period, immediately execute and deliver to the Collateral Agent all transfers and other documents and do all such things as may be necessary or desirable:
- (i) for creating, registering, perfecting, maintaining or protecting the Security created or intended to be created by this Floating Charge;
 - (ii) for creating a fixed charge over any of the Secured Assets; or

- (iii) to facilitate the enforcement or realisation of all or any of the Secured Assets after this Floating Charge has become enforceable, or the exercise of any right, power or discretion vested in the Collateral Agent or any Delegate in relation to any Secured Assets or this Floating Charge.

5.2 **Avoidance of payment and reinstatement**

- 5.2.1 No amount paid, repaid or credited to a Secured Party shall be deemed to have been irrevocably paid if the Collateral Agent considers that the payment or credit of such amount is capable of being avoided or reduced because of any laws applicable on insolvency, liquidation, administration or any similar laws.
- 5.2.2 If any discharge, release or arrangement (whether in respect of the obligations of any Credit Party or any Security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor will continue or be reinstated as if the discharge, release or arrangement had not occurred.

5.3 **Waiver of defences**

The obligations of the Chargor under this Floating Charge will not be affected by an act, omission, matter or thing which, but for this Clause 5.3, would reduce, release or prejudice any of its obligations under this Clause 5.3 (without limitation and whether or not known to it or any Secured Party), including:

- 5.3.1 any time, waiver or consent granted to, or composition with, the Chargor, any Credit Party or other person;
- 5.3.2 the release of the Chargor, any other Credit Party or any other person under the terms of any composition or arrangement with any creditor of the Parent or any of its direct or indirect Subsidiaries;
- 5.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Chargor, any Credit Party or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 5.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Credit Party or any other person;
- 5.3.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Junior Lien Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Junior Lien Document or other document or security;
- 5.3.6 any unenforceability, illegality or invalidity of any obligation of any person under any Junior Lien Document or any other document or Security; or
- 5.3.7 any insolvency or similar proceedings.

5.4 **Chargor intent**

Without prejudice to the generality of Clause 5.3 (*Waiver of defences*), the Chargor expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Junior Lien Documents and/or any facility or amount made available under any of the Junior Lien Documents for the purposes of, or in connection with, any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

5.5 **Immediate recourse**

The Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Chargor under this Floating Charge. This

waiver applies irrespective of any law or any provision of a Junior Lien Document to the contrary.

5.6 Appropriations

Until all Secured Obligations have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

- 5.6.1 refrain from applying or enforcing any other moneys, Security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- 5.6.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Floating Charge.

5.7 Deferral of Chargor's rights

Until all Secured Obligations have been irrevocably paid in full, and unless the Collateral Agent otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Junior Lien Documents or by reason of any amount being payable, or liability arising, under this Floating Charge:

- 5.7.1 to be indemnified by a Credit Party;
- 5.7.2 to claim any contribution from any other guarantor of any Credit Party's obligations under the Junior Lien Documents;
- 5.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Junior Lien Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Junior Lien Documents by any Secured Party;
- 5.7.4 to bring legal or other proceedings for an order requiring any Credit Party to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under any Junior Lien Document;
- 5.7.5 to exercise any right of set-off against any Credit Party; and/or
- 5.7.6 to claim or prove as a creditor of any Credit Party in competition with any Secured Party.

If the Chargor receives any benefit, payment or distribution in relation to such rights, it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Credit Parties under or in connection with the Junior Lien Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Collateral Agent for application in accordance with the Intercreditor Agreement.

6. Representations and warranties

The Chargor makes the representations and warranties set out in this Clause 6 (*Representations and warranties*) to the Collateral Agent (as agent and trustee for the Secured Parties).

6.1 Representations in the Junior Lien Documents

In the case of the Chargor, the statements set forth in Article III (*Representations and Warranties*) of the Security Agreement and any similar statements in any other Junior Lien Document are true on the effective date of this Floating Charge as it relates to the Chargor or to the Junior Lien Documents to which the Chargor is a party, provided that any reference therein to any Grantor's knowledge shall, for the purposes of this Clause 6.1 (*Representations in the Junior Lien Documents*), be deemed to be a reference to the Chargor's knowledge.

6.2 Secured Assets

It has provided to the Collateral Agent all documents relating to the Secured Assets and is the owner of the Secured Assets, free from any Security other than:

- 6.2.1 the Security created by this Floating Charge and any First Lien Security Document;
- 6.2.2 the Permitted Liens; and
- 6.2.3 as permitted pursuant to or not prohibited by the terms of the Intercreditor Agreement or any Junior Lien Document.

6.3 **No adverse claims**

Other than in respect of the Security granted under any First Lien Security Document, it has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

6.4 **No conflicting rights or breaches**

6.4.1 This Floating Charge does not and will not conflict with or result in any breach or constitute a default under:

- (i) any law or regulation applicable to it; or
- (ii) its constitutional documents.

6.4.2 The entry into this Floating Charge does not, and will not, constitute a breach of any agreement or instrument binding on the Chargor or its assets.

6.5 **Enforceable security**

This Floating Charge constitutes its legal, valid, binding and enforceable obligations, and is and will continue to be effective Security over all and every part of the Secured Assets in accordance with its terms, subject to:

- 6.5.1 the principle that remedies may be granted or refused at the discretion of a court, and the limitations on enforcement imposed by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- 6.5.2 the time barring of claims under the Limitation Act 1980 and / or the Foreign Limitation Periods Act 1984 and/or the Prescription and Limitation (Scotland) Act 1974, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- 6.5.3 similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- 6.5.4 foreign laws which affect any Security over a foreign asset (together, the "**Legal Reservations**").

6.6 **Avoidance of security**

No Security expressed to be created under this Floating Charge is liable to be avoided, or otherwise set aside, on its liquidation, administration or otherwise, subject to (i) the Legal Reservations and (ii) delivery of a certified copy of this Floating Charge to the Registrar of Companies with a statement of particulars of charge in accordance with Chapter A1 of Part 25 (Company Charges) of the Companies Act 2006 (as amended).

6.7 **Times for making representations and warranties**

The representations and warranties set out in this Clause 6 (*Representations and warranties*) are made by the Chargor on the effective date of this Floating Charge and shall be deemed to be repeated by the Chargor on each day of the Security Period with reference to the facts and circumstances then existing.

7. **General covenants**

The Chargor covenants with and undertakes to the Collateral Agent, during the Security Period, in accordance with the terms set out in this Clause 7 (*General covenants*).

7.1 **Negative pledge and disposal restrictions**

The Chargor shall not at any time:

- 7.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Assets other than any Security created by any First Lien Security Document, this Floating Charge or the Security Agreement;
- 7.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Secured Assets; or
- 7.1.3 create or grant (or purport to create or grant) any interest in any Secured Assets in favour of a third party other than any interest created under any First Lien Security Document or in favour of the Collateral Agent under the Security Agreement,

in each case, except for Permitted Liens or as otherwise permitted pursuant to or not prohibited by the terms of the Intercreditor Agreement or any Junior Lien Document.

7.2 **No adverse actions or variations**

The Chargor shall not cause or permit to be done anything which may adversely affect the Security created by this Floating Charge or which is a variation or abrogation of all or any part of the Secured Assets or of the rights attaching to or conferred on all or any part of the Secured Assets by this Floating Charge, without the prior written consent of the Collateral Agent.

7.3 **Compliance with laws and regulations**

The Chargor shall:

- 7.3.1 obtain, and as soon as reasonably practicable renew from time to time, and comply with the terms of all Authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
- 7.3.2 as soon as reasonably practicable effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

7.4 **Notice of misrepresentation and breaches**

The Chargor shall, promptly upon becoming aware of any of the same, give the Collateral Agent notice in writing of:

- 7.4.1 any representation or warranty set out in this Floating Charge that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 7.4.2 any breach of any covenant or undertaking set out in this Floating Charge.

7.5 **Information**

The Chargor shall:

- 7.5.1 give the Collateral Agent such information concerning the location, condition, use and operation of the Secured Assets as the Collateral Agent may reasonably require;
- 7.5.2 permit any persons designated by the Collateral Agent and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and
- 7.5.3 as soon as reasonably practicable notify the Collateral Agent in writing of any action, claim or demand made by or against it in connection with any Secured Asset or of any material fact, matter or circumstance which may, with the passage of time, give rise to such material action, claim or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such material action, claim or demand and shall, subject to the Collateral Agent's prior approval, implement those proposals at its own expense.

7.6 **Payment of outgoings**

The Chargor shall as soon as reasonably practicable pay all Taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, as soon as reasonably practicable following demand, produce evidence of payment to the Collateral Agent to the satisfaction of the Collateral Agent (acting reasonably)

8. **When Security becomes enforceable**

At any time on or after the occurrence of an Event of Default which is continuing, the Security created pursuant to this Floating Charge shall be immediately enforceable and the Collateral Agent may in its absolute discretion and without further notice to the Chargor or the prior authorisation of any court:

- 8.1 enforce all or any part of the Security created by this Floating Charge and take possession of or dispose of all or any of the Secured Assets, in each case, at such times and upon such terms as it sees fit; and
- 8.2 whether or not the Collateral Agent has appointed a Receiver, exercise all of the powers, authorities and discretions granted to a Receiver by this Floating Charge or by law.

9. **Powers of the Collateral Agent**

9.1 **Power to remedy**

- 9.1.1 The Collateral Agent shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this Floating Charge.

9.1.2 The Chargor irrevocably authorises the Collateral Agent and its agents to do all things that are necessary or desirable for that purpose.

9.1.3 Any moneys expended (and documented) by the Collateral Agent in remedying a breach by the Chargor of its obligations contained in this Floating Charge shall be reimbursed by the Chargor to the Collateral Agent on a full indemnity basis and shall carry interest at the Default Rate.

9.2 **Exercise of rights**

9.2.1 The rights of the Collateral Agent under Clause 9.1.1 (*Power to remedy*) are without prejudice to any other rights of the Collateral Agent under this Floating Charge. The exercise of any rights of the Collateral Agent under this Floating Charge shall not make the Collateral Agent liable to account as a security holder in possession.

9.2.2 The Collateral Agent shall not, in connection with the Secured Assets, have any duty with respect to, or incur any liability for:

- (i) any loss on realisation;
- (ii) any failure to present any document in respect of the Secured Assets;
- (iii) ascertaining or taking action in respect of any other matters relating to any Secured Assets or the nature or sufficiency of any payment, whether or not the Collateral Agent has or is deemed to have knowledge of such matters;
- (iv) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Secured Assets;
- (v) any negligence or default by its nominees; or
- (vi) any other loss of any nature whatsoever arising as a result of the exercise or non-exercise of any rights or powers attaching or accruing to the Secured Assets which may be exercised by the Collateral Agent (or its nominee).

9.3 **Protection of interests**

The powers conferred on the Collateral Agent by this Floating Charge are solely to protect its interests in the Secured Assets and shall not impose any duty on the Collateral Agent to exercise any of those powers.

9.4 **Collateral Agent has Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by law or by this Floating Charge on a Receiver may, after the Security constituted by this Floating Charge has become enforceable, be exercised by the Collateral Agent in relation to any of the Secured Assets, whether or not it has taken possession of any Secured Assets, and without first appointing a Receiver (or notwithstanding the appointment of a Receiver).

9.5 **New accounts**

9.5.1 If the Collateral Agent receives, or is deemed to have received, notice of any subsequent Security or other interest, affecting all or part of the Secured Assets, the Collateral Agent may open a new account for the Chargor in the Collateral Agent's books. Without prejudice to the Collateral Agent's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Obligations.

9.5.2 If the Collateral Agent does not open a new account immediately on receipt of the notice, or deemed notice, under Clause 9.5.1 (*New accounts*) then, unless the Collateral Agent gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Collateral Agent shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations, as from the time of receipt of the relevant notice by the Collateral Agent.

9.6 **Indulgence**

The Collateral Agent may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a Party (whether or not any such person is jointly liable with the Chargor) in respect of any of the Secured Obligations, or of any

other security for them, without prejudice either to this Floating Charge or to the liability of the Chargor for the Secured Obligations.

9.7 **Appointment of an Administrator**

- 9.7.1 The Collateral Agent may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Floating Charge becomes enforceable.
- 9.7.2 Any appointment under this Clause 9.7 (*Appointment of an Administrator*) shall:
- (i) be in writing signed by a duly authorised signatory of the Collateral Agent; and
 - (ii) take effect in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.
- 9.7.3 The Collateral Agent may apply to the court for an order removing an Administrator from office and may, by notice in writing in accordance with this Clause 9.7 (*Appointment of an Administrator*), appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

10. **Enforcement of Security**

10.1 **Access on enforcement**

- 10.1.1 At any time after the Collateral Agent has demanded payment of the Secured Obligations, or if the Chargor defaults in the performance of its obligations under this Floating Charge or any Junior Lien Document, the Chargor will allow the Collateral Agent or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies, in particular to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Collateral Agent or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry.
- 10.1.2 At all times, the Chargor must use its best endeavours to allow the Collateral Agent or its Receiver access to any premises for the purpose of Clause 10.1.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

10.2 **Prior Security**

At any time after the Security constituted by this Floating Charge has become enforceable, or after any powers conferred by any Security having priority to this Floating Charge shall have become exercisable, the Collateral Agent may:

- 10.2.1 redeem that or any other prior Security;
- 10.2.2 procure the transfer of that Security to it; and
- 10.2.3 settle and pass any account of the holder of any prior Security.

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor. All moneys paid by the Collateral Agent to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Collateral Agent, be due from the Chargor to the Collateral Agent on current account and shall bear interest at the Default Rate and be secured as part of the Secured Obligations.

10.3 **Protection of third parties**

- 10.3.1 No purchaser, mortgagee or other person dealing with the Collateral Agent, any Receiver or Delegate shall be concerned to enquire:
- (i) whether any of the Secured Obligations have become due or payable, or remain unpaid or undischarged;
 - (ii) whether any power the Collateral Agent, a Receiver or Delegate is purporting to exercise, pursuant to any Junior Lien Document, has become exercisable or is properly exercisable;
 - (iii) whether any consents, directions, regulations or restrictions relating to such rights have been obtained or complied with;

- (iv) otherwise as to the propriety or regularity of acts intended or purporting to be in exercise of any such rights; or
- (v) as to the application of any money paid to the Collateral Agent, any Receiver or any Delegate.

10.3.2 All the protection to purchasers contained in section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Collateral Agent, any other Secured Party, any Receiver or any Delegate.

10.4 **No liability as security holder in possession**

Nether the Collateral Agent, any Receiver, any Delegate nor any Administrator shall be liable to account as security holder in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a security holder in possession might be liable as such.

10.5 **Conclusive discharge to purchasers**

The receipt of the Collateral Agent or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Collateral Agent, every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

10.6 **Right of appropriation**

10.6.1 To the extent that:

- (i) the Secured Assets constitute Financial Collateral; and
- (ii) this Floating Charge and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

(and to the extent otherwise permitted under applicable law) the Collateral Agent shall have the right, at any time after the Security constituted by this Floating Charge has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Obligations in any order that the Collateral Agent may, in its absolute discretion, determine.

10.6.2 The value of any Secured Assets appropriated in accordance with this Clause 10.6 shall be the amount thereof (if a cash balance) or the price of those Secured Assets at the time the right of appropriation is exercised, as listed on any recognised market index or determined by any other method that the Collateral Agent may select (including independent valuation).

10.6.3 The Chargor agrees that the methods of valuation provided for in this Clause 10.6 are commercially reasonable for the purposes of the Financial Collateral Regulations.

11. **Receiver**

11.1 **Appointment**

11.1.1 Subject to Clause 11.1.2, at any time after the Security constituted by this Floating Charge has become enforceable, or at the request of the Chargor, the Collateral Agent may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

11.1.2 The Collateral Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under part A1 of the Insolvency Act 1986, other than in respect of any floating charge referred to in subsection (4) of section A52 of part A1 of the Insolvency Act 1986.

11.2 **Removal**

The Collateral Agent may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

11.3 **Remuneration**

Subject to section 36 of the Insolvency Act 1986, the Collateral Agent may fix the remuneration of any Receiver appointed by it and the remuneration of the Receiver shall be a debt secured by this Floating Charge, which shall be due and payable immediately on its being paid by the Collateral Agent.

11.4 **Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this Floating Charge shall be in addition to all statutory and other powers of the Collateral Agent under the Insolvency Act 1986 or otherwise.

11.5 **Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this Floating Charge or by statute) shall be and remain exercisable by the Collateral Agent despite any prior appointment in respect of all or any part of the Secured Assets.

11.6 **Agent of the Chargor**

Any Receiver appointed by the Collateral Agent under this Floating Charge shall be the agent of the Chargor, and the Chargor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver in respect of the Chargor shall continue until the Chargor goes into liquidation and, after that, the Receiver shall act as principal and shall not become the agent of the Collateral Agent.

12. **Powers of Receiver**

12.1 **General**

12.1.1 Any Receiver appointed by the Collateral Agent under this Floating Charge shall, in addition to the powers conferred on him by statute, have the powers set out in this Floating Charge and have all the powers of an administrative receiver set out in Schedule 1 and Schedule 2 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver).

12.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Floating Charge individually and to the exclusion of any other Receiver.

12.1.3 Any exercise by a Receiver of any of the powers given by Clause 12 (*Powers of Receiver*) may be on behalf of the Chargor.

12.2 **Employ personnel and advisors**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.

12.3 **Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Collateral Agent may prescribe or agree with him.

12.4 **Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

12.5 **Disposal of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

12.6 **Valid receipts**

A Receiver may give valid receipt for all moneys and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

12.7 Make settlements

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that he may think expedient.

12.8 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit.

12.9 Borrow

A Receiver may, for any of the purposes authorised by this Clause 12 (*Powers of Receiver*), raise money by borrowing from the Collateral Agent (or from any other person), either unsecured or on the Security of all or any of the Secured Assets in respect of which he is appointed, on any terms that he thinks fit (including, if the Collateral Agent consents, terms under which that security ranks in priority to this Floating Charge).

12.10 Redeem prior Security

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the moneys so paid shall be deemed to be an expense properly incurred by the Receiver.

12.11 Owner

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

12.12 Incidental powers

A Receiver may do any other acts and things:

12.12.1 that he may consider desirable or necessary for realising any of the Secured Assets;

12.12.2 that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Floating Charge or law; and

12.12.3 that he lawfully may or can do as agent for the Chargor.

13. Delegation

13.1 Delegation

The Collateral Agent or any Receiver may delegate (either generally or specifically), by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Floating Charge (including the power of attorney granted under Clause 15.1 (*Appointment of attorneys*)).

13.2 Terms

The Collateral Agent and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

13.3 Liability

Neither the Collateral Agent nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

14. Application of proceeds

14.1 Order of application of proceeds

All moneys received or recovered by the Collateral Agent, any Receiver or any Delegate pursuant to this Floating Charge, after the security constituted by this Floating Charge has become enforceable, shall (subject to the claims of any person having prior rights) be applied in payment of the Secured Obligations in accordance with the Intercreditor Agreement.

14.2 Appropriation

Neither the Collateral Agent, any Receiver nor any Delegate shall be bound to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Obligations.

14.3 Suspense account

All moneys received by the Collateral Agent, a Receiver or a Delegate under this Floating Charge:

- 14.3.1 may, at the discretion of the Collateral Agent, Receiver or Delegate, be credited to any suspense or securities realised account;
- 14.3.2 shall bear interest, if any, at the Default Rate; and
- 14.3.3 may be held in that account for so long as the Collateral Agent, Receiver or Delegate thinks fit.

15. Power of Attorney

15.1 Appointment of attorneys

The Chargor irrevocably appoints the Collateral Agent, every Receiver and every Delegate independently as its attorneys (with full power of substitution) in its name, on its behalf, or otherwise, at such time and in such manner as the attorney thinks fit, to execute any documents, exercise any rights and do any acts and things that:

- 15.1.1 the Chargor is required to execute, exercise and do under any Junior Lien Document to which it is a party (including to execute charges over, transfers, conveyances, assignments, assignations and assurances of, and other instruments, notices, orders and directions relating to, the Secured Assets); and
- 15.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Floating Charge or by law on the Collateral Agent, any Receiver or any Delegate in relation to the Secured Assets or under any Junior Lien Document.

15.2 Ratification of acts of attorneys

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in Clause 15.1 (*Appointment of attorneys*).

16. Release

16.1 Discharge

Without prejudice to any other provision in a Junior Lien Document that applies to this Floating Charge by virtue of this Floating Charge being a Junior Lien Document, the terms of section 4.01 (*Release or Subordination of Liens on Collateral*) of the Intercreditor Agreement shall apply to this Floating Charge, *mutatis mutandis*.

16.2 Discharge conditional

Any release, discharge or settlement between the Chargor and the Collateral Agent shall be deemed conditional on no payment or Security received by the Collateral Agent or any other Secured Party in respect of the Secured Obligations being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- 16.2.1 the Collateral Agent or its nominee may retain this Floating Charge and the Security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Collateral Agent deems necessary to provide the Collateral Agent with security against any such avoidance, reduction or order for refund; and
- 16.2.2 the Collateral Agent may recover the value or amount of such Security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

17. Assignment and transfer

17.1 Assignment by Collateral Agent

- 17.1.1 At any time, without the consent of the Chargor, the Collateral Agent may assign or transfer the whole or any part of the Collateral Agent's rights and/or obligations under this Floating Charge to any person.

- 17.1.2 The Collateral Agent may disclose to any actual or proposed assignee or transferee any information about the Chargor, the Secured Assets and this Floating Charge that the Collateral Agent considers appropriate.

17.2 **Assignment by Chargor**

The Chargor may not assign any of its rights, or transfer any of its obligations, under this Floating Charge, or enter into any transaction that would result in any of those rights or obligations passing to another person.

18. **Further provisions**

18.1 **Independent security**

This Floating Charge shall be in addition to, and independent of, any other security or guarantee that the Collateral Agent may hold for any of the Secured Obligations at any time. No prior security held by the Collateral Agent or any other Secured Party over the whole or any part of the Secured Assets shall merge in the security created by this Floating Charge.

18.2 **Continuing security**

This Floating Charge shall remain in full force and effect as a continuing security for the Secured Obligations, notwithstanding any settlement of account, or intermediate payment, or other matter or thing, unless and until the Collateral Agent discharges this Floating Charge in writing.

18.3 **Certificates**

A certificate or determination by the Collateral Agent as to any rate or amount for the time being due to it from the Chargor under this Floating Charge shall be, in the absence of any manifest error, conclusive evidence of the matters to which it relates.

18.4 **Partial invalidity**

If, at any time, any provision of this Floating Charge 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 in any way be affected or impaired.

18.5 **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, any right or remedy under this Floating Charge shall operate as a waiver of any such right or remedy or constitute an election to affirm this Floating Charge. No election to affirm this Floating Charge on the part of any Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Floating Charge are cumulative and not exclusive of any rights or remedies provided by law.

18.6 **Amendments**

None of the terms or provisions of this Floating Charge may be waived, amended, supplemented or otherwise modified except as permitted pursuant to or not prohibited by the terms of the Intercreditor Agreement or any Junior Lien Document.

18.7 **Enforcement costs and expenses**

The Chargor shall, on demand, reimburse each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, this Floating Charge.

18.8 **Indemnity**

18.8.1 The Chargor shall promptly indemnify the Collateral Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:

- (i) any failure by the Chargor to comply with sections 7.11 (*Compensation; Expenses*) and 7.12 (*Indemnity*) of the Intercreditor Agreement;
- (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- (iii) the taking, holding, protection or enforcement of the Security created pursuant to this Floating Charge;
- (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Collateral Agent and each Receiver and Delegate by this Floating Charge or by law; and

- (v) acting as Collateral Agent, Receiver or Delegate under this Floating Charge or which otherwise relates to any of the Secured Assets (otherwise, in each case, than by reason of the relevant Collateral Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).

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

18.8.3 The Chargor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 18.8 (*Indemnity*) will not be prejudiced by any release of Security or disposal of assets.

18.9 **Set off**

18.9.1 A Secured Party may set off any matured obligation due from the Chargor under a Junior Lien Document (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

18.9.2 All payments to be made by the Chargor under this Floating Charge shall be made without any setoff, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If the Chargor is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to the Collateral Agent under this Floating Charge or, if any such withholding or deduction is made in respect of any recovery under this Floating Charge, the Chargor shall pay such additional amount so as to ensure that the net amount received by the Collateral Agent shall equal the full amount due to it under the provisions of this Floating Charge had no such withholding or deduction been made.

18.10 **Stamp Taxes**

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

18.11 **Currency of Payment**

18.11.1 The obligation of the Chargor under this Floating Charge to make payments in any currency shall not be discharged or satisfied by any tender, or recovery (pursuant to any judgment or otherwise) expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by the Collateral Agent of the full amount of the currency expressed to be payable under this Floating Charge. To the extent that there is a shortfall between the amount of receipt in one currency and the amount due under this Floating Charge in the original currency, the Collateral Agent shall have a further separate cause of action against the Chargor and shall be entitled to enforce the security created over the Secured Assets to recover the amount of that shortfall.

18.11.2 If any sum due from the Chargor under this Floating Charge (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against the Chargor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Chargor shall as an independent obligation, within three Business Days of demand, indemnify the Collateral Agent to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion, including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

18.11.3 The Chargor waives any right it may have in any jurisdiction to pay any amount under this Floating Charge in a currency or currency unit other than that in which it is expressed to be payable.

18.12 Counterparts

18.12.1 This Floating Charge may be executed in any number of counterparts and by each of the parties on separate counterparts.

18.12.2 Where executed in counterparts:

- (i) this Floating Charge will not take effect until each of the counterparts has been delivered;
- (ii) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
- (iii) the effective date of delivery may be inserted in the testing clause in the blank provided for the effective date of this Floating Charge.

19. Notices

All notices, requests and demands to or upon the Collateral Agent or the Chargor hereunder shall be effected in the manner provided for in section 7.08 (*Notices*) of the Intercreditor Agreement.

20. Governing law

This Floating Charge and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Scotland.

21. Enforcement

21.1 Jurisdiction of Scottish courts

21.1.1 The Chargor irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind or description, whether in contract, in tort, or otherwise, against the Collateral Agent, any Secured Party, or any related party of the foregoing in any way relating to, in connection with or arising from, this Floating Charge or the transactions relating hereto, in any forum other than the courts of the State of New York sitting in New York County, and the United States District Court of the Southern District of New York, and any appellate court from any thereof, and the Chargor irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees that all claims in respect of any such action, litigation, or proceeding may be heard and determined in such New York State Court or, to the fullest extent permitted by applicable law, in such federal court. The Chargor agrees that a final judgment in any such action, litigation, or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

21.1.2 Nothing in this Floating Charge shall affect any right that the Collateral Agent or any Secured Party may otherwise have to bring any action or proceeding relating to this Floating Charge against the Chargor or its properties in the courts of any jurisdiction, including, without limitation the Courts of Scotland.

- 21.1.3 Each party irrevocably consents to service of process in the manner provided for notices in section 7.3 (*Notices*) of the Security Agreement. Nothing in this Floating Charge will affect the right of any party hereto to serve process in any other manner permitted by applicable law.
- 21.1.4 The Chargor irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Floating Charge in any court referred to in Clause 21.1.1. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

IN WITNESS WHEREOF these presents consisting of this and the preceding 17 pages have been executed in counterpart by the parties as undernoted, with a date of delivery of 2 April 2024:

SUBSCRIBED for and on behalf of
DIAMOND OFFSHORE DRILLING (UK)
LIMITED, as Chargor

by David L. Roland

at Houston, Texas

on the 26 day of March 2024

in the presence of:

[Redacted] Witness
Peggy Peterson

[Redacted]

[Redacted Signature]

Director/Attorney (*signature*)

David L. Roland.....
Director/Attorney (*print name*)

SUBSCRIBED for and on behalf of
 HSBC BANK USA, NATIONAL
 ASSOCIATION, as Collateral Agent
 by Daniel James Gonzalez

Authorized Signatory (*signature*)

at NY

on the 26th day of March 2024

Daniel James Gonzalez

Authorized Signatory (*print name*)

in the presence of:

..... Witness

ERSHAD SATTAH Name:

..... Address