



**PODER JUDICIÁRIO DO ESTADO DO RIO DE JANEIRO**

**COMARCA DA CAPITAL  
TERCEIRA VARA EMPRESARIAL**

**Termo de abertura de volume**

Processo nº 0392571-55.2013.8.19.0001

Nesta data iniciei o 18<sup>o</sup> volume dos autos acima mencionados, a contar da folha nº 3901

Rio de Janeiro, 10 de fevereiro de 2014

Upon a Total Loss Event, the Issuer shall as soon as insurance proceeds are available redeem 100% of the outstanding bonds at 100% of par value (plus accrued interest on redeemed amount).

If the Bonds are redeemed according to this Mandatory Prepayment clause, the entire amount on the Accounts, together with any amounts received as damages payments under the EPCI Contract or any insurance proceeds may be applied to prepay the Bonds.

Mandatory  
Prepayment Event:

Means if:

- (a) the Issuer's rights under the EPCI Contract or the FPSO is sold or disposed of;
- (b) the EPCI Contract is cancelled;
- (c) the OGX Charter Contract is cancelled;
- (d) the Issuer Parent's 100% indirect ownership in the shares of the Issuer changes;
- (e) the OSX Leasing's 100% indirect ownership in the shares of the Issuer changes;
- (f) the Ultimate Parent's 100% direct or indirect ownership in the shares of the Issuer changes;
- (g) there is an actual or constructive total loss of the FPSO (a "Total Loss Event"); or
- (h) an Event of Default occurs.

Event of Default:

The Bond Agreement shall include standard remedy and event of default provisions, including cross default provisions as set out below (with a remedy period of 15 Business Days) and remedy and event of default provisions relating to contravention of the Security Documents by the Guarantors. In respect of litigation events, creditor's process and insolvency events a 35 Business Day remedy period will be included. Events of Default will also cover (i) unremedied defaults by the Charterer under the OGX Contract Charter Contract and by the Charterer Parent under the Charterer Parent Guarantee and insolvency of the Charterer and the Charterer Parent (for so long as the same is a guarantor of the Charterer's obligations under the OGX Charter Contract) and (ii) events relating to pending litigation, arbitration or administrative proceedings against any Group Company which is a party to a Project Document or any Obligor, which could reasonably be expected to have a Material Adverse Effect. The Finance Documents will contain waterfall provisions in case of partial payments i.e. first to cover costs, fees and expenses of the Trustee (the "Trustee Expenses") and thereafter any other outstanding amounts under the Finance Documents. In case the Issuer does not pay the Trustee for incurred fees, then the Trustee may seek funding of the Trustee Expenses from bondholders or, failing them, other sources, in which case such other sources will be subrogated into the position of the Trustee, but subordinate to any further Trustee expenses.

Cross default:

- (i) any Financial Indebtedness is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described);
- (ii) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor as a result of an event of default (however described); or
- (iii) any creditor becomes entitled to declare any Financial Indebtedness is due and payable prior to its specified maturity as a result of an event of default (however described)



Draft 14 February 2012

## Cross default thresholds:

- (i) For any Financial Indebtedness of the Issuer, with a USD 3 million threshold;
- (ii) For any Financial Indebtedness of the Ultimate Parent, with a USD 30 million threshold;
- (iii) For any Financial Indebtedness of the Issuer Parent, with a USD 3 million threshold;
- (iv) For any Financial Indebtedness of and OSX Leasing, with a USD 15 million threshold;
- (v) For any Financial Indebtedness of the Charterer, with the greater of a USD 10,000,000 million threshold and 5% of its net equity; or
- (vi) For so long as it is providing the Charterer Parent Guarantee, for any Financial Indebtedness of the Charterer Parent, with a USD 60,000,000 million threshold.

## Material Adverse Effect:

Means a material adverse effect on: (a) the financial condition or operations of the Issuer, (b) any of the Issuer's or any of the Guarantors' ability to perform and comply with its obligations under the Finance Documents, or (c) the validity of any Finance Document.

## Financial Indebtedness:

Means any indebtedness incurred in respect of moneys borrowed (including acceptance credit and any overdraft facility); any bond, note, debenture, loan stock or other similar instrument; the amount of any liability in respect of any lease, hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease; receivables sold or discounted (other than any receivables sold on a non-recourse basis); any sale and lease-back transaction, or similar transaction which is treated as indebtedness under IFRS; any liability under a deferred purchase agreement where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset; any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price, including without limitation currency or interest rate swaps, caps or collar transactions (and, when calculating the value of the transaction, only the marked-to-market value shall be taken into account); any amounts raised under any other transactions having the commercial effect of a borrowing or raising of money, (including any forward sale or purchase agreement); any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of any underlying liability; and (without double counting) any guarantee, indemnity or similar assurance against financial loss of any person in respect of any of the items referred to above.

## Group Loan:

Means any loan or loan stock made or, as the context may require, to be made available by the Issuer Parent to the Issuer. Such loans shall not have any amortization or maturity date prior to the Final Maturity Date, and shall be fully subordinated to the rights of the bondholders under the Finance Documents by way of a Subordination Deed and shall have no right to accelerate for as long as the Bonds are outstanding. The Group Loans shall not pay any cash interests prior to the Final Maturity Date. For the avoidance of doubt, there shall be no Group Loan outstanding on or prior to Settlement Date (i.e. all debt will be converted to equity).

## Project Documents:

Means:

- (i) Operation Agreement;
- (ii) the OGX Charter Contract;



- (iii) the EPCI Contract; and
  - (iv) the Charterer Parent Guarantee.
- OGX Charter Contract:** Means the charter contract entered into between the Issuer and OGX Petróleo e Gás Ltda (an entity incorporated in accordance with the laws of the Federative Republic of Brazil and registered with the Brazilian tax authority under registered number CNPJ 08.926.302/0001-05) (the "Charterer"). The OGX Charter Contract shall always be directly between the Issuer and the Charterer.
- OGX Petróleo e Gás Participações S.A. will guarantee to the Issuer the obligations of the Charterer under the OGX Charter Contract (the "Charterer Parent Guarantee") (please see Private Placement Memorandum for further details).
- Management Agreements:** Means any intra-Group Company agreement for (i) the management of the FPSO, (ii) the project management and (iii) related to the allocation of costs between the Issuer and any Group Company.
- Operator:** Means OSX Serviços Operacionais Ltda., a limited liability company whose registered office is situated at Praça Mahatma Gandhi, 14-13o. andar, Centro, Rio de Janeiro, R.J., Brazil.
- Operation Agreement** Means the operation and maintenance agreement entered or to be entered into between the Charterer and the Operator in respect of the operation and management of the FPSO.
- Finance Documents:** Means:
- (i) the Bond Agreement;
  - (ii) the Security Documents (including the Guarantees);
  - (iii) the Subordination Deed;
  - (iv) the Trustee's fee letter; and
  - (v) any other document the Issuer and the Trustee agree in writing to be a Finance Document.
- Subordination Deed** An agreement between any member of the Group with monetary claims against the Issuer and the Trustee providing for the total subordination of all monetary claims including limitations on repayment, payment of interest, acceleration stop and default restrictions.
- Technical Advisor Approvals:** Means [ ] a person appointed by the Issuer, the scope of such appointment to be determined by the Issuer.
- The Bonds will be issued in accordance with the Issuer's board approval.
- Issuer's ownership of Bonds:** The Issuer has the right to acquire and own the Bonds. Such Bonds may at the Issuer's discretion be retained by the Issuer, sold or discharged.
- Sole Lead Manager and Bookrunner:** Pareto Securities AS, Dronning Mauds gt. 3, NO-0115 Oslo, Norway



09404

Draft 14 February 2012

Trustee: Norsk Tillitsmann ASA, Postboks 1470 Vika, 0116 Oslo.

Reasonableness In respect of any provisions where the Trustee is required to act "reasonably", the Trustee shall be deemed to have acted reasonably if it is acting on the instructions of the bondholders

Governing Law: Norwegian for the Bond Agreement and appropriate law for the other Finance Documents.

Registration: The Norwegian Central Securities Depository ("VPS"). Principal and interest accrued will be credited to the bondholders through VPS.

Paying Agent: [DNB Bank ASA]

Taxation: The Issuer shall pay any stamp duty and other public fees in the Netherlands accruing in connection with issuance of the Bonds or the Security Documents, but not in respect of trading of the Bonds in the secondary market, and the Issuer shall deduct before payment to the bondholders at source any applicable withholding tax payable pursuant to law.

Bond Agreement: The Bond Agreement will be entered into by the Issuer and the Trustee acting as the bondholders' representative, and it shall be based on Norwegian standard. The Bond Agreement shall regulate the bondholders' rights and obligations with respect to the Bonds. If any discrepancy should occur between this Term Sheet and the Bond Agreement, then the Bond Agreement shall prevail.

The subscriber is deemed to have granted authority to the Trustee to finalize the Bond Agreement and the Security Documents. Although minor adjustments to the structure described in this Term Sheet may occur, the provisions in the Bond Agreement will be substantially consistent with those set forth in this Term Sheet.

The Application Form specifically authorises the Trustee to execute and deliver the Bond Agreement on behalf of the prospective bondholders, who will execute and deliver such Application Forms prior to receiving Bond allotments. On this basis, the Issuer and the Trustee will execute and deliver the Bond Agreement and the latter's execution and delivery is on behalf of all of the subscribers, such that they thereby will become bound by the Bond Agreement. The Bond Agreement specifies that all Bond transfers shall be subject to the terms thereof, and the Trustee and all Bond transferees shall, when acquiring the Bonds, be deemed to have accepted the terms of the Bond Agreement, which specifies that all such transferees shall automatically become bound by the Bond Agreement upon completed transfer having been registered in the VPS, without any further action required to be taken or formalities to be complied with. The Bond Agreement shall specify that it shall be made available to the general public for inspection purposes and may, until redemption in full of the Bonds, be obtained on request by the Trustee or the Issuer, and such availability shall be recorded in the VPS particulars relating to the Bonds.

The Manager has appointed BA-HR as its external counsel to draft and/or review the Finance Documents, and has or may also appoint external counsel in the relevant jurisdictions of the Finance Documents as appropriate. Upon appointment by the Trustee, such external counsel will be acting upon instruction of the Trustee.

Stock Exchange An application will not be made for the Bonds to be listed.



Draft 14 February 2012  
listing:

03405

Market making: No market-maker agreement has been made for this Issue.

Transfer restrictions: The Bonds are freely transferable and may be pledged, subject to the following:

- (i) bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable from time to time under local laws to which a bondholder may be subject (due e.g. to its nationality, its residency, its registered address, its place(s) for doing business). Each bondholder must ensure compliance with local laws and regulations applicable at own cost and expense.
- (ii) notwithstanding the above, a bondholder which has purchased the Bonds in contradiction to mandatory restrictions applicable may nevertheless utilize its voting rights under the Bond Agreement.

Rio de Janeiro / Oslo, [●] 2012



**OSX 3 Leasing B.V.**

*As Issuer*

**OSX Brazil S/A**

*As Ultimate Parent*

**OSX Leasing Group B.V.**

*As OSX Leasing*

**OSX 3 Holding B.V.**

*As Issuer Parent*

**Pareto Securities**

**Pareto Securities AS**

*As Sole Lead Manager and  
Bookrunner*



Construction All Risk (CAR) – in place since arrival of the hull to be converted into the OSX-3 FPSO at the Jurong Shipyard
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Hull & Machinery – from Provisional Completion
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Protection & Indemnity (P&I) – from transfer of title to the OSX-3 FPSO to the Issuer
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Hull and machinery insurance against fire and usual marine risks (including excess liabilities)
War and usual dispossession risks (including war protection and indemnity risks and terrorism risks)
Protection and indemnity risks (including pollution liability risks) for the highest amount customarily available in the market for vessels of similar age, size and type as the OSX-3 FPSO (but in relation to liability for oil pollution, for an amount not less than seven hundred and fifty million Dollars (USD 750,000,000) in a protection and indemnity association or club, which is a member of the 'International Group of P&I Clubs')
All other insurances which are required by applicable law and/or international market practice for the operation of the OSX-3 FPSO





00408

**EXECUTION PAGE  
BARE BOAT CHARTER AGREEMENT  
FPSO OSX-3**

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed on the day and year first before written.

**The Owner**

**OSX 3 LEASING B.V.**

By: 

Name: CARLOS EDUARDO SARDENBERG BELLÓT

Title: Managing Director B



03403

**EXECUTION PAGE  
BARE BOAT CHARTER AGREEMENT  
FPSO OSX-3**

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be duly executed on the day and year first before written.

**The Owner**

**OSX 3 LEASING B.V.**

By: *Flavia Kaczelnik*

Name: *Flavia Kaczelnik*

Title: *MANAGING DIRECTOR A*

**CONTINUATION OF EXECUTION PAGE  
BARE BOAT CHARTER AGREEMENT  
FPSO OSX-3**

The Charterer

**OGX PETRÓLEO E GÁS LTDA.**

By: 

Name: Rui Roberto Faveret / Paulo Henrique

Title: Diretor Jurídico / Diretor Geral e de Operações




03411

**CONTINUATION OF EXECUTION PAGE  
BARE BOAT CHARTER AGREEMENT  
FPSO OSX-3**


IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed on the day and year first before written.


**The Alternative Payer**

**OSX 3 HOLDING B.V.**

By:   
Name: CARLOS EDUARDO SARMIENTO BELLAT  
Title: MANAGING DIRECTOR B

**Witnesses**

  
Name: Bruna Born  
ID: 113910751-3

  
Name: YURIKA K. F. OSHIO  
ID: 20092132-8



**CONTINUATION OF EXECUTION PAGE  
BARE BOAT CHARTER AGREEMENT  
FPSO OSX-3**

03412

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed on the day and year first before written.

**The Alternative Payer**

**OSX 3 HOLDING B.V.**

By: Flavia Kaczelnik

Name: Flavia Kaczelnik

Title: Managing Director A

**Witnesses**

\_\_\_\_\_

Name:

ID:

\_\_\_\_\_

Name:

ID:

03413

Execution Version

Dated 6 March 2012

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**OGX PETRÓLEO E GÁS PARTICIPAÇÕES S.A.**  
as Guarantor

**OSX 3 LEASING B.V.**  
As Beneficiary

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**CHARTER CONTRACT GUARANTEE**

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**THIS DEED OF GUARANTEE AND INDEMNITY** ("Guarantee") is made on the 6<sup>th</sup> day of March 2012

**BETWEEN:**

- (1) **OGX PETRÓLEO E GÁS PARTICIPAÇÕES S.A.**, a company duly incorporated and validly existing in accordance with the laws of the Federative Republic of Brazil, whose registered office is at Praça Mahatma Gandhi, 14, part, Rio de Janeiro, registered with the Brazilian tax authority under registered number CNPJ 07.957.093/0001-96 (the "Guarantor"); and
- (2) **OSX 3 LEASING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands and with company registration number 850139090 (the "Beneficiary").

**WHEREAS:**

- (A) Pursuant to an agreement entered on or about the same date hereof by and among the Beneficiary, OGX Petróleo e Gás Ltda. (the "Charterer") and OSX 3 Holding B.V. (the "Alternative Payer") the Charterer has agreed to bare boat charter from the Beneficiary a floating production, storage and offloading vessel (FPSO), to be named "OSX 3" (the "Vessel") (as may be amended, novated, supplemented, extended, restated or varied from time to time, the "Charter Contract").
- (B) It is a condition of the entering into of the Charter Contract that the Guarantor enters into and delivers this Guarantee in favour of the Beneficiary to guarantee the due performance of the Charter Contract by its subsidiary, the Charterer, in the manner hereinafter described.

**NOW IT IS HEREBY AGREED** as follows:

**1. Definitions and Interpretations**

**1.1 In this Guarantee:**

**1.1.1 "Charterer's Obligations"** shall mean (i) all liabilities and each and all of the obligations, warranties, duties, indemnities and undertakings of the Charterer to the Beneficiary under or in connection with the Charter Contract; and (ii) the payment and discharge of all sums of money and liabilities due, owing or incurred or payable, actual and contingent, by the Charterer to the Beneficiary under or in connection with the Charter Contract or as a result of any breach thereof including, without limitation, all expenses (including, without limitation, legal fees and taxes) incurred by the Beneficiary in connection with the Beneficiary seeking to enforce and/or exercise or preserve any of its rights in respect of any of the above;

**1.1.2 "Legal Reservations"** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under any applicable law and defences of set-off or counterclaim; and
- (c) similar principles, rights and defences under the laws of any relevant jurisdiction.





- 1.1.3 references to Clauses are, unless otherwise stated, to clauses of this Guarantee;
- 1.1.4 references to "Charterer", "Guarantor" and/or "Beneficiary" shall include their respective transferees, successors and permitted assigns whether immediate or derivative;
- 1.1.5 the headings to Clauses are for convenience only and have no legal effect;
- 1.1.6 references herein to any agreement or document shall be construed as referring to such agreement or document as the same may have been, or may from time to time be, varied, amended, supplemented, substituted, novated or assigned;
- 1.1.7 the expression "person" shall be construed to include reference to any person, firm, company, partnership, corporation or unincorporated body of persons or any state or government or any agency thereof;
- 1.1.8 unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa; and
- 1.1.9 where any action or decision is subject to the consent or opinion of the Beneficiary, it shall not be unreasonable for the Beneficiary to withhold its consent or deliver an opinion to the extent any financiers of the Beneficiary are entitled to (a) withhold, and have withheld, their consent to such action or decision, or (b) direct an opinion in connection with such action or decision.

1.2 The parties to this Guarantee intend it to be a deed.

**2. Guarantee and Indemnity**

2.1 The Guarantor irrevocably and unconditionally:

- 2.1.1 guarantees to the Beneficiary the prompt performance or discharge by the Charterer of the Charterer's Obligations;
- 2.1.2 undertakes with the Beneficiary that whenever the Charterer does not pay any amount or perform or discharge any obligation in respect of the Charterer's Obligations when due, it shall within five business days of demand by the Beneficiary pay that amount or perform or discharge such obligation as if it, instead of the Charterer, were expressed to be the principal obligor; and
- 2.1.3 as principal obligor, agrees to indemnify the Beneficiary within five business days of demand against any cost, loss or liability suffered by it if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal.

2.2 The Guarantor's liability under Clause 2.1 shall be no greater than the liability of the Charterer under or pursuant to the Charter Contract or what would have been the liability of the Charterer under or pursuant to the Charter Contract were it not for the unenforceability, invalidity or illegality of the Charter Contract.

**3. Continuing Guarantee**

3.1 This Guarantee is a continuing guarantee and shall remain in operation and in full force and effect (notwithstanding any intermediate satisfaction of the obligations and liabilities guaranteed hereunder by the Charterer, the Alternative Payer, the Guarantor or any other person) until the earlier of:

- 3.1.1 the date of termination pursuant to Clause 16; or



- 3.1.2 the date upon which all obligations (whether actual or contingent), warranties, duties, indemnities and undertakings now or hereafter to be carried out or performed by the Charterer under the Charter Contract and all the obligations (whether actual or contingent) of the Guarantor under this Guarantee have been satisfied or performed in full, which shall extend to the ultimate balance of all sums payable by the Charterer in respect of the Charterer's Obligations, regardless of any intermediate payment or discharge in whole or in part.

#### 4. Reinstatement

- 4.1 Where any discharge (whether in respect of the Charterer's Obligations or any security for such obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation or otherwise without limitation:

- 4.1.1 the liability of the Guarantor under this Guarantee shall continue as if such discharge had not occurred, to the extent of such avoidance or reduction; and
- 4.1.2 the Beneficiary shall be entitled to recover the value or amount of that security or payment from the Guarantor as if such discharge had not occurred, to the extent of such avoidance or reduction.

- 4.2 The Beneficiary may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

#### 5. Waiver of Defences

- 5.1 Subject to Clause 16, the obligations of the Guarantor under this Guarantee will not be affected by any act, omission, matter or thing (whether or not known to it or to the Beneficiary) which, but for this provision, would reduce, release or prejudice any of its obligations under this Guarantee or prejudice or diminish those obligations in whole or in part, including without limitation:

- 5.1.1 any time or waiver or consent granted to, or composition with, the Charterer or any other person;
- 5.1.2 the release of the Charterer or any Alternative Payer or any other person under the terms of any composition or arrangements with any creditor of the Charterer, any Alternative Payer or such other person;
- 5.1.3 any delay or forbearance (whether or not negligent) by the Beneficiary in exercising its rights or remedies under this Guarantee;
- 5.1.4 the taking, variation, compromise, exchange, renewal or release of, loss of, or refusal or neglect to perfect, take up or enforce, (whether or not negligent) any rights against, or security over assets of, the Charterer or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 5.1.5 any incapacity or lack of powers, authority or legal personality of, or dissolution or change in the members or status of, the Charterer or any other person;
- 5.1.6 any amendment, novation, supplement, extension, restatement or variation (however fundamental and whether or not more onerous) or replacement of the Charter Contract or any other document or security;
- 5.1.7 any unenforceability, illegality or invalidity of any obligation of any person under the Charter Contract or any other document or security, to the intent that the Guarantor's obligations under this Guarantee shall remain in full force and its guarantee be



construed accordingly, as if there were no such unenforceability, illegality or invalidity; or

- 5.1.8 any insolvency, liquidation or dissolution proceedings or any postponement, discharge, non-provability or similar circumstance resulting from any applicable law, regulation or order,

so that the Guarantor's obligations under this Guarantee shall be construed as if there were no such circumstance.

**6. Immediate Recourse**

**6.1 The Guarantor:**

- 6.1.1 gives the guarantee contained in this Guarantee as principal and independent obligor and not merely as a surety;
- 6.1.2 waives any right it may have of first requiring the Beneficiary to proceed against, or enforce any other rights or security or claim payment from, any person before claiming from the Guarantor under this Guarantee; and
- 6.1.3 irrevocably, absolutely and unconditionally, expressly waives the benefits set out in the sole paragraph of Article 333 and Articles 366, 821, 824, 827, 829, 834, 835, 837, 838 and 839 of the Brazilian Civil Code and Articles 77 and 595 of the Brazilian Code of Civil Procedure (to the extent that such benefits may be available to the Guarantor).

This waiver applies irrespective of any law or provision of the Charter Contract or any other document or security to the contrary.

**7. Appropriations**

**7.1 Until all amounts which may be or become payable in respect of the Charterer's Obligations have been irrevocably paid in full, the Beneficiary may:**

- 7.1.1 refrain from applying or enforcing any other moneys, security or rights held or received by the Beneficiary 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 Guarantor shall not be entitled to the benefit of the same; and
- 7.1.2 hold in a suspense account any moneys received from the Charterer on account of the Charterer's Obligations or on account of the Guarantor's liability under this Guarantee.

**8. Non-Competition**

**8.1 Until all amounts which may be or become payable and all liabilities, obligations, warranties, duties and undertakings in respect of the Charterer's Obligations have been irrevocably paid, performed or discharged in full, the Guarantor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Guarantee:**

- 8.1.1 to be subrogated to any rights, security or moneys held, received or receivable by the Beneficiary or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Guarantee;
- 8.1.2 to claim, rank, prove or vote as a creditor of the Charterer or its estate in competition with the Beneficiary unless the Beneficiary so directs (with the prior written consent of any financiers of the Beneficiary, if required) in which case it shall; or

8.1.3 to receive, claim or have the benefit of any payment, distribution or security from or on account of the Charterer, or exercise any right of set-off as against the Charterer unless the Beneficiary (with the prior written consent of any financiers of the Beneficiary, if required) so directs in which case it shall.

8.2 If the Guarantor receives any benefit, payment or distribution in relation to such rights, it shall hold in trust for, and promptly pay an equal amount to, the Beneficiary.

9. **Additional Security**

This Guarantee is in addition to and is not in any way prejudiced by any other security now or subsequently held by the Beneficiary.

10. **Representations and Warranties**

The Guarantor represents and warrants to the Beneficiary as follows.

10.1 **Status.** The Guarantor is duly incorporated and validly existing under the laws of the Brazil.

10.2 **Corporate power.** The Guarantor has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute this Guarantee; and
- (b) to make all the payments contemplated by, and to comply with, this Guarantee.

10.3 **Consents in force.** All the consents referred to in Clause 11.2 remain in force and nothing has occurred which makes any of them liable to revocation.

10.4 **Legal validity.** Subject to any applicable Legal Reservations, this Guarantee constitutes the Guarantor's legal, valid and binding obligations enforceable against the Guarantor in accordance with their respective terms and subject to any relevant insolvency laws affecting creditors' rights generally.

10.5 **No conflicts.** The execution by the Guarantor of this Guarantee and its compliance with this Guarantee will not involve or lead to a contravention of:

- (a) any law or regulation applicable to the Guarantor in the jurisdiction of its incorporation; or
- (b) the constitutional documents of the Guarantor; or
- (c) any agreement or other instrument binding upon the Guarantor or its assets which would constitute a default or termination event (howsoever described) under any such agreement or instrument.

10.6 **No default.** To the knowledge of the Guarantor, no Termination Event (as defined in the Charter Contract) has occurred and is continuing.

10.7 **Information.** All information which has been provided in writing by or on behalf of the Guarantor to the Beneficiary in connection with this Guarantee satisfies the requirements of Clause 11.1; and there has been no material adverse change in the financial position or state of affairs of the Guarantor from that disclosed in the latest of those accounts.

10.8 **No litigation.** No legal or administrative action involving the Guarantor has been started or threatened, which could reasonably be expected to have a material adverse effect on the



financial condition of the Guarantor or its ability to perform its obligations under, or otherwise comply with the terms of, this Guarantee.

- 10.9 **Commercial benefit.** This Guarantee is entered into for the Guarantor's commercial benefit and for a commercial purpose.
- 10.10 **Absence of Immunity.** The Guarantor is subject to civil and commercial law with respect to its obligations under this Guarantee, and the making and performance by it of its obligations under this Guarantee constitute private and commercial acts rather than public or governmental acts. The Guarantor is not entitled to immunity on the grounds of sovereignty or otherwise from the jurisdiction of any court or from any action, suit, set-off or proceeding, or service of process in connection therewith, arising under this Guarantee.

## 11. Undertakings

The Guarantor undertakes with the Beneficiary to comply with the following provisions of this Clause 11.

- 11.1 **Information provided to be accurate.** All financial and other information which is provided in writing by or on behalf of the Guarantor under or in connection with this Guarantee will be true and not misleading and will not omit any material fact or consideration.

- 11.2 **Consents.** The Guarantor will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Beneficiary of, all consents required:

- (a) for the Guarantor to perform its obligations under this Guarantee;
- (b) for the validity or enforceability of this Guarantee,

and the Guarantor will comply with the terms of all such consents.

- 11.3 **Notification of litigation.** The Guarantor will provide the Beneficiary with details of litigation, arbitration or administrative proceedings which are current or pending against the Guarantor, and which, if adversely determined, might have a material adverse effect on the financial condition of the Guarantor or its ability to perform its obligations under, or otherwise comply with the terms of, this Guarantee.

- 11.4 **Notification of default.** The Guarantor will immediately notify the Beneficiary as soon as the Guarantor becomes aware of:

- (a) the occurrence of a Termination Event; or
- (b) any occurrence which might adversely affect its ability to perform its obligations under this Guarantee.

- 11.5 **Maintenance of status.** The Guarantor will maintain its separate corporate existence and remain in good standing under the laws of Brazil.

- 11.6 **Registration.** The Guarantor shall as soon as reasonably practicable and in any event within twenty (20) days from the date on which it receives an original copy of this Guarantee executed by the Beneficiary (with the Beneficiary's signature notarized and consularized as set out below), file or cause to be filed a sworn translation of this Guarantee with the competent Registry of Titles and Deeds in Brazil. For the purposes of this Clause 11.6, the Beneficiary shall procure that (i) the signatures of each person signing this Guarantee on behalf of the Beneficiary be notarized by a notary public qualified as such under the laws of the place of signing and (ii) the signature of such notary public be authenticated by a Brazilian consular officer at a competent Brazilian consulate.



## 11.7 Corporate Structure.

11.7.1 The Guarantor shall not, without the prior written consent of the Owner, such consent not to be unreasonably withheld or delayed:

- (a) transfer, lease or otherwise dispose of all or the majority of its assets, whether by one transaction or a number of transactions, whether related or not;
- (b) the Guarantor shall remain the direct or indirect legal holder and beneficial owner of more than fifty per cent. (50%) of the issued and allotted share capital of the Charterer; and
- (c) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction.

11.7.2 Clause 11.7.1 does not apply to a transaction under an intra-Group reorganisation on a solvent basis and not involving any third party provided that: (i) in the reasonable opinion of the Beneficiary, such reorganisation does not adversely affect the enforceability of this Guarantee, the Charter Contract or any assignment of the Charter Contract by way of security; and (ii) no Owner Termination Event or Potential Termination Event (as described in the Charter Contract) is continuing or would occur as a result of such reorganisation.

11.7.3 The Guarantor shall give reasonable prior notice to the Beneficiary of any proposed intra-Group reorganisation in respect of the Guarantor or any of its Subsidiaries and which it is not prohibited from disclosing by any applicable law or regulation.

11.7.4 For the purposes of this Clause, "intra-Group reorganisation" shall mean any amalgamation, demerger, merger, consolidation or corporate restructuring within the Charterer Group, and "Charterer Group" shall mean the Guarantor and any Subsidiary of the Guarantor.

## 12. Assignment

The Beneficiary may assign, charge or transfer any of its rights under this Guarantee without the consent of the Guarantor.

## 13. Payments

13.1 Any amount due under this Guarantee shall be paid:

- 13.1.1 in immediately available funds;
- 13.1.2 to such account as the Beneficiary may from time to time notify to the Guarantor;
- 13.1.3 without any form of set-off, cross-claim or condition; and
- 13.1.4 free and clear of any tax deduction except a tax deduction which the Guarantor is required by law to make.

13.2 If the Guarantor is required by law to make a tax deduction, the amount due to the Beneficiary shall be increased by the amount necessary to ensure that the Beneficiary and (if the payment is not due to the Beneficiary for its own account) the party (including any assignee) beneficially interested in the payment receives and retains a net amount which, after the tax deduction, is equal to the full amount that it would otherwise have received



**14. Interest**

14.1 It is confirmed that this Guarantee covers all interest payable under and in accordance with the Charter Contract.

**15. Judgements and currency indemnity**

15.1 This Guarantee shall cover any amount payable by the Charterer under or in connection with any judgement relating to the Charter Contract. Any judgement or order of a court in England, Brazil or the Netherlands in connection with the Charter Contract and any statement of admission of the Charterer in connection with the Charter Contract shall be binding and conclusive as to all matters of fact and law to which it relates.

15.2 Clause 23 (Currency Indemnity) of the Charter Contract shall apply, with any necessary adaptations, in relation to this Guarantee.

**16. Termination**

16.1 This Guarantee shall continue in full force and effect, subject to Clause 3.1.2, until such time as the Vessel has reached twenty percent (20%) of its nominal production capacity and all of the following conditions are met by the Charterer:

16.1.1 minimum annual revenue of one billion Dollars (US\$1,000,000,000);

16.1.2 minimum annual EBITDA of five hundred million Dollars (US\$500,000,000);

16.1.3 maximum Debt / EBITDA ratio of 2.5:1;

16.1.4 minimum Net Worth / Total Liability ratio of 30/70.

16.2 The financial conditions set out in Clause 16.1 shall be calculated in accordance with generally accepted accounting practices in Brazil and tested on a semi-annual basis by reference to the most recent audited quarter financial statements of the Charterer.

16.3 Upon satisfaction of the conditions set out in Clause 16.1, the Charterer shall provide the Beneficiary with notice thereof, together with a copy of its audited quarter financial statements demonstrating the satisfaction of such conditions in the immediately preceding 12-month period, together with a compliance certificate in a form reasonably acceptable to the Beneficiary, which shall set out, in reasonable detail, the computations as to compliance with the conditions set out in Clause 16.1 and be signed by the finance director or chief financial officer of the Charterer or, in his or her absence, by two (2) directors, whereupon this Guarantee shall automatically terminate, without prejudice to Clause 16.4.

16.4 If required pursuant to the terms of the Charter Contract, the Guarantor agrees that it will enter into a replacement guarantee on the same terms as this Guarantee, notwithstanding the prior termination of this Guarantee. For the avoidance of doubt, this Clause 16.4 shall survive termination of this Guarantee for the duration of the Charter Contract.

**17. Notices**

Any notice to be given under this Guarantee shall be in writing and delivered by hand and/or sent by post (first class recorded delivery) or facsimile (in the case of facsimile to be confirmed in writing within twenty four (24) hours of being sent by such notice being delivered or sent by first class recorded delivery as aforesaid). The address for service of each party shall be as follows:



03420

**Guarantor:**

OGX PETRÓLEO E GÁS PARTICIPAÇÕES S.A.  
Praça Mahatma Gandhi, 14, part  
Centro, Rio de Janeiro, RJ  
Brasil, CEP - 20031-100

Attention: José Roberto Faveret  
Fax: +51 21 2555 5202

**Beneficiary:**

OSX 3 LEASING B.V.  
Haagsche Hof, Parkstraat 83, offices 209/210  
2514 JG, the Hague  
The Netherlands

Attention: Flavia Kaczelnik  
Fax: +31(0)70 353 8333

c.c. Luciano Porto  
Praça Mahatma Gandhi, 14 - 13º Andar  
Centro, Rio de Janeiro, RJ  
Brasil, CEP - 20031-100  
Fax: +55 21 2555 4079

**18. Miscellaneous**

- 18.1 The Beneficiary is entitled to make any number of demands under this Guarantee.
- 18.2 The invalidity, illegality or unenforceability in whole or in part of any of the provisions of this Guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this Guarantee.
- 18.3 The Beneficiary's rights under and in connection with this Guarantee are cumulative, may be exercised as often as appears expedient and shall not be taken to limit any right or remedy conferred by law.
- 18.4 If any provision of this Guarantee is or subsequently becomes void, illegal, unenforceable or otherwise invalid, that shall not affect the validity or enforceability of the other provisions of this Guarantee.
- 18.5 This Guarantee shall not impair, nor be impaired by, any other guarantee, security interest or right of set-off or netting or to combine accounts, which the Beneficiary or any assignee may hold in connection with the Charter Contract.
- 18.6 Nothing in this Guarantee is intended to confer on any person any right to enforce any provision of this Guarantee which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

**19. Counterparts**

- 19.1 This Guarantee may be executed in any number of counterparts each of which shall be an original and all of such counterparts taken together shall be deemed to constitute one and the same instrument.





**20. Governing Law and Arbitration**

- 20.1 This Guarantee and any non-contractual obligations connected with it are governed by and shall be construed in accordance with English law.
- 20.2 Any dispute, difference or disagreement arising under, out of or in connection with this Guarantee, including any question regarding its existence, validity or termination and any non contractual obligations arising out of this Guarantee shall be finally settled by arbitration in accordance with the rules of the London Court of International Arbitration (LCIA) as at present in force. There shall be three (3) arbitrators. Each party shall appoint an arbitrator and the two so appointed shall jointly appoint a third arbitrator. In the event that a party fails to appoint an arbitrator within fourteen (14) days of a request to do so, the party referring the dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and advise the other party accordingly. The award of a sole arbitrator shall be final and binding on both parties as if he had been appointed by agreement. The seat and place of arbitration shall be London, England, provided that the arbitral award shall be rendered in Rio de Janeiro, Brazil. The English language shall be used throughout the arbitral proceedings.
- 20.3 The parties to this Guarantee hereby waive any rights under the Arbitration Act 1996 or otherwise to appeal any arbitration award to, or to seek determination of a preliminary point of law by, the courts of England.
- 20.4 If arbitral proceedings are commenced under this Guarantee and any other Transaction Document(s) (as such term is defined in the Charter Contract), and any party to such proceedings contends that the proceedings are substantially related or involve the same parties and that the issues should be heard in one arbitration, the tribunal first appointed under any Transaction Document (the "Tribunal") shall have the power to determine whether, in the interests of justice, consistency and efficiency, the whole or part of the matters at issue should be consolidated before the Tribunal upon such terms as the Tribunal thinks fit. The Parties expressly accept that any dispute under this Guarantee may accordingly be disposed of in the same arbitration proceedings as any dispute arising under any other Transaction Document, even in the presence of parties other than the parties to this Guarantee and even where the parties in each of the arbitrations differ. If any or all members of the Tribunal shall be unable or unwilling to act, the replacement member(s) of the Tribunal shall be directly appointed by the Party that originally appointed such member (if any) or, if such member was appointed by the other arbitrators, by such arbitrators.

IN WITNESS whereof this Guarantee has been executed as a deed and delivered by the Guarantor and the Beneficiary the day and year first before written.

**GUARANTOR**

EXECUTED AS A DEED by  
OGX PETRÓLEO E GÁS PARTICIPAÇÕES S.A.  
on being signed by a duly authorised signatory  
acting with the authority of the Guarantor

)  
)  
)  
)  
)

*[Handwritten Signature]*  
 .....  
 (Authorised Signatory)  
 José Roberto Favaret / Paulo Henrique  
 Diretor Jurídico / Diretor Geral e  
 PE Extraorçao

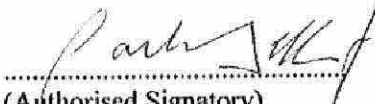


Continuation of signature page of the Charter Contract Guarantee dated 6 March 2012


**BENEFICIARY**

**EXECUTED AS A DEED** by  
**OSX 3 LEASING B.V.**  
on being signed by a duly authorised signatory  
acting with the authority of the Beneficiary


)  
)  
)  
)

  
.....  
(Authorised Signatory)  
CARLOS EDUARDO SAPERBERG BELLUT  
MANAGING DIRECTOR B

**WITNESS**

Name: YURIKA R.F. OSKIO -   
Address: PÇA. MAHATMA GANDHI, 14 - 13º ANDAR. CENTRO - RJ.

**WITNESS**

Name: BRUNA BORN -   
Address: PÇA MAHATMA GANDHI, 14 - 13º ANDAR, CENTRO - RJ



Continuation of signature page of the Charter Contract Guarantee dated 6 March 2012

**BENEFICIARY**

**EXECUTED AS A DEED** by  
**OSX 3 LEASING B.V.**  
on being signed by a duly authorised signatory  
acting with the authority of the Beneficiary

)  
) *[Handwritten Signature]*  
) .....  
) **(Authorised Signatory)**  
) FLAVIA KACZELNIK  
) MANAGING DIRECTOR &

**WITNESS**

Name:

Address:

**WITNESS**

Name:

Address:

## **Contrato de Operação OSX-3**

(Contrato de Operação relativo ao Navio Flutuante de Produção, Armazenagem e Descarga (FPSO) OSX-3), entre OSX Serviços e OGX, com interveniência-anuência da OSX-3 Leasing B.V., datado de 06.09.2012

03495

Dated 06 September 2013

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**OGX PETRÓLEO E GÁS S.A.**  
**OSX SERVIÇOS OPERACIONAIS LTDA.**  
**OSX 3 LEASING B.V. (as intervening consenting party)**

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**Operation Agreement**  
**in respect of**  
**One (1) Floating Production Storage and**  
**Offloading (FPSO) Vessel**  
**OSX-3**

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**THIS OPERATION AGREEMENT** (this "Agreement") is made on 06 September 2013

**BETWEEN:**

- (1) **OGX PETRÓLEO E GÁS S.A.** (formerly OGX Petróleo e Gás Ltda.), a company duly incorporated and validly existing in accordance with the laws of the Federative Republic of Brazil, whose registered office is at Praça Mahatma Gandhi nº. 14, 15º, 16º, 17º, 18º andares e 3º e 19º andares - parte, CEP 200031-100, Rio de Janeiro (RJ), Brazil, registered with the Brazilian tax authority under registered number CNPJ 08.926.302/0001-05 (the "Charterer"); and
- (2) **OSX SERVIÇOS OPERACIONAIS LTDA.**, a company duly incorporated and validly existing in accordance with the laws of the Federative Republic of Brazil, whose registered office is at Praça Mahatma Gandhi nº. 14, 13º andar - parte, CEP 200031-100, Rio de Janeiro (RJ), Brazil, registered with the Brazilian tax authority under registered number CNPJ 11.437.203/0001-66, acting through its headquarters or any branch office (the "Operator")
- each a "Party" and together the "Parties"; and
- (3) **OSX 3 LEASING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Parkstraat 83, offices 209/210, 2514 JG, The Hague, the Netherlands (the "Owner"), solely in the capacity of intervening consenting party, without assuming any obligations or liabilities hereunder.

**WHEREAS:**

- (A) Pursuant to the EPCI Contract, the Owner has contracted with the EPCI Contractor for the engineering, procurement, construction and installation of the Vessel and the Vessel Components, of which Owner will acquire the property.
- (B) Pursuant to the Bare Boat Charter, the Owner has bare boat chartered the Vessel to the Charterer.
- (C) The Charterer now wishes to contract with the Operator for the operation and maintenance of the Vessel and the Vessel Components, in accordance with Clause 6.1 of the Bare Boat Charter.
- (D) The Operator has agreed to operate and maintain the Vessel and the Vessel Components on the terms set out herein, which operation and maintenance shall be executed simultaneously with the Bare Boat Charter.

**IT IS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement (including in the Recitals and Annexes hereto, all of which form an integral part of this Agreement) capitalised terms and expressions shall, unless the context otherwise requires, have the following meanings:

"Acts of War" means any acts of war, declared or not, hostilities, revolution, acts of terrorism, civil war or insurrections.

"Affiliate" means, in respect of a Party, any company or entity that controls or is controlled by such Party, or any company or entity that is under common control with such Party, except: (OSX)





in the case of the Charterer, OSX Brasil S.A. or any company or entity controlled by it; and (b) in the case of the Operator, OGX Petróleo e Gás Participações S.A. or any company or entity controlled by it. For the purpose of this definition, 'control' means the right or ability, directly or indirectly, to exercise or direct the exercise of more than fifty percent (50%) of the voting rights of such company or entity in relation to the appointment of directors or equivalent managers, either through the holding of shares or by virtue of any agreement between the shareholders.

"ANP" means the Brazilian petroleum regulator, the Agência Nacional do Petróleo, Gás Natural e Biocombustíveis, or any successor in function thereto.

"Applicable Law" means applicable national, state, municipal, international or supra-national conventions, treaties, laws, rules, statutes, decrees, acts, codes, legislation, treaties, directives, decisions, regulations, rules and similar instruments (including, without any limitation whatsoever, all Environmental Laws, international maritime laws, the ISPS Code, the STCW Code and all conditions and recommendations of the Classification Society) (in each case whether civil, criminal or administrative) and, in respect of any of the foregoing, any instrument passed in substitution therefor or for the purposes of consolidation thereof with any other instrument or instruments.

"Bare Boat Charter" means the bare boat charter agreement in respect of the Vessel dated 6 March 2012 between, *inter alia*, the Owner and the Charterer, as amended.

"Bond Financing" means the USD 500 million Norwegian law senior secured bond issue 2012/2015 launched in March 2012 by the Owner as borrower and Norsk Tillistmann as the Bond Trustee for the purpose of part-financing the Project.

"Business Day" means any day other than a Saturday or Sunday or any public holiday in the country of Brazil, the state or the municipality of Rio de Janeiro.

"Charterer Group" means the Charterer, Charterer Personnel, Affiliates of the Charterer, Co-venturers, and the contractors and subcontractors of the Charterer, except for OSX Brasil S.A. and any of its Subsidiaries.

"Charterer Items" means any and all materials, equipment, machines, spare parts, tools or other items of the Charterer Group provided and/or used in connection with operations on the Vessel or at the Operation Site.

"Charterer Personnel" means all personnel of the Charterer, its Co-venturers, its and their Affiliates, its and their contractors and subcontractors engaged in connection with operations on the Vessel or at the Operation Site (in each case, except for OSX Brasil S.A. and any of its Subsidiaries), including their respective directors, employees, officers, agents and invitees.

"Charterer Representative" means the member of Charterer Personnel designated as such by the Charterer in accordance with Clause 8.3.

"Charterer Termination Event" means any one of the events specified in Clause 19.2 (*Charterer Termination Events*) of this Agreement that permit termination of this Agreement by the Charterer.

"Classification Society" means any classification society which is a member of the International Association of Classification Societies.

**"Compulsory Acquisition"** means requisition for title or other compulsory acquisition, nationalisation, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Vessel by any Government Entity or other competent authority, whether *de jure* or *de facto*, but shall exclude requisition for use or hire not involving requisition of title.

**"Consequential Loss"** means any indirect or consequential loss howsoever caused or arising whether under contract, by virtue of any fiduciary duty, in tort or delict (including negligence), as a consequence of breach of any duty (statutory, contractual or otherwise) or under any other legal doctrine or principle whatsoever whether or not recoverable, whether or not foreseeable at the date of this Agreement, and shall be deemed to include the following to the extent to which they might not otherwise constitute indirect or consequential losses:

- (a) loss or damage arising out of delay, postponement, interruption to or loss of production, any inability to produce, deliver or process hydrocarbons or any loss of or anticipated loss of use, profit or revenue (*'lucros cessantes'*);
- (b) losses associated with business interruption including the cost of overheads incurred during business interruption; and
- (c) loss or deferment of bargain, contract, expectation or opportunity.

**"Corporate Income Tax"** means corporate income tax (*'Imposto de Renda - Pessoa Jurídica (IRPJ)*) and social contributions levied on net profits (*'Contribuição Social sobre o Lucro Líquido'* (CSLL)) and any and all present or future similar Taxes (of any nature and however termed) which are now or at any time hereafter imposed, assessed, charged, levied, collected, demanded, withheld or claimed by any taxing authority and are assessed upon the income, profits or gains of the entity which is subject thereto, together with all interest thereon and penalties or similar liabilities with respect thereto.

**"Co-venturer"** means any company or legal entity, including any Affiliate of the Charterer, which holds any rights in any consortium, joint venture or association with the Charterer in relation to any concession, production sharing or similar agreement for the exploration and/or production of oil and/or gas in the Operation Site. The Parties agree that the Charterer has entered into this Agreement on behalf of itself and as agent for its Co-venturers, if any. Notwithstanding the foregoing, the Operator shall only look to the Charterer for due performance of this Agreement and nothing in this Agreement shall impose any liability on or entitle the Operator to make any judicial or extrajudicial claim against any Co-venturer.

**"Data"** means all plans, models, designs, print-outs, reports, samples, slides, specifications, manuscripts, notes, documentation, manuals, photographs, negatives, tapes, disks, software, computer files or anything similar.

**"Default Rate"** means twelve per cent (12%) per annum.

**"Delivery"** means the delivery of the Vessel from the Charterer to the Operator in accordance with Clause 4.1 (*Delivery*).

**"Delivery Certificate"** means the certificate of acceptance by the Operator of the Vessel substantially in the form set out in Annex VII (*Form of Delivery Certificate*).

**"Delivery Date"** means the date on which Delivery occurs.

**"Dispute"** has the meaning given to such term in Clause 22.2.1.



**"Dollars"** and **"US\$"** mean the lawful currency of the United States of America.

**"Encumbrance"** means any mortgage, charge (whether fixed or floating), pledge, lien, option, claim, hypothecation, title retention or prior right arising or given by way of security or any other security interest or other preferential arrangement (whether or not constituting a security interest) of any kind or any lease, charter, exercise of rights or disposition of title or any agreement to give any of the foregoing.

**"Environment"** means all or any of the following media: air (including air within buildings or other structures and whether below or above ground); land (including buildings and any other structures or erections in, on or under it and any soil and anything below the surface of the land); land covered with water; water (including sea, ground and surface water and any living organism supported by such media), and, living organism supported by natural or man-made environment, and the interaction of all living species.

**"Environmental and Social Matters"** includes (a) the generation, deposit, disposal, keeping, treatment, transportation, transmission, handling, importation, exportation, processing, collection, sorting, presence or manufacture of any Pollutant and/or any Hazardous Material; (b) nuisance, noise, traffic or defective premises; (c) the pollution, conservation or protection of the Environment (both natural and built) or of man or any living organisms supported by the Environment; (d) emissions, discharges, releases or threatened releases of any Pollutant or Hazardous Material into the environment including, without limitation, ambient air, surface water, groundwater, or land; (e) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of any Pollutant or Hazardous Material, (f) health and safety at work (including illness, injury and hazards), (g) Labour Laws, (h) labour rights, worker rights, or human rights; or (i) any material matter whatsoever relating to human health, environment, social issues or health and safety.

**"Environmental Claim"** means, with respect to the Project, or, where associated to the Project, the Owner or Charterer, to the best of its knowledge, any claim, prosecution, demand, action, official warning, abatement or other order (conditional or otherwise) relating to the following, (i) Environmental and Social Matters, (ii) a Spill or in response to a Spill, (iii) Hazardous Materials, (iv) compliance with the terms of any Environmental Licence or any Environmental Law.

**"Environmental Incident"** means any Spill, explosion, fire or release of Hazardous Material from any vessel in circumstances where:

- (a) the Vessel, the Charterer or the Operator of the Vessel is reasonably likely to be liable for Environmental Claims arising from the occurrence (other than Environmental Claims arising and fully satisfied before the date of this Agreement);
- (b) the Vessel may be arrested or attached in connection with any such Environmental Claim; and/or
- (a) there are occurrence of any deaths or significant injuries.

**"Environmental Law"** includes the following:

- (a) all or any applicable law, statute, rule, ordinance, regulation, treaty, by-law, code of practice generally accepted and applied within the global oil and gas industry relating to Environmental and Social Matters (for the purposes of this definition, the "Laws"),



- (b) any applicable judicial, arbitral or administrative interpretation of any Laws relating to Environmental and Social Matters, or
- (c) any binding order, decree, arbitral award, decision of the courts, or of any governmental authority or agency or any other regulatory or other relevant body in any relevant jurisdiction imposing liability or setting standards of conduct relating to Environmental and Social Matters now or hereafter in effect.

**“Environmental Licence”** includes any permit, licence, authorisation, consent or other approval required at any time by any Environmental Law for the operation of the Charterer’s, the Operator’s or OGX Petróleo e Gás Participações S.A.’s business or in order for the Charterer or the Operator, as the case may be, to comply with their respective obligations under the Transaction Documents.

**“EPCI Contract”** means the contract for the engineering, procurement, construction, installation and commissioning of the Vessel entered into between the Owner and the EPCI Contractor on 15 July 2011, as amended from time to time.

**“EPCI Contractor”** means Modec Inc., a company incorporated under the laws of Japan, with its registered office at Nihonbashi Maruzen Tokyu Building, 3-10, Nihonbashi 2 chome, Chuo-ku, Tokyo, Japan.

**“Event of Loss”** means any damage, including a Total Loss, suffered by the Vessel.

**“Expiry Date”** means the twentieth (20th) anniversary of the Delivery Date.

**“FGTS”** means the Brazilian social security fund, Fundo de Garantia do Tempo de Serviço, or any similar fund introduced from time to time in substitution for or in addition to the foregoing.

**“Force Majeure”** means any event which prevents the due performance of any of the obligations of a Party under this Agreement, which by the exercise of all reasonable due diligence such Party is unable to avoid and includes, to the extent such events satisfy the aforementioned conditions, blockades and economic embargoes, riots, strikes (except for any strikes limited to the employees of the Party claiming Force Majeure), lockouts, labour and civil disturbances, Acts of God, earthquakes, sabotage, terrorism, insurrections, Acts of War, acts of any Government Entity or military agency acting under actual or assumed authority or any other cause or events or circumstances beyond the control of either Party, whether or not similar to the matters herein specifically enumerated, but excluding financial crises or economic hardship. It is understood and the Parties agree that the following shall not constitute a Force Majeure:

- (a) breakdown in machinery or equipment used to perform the Services, except where such breakdown is a result of another event which constitutes Force Majeure under this Agreement;
- (b) adverse weather conditions, except for adverse weather conditions which are named storms or hurricanes or otherwise constitute weather conditions which are more difficult than conditions encountered at the place concerned any time within ten (10) years before the date of this Agreement;
- (c) local strike or labour conflict limited solely to Operator’s or any of the Operator’s contractor’s or subcontractor’s employees;



- (d) insolvency or other failure in performance of any contractor or subcontractor, unless such failure is caused by a Force Majeure event and also constitutes force majeure between the Operator and such contractor or subcontractor;
- (e) a defect or shortage of labour, materials or equipment, unless this is caused by conditions that constitute Force Majeure;
- (f) a mere shortage of supplies; or
- (g) any contractual commitment made to a third party which limits the ability of a Party to perform its obligations hereunder.

**"Good Oil and Gas Practice"** means the standards of quality, operational safety, efficiency and effectiveness employed by an experienced international contractor when carrying out production operations from offshore oil and gas wells and related services for a world class and internationally renowned petroleum exploration and production operator.

**"Government Entity"** means and includes (whether having a distinct legal personality or not) any national, state or local government legal authority, board, commission, department, division, organ, instrumentality, court, administrative court or body or agency.

**"Hazardous Material"** means any substance or wastes that is regulated or could lead to liability under any Environmental Law, including, but not limited to, any petroleum, petroleum product, by-product or component, petroleum distillate or derivative, low specific activity residues resulting from the production of hydrocarbons, asbestos, or asbestos containing material, in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls (PCB's), radioactive materials, radon, mold, urea formaldehyde insulation, or chlorofluorocarbons or other ozone-depleting substances, greenhouse gases (including carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydroflouorocarbons, chloroflouorocarbons, perfluorocarbons and other fluorinated greenhouse gases, or radioactive, explosive, medical or biohazardous materials), hazardous waste, hazardous material, hazardous substance, toxic substance, contaminant or pollutant, as defined or regulated as such under any applicable Environmental Law.

**"IBAMA"** means the Brazilian environmental agency, Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis, or any successor in function thereto.

**"Imported Goods"** has the meaning given to such term in Clause 9.3.1.

**"Insurances"** means any and all contracts or policies of insurance and reinsurance required to be effected from time to time in respect of the Vessel.

**"ISPS Code"** means the International Vessel and Port Security Code of the International Maritime Organization, including any amendments and includes any amendments or extensions and any regulation issued pursuant to it.

**"Location"** means any location within the Operation Site where the Vessel shall be anchored from time to time for the provision of the Services in accordance with the Production Program.

**"Long Term Financing"** means the long term debt financing in an amount sufficient to meet 70-80% of the total estimated costs of the Project, which the Owner, as the "Borrower", intends to obtain from one or more financing parties for the purposes of financing the engineering, procurement, construction and installation of the Vessel, provided further that Owner expects to



use a portion of the proceeds of the Long Term Financing to take out any outstanding amounts under the Bond Financing.

**"Losses"** means any losses, costs, charges, expenses, interest, fees and outgoings of whatsoever nature (including, without limitation, reasonable legal fees and any Taxes and VAT thereon), payments, claims, suits, demands, liabilities, penalties, damages, adverse judgments, orders or other sanctions.

**"Margin"** means the margin payable by the Charterer to the Operator on Reimbursable Costs by way of remuneration for the provision by the Operator of the Services, as calculated in accordance with paragraph 9 of Annex II (*Operator Reimbursement and Remuneration*).

**"Maritime Registry"** means the maritime registry of Liberia or such other registry as may be agreed from time to time between the Charterer and the Owner.

**"Material Adverse Effect"** means with respect to either Party, a material adverse effect on (i) the ability of such Party to perform all or any of its material obligations under, or otherwise to comply with the terms of, the Transaction Documents to which it is party or (ii) the business, operations, assets or the financial condition of such Party.

**"Off-Spec Oil"** means the oil produced and stored at the Vessel that fails to meet the specifications set out in Clause 7.34.1.

**"Operation Period"** means the period commencing on the Delivery Date and ending on the Termination Date.

**"Operation Site"** means the Waikiki oil complex (Concession Contracts No. 48610.001367/2008-54 and 48610.001368/2008-07) in the Campos basin or any other oil field with similar characteristics offshore Brazil, where the Vessel will be moored and operated, as notified from time to time by the Charterer and agreed by the Owner, which agreement shall not be unreasonably withheld.

**"Operational Efficiency"** means the operational efficiency of the Vessel as more particularly defined in paragraph 4 of Annex II (*Operator Reimbursement and Remuneration*).

**"Operator Group"** means the Operator, Operator Personnel, Affiliates of the Operator, contractors and subcontractors of the Operator, except any member of Charterer Group.

**"Operator Items"** means any and all materials, equipment, machines, spare parts, tools or other items of the Operator Group provided and/or used in the performance of the Services.

**"Operator Personnel"** means all personnel to be provided by the Operator, its Affiliates or any of its contractors and subcontractors (except any member of Charterer Group) in connection with the performance of the Services, including their respective directors, employees, officers, agents and invitees.

**"Operator Representative"** means the member of Operator Personnel designated as such by the Operator in accordance with Clause 7.26.

**"Operator Termination Event"** means any one of the events specified in Clause 19.1 (*Operator Termination Events*) of this Agreement that permit termination by the Operator.

**"Permitted Encumbrance"** means, in relation to the Platform and any Platform Component, any Encumbrance over them which is:



- (a) granted by the Bond Financing or the Long Term Financing or any document entered into in connection therewith;
- (b) unless a Termination Event is continuing, any builder's, repairer's or outfitter's possessory lien in respect of the Platform for an amount not exceeding the Major Casualty Amount unless otherwise covered by Insurances;
- (c) any lien for wages payable to any personnel working on the Platform, outstanding in the ordinary course of its business which are not overdue;
- (d) any lien for salvage;
- (e) any lien arising in the ordinary course of business or operation of the Platform created by statute or by operation of law in Brazil or at the Operation Site (and constituting a bona fide, non-discriminatory measure of general application) after the date of this Agreement and in respect of obligations which are not overdue or which are being contested in good faith by appropriate proceedings (and for the payment of which adequate reserves have been provided) so long as any such proceedings or the continued existence of such lien do not, in the reasonable opinion of the Owner, involve any likelihood of the sale, forfeiture or loss of, or of any interest in, or loss of use for a period exceeding twenty (20) days of, the Platform; or
- (f) approved by the Owner.

**"Pollutant"** means and includes crude oil and its products, any other polluting, toxic or hazardous substance and any other substance whose release into the Environment is regulated or penalised by Environmental Laws.

**"Potential Termination Event"** means any event which would, with the passage of time, the making of any determination or the issuing of any notice constitute a Termination Event.

**"Production Operation"** means any and all operations directly or indirectly relating to the production, collection, processing, treatment, storage and transfer of oil, gas, associated water or a mixture of the foregoing, compression of gas for gas lift and injection of gas and/or water into the Reservoir(s), conducted at the Operation Site using the Vessel, including the performance of extended well tests of exploration, appraisal or production wells.

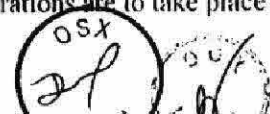
**"Production Program"** means the program of production from Wells in specified Reservoir(s), including but not limited to the adjustment and control of the relevant process variables, of a confidential nature, to be notified by the Charterer to the Operator in relation to the Production Operations to be conducted by the Operator using the Vessel at the Operation Site.

**"Project"** means the project to construct, install, charter and operate the Vessel for the receipt, processing and testing of crude oil, gas and water from oil wells from the Operation Site and exporting crude oil, as more particularly described in this Agreement.

**"Redelivery Location"** has the meaning given to such term in Clause 12.1.2.

**"Reimbursable Costs"** has the meaning given to such term in paragraph 2 of Annex II (*Operator Reimbursement and Remuneration*).

**"Reservoir"** means an accumulation of hydrocarbons contained in formations of porous or fractured subsurface rock of the earth's crust, trapped beneath a cap rock of low permeability. The Charterer shall specify the Reservoir(s) where Production Operations are to take place and

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provide details of the characteristics thereof to the extent necessary to enable performance of the Production Operations by the Operator.

**"Requisition for Hire"** means the requisition for use of the Vessel by any Government Entity which results in the loss of possession thereof by the Charterer.

**"Requisition Proceeds"** means with respect to any Compulsory Acquisition or Requisition for Hire, any compensation paid to the Charterer or the Owner (other than the proceeds of any Insurances) in respect of such Compulsory Acquisition or Requisition for Hire.

**"Services"** means all operations to be performed by the Operator, its employees, contractors, subcontractors or agents, as well as all obligations and responsibilities assumed by the Operator in accordance with the programs and requirements of the Charterer, as specified, described or established in this Agreement, as the same may be supplemented or modified pursuant to agreement between the Parties. The Services shall include, without limitation, procuring, mobilising, demobilising, transporting, supplying, supervising, controlling, managing and/or operating machines, equipment, tools, materials, spare parts, accessories, consumables and personnel, tasks and all the activities relating to Production Operations, including the importation pursuant to Brazilian temporary admission and special customs regimes (including 'REPETRO') of the Vessel and the Vessel Components. Services do not include the tasks and operations that are expressly the responsibility of the Charterer pursuant to this Agreement.

**"Spill"** means with respect to any chemical, material or substance any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or other introduction into the Environment of such chemical, material or substance, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material.

**"STCW Code"** means the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and the code related thereto.

**"Subsidiary"** means, in respect of a party, any company or entity that is controlled by such party. For the purpose of this definition, 'control' means the right or ability, directly or indirectly, to exercise or direct the exercise of more than fifty percent (50%) of the voting rights of such company or entity in relation to the appointment of directors or equivalent managers, either through the holding of shares or by virtue of any agreement between the shareholders.

**"Supporting Airport"** means the port designated by the Charterer in accordance with Clause 8.9 from where the Charterer shall transport Operator Items and Operator Personnel to the Vessel by means of air transport (helicopters) and to where the same shall be transported by means of air transport (helicopters) when disembarking from the Vessel.

**"Supporting Port"** means the port designated by the Charterer in accordance with Clause 8.9 from where the Charterer shall transport Operator Items and Operator Personnel to the Vessel by means of maritime transport and to where the same shall be transported by means of maritime transport when disembarking from the Vessel.

**"Taxes"** means any and all present or future taxes (of any nature and however termed), levies, fiscal charges, imposts, duties, fees and assessments, however arising which are now or at any time hereafter imposed, assessed, charged, levied, collected, demanded, withheld or claimed by any taxing authority, together with all interest thereon and penalties or similar liabilities with respect thereto and "Tax" and "Taxation" shall be construed accordingly.





**"Termination Date"** means, subject to Clause 4.2.2, the Expiry Date or such earlier date on which this Agreement is terminated in accordance with the terms of this Agreement.

**"Termination Event"** means any one of the events specified in Clause 19.1 (*Operator Termination Events*) or 19.2 (*Charterer Termination Events*) of this Agreement.

**"Total Loss"** means, in relation to the Platform, its:

- (a) actual, constructive, compromised or arranged total loss; or
- (b) requisition for title, confiscation (excluding a Requisition for Hire for a fixed period against payment of market hire, not exceeding one year without any right to extension) or other Compulsory Acquisition by a Government Entity; or
- (c) hijacking, theft, condemnation, capture, seizure, arrest (other than by a creditor) or detention for more than one hundred and eighty (180) days.

**"Transaction Documents"** means this Agreement and the Bare Boat Charter.

**"Vessel"** means the floating production, storage and offloading vessel as more particularly described in Annex I (*Description of Vessel and Vessel Components*).

**"Vessel Components"** means (i) all outfit, machinery, equipment (including the equipment to safely moor the Vessel), spare parts, appliances, furniture, fittings, furnishings, appurtenances and stores needed to ensure the operability of the Vessel which are procured and delivered by the EPCI Contractor to the Owner in accordance with the terms of the EPCI Contract; and (ii) all substitutions, replacements and renewals of the same in or on the Vessel made pursuant to Clause 10.3 (*Repairs*).

**"Vessel Warranties"** means (i) each and all of the warranties, indemnities and performance guarantees given by the EPCI Contractor to the Owner pursuant to the EPCI Contract and the use of which has been transferred to the Charterer pursuant to the Bare Boat Charter, (ii) the right of the Charterer to compel performance by the EPCI Contractor in respect thereof and (iii) the right to any and all payments (including judgment amounts), claims and damages in respect thereof.

**"Well(s)"** means any and all petroleum wells in the Operation Site, now existing or to be drilled, plugged, side-tracked, tested, evaluated, completed, re-entered, worked over, deepened or to be produced from, decommissioned or abandoned in accordance with any Production Program or in connection with this Agreement.

## 1.2 Interpretation

Clause headings and the table of contents are inserted for convenience of reference only and shall be ignored in the interpretation of this Agreement.

## 1.3 Construction

In this Agreement, unless the context otherwise requires:

- 1.3.1 references to Clauses and Annexes are to be construed as references to the clauses of and annexes to, this Agreement and references to this Agreement include its Annexes;



- 1.3.2 references to (or to any specified provision of) this Agreement or any other document shall be construed as references to this Agreement, that document or that provision as in force for the time being and as amended, supplemented, modified, varied or novated from time to time in compliance with any obligation in that regard contained in this Agreement or that document and in accordance with the terms hereof and thereof;
- 1.3.3 words importing the plural shall include the singular and vice versa;
- 1.3.4 references to any law, enactment or other statutory provision shall be deemed to include references to such law, enactment or other statutory provision as re-enacted, amended, extended, consolidated or replaced and any orders, decrees, proclamations, regulations, instruments or other subordinate legislation made thereunder;
- 1.3.5 words importing any gender shall be construed as including every gender;
- 1.3.6 references to "continuing" means in relation to a Termination Event where such event has not been duly remedied within the relevant grace period (if applicable) nor waived in accordance with the terms of this Agreement;
- 1.3.7 references to "hereof", "herein" and "hereunder" and other words of similar import mean this Agreement as a whole and not any particular part hereof;
- 1.3.8 references to "indemnify", "indemnity" and other words of similar import shall include being indemnified, being compensated, being held harmless and being reimbursed;
- 1.3.9 references to any person shall where the context permits include respective successors, transferees and permitted assigns and any persons deriving title under them; and
- 1.3.10 references to "person" mean any natural person, corporation, firm, joint venture, partnership, association, enterprise, trust or other entity or organisation or any Government Entity; and
- 1.3.11 the words "other", "include" and "including" do not connote limitation in any way.

## 2. PURPOSE - SCOPE OF SERVICES

- 2.1 The Operator, in accordance with the provisions of this Agreement, will carry out the Production Operations and all Services in the manner specified in this Agreement.
- 2.2 The Services include, but are not limited to, the performance of all tasks and operations connected with the production of hydrocarbons by and through the Vessel, in accordance with Good Oil and Gas Practice.
- 2.3 The Production Operations shall be executed in accordance with the Production Program, which shall be delivered by the Charterer reasonably in advance of the commencement of operations relating to each Well. The Charterer may alter the Production Program at any time by giving sufficient advance notice to the Operator.
- 2.4 For the avoidance of doubt, operations relating to extended well tests and pilot production programs shall also be deemed to be Production Operations.
- 2.5 The Services include bureaucratic formalities relating to the importation and customs clearance of the Vessel and the Vessel Components and obtaining all licences, consents and authorizations



in relation thereto, including concession of temporary admission and special customs regimes (including 'REPETRO') from the relevant Brazilian authorities, including the Brazilian tax authority ('Receita Federal'), maritime authority ('Diretoria de Portos e Costas), health and safety agency ('Agência Nacional de Vigilância Sanitária') and other Government Entities, but excluding Environmental Licences and other licences, consents and authorizations that, by their own nature, can only be obtained by the Charterer or other parties.

### 3. REPRESENTATIONS AND WARRANTIES

Each Party makes the representations and warranties set out in Clauses 3.1 to 3.4 below and the Operator makes the representation and warranty set out in Clause 3.5 below at the date hereof and acknowledges that the other Party has entered into the Transaction Documents in reliance on those representations and warranties:

- 3.1 Due Incorporation: it is duly organised or formed and validly existing under the laws of its jurisdiction of incorporation;
- 3.2 Due Authorization: it has the requisite corporate power to execute and perform its obligations under this Agreement and such execution and performance have been duly authorised by all appropriate corporate action;
- 3.3 No Conflict: the execution, delivery and performance by it of this Agreement does not and will not conflict with its constitutional documents, any other agreement by which it or its assets are bound or any Applicable Laws;
- 3.4 Valid Obligations: all of its obligations hereunder constitute its legal, valid and binding, unsecured and unsubordinated obligations ranking *pari passu* with all its other unsecured and unsubordinated obligations (actual or contingent) other than those that are generally preferred by law or which on an insolvency, and without any agreement, notarisation or other voluntary act, would be preferred by law;
- 3.5 Termination Event: no Potential Termination Event or Termination Event has occurred and is continuing or will result from the entry into or performance by it of this Agreement.

### 4. DELIVERY, CONTRACT TERM AND REGISTRATION

#### 4.1 Delivery

- 4.1.1 The Charterer undertakes to deliver the Vessel and transfer care and custody thereof to the Operator at the same place and simultaneously with the delivery thereof pursuant to the terms of the Bare Boat Charter.
- 4.1.2 The execution of the Delivery Certificate by the Operator shall be conclusive evidence that the Charterer has delivered and the Operator has accepted delivery of the Vessel under and for the purposes of this Agreement.
- 4.1.3 Notwithstanding the foregoing provisions of this Clause 4.1, the Operator and/or Owner may, directly or through third parties, enter into arrangements with third parties for the purpose of mobilising, installing, mooring and/or commissioning the Vessel.
- 4.1.4 The Owner, in the capacity of intervening consenting party, expressly and irrevocably expresses its agreement to the terms in respect of the transfer of possession of the Vessel to the Operator pursuant to Clause 4.1.1. Such agreement shall be entirely without prejudice to the terms and conditions of the Bare Boat Charter.

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#### 4.2 Operation Period

- 4.2.1 The Operator agrees to operate the Vessel in accordance with this Agreement for the period commencing on the Delivery Date and ending on the Expiry Date, subject to Clause 4.2.2 or any earlier termination in accordance with this Agreement.
- 4.2.2 If, upon the Expiry Date, the Vessel is engaged in a Production Operation that cannot be interrupted without prejudice to the activities of the Charterer, the term of this Agreement shall be automatically extended until the conclusion of such Production Operation. For the avoidance of doubt, the mere financial impact of cessation of production due to the expiry of this Agreement shall not, without more, constitute a ground for the automatic extension of the term of this Agreement.

#### 4.3 Flag and Registration

The Vessel will fly the flag of, and will be registered in, the Maritime Registry in the name of the Owner.

#### 4.4 Assistance and Cooperation of Operator

- 4.4.1 The Operator shall provide all reasonable assistance which is needed by the Charterer relating to the registration of the Vessel, the Charterer, the Owner and any mortgage entered into in connection with the Bond Financing or the Long Term Financing required to be filed with the Maritime Registry (and to the filing of this Agreement and/or the Bare Boat Charter, if applicable) with the Maritime Registry.
- 4.4.2 The Operator agrees that it has no right, title or interest in or to the Vessel.

#### 4.5 Classification

- 4.5.1 Following the Delivery Date, the Operator shall at all times during the Operation Period ensure that the Vessel shall be properly classified at the highest standards for a vessel of its type and class within the Classification Society.
- 4.5.2 The Charterer may, from time to time during the Operation Period and subject to Owner's consent, change the classification company of the Vessel provided such classification company is a Classification Society and provided that the Charterer shall provide the Operator with at least fifteen (15) Business Days' prior written notice of any such change. All costs and expenses arising out of a change in the Classification Society (including without limitation, the costs associated with any reclassification works) shall be paid for by the Charterer.

#### 4.6 Hidden Defects

- 4.6.1 The Operator will accept the Vessel under this Agreement in the condition in which the Vessel is found on the Delivery Date, on an "as is, where is" basis.

### 5. OWNERSHIP OF THE VESSEL

#### 5.1 Rights and Interests of Owner

During the Operation Period, the Owner will at all times remain the exclusive owner of the Vessel.



## 5.2 Undertakings of the Operator

In recognition of the ownership rights of the Owner and the rights of the Charterer under the Bare Boat Charter, throughout the Operation Period and at the sole cost and expense of the Operator, the Operator shall:

- 5.2.1 defend the exclusive ownership interest of the Owner in the Vessel and the Vessel Components and the interest of the Charterer under the Bare Boat Charter vis-à-vis third parties and shall, in the event of Compulsory Acquisition, Requisition for Hire, angary, theft, forfeiture, arrest or seizure of the Vessel, inform the Charterer without delay as soon as it becomes aware of the same and shall make all protests, file all actions, exercise all remedies and take all reasonably available measures to preserve the interests of the Owner and the Charterer and to recover the free use of the Vessel;
- 5.2.2 make known to all third parties to whom notification is necessary in order to preserve the rights of the Owner as owner, the Charterer as charterer and of any mortgagee, that the Vessel is and remains the exclusive property of the Owner, is bare boat chartered to the Charterer and is subject to any naval mortgage required to be filed with the Maritime Registry;
- 5.2.3 not purport or attempt to sell, mortgage or pledge the Vessel, whether or not for compensation;
- 5.2.4 not create, incur or permit to arise or to exist upon the Vessel any Encumbrance whatsoever other than any Permitted Encumbrance;
- 5.2.5 ensure that there are on board the Vessel and accessible, copies of all drawings and specifications of the Vessel and all other documents which are required by Applicable Law to be kept on board the Vessel; and
- 5.2.6 cause to be affixed on the bridge and in the master's cabin of the Vessel in a completely visible position, and to maintain in such position unobscured and unobliterated, framed notices inscribed as follows:

"THIS VESSEL IS THE PROPERTY OF OSX 3 LEASING B.V., A COMPANY WITH ITS REGISTERED OFFICE AT PARKSTRAAT 83, OFFICES 209/210, 2514 JG, THE HAGUE, THE NETHERLANDS; IS UNDER BAREBOAT CHARTER TO OGX PETRÓLEO E GÁS S.A., A COMPANY WITH ITS REGISTERED OFFICE AT PRAÇA MAHATMA GANDHI Nº. 14, 15º, 16º, 17º, 18º ANDARES E 3º E 19º ANDARES - PARTE, CEP 200031-100, RIO DE JANEIRO (RJ), BRAZIL; IS OPERATED BY OSX SERVIÇOS OPERACIONAIS LTDA., A COMPANY WITH ITS REGISTERED OFFICE AT PRAÇA MAHATMA GANDHI Nº. 14, 13º ANDAR - PARTE, CEP 200031-100, RIO DE JANEIRO (RJ), BRAZIL AND IS SUBJECT TO A MORTGAGE IN FAVOUR OF NORSK TILLITSMANN ASA."

"NOTICE OF MORTGAGE

THIS VESSEL IS SUBJECT TO A FIRST MORTGAGE IN FAVOUR OF NORSK TILLITSMANN ASA ACTING AS BOND TRUSTEE FOR AND ON BEHALF OF THE RELEVANT SECURED PARTIES. UNDER THE SAID MORTGAGE AND RELATED DOCUMENTS, NEITHER THE OWNER NOR ANY CHARTERER NOR THE MASTER OF THIS VESSEL HAS ANY RIGHT, POWER OR AUTHORITY TO CREATE, INCUR OR PERMIT TO BE IMPOSED UPON THIS VESSEL ANY COMMITMENTS OR ENCUMBRANCES WHATSOEVER OTHER THAN FOR CREW'S WAGES AND SALVAGE".



### 5.3 Charterer's Preservation Rights

In the event that any Encumbrance other than a Permitted Encumbrance shall arise on or over the Vessel, the Charterer, without being obliged to do so, shall have the right with prior notice to and, where reasonably practicable, prior consultation with, the Operator to pay and discharge all obligations and liabilities whatsoever which have given rise to such Encumbrance and to take all other steps necessary to prevent a threatened arrest or procure the release of the Vessel and the Operator shall forthwith indemnify the Charterer for any Losses properly incurred or suffered by the Charterer arising in connection with the exercise of such right.

## 6. RISKS AND INDEMNITIES

### 6.1 Operator and Charterer Liabilities

6.1.1 Except as otherwise expressly set out herein, each Party shall bear responsibility for its own liabilities in respect of labour, Tax (including REPETRO), civil and pensions / social security matters, and all costs (including legal fees) incurred in investigating, complying with or challenging the same, without limitation.

6.1.2 Notwithstanding the above, and except as otherwise set out in Clause 6.10 and elsewhere in this Agreement, Operator's liabilities as aforementioned shall constitute Reimbursable Costs, provided that they are: (i) incurred for the purpose of performing the Services; and (ii) subject to reimbursement by the Charterer in accordance with Annex II (*Operator Reimbursement and Remuneration*).

6.1.3 Subject to Clause 6.1.4, Operator's liabilities as aforementioned in Clause 6.1.1, which are incurred due to any failure by the Operator to comply in a timely manner with any Applicable Law, shall not constitute Reimbursable Costs.

6.1.4 To the extent that the Operator's liabilities as aforementioned in Clause 6.1.2 are increased (such as through fines, penalties, charges and other sanctions) due to any failure by the Operator to comply, in a timely manner, with any Applicable Law, Operator shall only be entitled to Reimbursable Costs in an amount equal to the amount of such liabilities that the Operator would have incurred, had no such Operator's failure occurred.

### 6.2 Operator Items

Except as otherwise expressly set out in this Clause 6 (*Risks and Indemnities*), the Operator shall assume full and sole responsibility and liability and bear the risk at all times in relation to each and all of the Operator Items, the Vessel or other property of the Operator Group, including any and all damage thereto and/or loss or destruction thereof, and the Charterer shall be under no liability whatsoever to reimburse the Operator or otherwise pay for any such damage, loss or destruction. Accordingly, the Operator shall at all times indemnify, defend and hold the Charterer harmless from and against any and all Losses of any nature whatsoever resulting from or in connection with such Operator Items, the Vessel and other Operator Group property, including any and all damage thereto and/or loss or destruction thereof.

### 6.3 Charterer Items

The Charterer shall assume full and sole responsibility and liability and bear the risk at all times in relation to each and all of the Charterer Items or other property of the Charterer Group, including any and all damage thereto and/or loss or destruction thereof, and the Operator shall be under no liability whatsoever to reimburse the Charterer or otherwise pay for any such

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damage, loss or destruction. Accordingly, the Charterer shall at all times indemnify, defend and hold the Operator harmless from and against any and all Losses of any nature whatsoever resulting from or in connection with such Charterer Items and Charterer Group property, including any and all damage thereto and/or loss or destruction thereof.

#### 6.4 Operator Personnel and Personal Property

The Operator shall, at all times, assume liability for and shall indemnify and hold the Charterer harmless from and against any and all Losses of any nature whatever resulting from or in connection with any bodily injury, sickness or death of Operator Personnel and/or loss of or damage to their personal property in connection with the performance of this Agreement from any cause whatsoever.

#### 6.5 Charterer Personnel and Personal Property

The Charterer shall, at all times, assume liability for and shall indemnify and hold the Operator harmless from and against any and all Losses of any nature whatever resulting from or in connection with any bodily injury, sickness or death of Charterer Personnel and/or loss of or damage to their personal property in connection with the performance of this Agreement from any cause whatsoever.

#### 6.6 Operator Indemnity in respect of Third Parties

The Operator shall, at all times, indemnify and hold the Charterer harmless from and against any and all Losses of any nature whatever resulting from or in connection with any injury, sickness or death of any third party and/or the loss, damage or destruction of the property of any third party (which, for the purposes of this Clause, shall exclude any members of Operator Group and Charterer Group) arising out of, in the course of or by reason of any act or task carried out by any member of Operator Group in connection with this Agreement.

#### 6.7 Charterer Indemnity in respect of Third Parties

Subject to Clause 6.10, the Charterer shall, at all times, indemnify and hold the Operator harmless from and against any and all Losses of any nature whatever resulting from or in connection with any injury, sickness or death of any third party and/or the loss, damage or destruction of the property of any third party (which, for the purposes of this Clause, shall exclude any members of Operator Group and Charterer Group) arising out of, in the course of or by reason of any act or task carried out by any member of Charterer Group in connection with this Agreement.

#### 6.8 Operator Indemnity in respect of Intellectual Property

The Operator shall, at all times, indemnify and hold harmless the Charterer from and against any and all Losses resulting from or in connection with any infringement or improper use of patents, intellectual property, design, trademark, name or other protected rights of any third party, arising out of or in connection with the use or incorporation of any of the foregoing in any Operator Items or the Vessel.

#### 6.9 Charterer Indemnity in respect of Intellectual Property

The Charterer shall, at all times, indemnify and hold harmless the Operator from and against any and all Losses resulting from or in connection with any infringement or improper use of patents, intellectual property, design, trademark, name or other protected rights of any third

party, arising out of or in connection with the use or incorporation of any of the foregoing in any Charterer Items.

6.10 Operator Indemnity in respect of Fines, Penalties etc.

6.10.1 Subject to Clauses 6.10.2 and 6.11, the Operator shall, at all times, indemnify and hold harmless the Charterer from and against any and all fines, penalties, charges and other sanctions imposed by any applicable Government Entity on the Operator or the Charterer directly in relation to the operation of the Vessel and all costs (including legal fees) reasonably incurred by the Operator or the Charterer in investigating, complying with or challenging the same, arising out of or in connection with any failure by the Operator to comply with Applicable Law or with its obligations under this Agreement.

6.10.2 For the avoidance of doubt, the indemnity set out in Clause 6.10.1 above shall not apply in respect of any obligations for which one of the Parties expressly indemnifies the other under any other provision of this Agreement.

6.11 Limitation of Operator Indemnity in respect of Fines, Penalties etc.

6.11.1 Subject to Clause 6.10.2, the obligation of the Operator to indemnify and hold harmless the Charterer pursuant to Clause 6.10.1 above shall not apply to the extent that the total liability in respect thereof in any calendar month exceeds twenty five percent (25%) of the Margin earned by Operator during such calendar month, provided, for the avoidance of doubt, that the limitation set out in this Clause 6.11.1 shall only apply in respect of fines, penalties, charges and other sanctions and costs imposed by any applicable Government Entity on the Operator or the Charterer that are directly related to the operation of the Vessel (including, for example, fines of the ANP and the Maritime Registry), but not in respect of those fines, penalties, charges or other sanctions and costs, whether arising from judicial or administrative proceedings or otherwise, in respect of labour, Tax (including 'REPETRO'), civil and pensions / social security liabilities of the Operator, which shall be subject to Clause 6.1.

6.11.2 The limitation set out in Clause 6.11.1 above shall not apply in respect of the next following calendar month if further fines, penalties, charges or other sanctions are imposed on the Operator in such month for the same reason as the same were imposed in the previous month, provided that the Operator's total liability pursuant to the indemnity set out in Clause 6.10.1 shall, in any event, be limited to one hundred percent (100%) of the Margin earned by Operator during such calendar month. For the avoidance of doubt, if the situation described above continues for more than two (2) consecutive months, the limitation set out in Clause 6.11.1 shall only apply in respect of the first calendar month and every second calendar month thereafter and the limitation set out in this Clause 6.11.2 shall apply in respect of every other calendar month.

6.12 Well and Reservoir Damage

In the event that any Well or Reservoir or potential hydrocarbon bearing zone be lost or damaged or destroyed, partially or totally, then such loss or damage or destruction and any consequences thereof shall be borne by the Charterer and the Charterer shall, at all times, indemnify and hold the Operator harmless from and against any and all Losses of any nature whatever resulting from or in connection with such damage or destruction.





## 6.13 Pollution

- 6.13.1 Subject to Clauses 6.13.3 and 6.13.4, the Operator shall at all times assume liability for the control, removal, cleaning and containment of pollution or Spills or contamination emanating from the Vessel and any Vessel Components relating to this Agreement and located above the surface of the water and which were not caused by any act or omission of the Charterer, including, without limitation, spills of hydraulic fluids, fuels, lubricants, motor oil, drilling fluids, pipe dope, paints or solvents and garbage, and Operator shall indemnify and hold the Charterer harmless from and against any and all Losses of any nature whatever resulting from such pollution, Spills or contamination that might occur in relation to this Agreement, provided however, that the Charterer shall supply, at the Operator's sole cost, and whenever so requested by the Operator, any subcontractors and specialized equipment that might be required for the control, or otherwise as a result, of such pollution, Spill or contamination.
- 6.13.2 Notwithstanding Clause 6.13.1, the Charterer shall at all times assume liability for the control, removal, cleaning and containment of pollution, spills or contamination by crude oil originating from below the surface and which were not caused by any act or omission of the Operator in the performance of the Services pursuant to this Agreement. In the aforementioned circumstances, the Charterer shall indemnify and hold the Operator and its subcontractors harmless from and against any and all Losses arising from or as a result of such pollution, Spills or contamination occurring during the performance of the Services pursuant to this Agreement.
- 6.13.3 Without prejudice to the Operator's obligation to indemnify the Charterer in respect of the costs thereof pursuant to Clause 6.13.1, the Charterer shall assume control of any operations for the control, removal, cleaning and containment of pollution, spills or contamination emanating from the Vessel, any Wells or any equipment relating to this Agreement or Production Operations, whether above or below the surface of the water, in accordance with the requirements of Applicable Law.
- 6.13.4 The Operator's liability for Losses under Clause 6.13.1 and, if applicable, for Losses arising under Clause 6.13.2 or at law, shall be limited to a maximum of one million eight hundred thousand Brazilian Reais (BRL1,800,000) (or equivalent in any other currency) per occurrence. The Charterer shall at all times, indemnify and hold harmless the Operator from and against any and all Losses as aforesaid to the extent the same exceed the limitation on Operator's liability, as set out in this Clause 6.13.4.

## 6.14 Wrecks and Debris

The Operator shall be responsible for the removal of any wreck or debris of the Vessel or any other Operator Items if required by Applicable Law or any Government Entity, or when the operations of the Charterer Group could be delayed, impeded or suspended if such wreck or debris is not removed, or where such wreck or debris could otherwise be a danger to fishing activity. To the extent that the event that gave rise to such wreck or debris has been caused by any act or omission of the Operator in the performance of the Services pursuant to this Agreement, the Operator shall indemnify and hold harmless the Charterer from and against any Losses arising from or as a result of any such wrecks or debris.

## 6.15 Negligence

The indemnities set out in this Agreement shall, unless otherwise expressly provided, apply irrespective of who shall have caused the relevant Losses and even if the same shall have been



caused by the negligence or breach of duty (statutory or otherwise) of the indemnified Party or its Group.

#### 6.16 Formal Consent

6.16.1 Neither Party shall make any admission of liability in respect of any claim, suit, demand, proceedings, attorney's and court fees or other Losses of any nature, for whatever reason, for which the other Party is or might be liable to indemnify that Party hereunder, nor take any action to settle or compromise any such claims, suits, demands, proceedings, attorney's and court fees or other Losses, without the prior written approval and consent of the other Party.

6.16.2 Notwithstanding Clause 6.16.1, immediately upon receipt of notice of any claims, suits, demands and proceedings referred to in Clause 6.16.1 above, the Party receiving any such notice shall immediately notify the other Party in writing thereof and shall also supply such other Party with all information and documents in connection therewith as such other Party may reasonably require.

#### 6.17 Continuing Obligations

The rights, obligations, liabilities and responsibilities set out in this Clause 6 shall continue in effect and survive the expiration of this Agreement, howsoever occasioned, whether pursuant to contract or at law. Such termination or expiration shall not serve as a waiver by either Party of its rights, obligations, liabilities, responsibilities and remedies accrued up to that point in time.

### 7. OPERATOR'S RIGHTS AND DUTIES

#### 7.1 Operation

The Operator shall have full access to the Vessel in the capacity of operator and, commencing on the Delivery Date, shall operate and manage the Vessel on behalf of the Charterer. The Operator shall ensure the proper operation and management of the Vessel in accordance with Applicable Law.

#### 7.2 Authorisations

The Operator must at all times have, and be able to prove that it has, all authorisations required by Applicable Law for the mobilization and/or operation of the Vessel.

#### 7.3 Compliance with Laws and Codes

7.3.1 The Operator shall comply with all Applicable Laws and all relevant customs, usages and recognised practices in respect of the operation, identification and registration of the Vessel and documents to be maintained in respect of the Vessel and it shall carry out and perform all actions and formalities (including, to the extent permitted by Applicable Law, those which would otherwise be the responsibility of the Owner as owner of the Vessel or the Charterer as bare boat charterer of the Vessel) which are necessary or which are required under Applicable Law. The Charterer shall cooperate with the Operator and provide all assistance as may be reasonably necessary in a timely manner in connection with any change of name and/or flag.

7.3.2 Without prejudice to the generality of Clause 7.3.1, the Operator shall, in the operation of the Vessel, respect the rules of safety and hygiene, water pollution, the traffic regulations applicable at sea and in harbour and the rules regarding the control of



persons on board and the competence and aptitude of officers and seagoing personnel, in each case in accordance with Applicable Law.

- 7.3.3 Without prejudice to the generality of Clause 7.3.1, the Operator shall ensure that at all times throughout the Operation Period, all officers and personnel are trained and certified to a standard customary for first class floating production, storage and offloading vessels in accordance with the STCW Code and have subscribed to a policy concerning drug and alcohol use which meets or exceeds the standards in the Oil Companies International Marine Forum Guidelines for the Control of Drugs and Alcohol Onboard Ship.
- 7.3.4 Without prejudice to the generality of Clause 7.3.1, the Operator shall comply with and ensure that the Vessel at all times complies with the requirements of the ISPS Code in force from time to time and shall obtain its ISPS certificate in respect thereof within twelve (12) months following the commencement of Production Operations and immediately inform the Charterer if there is any threatened or actual withdrawal thereof.
- 7.3.5 The Operator shall maintain all log books, manuals, plans, maintenance records and other related documents required by Applicable Law for the operation of the Vessel and the Operator shall keep on board the Vessel all such documents and certificates (as are required from time to time by Applicable Law).
- 7.3.6 The Operator undertakes not to employ the Vessel, or suffer her employment:
  - (a) in any trade or business other than the production, receipt, loading, off-loading, processing and storage of crude oil;
  - (b) in any manner which is prohibited by or otherwise illicit under any Applicable Law;
  - (c) in any territory in respect of which insurance cover is not available or in any manner which is or is likely to be outside the scope and cover of the Insurances;
  - (d) in loading or carrying nuclear fuel or radioactive products or waste, save for radio-isotopes used or intended to be used for any industrial, commercial, agricultural, medical or scientific purposes, and in respect of which the Charterer has obtained, prior to the loading thereof, appropriate insurance cover;
  - (e) in any manner whatsoever which is likely to render (i) the Owner or the Charterer liable to penalties; (ii) the Owner or the Charterer liable to condemnation in a prize court; or (iii) the Vessel liable to destruction, seizure or confiscation by any person, body or Government Entity whatsoever.

7.4 Testing

The Operator shall submit the Vessel to all periodic or annual checks, departure visits and inspections, tests and surveys required by Applicable Law or prudent practice.

7.5 Vessel Warranties



The Operator shall be solely responsible for monitoring the compliance of the Vessel with the Vessel Warranties.

The Operator shall, during the Operation Period for so long as no Termination Event has occurred and is continuing, be entitled to the benefit of the Vessel Warranties, provided that the Operator shall use its best endeavours to enforce the Vessel Warranties and shall apply any payments, claims and damages in respect thereof for the repair or otherwise for the benefit of the Vessel and such payments, claims and damages shall not constitute Reimbursable Costs.

#### 7.6 Navigational Zones

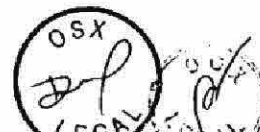
- 7.6.1 The Operator shall not permit the Vessel to undergo any voyage or transportation other than for the purpose of remobilization, redelivery of the Vessel to the Redelivery Location and as expressly authorised in advance by the Charterer.
- 7.6.2 The Operator shall, at any time upon request of the Charterer, inform the Charterer of the current location of the Vessel.
- 7.6.3 All costs and expenses of all types incurred as a result of any assistance, salvage or rescue operation shall be borne by the Charterer and any remuneration payable in respect of any assistance or salvage or rescue operation shall be paid in full to the Charterer or (if received by the Operator) be promptly and fully paid over to the Charterer.

#### 7.7 Good Practice

- 7.7.1 The Operator shall conduct and perform the Services with due care, diligence, efficiency and effectiveness, in a safe and functional manner, without delays or unnecessary interruptions, and in accordance with Good Oil and Gas Practice and the terms and conditions of this Agreement.
- 7.7.2 The Operator shall follow internationally accepted standards and processes and, wherever possible, the standards of the American Petroleum Institute (API), without prejudice to other internationally accepted standards relating to quality, safety and the Environment.
- 7.7.3 The Operator shall operate in strict observance of the recommendations of manufacturers of the materials and equipments used in the performance of the Services.

#### 7.8 Operation of the Vessel

- 7.8.1 The Operator shall provide the Services, operating the Vessel and its Vessel Components described in Annex I (*Description of Vessel and Vessel Components*), twenty four (24) hours per day, seven (7) days per week, in accordance with the other provisions of this Agreement, including the Annexes hereto, within international standards for services of this nature, as well as the terms and conditions established herein.
- 7.8.2 The Operator shall perform the Services in strict conformity with international health and safety standards for work of this nature, with the objective of protecting the Environment, the life and wellbeing of persons and materials and equipment of the Operator, the Charterer and its and their other contractors and subcontractors.



- 7.8.3 The Operator shall make inspections, in accordance with the frequency established in the Operator's procedures to be approved by the Charterer, of the key parts and systems of the Vessel, its components and accessories.
- 7.8.4 The Operator shall maintain statutory and other mandatory registers and certificates relating to the Vessel, procuring and effecting within the necessary time periods, the relevant surveys and inspections of the competent authorities and organizations, including but not limited to the Classification Society, the International Maritime Organization, the Brazilian maritime authority ('Diretoria de Portos e Costas') and environmental agency (IBAMA), in order to ensure the compliance of the Vessel and its continued operation.
- 7.8.5 The Operator shall provide the Charterer with a program for inspections of the Vessel on an annual basis, including in particular, but without limitation, inspection of the oil storage tanks in order to allow the Charterer to properly plan offloading tankers.
- 7.8.6 The Operator shall make available on board the Vessel all technical documentation relating to the Vessel, the processing plant and equipment on board, including catalogues, designs, drawings, electrical circuit plans and processing flow charts, as well as maintenance, operation and safety manuals.
- 7.8.7 The Operator shall afford the Charterer free access to documentation relating to the Vessel, the processing plant and equipment on board, including reports of maintenance and inspections carried out by the Operator or its contractors and subcontractors and statutory inspections carried out by certifying entities or Government Entities or regulatory bodies.

#### 7.9 Maintenance

- 7.9.1 The Operator shall maintain the Vessel and procure all materials, components, spare parts, accessories and consumables necessary to ensure the best operating conditions.
- 7.9.2 The Operator shall maintain all measuring equipment properly calibrated and with proper and up-to-date calibration certificates in accordance with Applicable Law.

#### 7.10 Connection and Disconnection of Risers

- 7.10.1 The Operator shall be responsible for all operations and procedures relating to the pull-in, connection and disconnection of risers inside the Vessel.
- 7.10.2 Operations of pull-in, connection and disconnection of risers, when required by the Charterer, shall be executed twenty four (24) hours per day without interruption, in order to minimize shut in of production through the Vessel.
- 7.10.3 The Charterer shall give the Operator at least sixty (60) days' prior notice of any operations to pull in, connect or disconnect risers.
- 7.10.4 Services relating to laying of pipelines, including support vessels and related diving services shall be the responsibility of the Charterer in accordance with Clause 8.12 (*Laying of Pipelines and Flowlines and Installation of Risers*).

#### 7.11 Anchoring and Installation

If the Operation Site is changed during the Operation Period in accordance with this Agreement:

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- 7.11.1 The Operator shall prepare an anchoring plan for the Vessel for submission to the Charterer at least sixty (60) days prior to the arrival of the Vessel at the Operation Site, for the Charterer's analysis and approval. The Charterer shall have the right to demand changes to the anchoring plan and to the resources allocated to its implementation.
- 7.11.2 The Operator shall provide all materials related to the anchorage system and necessary equipment and accessories for its installation, but excluding vessels for the laying and installation of the anchorage system, which will be provided by the Charterer.
- 7.11.3 The Operator shall be responsible for the installation and maintenance of the anchorage system and supervision and execution of the positioning and anchorage of the Vessel.

7.12 Laboratories and Analyses

The Operator shall maintain a properly equipped laboratory and properly qualified professionals for the performance of chemical tests and shall be responsible for all consumables that may be required in connection therewith.

7.13 Planning of Services

The Operator shall plan and conduct the activities for which it is responsible so as to avoid accidents and interruptions to Production Operations and, in particular, shall be careful to avoid leakage of oil or gas, fire and personal injuries. The Operator is solely and exclusively responsible for the performance of the Services. Notwithstanding the foregoing, the Operator shall take account of the proposals of the Charterer in planning its activities.

7.14 Charterer Items

- 7.14.1 Taking account of the capacity of the Vessel and the availability of space, the Operator shall permit the installation and storage of Charterer Items on board the Vessel.
- 7.14.2 The Operator shall provide necessary infrastructure and facilities for the installation and operation of such Charterer Items on board the Vessel that may be necessary for Production Operations.
- 7.14.3 The Operator shall effect and supervise all operations involving the movements of such materials and equipment on board the Vessel and between the Vessel and support vessels.

7.15 Licences and Permits

- 7.15.1 Subject to Clause 8.14, the Operator shall maintain for the duration of this Agreement, all the operating licences and permit conditions, relating to the activities of the Operator, that are appropriate and relevant to the performance of the Services.
- 7.15.2 The Operator shall respect legal determinations or decisions of Government Entities or regulatory authorities.
- 7.15.3 Subject to Clause 8.14, the Operator shall obtain from the relevant Government Entities or regulatory authorities, the licences relating to its activities necessary for the performance of the Services.



## 7.16 Operator Personnel

- 7.16.1 The Operator is solely and exclusively responsible for the operation, supervision, technical instruction, administration and management of the workforce necessary for the complete and efficient performance of the Services.
- 7.16.2 Subject to Annex II (*Operator Reimbursement and Remuneration*), the Operator is solely and exclusively responsible for maintaining an adequate and sufficient crew in order to perform the Services and fulfilling the requirements of Applicable Law and the competent Government Entities and regulatory authorities. The list of personnel set out in Annex VI (*Operator Personnel on Board the Vessel*) is the minimum crew on board the Vessel that may be required for these purposes. The Operator shall engage crew for the performance of the Services in accordance with the requirements of Annex VI (*Operator Personnel on Board the Vessel*).
- 7.16.3 The Operator shall ensure that technical Operator Personnel possess proven technical competence in their respective areas of specialisation and shall submit their respective 'curricula vitae' upon the request of the Charterer.
- 7.16.4 The Operator shall present and keep up-to-date the training certificates, licences and permits of its technical Operator Personnel in the specialised areas required for the performance of the Services and in accordance with Applicable Law and applicable standards and guidelines issued by internationally recognised organisations.
- 7.16.5 The Operator shall provide training and/or refresher courses for Operator Personnel in safety, environmental and occupational health matters, as required by the management system of the Operator.
- 7.16.6 The Operator shall immediately notify the Charterer of the occurrence of any accident resulting in the physical injury or death of any person on board the Vessel, providing with respect to any Operator Personnel, a copy of the relevant 'Notice of Work Accident' ('Comunicação de Acidente de Trabalho') required by the Ministry of Work and Employment.
- 7.16.7 The Operator shall, from time to time upon request of the Charterer, provide to the Charterer Representative a list of the names of all Operator Personnel engaged in performing the Services and shall substitute any such Operator Personnel upon the reasonable request of the Charterer.
- 7.16.8 The Operator shall ensure that Operator Personnel wear a uniform that is orange or red or any other colour that may be agreed between the Parties, identified with the name or logo of the Operator, and use personal safety equipment that is adequate for the performance of the Services, in accordance with Applicable Law.
- 7.16.9 The Operator shall provide its employees engaged in the performance of the Services with medical and dental insurance, and shall, upon request, provide the Charterer with evidence of its satisfaction of this requirement.
- 7.16.10 The Operator shall satisfy, in respect of any foreign personnel that may be employed in the performance of the Services, the Law 6.815/80 (Statute of Foreigners) and the applicable regulations of the Ministry of Work and Employment and the National Counsel for Immigration, especially, but without limitation, by obtaining the necessary temporary work visa and maintaining proportionality between Brazilian and foreign personnel.



## 7.17 Social and Labour Obligations

- 7.17.1 The Operator shall from time to time upon request present the Charterer Representative the necessary documentation to prove compliance with its employer's obligations, including social security contributions and FGTS deposits for its employees, in accordance with Applicable Law.
- 7.17.2 If the Charterer is required to pay any amount imposed as a result of, any joint or subsidiary liability of the Charterer, as established by any judicial body, tribunal or arbitrator, in relation to the non-fulfilment by the Operator of its employer, social security, Tax or FGTS obligations in respect of the employees of the Operator, such amount shall be treated as a liability of the Operator and subject to the provisions of Clause 6.1.

## 7.18 Reports

The Operator shall issue the following reports by notice to the Charterer at the intervals set out below:

- 7.18.1 Daily Operations Report, related to the performance of the Services, which shall describe the operations performed in accordance with the Production Program and any irregularities that may have occurred.
- 7.18.2 Daily Production Bulletin and Stock and Transfers Report, containing oil and gas production information, treated oil stored, transfers carried out, gas and water volumes injected and other relevant information, as requested by the Charterer Representative prior to the commencement of the Services and from time to time revised to fulfil the Charterer's needs and any requirements of the ANP.
- 7.18.3 Monthly Measurement Report, related to the performance of the Services, which shall specify (i) the various items and materials employed in respect of the Services / operations carried out in the relevant month and the Reimbursable Costs in respect thereof (including, inter alia, personnel, services, consumables, materials, insurances, administrative and overhead and other miscellaneous items), and (ii) the calculation of the variable Margin that shall be applied on the aggregate amount of the Reimbursable Costs in accordance with Annex II (*Operator Reimbursement and Remuneration*); and this document shall serve as the basis for issuing the monthly invoice as per Clause 11 (*Payments*).
- 7.18.4 Any other report, on the format and frequency reasonably required by the Charterer.

## 7.19 Materials for Consumption, Operation and Maintenance and Accessories

- 7.19.1 The Operator shall be responsible for the provision of all accessories and materials for consumption and for the operation and maintenance of the Vessel, including but not limited to grease, lubricants, solvents, cleaning products, cloths, fabrics, paints, sandpaper, spare parts, tools, steel cables, slings and accessories for the movement and lifting of loads and other materials necessary to maintain the Vessel in perfect condition twenty four (24) hours per day and seven (7) days per week. Such materials shall constitute Operator Items.
- 7.19.2 The Operator shall also be responsible for the supply of materials (including injection water filters) and, subject to Clause 7.33, chemical products used in the processing plant and in the treatment of petroleum, gas and water, except as set out in Clause 8.6.

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7.19.3 The Operator shall be responsible for the provision, maintenance and repositioning of the pipe for transferring petroleum to the offloading tankers, cables for positioning and securing of offloading tankers and support vessels, pipes and connecting adaptors for the receipt of diesel oil from support vessels, defence buoys for mooring of support vessels and all ancillary materials and tools relating to such operations.

#### 7.20 Consumption of Fuel and Water

7.20.1 Without prejudice to the Production Program, the Operator shall adopt specific procedures to minimise the consumption of fuel and water.

7.20.2 The Operator shall use industrial water in cleaning the Vessel and shall seek to avoid excessive consumption, always giving priority to the use of water in Production Operations and using seawater wherever possible.

7.20.3 The Operator shall maintain the seawater desalination unit in good operating condition. The Charterer shall only supply industrial water necessary for the needs of the Vessel in excess of that produced by the desalination unit.

7.20.4 The Operator shall maintain the combustion engines properly tuned to ensure economical fuel consumption.

#### 7.21 Processing Plant

7.21.1 The Operator shall operate the plant for processing and treatment of petroleum, gas and water and its associated systems, including but not limited to the gas compressor, system for drying gas, system for the collection and treatment of seawater and other systems in accordance with their procedures as adapted to the specific conditions of the fluids and process variables associated with the Wells and the Reservoir(s) connected to the Vessel, as approved in advance by the Charterer.

7.21.2 The procedures referred to in Clause 7.21.1 shall clearly establish the settings of the instruments, opening of valves, tank levels, flow rates, pressures, temperatures, levels of chemical products to be added and all other process variables.

7.21.3 The process variables and the quality of products (oil, gas, injection water, waste water etc.) shall be constantly monitored and measured as required by the specifications established by the Charterer in order to ensure the necessary adjustments and updates to the procedures, adjustments to the levels of injection of chemical products and other process variables, so as to always optimise the operation of the plant, the consumption of utilities and other inputs and the quality of products.

#### 7.22 Fiscal Metering

7.22.1 The Operator shall maintain operational, adequate for the expected production volumes and duly up-to-date with valid calibration certificates, the fiscal metering system for produced oil and gas, including the independent meter(s) for measuring Well production, in accordance with the requirements of the ANP.

7.22.2 The Operator shall allow free access to the fiscal metering system and the relevant calibration certificates for the Charterer's inspectors ('fiscalização') and inspectors and auditors of the relevant Government Entities responsible for fiscal metering.

#### 7.23 Storage Tanks



The Operator shall establish procedures and shall operate the injection of biocide or other suitable materials into the storage tanks of the Vessel in order to control the development of sulphate reducing bacteria. The supply of such biocide or other materials shall be the responsibility of the Operator.

#### 7.24 Importation

The Operator shall perform the service of importing the Vessel and the Vessel Components and any other materials, items, tools, spare parts, accessories etc. that may be necessary for the provision of the Services in accordance with Applicable Law and Clause 9 (*Importation of Goods*).

#### 7.25 Local Content

7.25.1 In providing the Services, the Operator shall ensure a minimum average local content percentage of seventy percent (70%) and shall demonstrate its compliance with this obligation in accordance with Clause 18 (*Local Content*).

7.25.2 The Operator shall deliver to the Charterer the necessary certificates of local content in the terms and at the intervals required by Applicable Law in respect of the Services.

#### 7.26 Operator Representative

7.26.1 The Operator shall designate, in writing to the Charterer, one of its employees as Operator Representative, who shall have supervisory authority, be thoroughly acquainted with the conditions of this Agreement and have specific powers to represent the Operator in all matters relating to this Agreement and to make commitments and take decisions in relation to the Services to be performed hereunder.

7.26.2 Any communication given by the Charterer or the Charterer Representative to the Operator Representative shall be considered as having been given to, and received by, the Operator.

7.26.3 The Parties agree and accept that the Operator Representative shall not have the power or authority to modify or amend any contractual provisions, nor to waive any rights or obligations of the Parties.

#### 7.27 Supervision

The Operator shall facilitate the supervision of the Services by the Charterer Representative and any person(s) authorized by him, providing upon request, information and access to documentation and to the Services being performed.

#### 7.28 Accommodation, Catering and Housekeeping

7.28.1 The Operator shall provide accommodation, catering and housekeeping services on board the Vessel for Operator Personnel and Charterer Personnel. Such services shall be of adequate quality and quantity and shall be provided by a Brazilian company.

7.28.2 The Operator shall provide breakfast, lunch, dinner, supper and snacks for up to a maximum of two (2) members of Charterer Personnel per day (only one (1) of which may be permanently assigned to the Vessel).



7.28.3 The quality of housekeeping and catering services shall be the responsibility of the Operator.

7.29 Safety, Health and Hygiene

7.29.1 The Operator shall perform the services in strict compliance with Applicable Law and, where applicable, with international standards of safety, health and hygiene and will be responsible for any breach thereof and the requirements of the Charterer set out in Annex IV (*Health, Safety and the Environment*).

7.29.2 The Operator shall prepare and keep up-to-date an emergency plan for the Vessel, specifying all actions required to control and/or remedy emergency situations such as fire, leakage of oil and/or gas, Vessel instability, including procedures for the evacuation of the Vessel and eventual recommencement of production. The emergency plan for the Vessel shall be subject to the Charterer's prior approval and shall be compatible with the Charterer's own emergency plan.

7.29.3 The Operator shall maintain, on board the Vessel, an infirmary stocked with equipment and medicine necessary for first aid and emergency treatment of the sick and injured, in accordance with the requirements of the relevant Brazilian authority. Such infirmary shall be subject to periodic inspections by the Charterer.

7.29.4 In relation to injured Operator Personnel, the Operator shall assume responsibility for all necessary assistance from the point of disembarkation on land.

7.29.5 The Operator shall include, in its procedures for evacuation of the Vessel in case of an emergency, the systematic removal of the central processing unit or disks of the control systems and for the recording of images of the Vessel, in order to assist with the analysis of such emergency situation.

7.29.6 The Operator shall be responsible for air traffic control and supervision of landing and taking off of helicopters in the vicinity of, on and from the Vessel, including assistance of the embarkation and disembarkation of passengers.

7.30 Radio-communication

The Operator shall maintain and operate on board the Vessel a radio station in accordance with the requirements of the relevant regulatory body. Such radio station shall be equipped and maintained to ensure its proper operation twenty four (24) hours per day.

7.31 Water Treatment and Waste Disposal

7.31.1 The Operator shall be responsible for the treatment and disposal of produced water and shall ensure that the oil content in treated water that is disposed of shall comply with the requirements of section 5 of CONAMA Resolution nr. 393, of August 8, 2007.

7.31.2 The Operator shall properly collect and segregate all waste on board the Vessel and pack such waste into specific containers to be sent to the Supporting Port by means of transport provided by the Charterer in accordance with this Agreement.

7.32 Electricity Supply



- 7.32.1 The Operator shall provide any 'Well Head Platforms' (WHP) that may be connected to the Vessel with electricity for the operation of transfer pumps and production systems.
- 7.32.2 Any shortfall in the supply of electricity which causes a loss of production will be reflected in the calculation of Operational Efficiency and result in a reduction in the Operator's Margin, as set out in Annex II (*Operator Reimbursement and Remuneration*).

### 7.33 Chemical Products

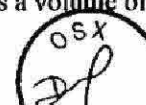
- 7.33.1 The Operator shall be responsible for procuring all chemical products used in the processing and treatment plant necessary for the processing of crude oil, separation of streams of oil, gas and associated water, treatment of oil and gas in connection with the Production Operations in accordance with the Production Program.
- 7.33.2 The Operator shall control and manage the storage and use of such chemical products on board the Vessel.
- 7.33.3 The Operator shall control the stocks and restocking of supplies of such chemical products.
- 7.33.4 The Operator shall procure a minimum reserve stock of such chemical products upon the commencement of Production Operations and upon any alteration of production parameters, or the levels of utilization of such products, or the introduction of new products for use in Production Operations, which minimum reserve stock shall be sufficient to ensure that there will be no reduction or cessation of Production Operations resulting from the failure to restock chemical products.
- 7.33.5 The Operator and the Charterer shall consult with each other to establish the necessary and ideal rates of injection of chemical products for the treatment and processing of crude oil, gas, water for reinjection and waste water and for the proper functioning of the processing plant in general. Those rates shall be reviewed as and when there are changes in the production parameters.
- 7.33.6 In the case of a cessation or reduction of production resulting from the failure to restock chemical products due to the failure to control stocks or excess consumption, the Operator shall be responsible for the consequences thereof in the manner provided in this Agreement.
- 7.33.7 The terms and conditions of supply of all chemical products referred to in Clause 7.33.1 shall be negotiated by the Operator with suppliers selected by the Operator. Upon conclusion of negotiations for the supply of the aforementioned chemical products, the Operator shall submit to the Charterer the proposed terms and conditions of the contracts and/or purchase orders relating to the supply of such chemical products (for the purposes of this Clause, any such supply contract or purchase order shall be referred to as a "Supply Contract"). Any Supply Contract shall be entered into:
- (i) directly between the Charterer and the supplier selected by the Operator; or
  - (ii) between the Charterer and the Operator on the one side, and the supplier selected by the Operator on the other side.


provided however, that in both of options (i) and (ii) above, for the sake of operational efficiency, the Operator shall be nominated as the representative of the Charterer under the Supply Contract whenever required, making commitments and orders, coordinating and receiving deliveries, and taking decisions in connection therewith.

- 7.33.8 Upon submission by the Operator to the Charterer of a Supply Contract reasonably on market terms, Charterer shall, without undue delay, execute and deliver originals of such Supply Contract to the Operator. The Charterer shall pay all invoices in accordance with the terms of the relevant Supply Contract. Notwithstanding such payment by the Charterer, the chemical products to be delivered under the Supply Contract shall be delivered to a location indicated by the Operator, for its use in the performance of its obligations under this Agreement.
- 7.33.9 Notwithstanding the foregoing, as consideration for the costs incurred by the Operator in the procurement of the chemical products acquired directly by the Charterer pursuant to Clauses 7.33.7 and 7.33.8 above, the Charterer shall pay to the Operator, as a handling fee, an amount based on the total value of such chemical products. This handling fee shall be calculated under the terms of paragraph 9 of Annex II (*Operator Reimbursement and Remuneration*) of this Agreement.
- 7.33.10 The Charterer shall be responsible for any additional costs, and shall indemnify the Operator against any potential liabilities (including liquidated damages under any and all Supply Contracts), limited to those that may arise as a result of any failure by the Charterer to: (i) execute and provide Operator with the originals of any relevant Supply Contracts in good time, pursuant to Clause 7.33.8 above; (ii) pay the price due under those contracts for the supply of chemicals referred to in Clause 7.33.7 above; or (iii) make the payment thereof without any undue delay.
- 7.33.11 The Parties agree that, notwithstanding anything to the contrary set out in this Agreement, the consequences of any failure by the Charterer to make such payments when due, shall be deemed not to reduce: (i) the Operational Efficiency of the Vessel; (ii) the Margin payable to the Operator; (iii) the time period allowed to the Operator for preventative maintenance and repairs of the Vessel; or (iv) any remuneration or reimbursement that would otherwise be due to the Operator pursuant to the terms of this Agreement.
- 7.33.12 The Operator shall indemnify the Charterer against any potential liabilities and claims that may be asserted against the Charterer by any supplier of chemical products in connection with any Supply Contract, as the result of any act or omission of the Operator in relation to Clause 7.33.7 above.

#### 7.34 Oil Offloading

- 7.34.1 Operator shall deliver the oil for offloading in accordance with the following specifications:
- (i) basic sediment and water content (BS&W) not to exceed 0.5% vol. and;
  - (ii) salt content not to exceed 285 mg/litre – NaCl.
- 7.34.2 At the end of each offloading operation, the Operator shall leave a heel ('praça morta') of Off-Spec Oil of no more than ten percent (10%) of the total capacity of the oil storage tanks of the Vessel. If the Operator produces a volume of heel ('praça morta')

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of Off-Spec Oil of more than ten percent (10%) of such capacity at the end of any offloading operation, this shall reduce the Operational Efficiency for the relevant calendar month in accordance with item 4.5 of Annex II (*Operator Reimbursement and Remuneration*).

- 7.34.3 Notwithstanding Clause 7.34.2 above, the Charterer may alternatively decide to authorize the offloading of any volumes of Off-Spec Oil, in which case Clause 7.34.2 shall not apply, but the Margin payable to the Operator in the relevant calendar month shall be reduced in accordance with the provisions of item 12 of Annex II (*Operator Reimbursement and Remuneration*).

### 7.35 Work Program and Budget

- 7.35.1 Within sixty (60) days after the execution date, Operator shall deliver to the Charterer a proposed Work Program and Budget detailing the Services to be performed for the remainder of the current calendar year. Within thirty (30) days of such delivery, the Parties shall meet to consider and endeavour to agree on a Work Program and Budget.
- 7.35.2 On or before the 1<sup>st</sup> day of October of each calendar year, Operator shall deliver to the Charterer a Work Program and Budget detailing the Services to be performed for the following calendar year. Within thirty (30) Days of such delivery, the Parties shall meet to consider and endeavour to agree on a Work Program and Budget.

### 7.36 Contracting Procedure

- 7.36.1 Before entering into any contract or arrangement in connection with the provision of the Services which is expected to exceed two million Dollars (US\$2,000,000), the Operator shall:
- (i) except where otherwise not feasible, provide the Charterer with a list of at least three (3) entities whom Operator proposes to invite to tender for said contract, the specifications of the goods and/or services to be contracted, as well as the key terms and conditions of the proposed tender process;
  - (ii) add to such list any entities whom the Charterer reasonably requests to be added within five (5) days of receipt of Operator's proposed list;
  - (iii) prepare and dispatch the tender documents to the entities on the list as aforesaid, with a copy to the Charterer;
  - (iv) after the expiration of the period allowed for tendering, consider and analyze the details of all bids received;
  - (v) prepare and circulate to the Charterer a competitive bid analysis, stating Operator's recommendation as to the entity to whom the contract should be awarded;
  - (vi) obtain the approval of the Charterer to the recommended bid, provided that, in the absence of response by the Charterer within five (5) days counted from the delivery of the analysis referred to in subitem (v) above, the Charterer shall be irrevocably deemed to have approved the recommendation issued by the Operator and

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Operator shall be authorized to enter into the supply contract with the selected supplier, subject to subitem (viii) below;

- (vii) upon Charterer's request, provide a copy of the final version of each such contract;
- (viii) Operator must choose, among qualified companies participating in the respective tender, the one which offers the best technical and economic terms for the specified goods and/or services that shall be detailed in the tendering process.

7.37 Annex III (*Mutual Obligations and Responsibilities*)

Certain obligations of the Operator are set out for operational purposes in Annex III (*Mutual Obligations and Responsibilities*), which forms an integral part of this Agreement. However, in the event of any inconsistency between the terms of Annex III (*Mutual Obligations and Responsibilities*) and the main body of this Agreement, the provisions of the body of this Agreement shall prevail.

8. **CHARTERER'S RIGHTS AND DUTIES**

8.1 Remuneration for Services

The Charterer shall effect payments due to the Operator for Services in accordance with the provisions of this Agreement and its Annexes.

8.2 Production Program and Locations

The Charterer shall supply the Production Program to the Operator and shall inform the Operator of the Locations where the Services are to be provided in writing and with sufficient advance notice to allow the Operator to make the necessary preparations and take the necessary steps.

8.3 Charterer Representative

- 8.3.1 The Charterer shall designate, in writing to the Operator, one of its employees as Charterer Representative, who will, amongst other functions, receive and analyse the reports referred to in Clause 7.18, verify and supervise the Production Program and verify the performance of the Operator's obligations, with authority to resolve day-to-day operational questions relating to the Services.
- 8.3.2 The Charterer Representative shall have the right to order the suspension of any activity that is not being executed in compliance with the provisions of this Agreement.
- 8.3.3 The Charterer Representative shall issue directions and instructions on behalf of the Charterer. Any communication given by the Operator or the Operator Representative to the Charterer Representative shall be considered as having been given to, and received by, the Charterer.
- 8.3.4 The Charterer Representative shall be allowed free access to all areas where the Services are being performed, as well as to registers, logs, records and other documents relating to the Services and to the functioning of equipment, including inspections conducted by the Operator and third parties.

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- 8.3.5 The Charterer Representative shall notify the Operator in writing of defects and irregularities encountered in the performance of the Services and shall agree with the Operator any periods for the remedy of such defects or irregularities.
- 8.3.6 The Charterer Representative may delegate by notice to the Operator in writing, other members or persons to assist in the supervision of the Services.
- 8.3.7 The Parties agree and accept that the Charterer Representative shall not have the power or authority to modify or amend any contractual provisions, nor to waive any rights or obligations of the Parties.
- 8.3.8 No act or omission (whether total or partial) of the Charterer Representative in his supervision shall release the Operator from its full responsibility for performance of the Services.

#### 8.4 Monthly Measurement Report

The Charterer shall verify the Monthly Measurement Report of the Services issued by the Operator in accordance with Clause 7.18 and shall inform the Operator whether it agrees with the Monthly Measurement Report or, if not, the reasons for its disagreement. The Parties will discuss and agree within thirty (30) days of the signature of this Agreement a format for such Monthly Measurement Report and the invoicing and payment procedures applicable to this Agreement.

#### 8.5 Inspection Rights

- 8.5.1 The Charterer reserves the right, at any time and for whatever reason, in its sole discretion, to inspect and/or effect a technical audit of the performance of the Services and of the Vessel, Operator Personnel and Operator Items. The Operator shall afford the Charterer full access to facilitate the execution of such inspections or technical audits. Such inspections and technical audits may be conducted by any Charterer Personnel, including specialist contractors.
- 8.5.2 If as a result of such inspection or technical audit, the Charterer discovers any irregularity in the provision of the Service or any part thereof or any practices that do not comply with Good Oil and Gas Practice and international standards, the Charterer shall report the same and the Operator shall take the necessary remedial actions as soon as reasonably practicable.

#### 8.6 Supply of Utilities

- 8.6.1 The Charterer shall provide, at its cost, the diesel oil, fuel oil, fuel gas and industrial water at the times and in the quantities required to permit the performance of the Services.
- 8.6.2 The volume of water to be supplied by the Charterer shall only be sufficient to satisfy the remaining demand of the Vessel after taking into account its own production of such water. Such volume of water also includes the industrial water required for the cleaning of the Vessel.
- 8.6.3 Following one hundred and eighty (180) days of stable production and utilization of the processing plant, the Parties shall agree, in good faith, the maximum consumption of each of the aforementioned utilities on the basis of the consumption that has actually been observed during such period of stable production.





- 8.6.4 The Parties may propose a revision to the aforementioned maximum levels at any time, which shall then be analysed and reviewed in accordance with Good Oil and Gas Practice. In the case of disagreement between the Parties as to the proper maximum levels of consumption of any utility, the same may be fixed by an independent specialist consultant, the costs of which shall be split equally between the Parties.
- 8.6.5 The supply of water and fuel shall be the responsibility of the Charterer, in accordance with the conditions set out herein. No penalties or reduced Margin may be applied to the Operator as a result of the Charterer's failure to supply such water or fuel, provided that the Operator shall have requested further supplies from the Charterer within the required timeframe, as specified in advance by the Charterer.
- 8.7 Transportation of Operator Personnel
- 8.7.1 The Charterer shall provide transport for all Operator Personnel between the Supporting Port and/or the Supporting Airport designated by the Charterer in accordance with this Agreement and the Vessel and vice versa.
- 8.7.2 The means of transport to be used, helicopter or vessel, shall be within the sole discretion of the Charterer depending on the facilities available in the vicinity of the Operation Site.
- 8.7.3 The Charterer shall establish, in agreement with the Operator, a timetable for air and marine transport for Operator Personnel.
- 8.7.4 The use of air and marine transport other than in accordance with the established timetable shall be limited to unforeseen and emergency situations and conditional on the availability of such means of transport to the Charterer. In the event that additional transport is required otherwise than in accordance with the established timetable, as a result of any delayed arrival or 'no show' of Operator Personnel or Operator Items at the point of departure, the Operator shall reimburse the costs thereof to the Charterer, which reimbursement shall not be a Reimbursable Cost.
- 8.7.5 The Operator shall procure all transportation of Operator Personnel from their place of origin to the Supporting Port or Supporting Airport in case of embarkation for the Vessel and from the Supporting Port or Supporting Airport to their point of destination in the case of disembarkation from the Vessel.
- 8.7.6 The Charterer takes no responsibility for any delay in the execution of the Services resulting from the delay of flights by reason of adverse weather conditions, or the unavailability of aircraft or vessels due to the fault of Charterer's contractor(s) or subcontractor(s) or for safety reasons, provided, however, that no penalties or reduced Margin may be applied to the Operator as a result of any such delays or unavailability of aircraft or vessels.
- 8.8 Transportation of Operator Items
- 8.8.1 The Charterer shall provide transport for all Operator Items required for the performance of the Services between the Supporting Port and/or the Supporting Airport designated by the Charterer in accordance with this Agreement and the Vessel and vice versa.



- 8.8.2 The means of transport to be used, helicopter or vessel, shall be within the sole discretion of the Charterer depending on the dimensions and weight of the cargo to be transported and the availability of means of transport.
- 8.8.3 The Charterer shall not be responsible for any delay in the transportation of the Operator Items. The use of means of transport provided by the Charterer shall not release the Operator from full responsibility for the performance or non-performance of the Services, provided, however, that no penalties or reduced Margin may be applied to the Operator as a result of any such delays.
- 8.8.4 The Operator shall use the means of transport provided by the Charterer for the transportation between the Supporting Port and/or the Supporting Airport and the Vessel or vice versa of the Operator Items, taking account of the frequency and availability of cargo capacity in such means of transport.
- 8.8.5 The Operator shall procure all transportation of Operator Items from their place of origin or the Operator's base to the Supporting Port or Supporting Airport in case of embarkation for the Vessel and from the Supporting Port or Supporting Airport to their point of destination or the Operator's base in the case of disembarkation from the Vessel.
- 8.8.6 The Operator shall procure that the Operator Items are properly packed and protected and will use the most appropriate methods available, taking into account the characteristics of the means of transportation to be used, the available equipment for handling cargoes and the possibilities of containerizing or unitizing cargoes.
- 8.8.7 The Operator shall accompany and supervise the operations of handling, loading and unloading of the Operator Items into and from vessels and/or aircraft and into and from terrestrial vehicles in the Supporting Port and the Supporting Airport.
- 8.8.8 Additionally, the Operator shall be responsible for handling, loading and unloading of all cargo on board the Vessel and between the Vessel and any other vessels, including the provision and operation of cranes and other equipment for the movement and storage of cargoes on board the Vessel, as well as for the fitting, positioning and binding of cargoes into, in or on the deck of vessels and the cargo compartments of aircraft.
- 8.8.9 The Operator shall procure the removal of Operator Items offloaded at the Supporting Port or Supporting Airport within a maximum of twenty four (24) hours from their offloading.
- 8.8.10 The Operator shall procure the clearance of Operator Items with the relevant customs authorities when necessary and shall provide all documentation relating to such Operator Items, to leave them free and unimpeded for movement and transportation.

#### 8.9 Supporting Port and Supporting Airports

The Charterer shall use the Supporting Port of Caju, situated at no. 2 Rua General Gurjão, City of Rio de Janeiro, owned and operated by BricLog and shall use the Supporting Airport of Cabo Frio for Production Operations in the Campos Basin and the Supporting Airport of Jacarepaguá for Production Operations in the Santos Basin, all of which are in the State of Rio de Janeiro. In case of any change in the location of the aforementioned facilities during the term of this Agreement, the new location of any Supporting Port or Supporting Airport shall be formally notified to the Operator.



- 8.10 Towing and Positioning of the Vessel
- 8.10.1 The Charterer shall provide any support vessels necessary and sufficient for the positioning, laying and gathering of anchors of the Vessel as may be required during the Operation Period.
- 8.10.2 The Charterer shall provide tugs, anchor handling vessels and associated services necessary for the raising of the Vessel's anchors upon demobilization of the Vessel.
- 8.11 Studies of the Seabed
- The Charterer shall effect, at its own cost, the necessary studies of the seabed in the area surrounding the Operation Site and supply the relevant data to the Operator. Operator shall use such data to prepare an anchor plan for the Vessel pursuant to Clause 7.11 in case of any change to the Operation Site during the Operation Period.
- 8.12 Laying of Pipelines and Flowlines and Installation of Risers
- 8.12.1 The planning, performance and general supervision of the laying of rigid or flexible pipelines and flowlines and installation of risers, including the services of support and diving vessels, shall be the responsibility of the Charterer.
- 8.12.2 The Operator shall be responsible for the provision of all facilities on board the Vessel, including the on board pull-in and connection of any pipelines and flowlines to the system for receipt of production.
- 8.13 Installation of Additional Equipment
- 8.13.1 The Charterer may install on the Vessel, at its expense, such additional equipment as it may consider necessary for studies relating to the production of the Wells and the Reservoir(s), for environmental studies, fuelling of helicopters if the conditions of the Location (distance from the coast) or the logistics of the Charterer require (at the Charterer's sole discretion) and for justified reasons, subject to the express prior consent of the Operator, which consent shall not be unreasonably withheld.
- 8.13.2 The installation of such additional equipment shall be subject to the availability of space and taking account of the load capacity of the Vessel. No structural alteration may be made to the Vessel without the prior written consent of the Operator and of the Owner.
- 8.13.3 Additional equipment of the Charterer installed on the Vessel pursuant to this Clause 8.13 (*Installation of Additional Equipment*) shall remain the property of the Charterer.
- 8.13.4 In case of the installation of a system for refuelling of helicopters, the Charterer shall be responsible for the costs of operation thereof, provided that the same may be operated by the Operator, subject to the agreement of the Parties, and the Operator reimbursed for the costs of such operation.
- 8.13.5 The Charterer shall procure the removal of its additional equipment installed on the Vessel pursuant to this Clause 8.13 (*Installation of Additional Equipment*) before the termination of this Agreement, without any recourse to the Operator.
- 8.14 Environmental Licences



- 8.14.1 The Charterer shall obtain and maintain in effect, at its own expense, those Environmental Licences necessary for the Vessel to operate, notwithstanding that all other licences, authorizations and registrations necessary for the operation of the Vessel (except for those that, by their own nature, can only be obtained by the Charterer or other parties) shall be obtained and maintained in effect by the Operator.
- 8.14.2 Notwithstanding the foregoing, the Operator shall procure that the Vessel fulfils all the requirements and demands of the environmental authorities with jurisdiction over the Vessel and/or the Operation Site, as well as the requirements of the Charterer set out in Annex IV (*Health, Safety and the Environment*).

#### 8.15 Offloading Vessels

- 8.15.1 The Charterer shall arrange and provide, at its own expense, the offloading vessel(s) required for the export of processed oil meeting its specifications under this Agreement. The Charterer shall schedule the arrival and departure of such offloading vessel(s) to take account of the stocks and levels of production from the Wells, in accordance with the information supplied to it by the Operator in accordance with Clause 7.18.2.
- 8.15.2 No penalties or reduced Margin may be applied to the Operator as a result of the partial or total cessation of Production Operations due to the failure of the Charterer to arrange the necessary offloading vessel(s).

#### 8.16 Waste Disposal

- 8.16.1 The Charterer shall remove waste emanating from the Vessel from the Supporting Port and it shall be the Charterer's sole responsibility to provide for the proper disposal of such waste.
- 8.16.2 Waste disposal shall be carried out in strict compliance with Applicable Law by a company that is duly accredited and qualified by IBAMA or the relevant state environmental agency.

#### 8.17 Collaboration with the Operator

The Charterer shall collaborate with the Operator, assisting the Operator in dealing with the competent Government Entities and regulatory authorities in respect of administrative processes or otherwise in relation to the Vessel, materials and equipment that are the object of this Agreement. Such collaboration shall not, however, relieve the Operator of its responsibility for obtaining of the rights that are the subject of such processes.

#### 8.18 Ancillary Expenses

- 8.18.1 Without prejudice to any provision to the contrary set out in this Agreement, expenses qualifying as legal, travel, corporate management or telecommunications expenses ("Ancillary Expenses"), shall be incurred directly by the Charterer.
- 8.18.2 Notwithstanding Clause 8.18.1 above, such Ancillary Expenses may be incurred by the Operator on behalf of the Charterer, in which case they shall be subject to subsequent reimbursement by the Charterer to the Operator. For such reimbursement, the Operator shall present a debit note ("Nota de Débito") to the Charterer, which shall then be paid in full by the Charterer.



8.18.3 Ancillary Expenses shall not be considered as Reimbursable Costs.

8.19 Annex III (*Mutual Obligations and Responsibilities*)

Certain obligations of the Operator are set out for operational purposes in Annex III (*Mutual Obligations and Responsibilities*), which forms an integral part of this Agreement. However, in the event of any inconsistency between the terms of Annex III (*Mutual Obligations and Responsibilities*) and the main body of this Agreement, the provisions of the body of this Agreement shall prevail.

9. IMPORTATION OF GOODS

9.1 Importation of Materials and Equipment

The Operator is solely responsible for procuring the relevant licences and customs clearances for the Vessel and the Vessel Components (whether imported before, after or simultaneously with the Vessel) and any and all materials, items, tools, spare parts, accessories etc. that may be necessary in connection with the performance of the Services.

9.2 Assistance with Importation and Special Customs Regime ("REPETRO")

The Charterer shall collaborate with the Operator, assisting the Operator in dealing with the competent authorities in the processes relating to the importation and application of any special customs regime ("Regime Aduaneiro Especial") such as temporary admission or 'REPETRO' that are necessary for the performance of the Services. Such assistance shall not, however, relieve the Operator of its full responsibility for obtaining the relevant documents and rights, nor of its requirement to make such materials and equipment available at the relevant time for performance of the Services.

9.3 Special Customs Regime ("REPETRO")

9.3.1 The Charterer designates the Operator as importer of the Vessel, including the Vessel Components, and the Operator shall, in accordance with the legislation of the Federative Republic of Brazil, request in good time that the competent fiscal and customs authorities apply a special customs regime, including 'REPETRO', to the Vessel, including the Vessel Components and, where applicable, to the materials, equipment, tools, parts and whatever other goods, the supply of which are its responsibility under this Agreement and which are to be imported ("Imported Goods").

9.3.2 It is the exclusive responsibility of the Operator, in respect of the Imported Goods, to obtain the issuance of all documents necessary to take advantage of a special customs regime, including 'REPETRO', including import licences, declarations of importation, registrations of exportation, qualification for the special customs regime and anything else that may be necessary, so that the Operator shall be responsible for any and all customs obligations or measures necessary to issue, accompany or accept requests for such treatment or the cancellation or alteration thereof, as well as any other obligations or measures that may become necessary in connection therewith.

9.3.3 The Operator shall fulfil and observe all customs obligations, especially the periods established by Applicable Law for which Imported Goods imported under a special customs regime, including 'REPETRO', may remain in Brazil.



- 9.3.4 Taxes imposed on the Vessel and Vessel Components, including but not limited to ICMS ('Imposto sobre Circulação de Mercadorias e Serviços'), which are not suspended by the application of a special customs regime, including 'REPETRO', shall be paid by the Operator and reimbursed by the Charterer, but notwithstanding the terms of Annex II (*Operator Reimbursement and Remuneration*), without the application of any Margin. Upon the Operator's request, the Charterer will provide upfront the funds necessary for the payment of any such Taxes.
- 9.3.5 Taxes imposed on the Vessel and the Vessel Components, which would have been suspended by the due application of a special customs regime (including 'REPETRO'), but become payable due to failure by the Operator to comply with Applicable Law relating to the special customs regime, shall not constitute Reimbursable Costs.
- 9.3.6 The Operator shall, at any time upon the request of the Charterer, present a list of the Operator Items imported under a special customs regime, including 'REPETRO'.

#### 9.4 Use of Goods under the Special Customs Regime ('REPETRO')

The Operator shall use goods imported under the special customs regime, including 'REPETRO', in connection with this Agreement only and exclusively in the performance of the Services. The Operator shall not use such Imported Goods to provide any services that are beyond the scope of this Agreement and shall not transfer, loan or rent such Imported Goods to any person, except with the prior express consent of the Charterer if there is no legal or regulatory prohibition on so doing.

#### 9.5 Embarkation for the Vessel

For the embarkation of Imported Goods subject to a special customs regime, including 'REPETRO', on means of transport provided by the Charterer, the Operator shall state the fact that such Imported Goods are subject to the temporary admission regime in the documents relating to the transportation of such Imported Goods and shall annex thereto the relevant customs clearance certificate.

#### 9.6 Control of Imported Goods

The Operator shall maintain general and permanent control of the Imported Goods, whether pursuant to a special customs regime, including 'REPETRO', or not.

#### 9.7 Nationalization of Imported Goods

The Operator may elect for any and all Imported Goods dedicated to this Agreement that are imported under a special customs regime, including 'REPETRO', to remain permanently in Brazil, provided that the Operator shall bear all costs relating to such nationalization.

#### 9.8 Cessation of the Term of Responsibility

The Operator shall fulfil all of the legal requirements relating to the cessation of the term of responsibility for the Vessel and all Operator Items imported under the special customs regime, including 'REPETRO', upon the termination of this Agreement and in any other situation provided for by Applicable Law.



## 10. MAINTENANCE, FITTINGS, REPAIRS AND INSPECTION

### 10.1 Maintenance

10.1.1 The Operator shall, at all times throughout the Operation Period: (i) carry out all maintenance, overhauls, replacements and repairs necessary to the Vessel, which shall be to a standard consistent with the standards of first class FPSO contractors for vessels of a similar type and age engaged in similar activities and on a non-discriminating basis with other vessels owned and/or operated by the Operator; and (ii) maintain the Vessel in such condition generally so as to comply with all Applicable Laws and requirements whatsoever to which the Vessel and the master, officers and crew may be subject from time to time.

10.1.2 The Operator shall, at all times throughout the Operation Period, maintain the Vessel (free of overdue conditions and recommendations of the Classification Society affecting the class) at the highest standards for a vessel of its type and class, save following damage affecting her class and during performance of Customization works, in which case the Operator shall take all steps as are required to restore such class as soon as possible and in accordance with the recommendations of the Classification Society and shall, at the request of the Charterer, furnish the Charterer with an up-to-date certification of confirmation from the Classification Society that such class is restored and maintained. The Operator shall not operate the Vessel until the class has been restored as certified by the Classification Society (provided that the Operator may operate the Vessel if the class has been restored subject to recommendations of the Classification Society).

### 10.2 Vessel Components

Subject to Clause 10.4 (*Removal of Equipment*), all Vessel Components (including replacement parts) shall be the property of the Owner. The Operator shall have the use of all Vessel Components and additional equipment installed pursuant to Clause 8.13 (*Installation of Additional Equipment*) and shall ensure and procure that it is maintained in the same good condition as when delivered to the Operator or installed on the Vessel, fair wear and tear excepted and except for any modifications and alterations properly made and permitted by this Agreement.

### 10.3 Repairs

10.3.1 The Operator shall, at all times throughout the Operation Period and thereafter until the redelivery of the Vessel in accordance with Clause 12 (*Redelivery of the Vessel*), repair, substitute, replace or renew (as the case may be) any Vessel Component and additional equipment installed pursuant to Clause 8.13 (*Installation of Additional Equipment*) which is consumed or which is so damaged as to be no longer fit for use.

10.3.2 The Operator shall procure that all such repairs, substitutions, replacements and renewals shall be effected in such manner (as regards quality of workmanship and materials) (i) so as to ensure that the value of the Vessel is not materially reduced (fair wear and tear excepted) and (ii) such that title to such substitutions, replacements or renewals shall vest immediately in the Owner (or in the case of additional equipment installed pursuant to Clause 8.13 (*Installation of Additional Equipment*), in the Charterer) free and clear of any Encumbrances save for Permitted Encumbrances.

### 10.4 Removal of Equipment



Without prejudice to Clause 10.3 (*Repairs*), the Operator shall not remove any material part of the Vessel, or any material item of Vessel Components or additional equipment installed on the Vessel by the Charterer unless, after prior written approval by the Charterer, the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Encumbrances and becomes on installation on the Vessel the property of the Owner (or in the case of additional equipment, the Charterer).

#### 10.5 Compliance with Law

In the event that any improvement, structural changes, modifications or alterations to the Vessel (including the installation of additional equipment thereon) become necessary for the continued operation of the Vessel by reason of new class requirements or Applicable Law, the Operator shall immediately request the prior written approval of the Charterer (which approval shall be deemed to be given unless the Charterer shall, within a reasonable time, propose a reasonable alternative means to ensure the continued operation of the Vessel in accordance with class requirements and Applicable Law) and at the Charterer's expense it shall promptly implement the same and shall provide the Charterer with notice of the same, together with details of the expenditure.

#### 10.6 Inspection Rights

The Charterer shall have the right (but shall not have any obligation) at any time, at the sole expense and risk of the Charterer, on reasonable notice and provided that the operation of the Vessel is not unduly prejudiced, interrupted or impeded, to inspect or instruct a duly authorised surveyor to inspect or survey the Vessel, the logs and technical records to ascertain the condition of the Vessel and to satisfy the Charterer and the Owner that the Vessel is being operated, repaired and maintained in accordance with the provisions of this Agreement. If a Potential Termination Event or a Termination Event has occurred, the Charterer, the Owner (or its authorised representatives or appointees) shall be granted unrestricted access to the logs, technical records and such other documentation as such party may request.

### 11. PAYMENTS

#### 11.1 Remuneration

The Charterer shall reimburse the Operator's Reimbursable Costs, increased by a variable Margin thereon (except as set out in Clause 9.3.4), in accordance with Annex II (*Operator Reimbursement and Remuneration*).

#### 11.2 Invoicing

Amounts due under this Agreement shall be invoiced and paid in accordance with procedures to be discussed and agreed by the Parties within thirty (30) days of the signature of this Agreement, provided that if the Parties are unable to agree on such invoicing and payment procedures before any payment is required to be made hereunder, the current procedures of the Charterer shall apply in respect of such payment.

#### 11.3 Default Interest

If either Party fails to make payment in full when due of any amount under this Agreement on the exact date for payment thereof, such Party shall on demand of the other Party pay interest on such amount from and including its due date until the date of actual payment in full thereof at a





rate per annum equal to the Default Rate. The interest will itself bear interest at such rate if it is due for at least one entire year.

#### 11.4 Business Day Convention

If any amount (not being an amount payable on demand) becomes due for payment pursuant to this Agreement on a day which is not a Business Day, such payment shall be made on the immediately preceding Business Day.

### 12. REDELIVERY OF THE VESSEL

#### 12.1 Redelivery

Except in the event of a Total Loss of the Vessel, the Operator shall, upon termination of this Agreement for any reason whatsoever, return the Vessel to the Charterer on the Termination Date and the following provisions shall apply:

- 12.1.1 upon such return, the Vessel must be (i) free from all Encumbrances other than Permitted Encumbrances, (ii) properly maintained in accordance with the provisions of Clause 10 (*Maintenance, Fittings, Repairs and Inspection*) and (iii) have had removed all insignia, marks or distinguishing colours from the Vessel that may have been included or painted by the Operator during the Operation Period;
- 12.1.2 the place of return shall be the OSX shipyard located in the municipality of São João da Barra or such other safe port as may be agreed between the Charterer and the Owner (the "Redelivery Location");
- 12.1.3 any consumables (including, without limitation, fuel, lubricants and paint) stored on the Vessel at the moment of its return shall become, free of charge, the property of the Owner on the date of redelivery. Title thereto shall be transferred, free of cost, to the Owner on the date of redelivery of the Vessel unless the Owner shall require that they be removed;
- 12.1.4 at the time of the return, the Vessel shall be in class (free of overdue conditions and recommendations affecting the class with the Classification Society) with all certificates of class valid at redelivery and all 'Continuous Machinery Survey' (CMS) items up to date. The Operator will deliver to the Charterer all the obligatory vessel-board documents of the Vessel; and
- 12.1.5 all cargo tanks shall be clean and certified gas-free suitable for human access and all process equipment shall be clean and free of all hydrocarbons and other process residues, including but not limited to sludge and scale.

#### 12.2 Independent Inspection

The Charterer shall be entitled to request an independent inspector to inspect the Vessel upon redelivery thereof in order to ascertain whether the requirements of Clause 12.1 (*Redelivery*) have been satisfied.



12.3 Continuance of Obligations

Until such time as the Vessel is redelivered to the Charterer in full compliance with all the terms of this Agreement, the Operator shall remain obliged to perform all of its obligations under this Agreement.

13. **INSURANCE**

The Operator shall procure that throughout the Operation Period all Insurances, as specified in Annex V (*Insurance*), are obtained and maintained in accordance with the provisions thereof.

14. **LOSSES**

14.1 Event of Loss

14.1.1 The Operator shall give the Charterer written notice of any Event of Loss within five (5) Business Days of becoming aware thereof.

14.1.2 The Operator shall, upon the occurrence of an Event of Loss, take all reasonable steps to limit the extent of the damage.

14.1.3 If an Event of Loss occurs which does not and is not likely to give rise to a Total Loss but which (if not repaired) would place the Operator in breach of its obligations under Clause 10.1 (*Maintenance*), the Operator shall repair it or cause it to be repaired as soon as practicable. The Operator will promptly inform the Charterer of the completion of any material repairs to the Vessel.

14.2 Compulsory Acquisition

The Operator shall promptly give the Charterer written notice of any Compulsory Acquisition of the Vessel.

14.3 Total Loss

The Operator shall provide notice to the Charterer of the occurrence of a Total Loss, or any occurrence which is reasonably likely to result in the Vessel becoming a Total Loss, as soon as becoming aware thereof.

15. **WAR / REQUISITION FOR HIRE**

15.1 Acts of War

15.1.1 The Operator shall not allow the Vessel to enter or remain in any territory where Acts of War are occurring and shall take all actions necessary in order to ensure the safety of the Vessel, the crew and the passengers.

15.1.2 If Acts of War occur in a country in which the Operation Site is situated or the Vessel is to call, or in the country under whose flag the Vessel is operated which poses a material risk to the Vessel, the crew, the Charterer or the Owner, then the Operator shall remove the Vessel without delay to safety (if the Vessel is not already in a safe port or safe waters).

15.2 Requisitions for Hire

Any Requisition Proceeds for any Requisition for Hire shall be paid to the Charterer.

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## 16. COVENANTS

### 16.1 General Covenants

The Operator hereby covenants and undertakes to the Charterer that during the term of this Agreement it shall:

- 16.1.1 provide, procure, execute, sign, perfect and do any and every such further assurance, document, act or thing as in the reasonable opinion of the Charterer is necessary in connection with making and maintaining this Agreement valid, binding and enforceable against the Operator and perfecting any security contemplated or constituted in connection with the Bond Financing and the Long Term Financing;
- 16.1.2 take all such action as may be required to maintain its corporate existence;
- 16.1.3 immediately upon becoming aware of the occurrence of any Termination Event or Potential Termination Event give notice thereof to the Charterer;
- 16.1.4 provide the Charterer promptly with all information which the Charterer or the Owner may from time to time reasonably require regarding the Vessel, the condition, maintenance, employment or position of the Vessel or other operational matters relating thereto, including details of towages and salvages;
- 16.1.5 promptly give written notice to the Charterer of (i) the details of any material litigation or arbitration or administrative or other proceedings before or of any arbitration tribunal, court, governmental agency or administrative body which, if adversely determined, might have a Material Adverse Effect and (ii) the Operator's intention, if any, to contest such litigation, arbitration or administrative or other proceedings;
- 16.1.6 materially comply with all Applicable Laws, including without limitation, all Environmental Laws and Environmental Licences applicable to (i) the Operator in respect of or in connection with the condition, repair, maintenance, modification, fuelling, supplying, manning, servicing, seaworthiness, use, employment or operation of the Vessel and/or (ii) the Vessel;
- 16.1.7 notify the Charterer as soon as possible, but in any event within two (2) Business Days of its occurrence, of any fact, circumstances, condition or occurrence that has resulted or could likely result in any of the following relating to the Project:
  - (i) any material adverse impact relating to any Environmental and Social Matters, including any deaths or significant injuries or accidents, any Spills, explosions or fires originating from or in connection with the Vessel or the Project;
  - (ii) any Environmental Claim and any Environmental Incident giving rise to such a claim in each case which may reasonably be expected to result in a liability in excess of one million Dollars (US\$1,000,000) in respect of the Vessel and/or the Project or against the Vessel, and of any Environmental Incident which may give rise to such a claim; and will keep the Charterer regularly and promptly informed in reasonable detail of the nature of, and response to, any such Environmental Incident and the defence to any such claim; and
  - (iii) any material complaints relating to Environmental and Social Matters.



- 16.1.8 cooperate with the Owner and any environmental consultant appointed by it in the preparation of any reports, action plans and other materials that may be from time to time required from the Owner under the Bond Financing or the Long Term Financing and to reasonably consider and hold good faith discussions with the Owner and any such environmental consultant in order to address any recommendations and considerations that may be reasonably made by them in respect of Environmental and Social Matters relating to the Project;
- 16.1.9 duly and punctually perform, comply with and observe each of its obligations under any environmental management plan required for the Vessel and any emergency response plan (if applicable), and provide the Charterer with all environmental monitoring reports prepared (if any) pursuant to this on a semi-annual basis;
- 16.1.10 provide from time to time to the Charterer (upon request) copies of all the class and statutory certificates of the Vessel, including the ISPS certificate, and all renewals thereof;
- 16.1.11 provide to the Charterer full details of any material inspections, investigations, studies, audits, tests, reviews or other analyses received by the Operator in relation to Environmental and Social Matters in respect of the Project relating to the Owner and/or the Charterer, the Project, the Vessel and the Operation Site and all Environmental Licences;
- 16.1.12 following any Termination Event or Potential Termination Event and on request by Charterer, prepare any report or investigate any concerns of the Charterer in each case in respect of such matters as the Charterer may advise in accordance with the requirements of the Owner;
- 16.1.13 promptly upon becoming aware thereof, provide written notice to the Charterer of:
  - (a) any requisition of the Vessel for hire;
  - (b) any requirement or recommendation made in relation to the Vessel by any insurer or the Classification Society or by any competent Government Entity which is not, or cannot be, complied with in the manner or time required or recommended.

16.2 Negative Covenants

The Operator undertakes to the Charterer that during the term of this Agreement it shall not, without the prior written consent of the Charterer:

- 16.2.1 change the class or flag of the Vessel;
- 16.2.2 change the Operation Site;
- 16.2.3 let, lease, licence, subcharter the Vessel;
- 16.2.4 modify the structure, type or performance characteristics of the Vessel in any way that might: (i) materially alter the Vessel except pursuant to the terms of this Agreement; or (ii) materially reduce its value;
- 16.2.5 consent to the determination, cancellation, rescission, suspension, waiver, repudiation, revocation, annulment or cancellation of the whole of, or any material provision of,

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any agreement relating to the Project, an Environmental Licence or any other licence, permit, approval, filing, registration, exemption, authorisation or consent necessary in connection with the use and operation of the Vessel at the Operation Site or to enable the Operator to lawfully enter into, exercise its rights and comply with its obligations under this Agreement;

- 16.2.6 do anything or take any action against any person which has or is reasonably likely to have the effect of materially prejudicing any Encumbrance created in connection with the Bond Financing or the Long Term Financing.

## 17. INFORMATION, TECHNOLOGY AND INVENTIONS

- 17.1 Any and all Data provided by the Charterer to the Operator pursuant to or in connection with this Agreement shall remain the exclusive property of the Charterer.
- 17.2 Any and all information or inventions obtained or developed by the Charterer on the basis of Data mainly provided by the Operator shall be the exclusive property of the Charterer. Notwithstanding the foregoing, the Charterer shall grant to the Operator an irrevocable, royalty-free, non-exclusive licence to use such information or inventions.
- 17.3 Any and all information or inventions obtained or developed by the Operator on the basis of Data mainly provided by the Charterer shall be the exclusive property of the Charterer, but the Charterer shall grant to the Operator an irrevocable, royalty-free, non-exclusive right to use such information or inventions.
- 17.4 The Operator shall notify the Charterer of any inventions as specified in Clause 17.3. The Operator shall provide the necessary assistance to enable the Charterer to acquire the patents to the inventions. The Charterer shall reimburse the Operator for all reasonable costs in connection with such assistance, including compensation to the Operator's employees or others, in accordance with Applicable Law.
- 17.5 Any and all Data provided by the Operator to the Charterer pursuant to or in connection with this Agreement shall remain the exclusive property of the Operator.
- 17.6 Information or inventions developed by the Operator in connection with this Agreement, except as referred to in Clause 17.3 shall be the exclusive property of the Operator, but the Operator shall grant to the Charterer an irrevocable, royalty-free, non-exclusive right to use such information and inventions in connection with the Vessel or this Agreement.

## 18. LOCAL CONTENT

- 18.1 The Operator shall comply with any and all rules regarding local content issued by the ANP, including, but not limited to, the obligation to certify and obtain certificates for the materials and Services provided pursuant to this Agreement.
- 18.2 Local content shall be calculated in accordance with ANP criteria and the rules for concessions awarded in the 9<sup>th</sup> Brazilian licensing round for oil and gas concessions. The Operator shall provide "Certificates of Local Content" and will notify the Charterer of the local content percentage in each invoice.
- 18.3 From commencement of Production Operations, the Operator shall achieve an average local content percentage in its provision of the Services of seventy percent (70%).



- 18.4 If the Operator is unable to fulfil its local content commitment, it shall notify the Charterer thereof in advance of rendering the relevant services and/or acquiring the relevant goods, equipment or systems, and shall explain the reasons for its failure to fulfil such minimum local content commitment, indicating which suppliers it had invited to tender for the provision of such services, goods, equipment or systems.
- 18.5 The Operator hereby agrees to obtain the appropriate local content certificate to be issued by entities accredited by ANP, according to the rules and requirements set forth in the relevant Charterer's concession agreement and other rules of the ANP and/or the Brazilian Government Entities, and the Operator shall keep in its files all records including contracts, invoices, books, certificates, papers and registries related to the satisfaction of its local content commitment for a minimum of 10 (ten) years following the termination of this Agreement and shall supply the Charterer with copies or originals of such records upon request. Notwithstanding the foregoing, the Operator shall not destroy any such records without the prior consent of the Charterer.
- 18.6 With regard to this Clause 18 (*Local Content*), the Operator acknowledges that the rules relating to local content can be found at ANP's website (<http://www.anp.gov.br>) so that it shall never allege ignorance of the same.

## 19. TERMINATION AND SUSPENSION

### 19.1 Operator Termination Events

Each of the following events and occurrences shall constitute an Operator Termination Event under this Agreement:

19.1.1 **Non-Payment:** the Charterer fails to pay any amount due from it under this Agreement on its due date in the currency and in the manner specified herein within thirty (30) days after written notice of such non-payment has been received by the Charterer;

19.1.2 **Breach of Other Obligations:** the Charterer materially fails to perform any of its material obligations under this Agreement;

19.1.3 **Illegality:** it shall become unlawful for the Operator or the Charterer to perform any of their respective material obligations under this Agreement;

19.1.4 **Insolvency:** (i) the Charterer is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any indebtedness; (ii) the value of the assets of the Charterer is less than its liabilities (taking into account contingent and prospective liabilities to the extent that any prospective liabilities would be shown in the balance sheet of the relevant company in accordance with IFRS; or (iii) a moratorium is declared in respect of the Charterer (which Operator Termination Event will not be remedied by the ending of the moratorium).

19.1.5 **Insolvency Proceedings:** (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Charterer; (ii) a composition, compromise, assignment or arrangement with any creditor of the Charterer; (iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Charterer or any of its assets (including the directors of the Charterer requesting a person to appoint any such officer in relation to such companies or any of their respective assets); or (iv) enforcement of any Encumbrance over any assets of the Charterer;

19.1.6 **Winding-Up:** a non-appealable order, judgment or decree shall be entered by any court of competent jurisdiction in respect of the Charterer approving a petition seeking reorganisation or the winding-up of the Charterer or appointing a receiver, trustee or liquidator of the Charterer or of all or a substantial part of its assets.

Rights of Owner on an Owner Termination Event

If an Operator Termination Event occurs and is continuing, the Operator may give notice thereof to the Charterer, giving details of such Operator Termination Event. In case of the Operator Termination Event set out in Clause 19.1.6 the Operator may thereafter immediately terminate this Agreement by notice to the Charterer. In case of the Operator Termination Events set out in Clauses 19.1.1 to 19.1.5 the Operator may terminate this Agreement by notice to the Charterer only if the Charterer does not commence and thereafter diligently proceed with action reasonably satisfactory to the Operator to remedy such Operator Termination Event within fifteen (15) Business Days (or such other period as is reasonable taking into account the nature of the Operator Termination Event and the remedy required).

19.2 Charterer Termination Events

Each of the following events and occurrences shall constitute a Charterer Termination Event under this Agreement:

- 19.2.1 **Breach of Obligations:** the Operator materially fails to perform any of its material obligations under this Agreement (not otherwise provided for specifically in this Clause 19.2 (*Charterer Termination Events*)) and, if such failure is capable of remedy, fails to remedy such non-performance within the period of fifteen (15) Business Days after notice in writing of such failure has been received by the Operator from the Charterer;
- 19.2.2 **Insolvency Proceedings:** (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Operator; (ii) a composition, compromise, assignment or arrangement with any creditor of the Operator; (iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Operator or any of its assets (including the directors of the Operator requesting a person to appoint any such officer in relation to the Operator or its assets); or (iv) enforcement of any Encumbrance over any assets of the Operator, provided that no Termination Event under this Clause 19.2.2 shall occur in respect of any winding-up petition (or analogous procedure or step) which is frivolous or vexatious and is discharged, stayed or dismissed within fourteen (14) days of commencement or, if earlier, the date on which it is advertised;
- 19.2.3 **Misrepresentation:** any material representation or statement made or deemed to be made by the Operator in this Agreement shall have been incorrect or misleading in any material respect when made or deemed to be made;
- 19.2.4 **Registration:** the Operator shall do or cause to be done any act or thing which is likely to cause the registration of the Vessel under the laws and flag of the flag state to be cancelled or terminated or, where applicable, not renewed within the time frame permitted by the laws of the flag state;
- 19.2.5 **Arrest:** the Vessel is arrested, confiscated, seized, taken in execution, impounded, forfeited, detained in exercise or purported exercise of any possessory lien or other

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**20. TRANSFERS**

Neither Party may transfer or assign any of its rights and obligations under this Agreement, except to an Affiliate, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

**21. NOTICES AND LANGUAGE**

**21.1 Delivery**

Every notice, request, demand or other communication under this Agreement shall be in writing and shall:

**21.1.1 be delivered:**

- (a) personally; or
- (b) by registered post or courier with acknowledgement of receipt; or
- (c) by facsimile transmission in permanent written form.

**21.1.2 be deemed to have been received, subject as otherwise provided in this Agreement:**

- (a) in the case of personal delivery, on the date of delivery; and
- (b) in the case of a letter sent by registered post or courier, on the date indicated on the acknowledgement of receipt; and
- (c) in the case of a fax, on the date of actual receipt.

**21.2 Contact Details**

For the purposes of any notice, request, demand or other communication sent in accordance with Clause 21.1 (*Delivery*) the contact details of each of the Parties are as follows:

**21.2.1 to the Operator:**

OSX SERVIÇOS OPERACIONAIS LTDA.  
Praça Mahatma Gandhi nº. 14 - 13º andar  
CEP 200031-100, Rio de Janeiro (RJ), Brazil

Attention: Legal Manager

Fax: +55 21 2163 5349

Email: marcos.castro@osx.com.br

**21.2.2 to the Charterer:**

OGX PETRÓLEO E GÁS S.A.  
Praça Mahatma Gandhi nº. 14 - 19º andar  
CEP 200031-100, Rio de Janeiro (RJ), Brazil

Attention: José Roberto Faveret - General Counsel





Fax: +55 21 2555 5202

Email: jose.faveret@ogx.com.br

or to such other address, fax number or email address as is notified in writing by one Party to the other Party under this Agreement.

### 21.3 Language

21.3.1 This Agreement shall be executed in an English language version and a Portuguese language version, provided that in case of any discrepancy between the two versions, the English language version shall prevail.

21.3.2 Notwithstanding Clause 21.3.1, each communication and document made or delivered by one Party to another pursuant to this Agreement shall be in the Portuguese language or accompanied by a translation thereof into Portuguese certified (by an officer of the person making or delivering the same) as being a true and accurate translation thereof and in this case the Portuguese translation will prevail.

## 22. GOVERNING LAW - JURISDICTION

### 22.1 Governing Law

This Agreement and any non-contractual obligations connected with it are governed by and shall be construed in accordance with Brazilian law.

### 22.2 Amicable Settlement

22.2.1 In the event of any dispute, difference or disagreement between the Parties arising under, out of or in connection with this Agreement, including any question regarding its existence, validity or termination and any non-contractual obligations arising out of this Agreement (a "Dispute"), the Parties shall attempt to settle such Dispute amicably and the chief executive officer of each Party shall in that respect meet and endeavour to resolve issues between them.

22.2.2 The joint and unanimous decision of such chief executive officers of the Parties shall be binding upon the Parties. If they do not meet or are unable to reach an agreement within thirty (30) days of the referral of a Dispute to them then the Dispute shall be referred to arbitration in accordance with Clause 22.3 (*Arbitration*).

### 22.3 Arbitration

22.3.1 All Disputes shall be finally settled by arbitration in accordance with the rules of the Arbitration and Mediation Centre of the Chamber of Commerce Brazil-Canada as at present in force. There shall be three (3) arbitrators. Each party shall appoint an arbitrator and the two so appointed shall jointly appoint a third arbitrator. In the event that a party fails to appoint an arbitrator within fourteen (14) days of a request to do so, the party referring to the Dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and advise the other party accordingly. The award of a sole arbitrator shall be final and binding on both parties as if he had been appointed by agreement. The seat and place of arbitration shall be Rio de Janeiro, Brazil. The Portuguese language shall be used throughout the arbitral proceedings.

23. **WAIVER, CUMULATIVE RIGHTS AND SUBSTITUTION**

23.1 Waiver and Cumulative Rights

No failure or delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof by such person or the exercise by such person of any other right, power or privilege. The rights and remedies of the Parties herein provided are cumulative and not exclusive of any rights or remedies provided by law.

23.2 Substitution

If the Operator fails to comply with any provision of this Agreement, the Charterer may, without being in any way obliged to do so or responsible for so doing or not doing so, and without prejudice to the ability of the Charterer to treat such failure as a Termination Event, with prior written notice to the Operator, effect compliance on behalf of the Operator.

24. **CURRENCY INDEMNITY**

24.1 All payments to be made by the Charterer to the Operator under or in connection with this Agreement shall be made in Brazilian reais (BRL).

24.2 Notwithstanding Clause 24.1, if any amount payable by the Charterer under or in connection with this Agreement is paid or is recovered in a currency (the "other currency") other than that in which it is required to be paid hereunder (the "original currency"), whether as a result of a judgment against the Charterer or the liquidation or similar procedure in respect of the Charterer or for any other reason whatsoever, then, to the extent that the payment (when converted to the original currency at the rate of exchange on the date of payment or, in the case of a liquidation or similar procedure, the latest date for the determination of liabilities permitted by the Applicable Law) falls short of the amount payable in the original currency under this Agreement, the Charterer shall fully indemnify the Operator against the amount of the shortfall and for the purposes of this Clause 24 (*Currency Indemnity*); where "rate of exchange" means the rate at which the Operator is able on the relevant date to purchase the original currency in the Brazilian market with the other currency.

25. **TAXES**

25.1 Responsibility of the Taxpayer

25.1.1 Except as otherwise expressly set out herein, and without prejudice to Clause 25.2 or Annex II (*Operator Reimbursement and Remuneration*), all applicable Taxes arising out of or in connection with this Agreement or with its performance shall be borne by the responsible Party as per Applicable Law.

25.1.2 Subject to Clause 6.1, the Operator shall indemnify and hold the Charterer harmless against any assessments by the tax authorities in connection with the obligations of the Operator (or the Operator's contractors or subcontractors) by virtue of any Taxes payable by them in accordance with Applicable Law.

25.2 Gross-Up

25.2.1 The Parties acknowledge and agree that the Operator should receive Reimbursable Costs, plus Margin, as calculated in accordance with Annex II (*Operator Reimbursement and Remuneration*), net of all Taxes levied on revenue (including



- 25.4.2 the Receiving Party shall not be obliged to take any action which in its reasonable opinion would or may prejudice its ability to benefit from any other credit, relief, remission, repayment, allowance or deduction to which it may be entitled;
- 25.4.3 the Paying Party acknowledges that the order and manner in which the Receiving Party claims Tax credits, allowances and deductions available to it is a matter which will be determined in accordance with the Receiving Party's accounting and Taxation practices, at the sole discretion of the Receiving Party, and that any credits, allowances or deductions resulting from additional amounts paid under Clause 25.2 shall not receive any preferential treatment; and
- 25.4.4 the Paying Party shall indemnify the Receiving Party for any Taxes that are imposed on the Receiving Party as a result of the disallowance, unavailability, recapture or reduction of any Tax benefit that were taken into account in computing any indemnification or as to which the Receiving Party has made in full the payment to the Paying Party required hereby.

## 26. FORCE MAJEURE

- 26.1 Neither of the Parties shall be considered in breach of an obligation under this Agreement to the extent the Party can establish that fulfilment of the obligation has been prevented by Force Majeure.
- 26.2 The Party invoking Force Majeure shall, as soon as possible, notify the other Party of the Force Majeure situation and shall take all reasonable steps necessary to mitigate the effects of the Force Majeure event.

## 27. CONFIDENTIALITY

- 27.1 All technical and commercial information exchanged between the Parties shall be treated as confidential and shall not be disclosed to any third party without the other Party's permission, unless such information:
- 27.1.1 is the property of the disclosing Party in accordance with Clause 17 (*Information, Technology and Inventions*);
- 27.1.2 was already known to the Party in question at the time the information was received;
- 27.1.3 is or becomes part of the public domain other than through breach of this Clause 27 (*Confidentiality*) by the disclosing Party;
- 27.1.4 is rightfully received from a third party without any obligation of confidentiality;
- 27.1.5 must be disclosed as a consequence of Applicable Law or the requirements of any Government Entity or any stock exchange on which either of the parties is, or is applying to be, listed; or
- 27.1.6 is required to be disclosed in order for the disclosing Party to comply with any obligation or exercise any right under any of the Transaction Documents.
- 27.2 Each of the Parties may however use or disclose confidential information to a third party (including a competent court or tribunal) to the extent necessary for installation, commissioning, operation, maintenance, modification, extension, rebuilding and repair of the Vessel. In such case, where either Party discloses confidential information to a third party, such Party shall



ensure that the third party signs a confidentiality agreement (if possible) on the same terms as this Clause 27 (*Confidentiality*).

28. MISCELLANEOUS

28.1 Variations and Amendment

This Agreement shall not be capable of being varied or amended otherwise than by an express variation or amendment in writing signed on behalf of the Charterer and the Operator.

28.2 Partial Invalidity

If any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable under the laws of any jurisdiction, the validity, legality and enforceability of the remaining provisions contained herein or therein shall not in any way be affected or impaired under the laws of such jurisdiction and the validity, legality and enforceability of any provisions contained in this Agreement shall not be affected under the laws of any other jurisdiction.

28.3 Survival and Independence of Indemnities

Each and all of the indemnities contained in this Agreement shall:

28.3.1 constitute a separate and independent obligation of the Operator from its other obligations under this Agreement, shall give rise to separate and independent causes of action against the Operator, shall apply irrespective of any indulgence granted to the Operator and shall continue in full force and effect notwithstanding any judgment or order; and

28.3.2 survive the termination of this Agreement for a term of five (5) years.

28.4 Consequential Loss

Neither Party shall be liable to the other Party in respect of any Consequential Loss suffered by such other Party.



## Annex I

### Description of Vessel and Vessel Components

#### Part 1 Description of the Vessel

<b>Name</b>	"OSX 3" (formerly, "TAR III")
<b>Port of Registration</b>	Morovia, Liberia
<b>Gross Tons</b>	157,196
<b>Year of Building</b>	1989
<b>Type</b>	FPSO (prior to conversion, Crude Oil Tanker)
<b>Official Number</b>	8526
<b>IMO Number</b>	8715027

#### Part 2 Vessel Information (upon conversion)

<b>Builder</b>	Modec Inc.
<b>Builder's registered office</b>	25 <sup>th</sup> floor, Kasumigaseki Common Gate, West Tower 2-1, Kasumigaseki, 3 chome, Chiyoda-ku, Tokyo, Japan
<b>Date and description of Building Contract:</b>	EPCI contract in relation to the Vessel between the Builder and the Borrower dated 15 July 2011 (as amended from time to time)
<b>Flag State</b>	Liberia
<b>Classification:</b>	"Maltese Cross" 1A1 Ship Shape Oil Production and Storage Unit PROD ECO TMON (or other proper classification for FPSOs of its type and class)
<b>Classification Society:</b>	American Bureau of Shipping (ABS)



## Annex II

### Operator Reimbursement and Remuneration

#### 1. Introduction

Reduction in production levels through the Vessel topsides may be the result of a reduction in operational availability or of a reduction in Operational Efficiency of the Vessel, as set out in more detail in item 6 of this Annex II (*Operator Reimbursement and Remuneration*).

#### 2. Reimbursement

The Charterer shall reimburse the Operator's Reimbursable Costs on a monthly basis during the Operation Period, pursuant to the invoicing and payment procedures to be agreed between the Parties.

"Reimbursable Costs" shall mean those costs incurred by the Operator for the purpose of performing the Services, except to the extent excluded pursuant to Clause 6, Clause 8.18 or Clause 9.3.5. Reimbursable Costs shall include Taxes generally, but exclude Corporate Income Tax. Additionally, in case Operator fails to comply with the procedures established in Clause 7.36, any costs arising from such non-compliance shall not be considered as a Reimbursable Cost.

For the avoidance of doubt, Reimbursable Costs, to which the Margin (as calculated in accordance with paragraph 9) shall be applied, shall not include the amount by which such costs may be increased as a result of Clause 25.2 (*Gross-Up*).

#### 3. Open Book Methodology

The Operator shall present, by the twentieth (20<sup>th</sup>) day of each month, an account of those costs paid by it in the preceding month, classified in accordance with the following categories, provided that categories may be modified or added by the parties in writing from time to time:

- Personnel Costs
- Services Costs
- Materials Costs
- Costs of Lubricants and Chemicals
- Insurance Costs
- Administrative Costs
- Miscellaneous Costs

This account of costs shall be accompanied by a calculation of the Margin payable thereon and an invoice in respect thereof, in accordance with invoicing and payment procedures to be agreed between the Parties.

The Parties acknowledge that the Operator has incurred certain Reimbursable Costs prior to the date of signature of the Agreement. The Operator shall present the documents referred to above in respect of such Reimbursable Costs within thirty (30) days of the signature of the Agreement, which Reimbursable Costs shall be reimbursed by the Charterer together with a Margin thereon, as calculated in accordance with Clause 8.1, in accordance with invoicing and payment procedures to be agreed between the Parties.

#### 4. Definition of Operational Efficiency



Operational Efficiency (OE) is measured for each calendar month, taking account of the operational performance of the Vessel as regards production of oil, injection of water, use of gas, supply of electrical energy for submersible subsea centrifugal pump (for artificial lift) and the transfer of petroleum to shuttle tankers.

Subject to paragraph 4.2 (b) below, Operational Efficiency for each period shall be calculated as a percentage in accordance with the following formulas:

Quarter	Formula
1 <sup>st</sup>	$OE = K * OEI$
2 <sup>nd</sup> - onwards	$OE = K * [(85 * OEI + 3 * WEI + 7.5 * GEI + 4 * EEI + 0.5 * TEI) * 100 - (AWIP)]$

Where K is as defined in paragraph 5 and the other terms are as defined in the remainder of this paragraph 4, subject to their conversion to monthly values in accordance with paragraph 8.

#### 4.1 Efficiency of Oil Production

The Oil Efficiency Indicator (OEI) shall be calculated on a daily basis in accordance with the following formula:

$$OEI = POV/PPOV$$

Where:

POV = Processed oil volume (bbls).

PPOV = Potential processed oil volume (bbls); or the volume of oil that could have been processed under normal conditions if the processing plant were performing properly.

In order to calculate PPOV, the sum of the production results obtained in the most recent tests of each well shall be taken into account. For each well, there shall be generated a potential production curve, which will show, in linear form, the variations between consecutive tests. This curve will be used to calculate the effective daily potential of each well. There will be analysis to correct the potential of each well to take account of the effect of producing through any production header.

Reductions in production resulting from restrictions caused by compliance with the Production Program (for example the passing of a PIG) will not be taken into account in calculating the OEI.

Reductions in production resulting from the unavailability of the riser system, except due to the Vessel's failure to supply energy for the riser system, will not be taken into account in calculating the OEI. For the purposes of this exclusion, "energy" shall include any type of energy that the Vessel may provide for the production system, including but not limited to electrical energy and pressurised gas for gas lift.

#### 4.2 Efficiency of Water Injection



(a) Unless notified otherwise (pursuant to paragraph 4.2 (b) below, the Water Efficiency Indicator (WEI) shall be calculated on a daily basis in accordance with the following formula:

$$WEI = WIVA / WIVP$$

Where:

WIVA = Water injection volume achieved (m3).

WIVP = Water injection volume planned (m3).

If any abnormality in the system for injection of water results in a reduction of the volume of water injected in any calendar month, the WEI may be recovered by increasing the rate of water injection to compensate for the volume of water that was not injected over the following three (3) calendar months.

Since the measurement of efficiency is made on a monthly basis, at the end of each period of three months, the water injection volumes will be revised and WEI recalculated and any divergence from the values used in the calculation of OE during such period will be compensated.

In increasing injection rates to compensate for water that was not injected in accordance with the Production Program, the Operator must respect the maximum injection limits (pressure and flow) for each well, as set by the Charterer.

If, over a period of six (6) months, the accumulated deficit in water injection exceeds ten percent (10%), an additional penalty relating to water injection shall be calculated in accordance with the table below. In each month, the accumulated volume over the preceding six (6) months will be considered.

6 month deficit	Additional Water Injection Penalty (AWIP)
Deficit ≤ 10%	0
10% < Deficit ≤ 15%	0.5
15% < Deficit ≤ 30%	1.5
30% < Deficit ≤ 50%	3.0
Deficit > 50%	5.0

It is understood that the water injection system will include three (3) pumps working at fifty percent 50% capacity (i.e. two (2) in regular operation and one (1) in stand-by) and that there will be made available one electric motor and a pump in stock on standby, as well as a pump motor set in stock for the booster system.

(b) From time to time, the Charterer may instruct the Operator in writing to cease or to recommence water injection. Unless otherwise agreed by the Parties, acting reasonably, such instruction shall take effect ninety (90) days following receipt by the Operator. During any period when the Operator is instructed not to conduct water injection in accordance with the foregoing, the Operational Efficiency formula shall be revised as follows:

$$OE = K * [(88 * OEI + 7.5 * GEI + 4 * EEI + 0.5 * TEI) * 100 - (AWIP)]$$



#### 4.3 Efficiency of Use of Gas

The Gas Efficiency Indicator (GEI) shall be calculated on a daily basis, provided that for the purposes of the definition of the OE, a monthly average of the daily GEI shall be used, taking into account the following formula:

$$GEI = 1 - FGV / PGV$$

Where:

FGV = Flared gas volume (Nm<sup>3</sup>).

PGV = Produced gas volume (Nm<sup>3</sup>).

Provided that:

- a. Gas will be considered as used (i.e. produced and not flared) to the extent it is used in the pilot flare or the deaerator, as fuel gas or for injection or export.
- b. Volumes of low pressure gas that are flared will be calculated for the purpose of this formula by dividing by two the total volume of low pressure gas effectively flared in the relevant period.
- c. That portion of the FGV that cannot be used to feed the equipment of the Vessel, taking into account the then current gas demands of such equipment, shall be deducted from the FGV amount for purposes of the formula above.

#### 4.4 Efficiency in the Supply of Electrical Energy

The Electricity Efficiency Indicator (EEI) for each month shall be calculated in accordance with the following table:

No. of Interruptions in the mth	No. of interruptions in the last 12 mths	EEI in the mth
3	12	100
5	20	95
6	24	90
9	36	70
12	48	50
>12	>48	0

Each time that there occur no interruptions in a month, the monthly tolerance for the subsequent month (and only this month) will become four (4) interruptions (rather than three (3)).

An interruption shall be deemed to have occurred when a lack of electricity causes the electric feeding bar of the submersible centrifugal pump to stop functioning.



Only interruptions caused by the generating system and ancillary equipment themselves will be taken into account in calculating the EEI.

Interruptions while the electric feeding bar of the electrical submersible pump (ESP) is turned off will not be taken into account in calculating the EEI.

#### 4.5 Efficiency in Transfer of Petroleum

$$TEI = A \times B$$

Where:

$$A = (PTPT / RTPT + 0.08)$$

PTPT = Planned transfer pumping time (hrs) for the relevant offloading operation.

RTPT = Realized transfer pumping time (hrs) for the relevant offloading operation.

$$B = (1 - RVNO/MAOC) + 0.1$$

RVNO = Requested volume not offloaded as per Clause 7.34.2 (*Oil Offloading*).

MAOC = Maximum available operational capacity.

Provided that each of A and B shall not exceed 1.

#### 5. Operational Efficiency in the First Semester of Operation

During the first six (6) months following First Oil, the calculation of Operational Efficiency will be multiplied by the factor K, which will have the following values:

Month	Value of K
1 <sup>st</sup>	1.2
2 <sup>nd</sup> and 3 <sup>rd</sup>	1.15
4 <sup>th</sup> , 5 <sup>th</sup> and 6 <sup>th</sup>	1.1


After the first six (6) months of operation, K = 1.

For the purposes of this Annex II (*Operator Reimbursement and Remuneration*), "First Oil" shall mean the date following the hook-up of at least one well to the Vessel and when the processing facilities have achieved stable Production Operations for a period of seventy-two (72) hours.

#### 5.1 Incentive to Increase Efficiency during the First Year of Operation

During the first six (6) months following First Oil, there shall be paid, by way of an incentive, a premium as a function of the efficiency achieved according to the formula for calculation of Operational Efficiency with K = 1. This incentive shall be a percentage uplift on Reimbursable Costs paid by the Operator.

This incentive shall only be paid in the case that the effective production achieves the potential production curve of the wells during the period under consideration.

OSX  


OSX  


Quarter	Operational Efficiency (with K=1)		
	$92 \leq OE < 95$	$95 \leq OE < 98$	$OE \geq 98$
1 <sup>st</sup>	2%	4%	5%
2 <sup>nd</sup>	1%	2%	4%

At least forty percent (40%) of the net amount duly received by the Operator as an incentive under this item 5.1 shall be distributed by the Operator to those of its employees directly and exclusively engaged in Production Operations, whether onshore or offshore. It shall be for the Operator, at its sole discretion, to establish the eligibility criteria, apportionment and frequency of the distribution of such incentives to its employees.

#### 6. Typical Causes of Loss of Efficiency

Only flaws relating to Production Operations shall be taken into account for the purposes of calculating Operational Efficiency and accordingly reduce the Margin referred to in paragraph 4 above.

The Parties agree that the following causes of anomalies resulting in reduction of production levels shall, a priori, be considered as flaws relating to Production Operations and thus taken into account for the purpose of calculating Operational Efficiency:

- (a) premature failures of equipment, even if operated in accordance with the Production Program;
- (b) failures caused by acts of omissions of the Operator;
- (c) failures resulting from deficiencies in maintenance.

The Parties further agree that anomalies resulting from the following events shall not be considered as flaws relating to Production Operations and hence will not affect the calculation of Operational Efficiency:

- (a) structural failures of the Vessel or the processing plant;
- (b) failure of the storage tanks;
- (c) failures of the anchoring system;
- (d) premature failure of the internal coating of pipes within the processing plant.

Other anomalies not categorized as set out above will be classified as determined by the Operator, based on its analysis of the root cause of the anomaly, as approved by the Charterer. If the Parties agree that this should be treated as an anomaly relating to Production Operations, it shall be taken into account in the calculation of Operational Efficiency and impact the calculation pursuant to paragraph 4 hereof. If the Parties determine that this is not related to Production Operations, the flaw shall be disregarded for the purposes of calculating Operational Efficiency.

Any new type of cause that may arise and be agreed between the parties, as aforesaid, shall be treated in the same way if it arises on subsequent occasions.

**7. Record of Incidents in the Performance of the Services**

Incidents shall be recorded on a daily basis, using the Daily Operations Report.

**8. Monthly Calculations of Efficiency**

OEI, WEI and GEI shall be calculated on a daily basis. The mean average of such daily values during the month in question shall be used to obtain their respective monthly values.

EEl shall be calculated for each month in accordance with the table set out in paragraph 4.4.

The monthly value for TEI shall be the mean average of the calculation for each of the offloading operations completed during the month in question.

**9. Margin during Pre-Operational Phase and Correlation between Operational Efficiency and Margin**

9.1 The Margin to be paid to the Operator on the value of monthly Reimbursable Costs during the period between the execution of the Agreement and First Oil shall be fixed at five percent (5%).

9.2 The Margin to be paid to the Operator on the value of monthly Reimbursable Costs after First Oil shall be calculated in accordance with the following table:

Operational Efficiency	Margin	Formula
OE ≥ 98%	10%	-
98% > OE ≥ 95%	10% > Margin ≥ 5%	Margin = (5*(OE-92)/3)%
95% > OE ≥ 90%	5% > Margin ≥ 0%	Margin = (OE-90)%
OE < 90%	0%	-

9.3 In case of reduction in the production capacity of the Vessel to zero, resulting from restrictions in availability entirely attributable to flaws not related to the Production Operations pursuant to paragraph 6 hereof, no Margin shall be payable. Nonetheless, the Charterer shall reimburse Operator's Reimbursable Costs in accordance with paragraph 2.

**10. Reduced Remuneration for Excess Consumption**

10.1 The amount payable by the Charterer to the Operator in any calendar month by way of Margin on Reimbursable Costs shall be reduced by:

10.1.1 the prevailing market price of any diesel oil, fuel oil, fuel gas and industrial water supplied by the Charterer in excess of the maximum levels of consumption determined in accordance with Clauses 8.6.3 and 8.6.4; and



10.1.2 the Reimbursable Costs (plus the Margin applied thereto) relating to the acquisition by the Operator of any chemical products in excess of the necessary levels of consumption determined in accordance with Clause 7.33.5,

provided that:

- (a) in the first calendar month of any such excess consumption, the reduction in such amount payable to the Operator shall be limited to a maximum of twenty five percent (25%) of the total amount payable to the Operator by way of Margin on Reimbursable Costs in such calendar month;
- (b) in any subsequent calendar month of excess consumption for the same reason, the reduction in such amounts payable to the Operator shall be limited to a maximum amount calculated as follows:

Maximum Reduction % = 25 + (10 \* Number of consecutive calendar months during which excess consumption has occurred for the same reason),

provided that the reduction in the amount payable to the Operator by way of Margin on Reimbursable Costs in any calendar month, when aggregated with any liability of the Operator to the Charterer pursuant to Clause 6.10 of the Agreement in such calendar month, shall be limited to 100% of such amount.

10.2 The reduction to the amount payable to the Operator by way of Margin set out in paragraph 10.1:

- 10.2.1 shall only apply where the excess consumption referred to therein results from the fault, negligence, imprudence or lack of care of the Operator; and
- 10.2.2 shall not apply if the Operator shall have first obtained the Charterer's consent to such excess consumption, which consent shall not be unreasonably withheld.

## 11. Planned Shutdowns

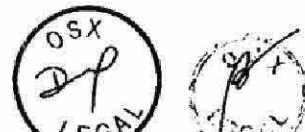
In each twelve (12) month period following the date on which First Oil is achieved, the Operator shall have the right to shut in production for two hundred and eighty eight (288) hours for preventive maintenance and repairs of the Vessel. This period shall not be taken into account in calculating Operational Efficiency.

The timing of such planned shutdowns shall be agreed between the Parties sufficiently in advance.

In each contract year in which the allowance of two hundred and eighty eight hours is not used in its entirety, this shall generate a reserve volume of produced oil (RVPO), which shall be calculated in accordance with the following formula:

RVPO = (288 - No. hours of planned shutdowns actually used) / 24 \* average daily oil production during the months in which planned shutdowns occurred (but excluding the days on which the planned shutdowns occurred).

If no planned shutdowns occurred during the contract year in question, the average daily oil production of the entire contract year shall be used instead.



The reserve volume of produced oil calculated in accordance with the formula above shall be used to compensate for reduced production, which would reduce the OEI in the following contract year or subsequent contract years.

**12. Reduced Remuneration for Off-Spec Oil (Clause 7.34.3)**

- 12.1 If, pursuant to Clause 7.34.3, the Charterer instructs the Operator to offload Off-Spec Oil (in excess of the maximum heel allowed as per Clause 7.34.2), the Margin payable by the Charterer to the Operator in respect of the relevant calendar month shall be reduced by the application of the following formula:

Margin x (OVOSO/MOPC)

OVOSO = Offloaded volume of Off-Spec Oil (in excess of maximum heel allowed as per Clause 7.34.2)

MOPC = Maximum Operational Projected Capacity



## Annex III

## Mutual Obligations and Responsibilities

	DESCRIPTION	CHARTERER	OPERATOR
1.	Industrial water to be produced on the FPSO.		X
2.	Procurement of chemical products for processing oil, gas, water (injected and waste water) and for operation of the FPSO (provided that the same shall be contracted directly by Charterer in accordance with Clause 7.33.		X
3.	Inspection and maintenance services for the hoses and lines of the main system for oil transfer.		X
4.	Fuel for operation of the FPSO, if fuel gas is not available in sufficient quantity.	X	
5.	Personal Safety Equipment (gloves, helmets, boots), for OSX personnel - goggles, ear protectors and other equipment for use by personnel.		X
6.	Services at the OSX onshore support base (office and warehouse).		X
7.	Handling and storage of materials and equipment belonging to or provided by OSX, on land or on the FPSO.		X
8.	Handling and storage of materials and equipment belonging to OGX or third parties, on board the FPSO.		X
9.	Ground transportation, loading and unloading of materials for which OSX is responsible, except at the port indicated by OGX.		X
10.	Loading and unloading of materials for which OSX is responsible, at the port indicated by OGX.	X	
11.	Cleaning and painting services on board the FPSO.		X
12.	Housekeeping, food and accommodation services.		X
13.	Air or sea transportation of OSX personnel to and within the Operation Site, within normal schedules.	X	
14.	Scheduled air and sea transportation, not used by OSX without prior notification to OGX.		X
15.	Air or sea transportation of materials whose supply is the responsibility of OGX.	X	
16.	Diving services for underwater inspection of the FPSO and assistance with <i>pull-in/pull-out</i> .		X
17.	FPSO support services, necessary for installation, handling, operation, inspection and replacement of the hoses of the		X



	DESCRIPTION	CHARTERER	OPERATOR
	transfer system.		
18.	Supply of the vessel for the provision of the service described in item 18, above.	X	
19.	Steel cables, slings, sisal or nylon cord and cordage in general, needed to tie the tow cable, berthing of support vessels and for cargo handling operations.		X
20.	Hoses and lines for the oil transfer system.		X
21.	Support vessel required for installation, handling, operation, inspection and replacement of the hoses for the main system or emergency system for oil transfer.	X	
22.	Spare and replacement parts for the hoses and lines of the main system for oil transfer.		X
23.	All customs duties, expenses and fees, including those for agency, licenses, taxes or similar charges in relation to the importation or shipment to the FPSO of all equipment, spare parts and consumable goods belonging to OSX or required for the execution of the Agreement (but excluding any ICMS, which shall be the responsibility of the Charterer).		X
24.	Hoses and lines for the system for receiving consumables (diesel, water, etc.).		X
25.	Installation vessel for the subsea installation of the risers.	X	
26.	Vessels and subsea equipment for the repair of the FPSO.		X





## **Annex IV**

### **Health, Safety and the Environment**

#### **SUMMARY**

This Appendix sets out the minimum HSE requirements to be followed by organisations contracted by OGX.

**1 – INTRODUCTION**

**2 – OBJECTIVE**

**3 – REFERENCE DOCUMENTS**

**4 – RESPONSIBILITIES**

**5 – ACRONYMS AND DEFINITIONS**

**6 – GENERAL CONSIDERATIONS**

**7 – HSE MANAGEMENT SYSTEM**

**8 – SPECIALISED ENGINEERING OCCUPATIONAL HEALTH AND SAFETY SERVICES**

**9 – NOTIFICATIONS**

**10 – SUSPENSIONS OF SERVICES DUE TO HSE ISSUES**

**11 – FINAL PROVISIONS**



## 1 INTRODUCTION

OGX committed to establishing an open and transparent communication with suppliers, contractors and other business partners, and offers these guidelines to encourage an HSE culture that reflects the objectives of the EBX Group.

This document establishes HSE legal requirements, OGX internal procedures and good HSE practices of benchmark companies, so as to provide for the achievement of appropriate objectives.

OGX monitors performance of the HSE guidelines as established in its contracts, to ensure its objectives are met.

## 2 OBJECTIVE

The objectives are: to ensure that HSE legislation, as well as those requirements established by OGX and CONTRACTOR, shall be complied with in all contracts; prioritising preventative measures; identifying the risks associated with operations and ensuring they are monitored; and incorporating risk assessment processes into all phases of a project, including those related to the protection of the workforce and environment, the client itself, and any neighbouring communities.

## 3 REFERENCE DOCUMENTS

In addition to the requirements contained herein, CONTRACTOR is obliged to meet and shall ensure that it does meet, all legislation (laws, decrees etc.) related to its activities.

## 4 RESPONSIBILITIES

### 4.1 OGX

When requiring a halt to the services, OGX Supervisors must complete a specific Notification/halt order, detailing the reason and person responsible for the request.

### 4.2 CONTRACTOR

CONTRACTOR, on signing the Contract with OGX, undertakes to comply with applicable laws, regulations and working procedures concerning HSE, allowing a thorough and complete inspection of its facilities and services.

## 5 ACRONYMS AND DEFINITIONS

### 5.1 ACRONYMS

API – American Petroleum Institute

APP – Análise Preliminar de Perigos (*Preliminary Hazard Assessment*)

ART – Anotação de Responsabilidade Técnica (*Technical Responsibility Note*)

BAD – Boletim de Avaliação de Desempenho (*Performance Evaluation Bulletin*)

CNEN – Comissão Nacional de Energia Nuclear (*National Nuclear Energy Commission*)

CREA – Conselho Regional de Engenharia e Arquitetura (*Regional Engineering and Architecture Council*)

CRM – Conselho Regional de Medicina (*Regional Medical Council*)

DDSMS – Diálogo Diário de Segurança, meio ambiente e saúde ocupacional (*Daily Safety, Environment and Occupational Health Dialogue*)



- DPC – Delegacia da Capitania dos Portos (*The Port Authorities*)
- DRT – Delegacia Regional do Trabalho (*Regional Labour Agency*)
- HHT – Homem hora trabalhada (*Man-hour worked*)
- IMDG – International Maritime Dangerous Goods
- IN – Instrução Normativa do TEM (*Directive of the Ministry for Work and Employment*)
- INSS – Instituto Nacional de Seguridade Social (*National Institute of Social Security*)
- ISM Code – International Safety Management Code
- ISPS Code – International Ship and Port Facility Security Code
- LOLER - Lifting Operations and Lifting Equipment Regulations
- LTCAT – Laudo Técnico de Condições Ambientais do Trabalho (*Technical Report of Working Environmental Conditions*)
- MARPOL – International Convention for the Prevention of Pollution From Ships
- MTE – Ministério do Trabalho e Emprego (*Ministry for Work and Employment*)
- NORMAM – Normas da Autoridade Marítima (*Maritime Authority Standards*)
- OIT – Organização Internacional do Trabalho (*International Labour Organisation*)
- PAT – Programa de Alimentação ao Trabalhador (*Worker Food Programme*)
- PCA – Programa de Conservação Auditiva (*Hearing Protection Programme*)
- PCMAT – Programa de Condições e Meio Ambiente de Trabalho na Indústria da Construção (*Programme for Environmental and Working Conditions in the Construction Industry*)
- PCMSO – Programa de Controle Médico e Saúde Ocupacional (*Medical and Occupational Health Control Programme*)
- PGR – Programa de Gerenciamento de Riscos (*Risk Management Programme*)
- PPR – Programa de Proteção Respiratória (*Respiratory Protection Programme*)
- PPRA – Programa de Prevenção de Riscos Ambientais (*Environmental Risk Prevention Programme*)
- PT – Permissão para Trabalho (*Work Permit*)
- SESMT – Serviços Especializados em Engenharia de Segurança e em Medicina do Trabalho (*Specialised Engineering Occupational Health and Safety Services*)
- SMS – Segurança, meio ambiente e saúde ocupacional (*HSE – Occupational Health, Safety and Environment*)
- SOLAS – Convenção Internacional para a Salvaguarda da Vida Humana no Mar (*International Convention for the Protection of Life at Sea*)

## 5.2 DEFINITIONS



**Basic Support Ambulance Type B with DEA / AED (Desfibrilador Externo Automático / Automatic External Defibrillator)** – Vehicle used for the inter-hospital transport of patients known to be in critical condition and the pre-hospital treatment of patients where the precise risk to life is unknown, where those patients are not classified as having the potential to require medical intervention on location and/or during transport.

**Classified Area** – Areas with a risk of explosion and fire.

**Confined Spaces** – Any space not designed for continuous occupation, which has limited means of entry and exit and where existing ventilation is insufficient to remove harmful contaminants and/or where oxygen deficiency may exist or develop.

**External Supervisors** – Representatives of supervising bodies (federal, state and municipal) and providers of public services.

**Hazard** – Source or situation with potential to cause injury to persons or health problems, damage to property or the environment, or a combination thereof.

**HSE Management Policy** – Declaration by the organisation, stating its intentions and principles in relation to HSE, which provides a framework for action and the setting of objectives and targets.

**Institutional** – Representatives of society, thought leaders, leaders of professional entities, community and school leaders.

**Isolation Area** – Demarcated and signalled area of an installation, separated for the performance of services or the isolation of risk, which only those duly authorised may enter. The use of striped plastic tape to mark out isolated areas on OGX premises and installations is forbidden, only the use of "cerquite" is allowed.

**Others** – All visitors who do not fit into other classifications, such those required to sign contracts, or for recruitment and selection etc.

**Risk** – The combination of the probability of damage due to the existence of a determined hazard, taking into account existing controls, multiplied by the consequences of the occurrence of such damage.

**Service and Technical Assistance Providers** – Companies contracted for the provision of any services to OGX and contractors.

**Supervisors** – Team officially delegated by OGX to manage and supervise the contract.

**Suppliers** – Those responsible for the supply of products, equipment, parts and accessories to OGX and contractors.

**Technical Visit** – Contact between employees of OGX and/or with employees of other companies, with the aim of exchanging experiences / professional information.

**Vessels** – Vessels used on OGX projects. This definition includes FPSO vessels.

## 6 GENERAL CONSIDERATIONS

CONTRACTOR shall adhere to OGX operational HSE standards and procedures.

## 7 HSE MANAGEMENT SYSTEM

### 7.1 GENERAL REQUIREMENTS

- a) CONTRACTOR shall establish and maintain a management system for health, safety and the environment;
- b) CONTRACTOR shall ensure that all its SUBCONTRACTORS are aware of and shall follow the obligations established in this contractual appendix.



## 7.2 HSE MANAGEMENT PLAN

CONTRACTOR shall, at least thirty (30) days prior to the commencement of activities, formally present an HSE Management Plan to the OGX Supervisors for analysis and comment. Such plan shall contain at least the following topics:

### 7.2.1 Objectives, targets and indicators

The objectives and targets shall be measured using the following HSE performance indicators:

7.2.1.1 Frequency of Accidents Requiring Removal

7.2.1.2 Frequency of Accidents Not Requiring Removal

7.2.1.3 Degree of Severity

7.2.1.4 Rate of Periodic Examinations

7.2.1.5 Rate of Execution of HSE Inspections, which shall be at least 90%

7.2.1.6 Rate of generation of solid waste

7.2.1.7 Amount of oil and gas in waste water

### 7.2.2 Structure

CONTRACTOR shall communicate the HSE policy to all employees and employees of its SUBCONTRACTORS, keeping a register of this communication.

CONTRACTOR shall establish the responsibilities of all those involved in operations on the platform.

### 7.2.3 HSE Management Programmes

#### 7.2.3.1 Environmental Risk Prevention Programme

It falls to CONTRACTOR, based on identification of potentially unsafe aspects of the contracted service, to develop and comply with the PPRA as per applicable law.

CONTRACTOR shall prepare such a programme and present it to OGX Supervisors. The programmes shall be adjusted during the performance of the services based on assessments of actual environmental conditions. The programme shall cover all activities of CONTRACTOR employees and those of its SUBCONTRACTORS.

#### 7.2.3.2 Medical and Occupational Health Control Programme (PCMSO)

CONTRACTOR, before the commencement of services, shall present the PCMSO for its personnel and the personnel of its SUBCONTRACTORS to the OGX supervisors.

- a) CONTRACTOR shall have available and archived, at the location of work, a copy of all ASOs (Occupational Health Certificates) issued to its employees and its contractors, and shall present it when requested by OGX;
- b) The PCMSO data shall be updated annually, and at the end of twelve (12) months a report following the provisions of NR 7 shall be issued;
- c) CONTRACTOR shall indicate the healthcare unit to provide care and hospital treatment in cases of accident or emergency, as well as the means of transport to be used;
- d) CONTRACTOR employee access and right to remain for the performance of services shall be subject to the validity of their Occupational Health Certificate – ASO;
- e) The supply of first aid and medical treatment for contractors is the responsibility of CONTRACTOR;
- f) The expenses arising from medical care provided by OGX to employees of CONTRACTOR, shall be debited from the first invoice that follows the provision of such care;



g) CONTRACTOR shall ensure that medical and dental care services are available through health insurance to all employees and SUBCONTRACTORS who work on the contract with OGX.

#### 7.2.3.3 Professional Social Security Profile (PPP)

CONTRACTOR shall prepare the Professional Social Security Profile - PPP, as defined in the INSS Directive, for all its employees in contracted service for OGX, throughout the duration of the contract.

The CONTRACTOR shall submit to the OGX Supervisors, a copy of proof of delivery of the PPP for each employee when requested.

The CONTRACTOR shall, upon the termination of the employment contract with an employee in the service of OGX, issue the PPP of such employee, delivering a proof of delivery to the Supervisor of the contract.

#### 7.2.3.4 Respiratory Protection Programme (PPR)

CONTRACTOR shall, prior to the commencement of services, where applicable, submit to the OGX Supervisors, the PPR programme for its employees and those of its SUBCONTRACTORS.

Should the programme be rejected or receive comments/changes, CONTRACTOR shall redraft it and present it for review.

#### 7.2.3.5 Ergonomic Report

CONTRACTOR shall prepare an ergonomic report to ensure that ergonomic management forms part of the approach to worker health, to promote the improvement of each worker's relationship with his work in order to prevent, minimise or eliminate health problems, providing greater comfort and safety through the adaptation of the work situation to the physiological, psychological and emotional conditions of the worker, considering their needs, abilities and limitations.

CONTRACTOR should guide the management of ergonomics and its risks.

#### 7.2.3.6 Hearing Protection Programme (PCA)

CONTRACTOR, where applicable, shall submit to the OGX Supervisors, the PCA for its employees and those of its SUBCONTRACTORS.

Should the programme be rejected or receive comments/changes, CONTRACTOR shall redraft it and present it for review.

#### 7.2.3.7 Programme for the Prevention of Occupational Exposure to Benzene (PPEOB)

Such a programme must be prepared if there is to be handling of solvents or other products containing Benzene, Toluene or Xylene.

#### 7.2.3.8 Change Management

All changes, temporary or permanent, shall be evaluated by CONTRACTOR in order to identify, eliminate and/or minimise risks arising therefrom.

CONTRACTOR shall implement mechanisms to assess and manage risks inherent to the change, from initial planning through to effective incorporation into the process.

CONTRACTOR shall formalise all processes of change by way of description, evaluation and documentation, as well as any necessary disclosure to all involved in the activity.

CONTRACTOR shall maintain systematic identification of new risks that arise in the work as a result of the

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changes. When such situations occur, CONTRACTOR shall enable the workforce for the new situation, increasing training and reviewing procedures and emergency plans.

#### 7.2.4 HSE Implementation, Operation, Verification and Corrective Action

CONTRACTOR shall maintain a routine of safety inspections, monitoring and supervision of services, of the employees and working conditions, with the objective of preventing any abnormal occurrences. The results of these activities shall be entered into reports with their respective action plans with deadlines and individuals responsible, timely solutions and information to ensure the prevention of recurrence.

CONTRACTOR shall have all construction sites and service areas demarcated as per applicable law. The demarcation process must include access roads, use of Personal Protective Equipment, hazards and risks (confined space, electricity, chemical products, etc.)

A systematic investigation of HSE incidents shall be performed according to the procedure and form set out by OGX, to be provided after the signing of the contract. The primary objective of the investigation of accidents and occupational illness will be to determine their causes, establish classification, implement preventative actions to prevent recurrence and to promote wide dissemination through OGX of the experience gained, to prevent recurrence. The investigating committee shall arrive at its conclusions and recommendations by consensus having consulted all relevant parties. The involvement of the contributing party in the investigation process is important for obtaining valuable information, which in some cases may not be available from other sources.

CONTRACTOR shall be responsible for the processes of acquisition, distribution, cleaning, maintenance and disposal of PPE. All equipment must have a Certificado de Aprovação (*Approval Certificate*) issued by the MTE and have sufficient valid functional life.

For monitoring non-compliance and corrective and preventive actions, CONTRACTOR company shall make a follow-up presentation on the development of action plans established for remedying non-compliances.

CONTRACTOR shall establish a system of prior identification of causes of non-conformities and prevention of their occurrence.

#### 7.2.5 Organisational Structure

The organisational structure shall be adequately described in the Management Plan

#### 7.2.6 Planning

CONTRACTOR shall establish a plan of action for treatment of identified risks such as are considered significant, and shall circulate this among its employees, identifying hazards and risks inherent in their activities, as well as ways to control them.

Such a plan should be dynamic and risk analysis should be constantly reviewed to reflect actual operations.

#### 7.2.7 Legal and other requirements

The activities of CONTRACTOR shall comply with prevailing HSE legislation.

CONTRACTOR shall know the standards and regulations for safety, environment and occupational health applicable to OGX, the same being available for consultation with the Supervisors of the contract.

Should CONTRACTOR identify and have access to legal and other requirements applicable to its activities, products, waste, services, locations, equipment, vehicles etc. in order to support the development and implementation of its HSE Management System and to meet the objectives of these HSE requirements, this information shall be kept updated throughout the duration of the contract.

CONTRACTOR is responsible for the actions and behaviours of its employees and the employees of its SUBCONTRACTORS, and the consequences arising from civil and criminal breach of any HSE laws, rules and

regulations prevailing in the country, accounting also for any damage caused by its employees and representatives to OGX and third parties.

#### 7.2.7.1 Internal Accident Prevention Committee – CIPA

A copy of the implementation and performance of the CIPA shall be submitted to OGX Supervisors / SESMT.

#### 7.2.8 Implementation and operation

##### 7.2.8.1 Roles and responsibilities

CONTRACTOR shall provide for duties and responsibilities which cover the entire workforce and that have a direct influence on the HSE activities.

##### 7.2.8.2 Training, awareness, competence

Every employee of CONTRACTOR and SUBCONTRACTOR, before being allowed to perform services on the premises of OGX, is obliged to receive introductory training on HSE to be provided by professionals from the OSX SESMT or another company formally designated. In addition to this training, CONTRACTOR shall make available to all employees, specific training for the activities carried out, focusing on the risks to which they are exposed.

CONTRACTOR shall maintain a training programme containing all the necessary legal training in addition to specific health and safety training, throughout the term of the contract. Training records shall be stored in hard-copy or electronically and shall be available to Supervisors.

CONTRACTOR shall maintain records of all Daily Safety Reports in proper form, with the signature of all participants and the date and issues covered.

The time allotted to the Daily Safety Reports shall not be counted as man-hours of training.

CONTRACTOR shall ensure that the operation of machinery and equipment with different technical requirements from those the operator was accustomed to shall merit retraining in order to qualify the operator to their use by an approved entity and/or qualified professional.

Whenever there is change in activity of the employee, there shall be adaptation training by a qualified professional.

The manager of CONTRACTOR, as well as the Contract Manager of OGX or other designated employee shall be responsible for submitting the investigation report to OGX SESMT, together with an action plan to prevent recurrence.

CONTRACTOR shall provide evidence that its employees are properly trained and qualified to perform their functions.

CONTRACTOR is responsible for guiding and providing practical and theoretical training during the term of the contract with or without monitoring of OGX Supervisors, to all of its employees and those of its SUBCONTRACTORS, as appropriate, comprising at least the following items:

- Qualification of supervisors and employees in the use of written procedures to perform the services under the contract;
- Hazards and risks to which employees of CONTRACTOR may be exposed, as a result of their activities or workplace;
- Standards of safety, environment and health relevant to the performance of the services;
- Use of Personal Protective Equipment (including respiratory protection as foreseen by the PPR) required for each type of service and/or location;
- Basic Platform Safety course;





- Fire fighting, evacuation and use of extinguishers;
- CIPA – International Accident Prevention Committee
- Work Permit;
- Installation Safety and Electrical Services - NR10;
- Confined Spaces – NR 33.

The establishment of training needs will be conducted by the Coordinator, Supervisor or qualified person designated by them and, upon the occurrence of any of the situations listed below:

- Movement of Personnel (change of role);
- Implementation of new procedures or equipment related to the duties of the position or function;
- Change in technology or implementation of new technology;
- Unsatisfactory performance of the activities inherent to the role or function;
- Change of activities introduced or implemented;
- Raising Awareness.

#### 7.2.9 Operational Control

CONTRACTOR shall plan its activities pursuant to the provisions in the procedures and shall meet all Safety Standards.

CONTRACTOR shall instruct its employees to ensure proper signalling of the workplace.

CONTRACTOR shall operate and maintain machinery, equipment, tools and vehicles in good condition, which, for access to Classified Areas shall be equipped with flame dampers installed on exhausts.

CONTRACTOR shall operate and maintain calibrated measuring instruments and controls.

CONTRACTOR shall inform its employees and those of SUBCONTRACTORS and shall enforce, the prohibition of access to Classified Areas (including processing unit, storage tanks park, Water and Oil Separator etc., where relevant) for persons carrying non-certified equipment for potentially explosive atmospheres (camera, camcorder, laptop, pager, cell phone and lighting equipment and systems, and other communications equipment that is not suitable for Classified Areas etc.).

CONTRACTOR must establish and demarcate smoking areas, and designate them with plaques containing the words "SMOKING PERMITTED IN THIS AREA".

CONTRACTOR shall provide daily meals (breakfast, lunch and/or dinner and/or snacks for extended working hours), for its entire staff, following the standards set by "PAT - Worker Food Programme". from the Secretary of Social Mobility in the Ministry of Labour, the object of Laws 6321 and 6542 of 14.04.76 and 28.06.78, Ordinance CVS-6/99 of 10/03/99; Resolution - RDC No. 216 of September 15, 2004 ; Resolution - RDC No. 275 of 21 October 2002 and other related acts.

The conditions of the supply of food shall be adjusted according to the procedures of each unit and shall strictly observe hygienic and nutritional conditions.

The provision by CONTRACTOR of explosion-proof materials must meet the provisions of NR-10, Ordinance 3214/78.



Flammable liquids shall be deposited in containers constructed of non-combustible materials and shall have adequate natural ventilation and be provided with all signage and fire fighting equipment.

#### 7.2.9.1 Pressurised Equipment and Containers

CONTRACTOR shall provide Certificates of Inspection for all its pressurised containers and equipment, containing design data, actual data obtained and the certified hydrostatic or pneumatic test.

#### 7.2.9.2 Individual and Group Protective Equipment

CONTRACTOR shall keep in stock (in warehouse), sufficient equipment to maintain the continuous implementation of the contracted services.

CONTRACTOR shall maintain an up to date file with records of the delivery of Personal Protective Equipment (PPE) for each employee engaged, replacement filter elements and replacement PPE for the duration of the contract, as well as the training of employees regarding the use and maintenance of PPE for verification at any time by the OGX Supervisors.

The PPE that can be reused, with due regard to the term of its useful life, shall be sanitised by a process of cleaning and disinfection proven to be effective without causing damage to the equipment and, then, shall be packed in plastic bags for future use. Cleaning and reuse of inserted ear protectors is not permitted.

All employees of CONTRACTOR shall use all PPE needed to perform their activities. In operational areas, they shall at least use helmet with chin-strap, safety glasses, protective boots and ear plugs.

Employees of CONTRACTOR who, given the characteristics of the work under normal or emergency situations may require the use of a respiratory protection mask, shall not grow a beard, goatee or long sideburns such as may damage the seal of the protective equipment, allowing the ingress of contaminants into the mask.

#### 7.2.9.3 Uniforms

While performing services on the unit, uniforms must be compatible chemically, thermally and mechanically with the activities to be performed, and be clean and free of tears or other defects.

The quantity of uniforms must be compatible with the activity and duration of the contract.

#### 7.2.9.4 Manual Tools

CONTRACTOR shall ensure that before starting to use any tool, the relevant employee must know the work to be performed by the equipment and have a basic idea of the different types of tools most appropriate for their use, avoiding or mitigating the potential for accidents arising from its use.

CONTRACTOR shall ensure correct use and maintenance of tools, and that it uses high quality products, free of defects and has proper storage and transport.

#### 7.2.9.5 Isolation of Energy

Only professionals who are fully informed regarding the precautions relevant to their work, and whose state of health is consistent with their required activities, shall be authorised to install, operate, inspect or repair the existing sources of energy (electrical, chemical, mechanical, potential, kinetic, hydraulic, pneumatic, thermal, and others).

All equipment used by CONTRACTOR shall be in perfect working order and have a guarantee of safe operation throughout the duration of the services.

Should it be necessary to halt or repair any machinery or equipment, this shall be followed by a primary / secondary blocking procedure and labelling. The blocking procedure shall allow both the operator and any authorised person to clearly identify the isolated equipment.

The procedure of locking must also clearly state all tasks and responsibilities of operators and authorised persons, and should clearly describe the sequence of events to be performed during the procedure.



For the isolation of high-energy sources (electrical, chemical, mechanical, potential, kinetic, hydraulic, pneumatic, thermal, and others) or other high-risk jobs, a "work permit" is required. Where such permits are required, the authorised person shall isolate, test the status (cleared, depressurised etc.) before issuing an "authorisation" for the person responsible. The person responsible shall then complete the locking according to the applicable procedure. In the case of charged equipment, earthing of such equipment is mandatory.

Personal locking devices shall be unique and:

- Shall not have combination locks;
- Shall not have unauthorised master keys made by second parties;
- Shall remain under the exclusive control of the individual who possesses it, and key(s) shall not be transferred to another person for removal of the lock.

After the equipment has been isolated and locked, it is still the responsibility of the authorised person to test safely that the equipment is safe (with potential energy discharged). The type of test shall depend on the equipment, but in all cases all potential energy is to be discharged or controlled. This test shall be set out in the locking procedure. For these tests only instruments approved for the relevant purpose may be used. The tests shall include but not be limited to:

- Pressure;
- Tension, including induced tension;
- Redundant loads;
- Elevated equipment;
- Hazardous chemical substances (especially in confined spaces);
- Stored electrical energy;
- Temperature;
- Equipment under tension;
- Gas sources.

All machines or equipment nearby, or connected mechanically, electrically or via a control system, should also be made safe.

#### 7.2.9.6 Work at Heights

The use of tubular, multipurpose scaffolding, consisting of towers with horizontal and diagonal beams, held together by clamps or rosettes, similar to Rhor, Andar, Moldex scaffolding tubes, shall be mandatory in contracts with the following characteristics:

- a) Scaffolding should be mounted following NR 34;
- b) Where there is potential for a drop height of over 2 metres, the personnel shall wear appropriate equipment to prevent falls. In such circumstances wearing full equipment, including shock absorbing systems, is required;
- c) Where it is necessary to have regular access to high places (construction, installation and moveable machinery) access ways shall be provided. It is recommended that such access ways have handrails. If handrails cannot be installed, then it is recommended that there is a system for fall prevention, depending on the risk assessments for each situation;



- d) A risk assessment shall be documented before the start of the work, and at every stage where the scope of work changes or the risk of falls increases. A risk assessment shall include:
- Consideration of the risk of falling objects and personnel;
  - Selection of appropriate control methods by using the control hierarchy;
  - The possibility of the weather and other environmental conditions influencing working conditions (eg wind, rain, snow, dust, fumes, poor lighting, temperature etc.);
  - Selection of appropriate equipment;
  - Selection of anchor and mooring points;
  - Conditions of support structures;
  - Selection of appropriate isolation and/or demarcation;
  - Fall distances (rope length + elevation + height of worker + safety margin)
- e) In cases where the work requires personnel to detach and re-attach themselves during the execution of work at height, a system of double lanyard is to be used to ensure that at least one connection point is maintained at all times;
- f) Personnel who operate working platforms and lifting cages shall be trained and certified for the specific equipment used.

#### 7.2.9.7 Work in Confined Spaces

For services in confined environments with a risk of asphyxiation, explosion, poisoning and occupational diseases, CONTRACTOR shall comply with the provisions of NR-33 (Work in confined spaces), ABNT NBR 14787 (Confined Spaces - Prevention of accidents) and additional instructions issued by the OGX Supervisors.

CONTRACTOR shall maintain a procedure for confined spaces that includes the methodology for identifying, measuring, signaling, training, simulation, and rescue.

Where works are carried out in confined spaces, CONTRACTOR shall provide an emergency rescue team.

#### 7.2.9.8 Lifting of Cargo

CONTRACTOR shall ensure that all cranes have points of isolation for the electric power supply that can be physically locked. The operability of the crane shall be evaluated in accordance with the conditions of the unit and personnel and shall have protection systems for its operation, maintenance and inspection.

CONTRACTOR shall ensure that all crane hooks are fitted with a security lock for physical locking. Use of hooks without this protection device will not be allowed.

CONTRACTOR shall ensure that the safe operating regime (SOR) or limited operating regime (LOR) shall be clearly marked on all cranes and cargo lifting equipment. It is forbidden to perform any activity in which these limits are exceeded.

The following information shall be available and visible for all cranes:

- Cargo;
- Indicators of load moments;
- External warning light for nominal capacity;

All cranes and lifting equipment shall be identifiable by a code or unique number.

CONTRACTOR shall ensure that all items of lifting equipment that are subject to wear and frequent replacement (such as slings, shackles, eyebolts etc.) shall have a number for confirmation of compliance with the requirements of certification and inspection. The rise through pulley/pulley combination, for example, must be made only from designated lifting points.



CONTRACTOR shall ensure that all equipment will be maintained in good operating condition and shall keep the books of recorded maintenance and inspection available and updated.

CONTRACTOR shall ensure that the operating manuals and cargo plans of the manufacturer of the crane and lifting equipment are available to operators. It is mandatory that the operating manuals are written in Portuguese.

Should the operators of the crane and lifting equipment not be familiar with the equipment, CONTRACTOR shall provide adaptation training. This training must be given by a recognised and reputable institution.

CONTRACTOR shall prepare and maintain detailed elevation plans approved by the relevant supervisor. Before the start of lifting operations, CONTRACTOR shall hold meetings to present the hazards and risks to all involved in the work and ensure that all understand how to conduct the activity.

CONTRACTOR shall ensure that all risks associated with lifting loads, maintenance of cranes, assembly activities and environmental conditions shall be evaluated as part of the planning process. Adequate isolation equipment shall be available, as shall warning signs or other means to ensure protection of workers during lifting and crane operations.

CONTRACTOR shall perform inspection and testing on all cranes and cargo lifting equipment to ensure that all safety devices are working (including non-destructive testing in accordance with the relevant standard) before being operated or put into service. After any repair and/or modification, the crane and lifting equipment shall be inspected (and submitted to non-destructive testing in accordance with the relevant standard) before being put into service again.

CONTRACTOR shall maintain registers of all cargo lifting equipment, including slings. The register shall contain at least

- Unique identification number of the equipment;
- Documented proof of all inspections;
- Certificates;
- Maintenance;
- Modifications and tests.

#### 7.2.9.9 Activities at Water Depth and Diving

CONTRACTOR shall submit to the OGX Supervisors, before commencing activities, the REGISTRATION CERTIFICATE issued by the Port Authorities (DPC) and the CERTIFICATE OF DIVING SAFETY SYSTEMS (up to 50 metres), where applicable.

The Diving Supervisor of SUBCONTRACTOR or Representative on board the vessel is directly responsible for the safety of employees of CONTRACTOR and shall notify the OGX Supervisors of any abnormality observed in the course of service.

Before beginning work, the Layout system to be used, with the operating instructions with details of items related to safety during the operations, shall be presented to the OGX Supervisors.

All vessels, including support vessels, involved in the diving operation shall have protection over external propellers.

On board the vessel, within easy access, there shall be life-saving equipment (floats and life jackets) in a quantity as determined by the DPC.

The mobile land base, which supports the dive must be accessible 24 hours per day, 7 days per week and its contact details (address, phone etc.) shall be reported to the OGX Supervisors.



For workers who will perform activities at water depth, basic training on life-saving, first aid and personal safety, and use of clothing in colour contrast with the sea water (orange or red) containing reflective flags as recommended by the International Convention for the Safety of Life at Sea – SOLAS, shall be mandatory.

CONTRACTOR shall develop and implement a schedule of rescue simulations for man-overboard scenarios, for all work shifts.

#### 7.2.9.10 Work with Hazardous and Chemical Substances

CONTRACTOR shall ensure that its employees and SUBCONTRACTORS have available, read, understand and follow all instructions of the Material Safety Data Sheets for hazardous substances and/or the Safety Information Sheet for chemical products with which they work.

CONTRACTOR shall ensure that its employees and SUBCONTRACTORS never handle or use hazardous or chemical substances if they have not been trained and authorised to use, handle, store and dispose of such substances.

CONTRACTOR shall give priority to collective protection, but if that is not technically possible, shall ensure that its employees and SUBCONTRACTORS use all PPE required for their protection.

CONTRACTOR shall establish procedures for assessing and managing risks to ensure safety in operations.

#### 7.2.9.11 Work Permit

The system of Work Permits (WP) is one of the essential measures for safety. Therefore, strict adherence to these procedures is mandatory. The procedure for Work Permits consists of a set of recommendations to ensure that activities, planned or not, involving performance of services, modifications, maintenance or repairs, cleaning or similar work, will not endanger the safety of personnel or cause damage to property.

The procedures include the following forms of risk:

- Cold work;
- Hot work;
- Work in confined space;
- Work at height;
- Work with electricity;
- Chemical products and hazardous substances;
- Water containers and storage of liquids;
- Mechanical movement and lifting;
- Other situations where there are no procedures and the risks and controls cannot be ensured.

This procedure shall include the requirements considered necessary for the safe development of activities that have issues of complexity or risk of accidents in their implementation. The WP shall be transmitted to all performers involved, before release to start the work in question, and all shall be aware of the risks contained in the WP.

If a lack of knowledge of information in the WP is discovered during inspection and/or auditing of service or activity, the service or activity shall be stopped until a presentation of all the risks is made to the performers of the work.

CONTRACTOR shall train the personnel responsible for the release of WPs, and the workers who will request the same.

#### 7.2.9.12 Risk Analysis and Management



CONTRACTOR shall analyse and manage risk scenarios related to its activities considering the possible impacts in relation to its work force, employees of SUBCONTRACTORS and those of OGX.

#### 7.2.9.13 Preparation for and Response to Emergencies

CONTRACTOR shall prepare an EP – Emergency Plan, contemplating the abandonment of the area and emergency care needed for its workforce. Emergency exit routes shall be marked and unobstructed. The EP shall consider all the scenarios identified in the Preliminary Hazard Assessment.

The following cases shall be considered emergency situations:

- Fire;
- Chemical product leak, gas leak, and risk of explosion;
- Workplace accidents and/or sudden illness;
- Leakage of hydrocarbons into water;
- Other situations that put the physical integrity of the workers and/or contractors at risk, such as sabotage, privately motivated action, inclement weather etc.

The EP shall identify the potential for accidents and emergency situations that may occur during the production of oil and gas.

CONTRACTOR shall consider in its EP the use of: Mobile Medical Facility, Health Professionals (According to Table II of NR 4) and Basic Life Support Ambulance Type B with AED (Automated External Defibrillator) for transport to hospital medical care. The costs of such medical care as may be provided by OGX to CONTRACTOR's employees will be deducted from the following payment, exempt of contractual penalties, if applicable.

The EP shall include the region's hospitals and emergency structures mentioned above.

CONTRACTOR shall train its employees and those of SUBCONTRACTORS in the Emergency Plan, and in the scenarios identified in the Preliminary Hazard Assessment.

In the event of any accident, with or without injury, with its employee or SUBCONTRACTOR, CONTRACTOR shall take the following steps:

- a) Provide assistance to the injured party;
- b) Immediately inform OGX Supervisors;
- c) Conduct investigation and analysis of the accident, and issue the Accident Investigation Report, including: data from the victim(s), description of the accident, immediate and underlying causes, actions and recommendations to be taken in order to prevent recurrence;
- d) Complete the CAT (Work Accident Communication - *Comunicação de Acidente do Trabalho*) and register it with the INSS;
- e) Provide necessary follow-up support to the victim throughout the process of treatment and recovery, until their return to normal activities.

In the case of a fatal accident CONTRACTOR shall:

- Isolate the accident site, preserving its features until it is released by the police and DRT/ESRD, as per the relevant legislation;
- Immediately report the accident to the OGX Supervisors and the competent bodies at Federal, State and Municipal levels, as per the relevant legislation;



- Ensure, with the utmost urgency, that family members are notified of the incident, providing the necessary emotional support;
- Establish, within twenty-four (24) hours after the accident, a commission of investigation to identify the causes of the accident;
- Ensure that the Commission of Investigation has the authority and autonomy to conduct investigations. This must be expressed in the document creating the Commission of Investigation;
- Ensure the participation of the SESMT of OGX and the Management of the OGX Unit in the Commission of Investigation;
- In establishing the Commission of Investigation a deadline should be set for submitting a final report. This period shall not exceed fifteen (15) days, except when the investigation depends on analysis, evaluation or information that can not be obtained within this period, in which case CONTRACTOR shall negotiate with the OGX Manager responsible for the contract.

The Report shall contain, as a minimum, the following details of the accident:

- Description of the accident;
- Exact location;
- Data of the victim(s);
- Underlying and immediate causes;
- Actions to be taken to prevent repetition of the accident.

CONTRACTOR shall present the conclusive report to the OGX Unit Management before releasing it to any other party.

#### **7.2.9.14 Pollution Control Project**

CONTRACTOR shall comply, when performing all actions for which it is responsible, related to the Pollution Control Project, with the conditions of all Environmental Licenses issued in the name of OGX.

OGX shall periodically send to CONTRACTOR a report detailing all conditions relevant to operating the platform.

#### **7.2.10 Verification and Corrective Action**

##### **7.2.10.1 Monitoring and Measurement**

CONTRACTOR shall be evaluated by the OGX Supervisors periodically, by way of audit, inspection and Performance Evaluation Bulletin.

##### **7.2.11 Incidents and Deviations**

CONTRACTOR shall communicate with the OGX Supervisors by using the PNA formula – Preliminary Notification of Accident/Incident.

CONTRACTOR shall perform investigation and analysis of any incident with high loss potential and it shall be transcribed in the PNA - Preliminary Notification of Accident/Incident, with the issuance of the Incident Investigation Report, containing: a description of the incident, underlying and immediate causes, steps, timelines and recommendations to be taken in order to prevent recurrence.





After the conclusion of the accident investigation, CONTRACTOR shall communicate to all employees and SUBCONTRACTORS the identified causes of the occurrence and defined control measures.

All accidents shall be investigated under established deadlines. The Manager of CONTRACTOR shall present the occurrence and investigation results during the monthly meeting for each project.

#### 7.2.12 Legal Registers

CONTRACTOR shall monitor and archive all records relating to the PPRA, PCMSO, LTCAI, Hazard and Health Reports, investigation and accidents, disciplinary penalties and PPP, in sector-specific order, for management and documentation of the project so that the audit is available as soon as requested. The maintenance of good records is the responsibility of CONTRACTOR.

The documents shall be kept in hard copy OR electronic (backup) and shall be kept for at least the duration of the contract.

CONTRACTOR shall ensure that the documents are only used by authorised persons and shall maintain the confidentiality of information.

#### 7.2.13 HSE Management Plan Audit

CONTRACTOR shall perform monthly inspections and internal audits. The inspection and audit reports shall be available for consultation by the OGX Supervisors, with a schedule for remedy of non-conformities attached.

OGX shall carry out audits of the CONTRACTOR HSE Management Plan and periodic inspections of its installations, service and construction sites, accompanied by a representative of the area of work and a CONTRACTOR SESMT team member, with the objective of detecting any discrepancies in the implementation of the requirements established by law and the contract.

CONTRACTOR shall comply with the recommendations of audits and inspections and shall remedy non-compliances noted, under penalty of suspension of services by the OGX Supervisors, or the application of penalties under the contract.

Non-compliance or good practices of CONTRACTOR, as observed by OGX, will be considered in assessing the Performance Evaluation Bulletin (PEB), according to OGX procedure to be available after signing the contract.

The schedule of audits, inspections and evaluations through the Performance Evaluation Bulletin will be issued by the OGX Supervisor.

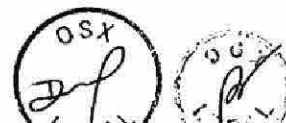
Audits and inspections shall be conducted by the parties mentioned above and the report shall be forwarded to CONTRACTOR by the OGX Supervisor.

#### 7.2.14 Critical Analysis by the Management

CONTRACTOR shall conduct a monthly review of the results of assessments and indicators of the HSE Management System, creating Action Plans to ensure the implementation of its recommendations. The continuous improvement in HSE performance should be promoted at all levels, to ensure progress in these areas.

### 8 SPECIALISED ENGINEERING OCCUPATIONAL HEALTH AND SAFETY SERVICES (SESMT)

In compliance with NR-4 CONTRACTOR, considering the sum of its own employees and its SUBCONTRACTORS at the service of OGX, shall keep an SESMT registered with the DRT (Regional Labour Department), at least following the framework of NR4. Irrespective of the provisions in this item, the CONTRACTOR shall mobilise at least one (1) Safety Technician for each contract with more than thirty (30) employees. If there is any activity considered high risk by the OGX Supervisor, the presence of Safety Technician for a smaller number of employees may be requested.



## 9 NOTIFICATIONS

OGX shall make CONTRACTOR aware of its requests, recommendations and/or guidance, irrefutably, through Notifications issued by the Contract Manager and/or Supervisors. Notifications shall be received and signed by a legal representative of CONTRACTOR, who will direct it to the area responsible for the completion of the relevant contractual obligation.

CONTRACTOR shall implement a specific plan of action to meet the requests, recommendations and/or guidance within established deadlines.

Failure to comply with requests, recommendations and/or guidance within the deadlines are subject to contractual penalty.

## 10 SUSPENSION OF THE SERVICES DUE TO HSE

### 10.1 HALT TO THE SERVICES

OGX Supervisors may halt any service in which there is evident risk that threatens safety, the environment or health, or the integrity of the installations and surrounding communities.

### 10.2 CONTRACTUAL OBLIGATIONS AND PENALTIES

The suspension of services by the OGX Supervisors, motivated by unsafe conditions and, consequently, non-compliance with laws, regulations, instructions, rules and procedures of the company, does not relieve CONTRACTOR of the obligations and penalties of the contract, relating to deadlines, fines and penalties.

## 11 FINAL PROVISIONS

In case of use or handling of ASBESTOS, CONTRACTOR shall comply with the provisions of (Federal) Law 9.055 of 01.06.1996.

The use of sandblasting in any activity conducted within the construction sites and installations of OGX is forbidden in accordance with Ordinance No. 99 of 19 October 2004, of the MTE.



## Annex V

### Insurance

For the purposes of this Annex V (*Insurance*), in addition to the definitions set out in Clause 1.1 of the Agreement, the following definitions shall apply:

**"Approved Broker"** means a first class insurance broker for prudent vessel operators or any other international, reputable marine insurance broker approved by the Charterer in writing.

**"Approved Insurer"** means any underwriter which is an international, reputable maritime insurance company and any P&I Club which is a member of the International Group of P&I Clubs and in each case approved by the Charterer in writing.

**"Insurance Instruments"** means all cover notes and in respect of the protection and indemnity insurance, all 'Certificates of Entry' (excluding pricing information) and the Approved Brokers' letters of undertaking issued or to be issued in connection with the Insurances.

#### 1. Required Insurances

1.1 The Operator hereby undertakes with the Charterer that it will obtain and maintain at all times throughout the Operation Period the following Insurances each with Approved Insurers and protection and/or war risk associations or clubs as appropriate:

- 1.1.1 protection and indemnity risks (including pollution liability risks) for the highest amount then available in the market for vessels of similar age, size and type as the Vessel (but in relation to liability for oil pollution, for an amount not less than seven hundred and fifty million Dollars (US\$750,000,000)) in a protection and indemnity association or club, which is a member of the 'International Group of P&I Clubs'; and
- 1.1.2 all other insurances which are required by Applicable Law and/or international market practice for the operation of the Vessel.

For the avoidance of doubt the Parties agree that the Owner will obtain and maintain at all times throughout the Operation Period insurances relating to (a) hull and machinery and increased value or disbursement insurance (including excess liabilities); and (b) war and usual dispossession risks (including war protection and indemnity risks and terrorism risks) in accordance with the provisions of the Charter Agreement.

1.2 The Operator undertakes to effect the Insurances referred to in paragraph 1.1:

- 1.2.1 in Dollars;
- 1.2.2 in the case of the Insurances referred to in paragraph 1.1.1, in an amount consistent with best industry practice for vessels of similar age, size and type as the Vessel from protection and indemnity associations that are members of the 'International Group of P&I Clubs';
- 1.2.3 with an Approved Broker and with Approved Insurer(s) provided however that protection and indemnity risks insurance may be effected with first class protection and indemnity risks associations or clubs that are member of the 'International Group of P&I Clubs';



1.2.4 with the Charterer named as additional assured in its capacity as bareboat charterer, the Owner named as additional assured in its capacity as owner of the Vessel, with full waiver of rights of subrogation, but without such party being liable to pay (but having the right to pay following the Charterer's failure to pay and the expiry of any applicable grace period) premiums, calls, or other assessment in respect of such insurance or, in the case of the P&I Club entry, as joint members with the Owner (or equivalent highest level of cover allowed by the P&I Club and generally taken out by 1st class ship owners) and with the benefit of the misdirected arrow clause in respect of the Owner and the Charterer; and

1.2.5 on terms and conditions satisfactory to the Owner.

## 2. Insurance Covenants

The Operator shall procure that:

- 2.1 at least ten (10) days prior to the expiry of any Insurance instructions shall be given to brokers, insurers and associations for such Insurance to be renewed or replaced and at least forty-five (45) days before any of the Vessel's Insurances are due to expire, the Owner and the Charterer shall be told the names of the brokers, insurers and associations proposed to be used for the renewal of such Insurances and the amounts, risks and terms in, against and on which the Insurances are proposed to be renewed;
- 2.2 the Vessel's insurances shall be renewed upon their expiry in a manner and on terms which comply with this Annex V (*Insurance*) and confirmation of such renewal given by Approved Brokers or Approved Insurers to the Owner and the Charterer at least seven (7) days (or such shorter period as may be approved) before such expiry;
- 2.3 all Insurance Instruments shall (i) include or incorporate by reference the general and particular conditions, (ii) shall mention the name of the leading and other Approved Insurer with their pro rata share and (iii) shall state that the general average, if any, shall be settled according to the York Antwerp Rules of 1974, as amended in 1994 and 2004 and that rentals shall not contribute towards the general average;
- 2.4 that all Insurance Instruments shall contain a provision prohibiting or disapplying any retroactive cancellation of the Insurances for non payment of premiums.

## 3. Further Covenants

The Operator hereby covenants in favour of the Charterer that throughout the Operation Period the Operator shall:

- 3.1 Subject to paragraph 7 of this Annex V (*Insurance*), punctually pay all premiums, calls, contributions or other sums payable in respect of all Insurances and within any applicable grace period and the Owner and Charterer shall be provided with all relevant receipts or other evidence of payment upon request;
- 3.2 arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity association;
- 3.3 procure that there is duly endorsed upon all Insurance Instruments such loss payable clause, notice of assignment clause and notice of cancellation clause as may be agreed between the Owner and the Charterer in connection with the Bare Boat Charter;

- 3.4 procure that certified copies of all Insurance Instruments as soon as they are available after they have been placed or renewed (but not more frequently than annually and, in the case of a policy period of more than twelve (12) months, not more than once in each policy period) shall be delivered to and held by the Owner and the Charterer;
- 3.5 procure that all Insurance Instruments shall provide that the Approved Insurers or the protection and indemnity association or club waive all rights of subrogation and all rights of recourse against the Owner, and that they waive any right of cancellation of any cover due to, or any exclusion of liability for loss or damage caused by, the gross negligence or wilful misconduct of the master of the Vessel;
- 3.6 not employ the Vessel or suffer the Vessel to be employed otherwise than in conformity with the terms of the Insurance Instruments (including any express or implied warranties contained therein) without first obtaining the consent of the insurers to such employment and complying with such requirements as to extra premium or otherwise as the insurers may prescribe;
- 3.7 apply all such sums as are received by it in respect of the Insurances for the purpose of making good the loss and fully repairing all damage in respect whereof the insurance moneys shall have been received, except to the extent that such liability has already been discharged or such damage has already been repaired;
- 3.8 advise forthwith the Owner and the Charterer of any material adverse alteration to the Insurances;
- 3.9 procure that all necessary action is taken and all requirements are complied with which may, from time to time, be applicable to the Insurances (including, without limitation, the making of all requisite declarations within any prescribed time limits and the payment of any additional premiums or calls) so as to ensure that the Insurances are not made subject to any exclusions or qualifications that might have a material adverse effect on the Owner or the Charterer to which the Owner and the Charterer have not given their prior written consent;
- 3.10 in the event that it becomes the group-wide practice of the Charterer in respect of Vessels similar to the Vessel to procure additional insurances or insurance cover in excess of the Insurances in respect of such similar Vessels, procure the same in respect of the Vessel;
- 3.11 procure that all steps under its control are taken to seek to avoid the occurrence of any act or omission, which would enable cancellation of any of the Insurances or render any of the Insurances invalid, void, unenforceable or render any sum paid out under any of the Insurances repayable in whole or in part;
- 3.12 if so required by the Owner or the Charterer, promptly provide to the Owner or the Charterer (as applicable) copies of all written communications between the assureds and the brokers, insurers and associations relating to any of the Insurances as soon as they are available;
- 3.13 if so required by the Owner (or by the Charterer pursuant to such a requirement from the Owner), change the terms and requirements of this Annex V (*Insurance*) (which the Owner may do in such manner as it considers appropriate as a result of changes of circumstances or practice after the date of this Agreement), and modify this Annex V (*Insurance*) in the manner so notified by the Owner or the Charterer to the Operator on the date fourteen (14) days after such notice is received; and
- 3.14 provide to the Owner and the Charterer all documents and other information and all assistance required by the Owner or the Charterer to assist in trying to collect or recover any claims under any of the Vessel's Insurances.

**4. Failure to Insure**

In the event that the Operator fails to procure and maintain the Insurances in accordance with this Annex V (*Insurance*), the Owner or the Charterer may require the Vessel to remain in port, or (as the case may be) to proceed to and remain at the nearest port which is mutually acceptable to the Charterer and the Owner (acting reasonably) until the provisions of this Annex V (*Insurance*) are fully complied with.

**5. Additional Insurance**

The Operator, at its own benefit and cost, may arrange additional insurances by separate contracts, provided that such additional insurances shall not have any adverse effect on the Insurances or proceeds thereof or on the rights of the Owner or the Charterer.

**6. Fleet Insurance**

If any of the Insurances referred to in paragraph 1.1 form part of a fleet cover, the Operator will provide to the Charterer a letter of undertaking from the brokers or (if such cover is not placed through brokers or the brokers do not, under any Applicable Law or insurance terms, have such rights of set off and cancellation) the insurers, that the brokers of (if relevant) the insurers will not: (i) set off against any claims in respect of the Vessel any premiums due in respect of any other vessels insured under the fleet cover; or (ii) cancel cover of the Vessel because of non-payment of premiums in respect of such other vessels.

**7. Liability for Premiums**

Premiums and other costs in respect of coverage relating to insurances in respect of the Vessel and other equipment used in Production Operations shall be paid as follows:

- 7.1 premiums for the Insurances relating to the operation of the Vessel and the provision of the Services and protection and indemnity risks (including pollution liability risks) shall be paid for by the Operator and shall constitute Reimbursable Costs, which shall be reimbursed by the Charterer to the Operator with a Margin pursuant to Annex II (*Operator Reimbursement and Remuneration*);
- 7.2 for the avoidance of doubt, (a) premiums relating to subsea installations and operations outside of the scope of this Agreement shall be the subject of separate policies to be placed by the Charterer; (b) premiums relating to hull and machinery, builders' risk and other risks occurring prior to the signature of this Agreement shall be subject to separate policies to be placed by the Owner.



## Annex VI

## Operator Personnel On Board the Vessel

Área	Função	Efetivo	Ferias	Total
OIM	Gerente de Plataforma (OIM)	2		2
	Técnico de segurança	4	1	5
	<b>Total</b>	<b>6</b>		<b>7</b>
Produção	Superintendente Produção	2		2
	Supervisor de Produção	4		4
	Operador de sala de controle	4		4
	Operador Mantenedor – Prod.	12	2	14
	Técnico de Laboratório	0		0
<b>Total</b>	<b>22</b>		<b>24</b>	
Embarcação	Superintendente Embarcação	2		2
	Técnico de Enfermagem	0		0
	Hotelaria	0		0
	Operador de Radio	4	1	5
	Supervisor de Carga e Lastro	2		2
	Operador Carga e Lastro	4	1	5
	Operador Mantenedor – Emb.	4	1	5
	Supervisor de Convés	2		2
	Operador de Guindaste	4	1	5
	Homem de área	6		6
	Marinheiro de Convés	4		4
	Montador de Andaime	2		2
<b>Total</b>	<b>34</b>		<b>38</b>	
Manutenção	Superintendente Manutenção	2		2
	Técnico de Inspeção	2		2
	Supridor	4		4
	Supervisor de Eletricidade	2		2
	Operador Mantenedor Elétrica	4		4
	Eletricista	6	1	7
	Supervisor de Mecânica	2		2
	Mecânico	8	1	9
	Supervisor de Instrumentação	2		2
	Instrumentista	6	1	7
	Instrumentista de Medição	2		2
	Instrumentista SS	2		2
	Supervisor de Facilidades	2		2
	Operador Mantenedor Facilid.	10	1	11
<b>Total</b>	<b>54</b>		<b>58</b>	
<b>Total Geral</b>	<b>116</b>	<b>11</b>	<b>127</b>	

**Annex VII****Form of Delivery Certificate**

OSX SERVIÇOS OPERACIONAIS LTDA. (the "Operator") hereby acknowledges that on [•] at [•] hours, one FPSO Vessel, identified as Hull No. [•] (the "Vessel") was delivered to the Operator and that, pursuant to the terms of the Operation Agreement dated [•] (the "Operation Agreement") and made between OGX Petróleo e Gás S.A. as charterer and the Operator as operator, the Operation Period therein referred to has commenced, and the Operator further acknowledges that henceforward the Vessel will be operated and maintained by the Operator subject to and in accordance with all the terms and conditions contained in the Operation Agreement.

The Operator confirms that the Vessel is satisfactory to it.

Words and expressions used herein shall have the meanings ascribed to them in the Operation Agreement.

Signed in \_\_\_\_\_ on \_\_\_\_\_

**OSX SERVIÇOS OPERACIONAIS LTDA.**

By: \_\_\_\_\_

Name:

Title:





**EXECUTION PAGE**

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed on the day and year first before written in the presence of the witnesses identified below.

**The Operator**

**OSX SERVIÇOS OPERACIONAIS LTDA.**

By: [Signature]

Name: IVO DWORSCHAK

Title: MANAGING DIRECTOR

**The Charterer**

**OGX PETRÓLEO E GÁS S.A.**

By: [Signature]

Name: Reinaldo Belotti      Roberto Montelro  
Diretor de Produção      Diretor Financeiro  
OGX Petróleo e Gás      OGX Petróleo e Gás

**The Owner**

**OSX 3 LEASING B.V.**

By: [Signature] [Signature]

Name: FLAVIA KACZELNIK      IVO DWORSCHAK

Title: MANAGING DIRECTOR A      MANAGING DIRECTOR B

**Witnesses:**

1. \_\_\_\_\_  
Nome:  
ID:  
CPF:

2. \_\_\_\_\_  
Nome:  
ID:  
CPF:



# Termos de Acordo OSX-3

acordado em março de 2014 entre OSX e os *Bondholders* OSX-3

03520

*Execution version*

**ISIN NO 001 064 082.4**

**BOND AGREEMENT**

between

**OSX 3 Leasing B.V.**  
**("Issuer")**

and

**NORSK TILLITSMANN ASA**  
**("Bond Trustee")**

on behalf of

**the Bondholders**

in the bond issue

9.25 per cent OSX 3 Leasing B.V. Senior Secured Callable Bond Issue 2012/2015

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This agreement has been entered into on 15 March 2012 between

- (1) **OSX 3 Leasing B.V.** (a company incorporated in the Netherlands with Company No. 52977269) as issuer (the "**Issuer**"); and
- (2) **Norsk Tillitsmann ASA** (a company incorporated in Norway with Company No. 963 342 624) as bond trustee (the "**Bond Trustee**").

## 1. INTERPRETATION

### 1.1 Definitions

In this Bond Agreement the following terms shall have the following meanings (certain terms relevant for Clauses 13 and 18.2 and other Clauses may be defined in the relevant Clause):

"**Account Bank(s)**" means Citibank International Plc acting through its Netherlands branch and/or any other first class international bank (with minimum "A" credit rating from S&P, Moody's or Fitch or, in each case, an affiliate thereof).

"**Account Pledge**" means the Dutch law account pledge(s) granted by the Issuer in favour of the Bond Trustee over the Earnings Account, the Operating Account, the Retention Account(s) and the DSRA.

"**Account Manager**" means a Bondholder's account manager in the Securities Register.

"**Accounts**" means the Escrow Account, the Earnings Account, the Operating Account(s), the Retention Account and the DSRA.

"**Assignment of EPCI Contract**" means an assignment of the EPCI Contract (including a direct agreement (step-in rights) with the Contractor to include, *inter alia*, the Contractor's consent to the security interest in respect of the EPCI Contract, and additional cure periods), all warranty rights and guarantees (including but not limited to the refund guarantee provided as security for the Issuer's claim for repayment of pre-delivery payments under the EPCI Contract) and the Issuer shall give notices and obtain consent and acknowledgements of such assignment from the Contractor and the refund guarantor.

"**Assignment of Charter Contract**" means the assignment of all rights of the Issuer under the Charter Contract and Charterer Parent Guarantee, and the Issuer shall give notice to and obtain consent and acknowledgement from the Charterer and the Charterer Parent in respect of such assignment, and the Bond Trustee shall be authorized to issue a Quiet Enjoyment Letter if required by the Charterer.

"**Assignment of Insurances**" means the assignment of the Issuer's rights under any Insurance (whether taken out prior to or after the Delivery Date) related to the FPSO, other than any third party liability insurance.

"**Assignment of Receivables**" means an assignment by way of security from the Issuer Parent of all Group Loans and the Issuer Parent shall give notices to and obtain acknowledgements from the Issuer in respect of such assignment.

**“Attachment”** means any attachments to this Bond Agreement.

**“Bond Agreement”** means this bond agreement, including any Attachments and any subsequent amendments and additions agreed in writing between the Parties.

**“Bond Issue”** means the bond issue constituted by the Bonds.

**“Bondholder”** means a holder of Bond(s), as registered in the Securities Register, from time to time.

**“Bondholders’ Meeting”** means a meeting of Bondholders, as set forth in Clause 16 (*Bondholders’ meeting*).

**“Bonds”** means the securities issued by the Issuer pursuant to this Bond Agreement, representing the Bondholders’ underlying claim on the Issuer.

**“Business Day”** means any day on which commercial banks are open for general business, and can settle foreign currency transactions in Norway and New York.

**“Business Day Convention”** means that if the period end date occurs on a day that is not a Business Day, payments will be made on the first following day that is a Business Day (No Adjustments of Business Day).

**“Call Option”** shall have the meaning set forth in Clause 10.2 (*Call Option*).

**“Cash Sweep Amount”** means an amount equal to or higher than USD 30,000,000.

**“Change of Control Event”** means:

- (i) if Eike Fuhrken Batista or any of his heirs, successors or assigns, ceases to own directly or indirectly 50% or more of the outstanding shares and/or voting capital of the Ultimate Parent;
- (ii) if any person or group (as such term is defined in the Norwegian Public Limited Liability Companies Act § 1-3) other than Eike Fuhrken Batista or any of his heirs, successors or assigns becomes the owner, directly or indirectly, of 50% or more of the outstanding shares and/or voting capital of the Ultimate Parent; or
- (iii) a de-listing of the Ultimate Parent’s shares from the stock exchange.

**“Charterer”** means OGX Petróleo e Gás Ltda (an entity incorporated in Brazil in accordance with the laws of the Federative Republic of Brazil and registered with the Brazilian tax authority under registered number CNPJ 08.926.302/0001-05).

**“Charter Contract”** means the charter contract dated 6 March 2012 entered into between the Issuer and the Charterer.

**“Charterer Parent Guarantee”** means a guarantee from the Charterer Parent in favour of the Issuer, guaranteeing the obligations of the Charterer under the Charter Contract.

**“Charterer Parent”** means OGX Petróleo e Gás Participações S.A.

**“Contractor”** means Modec Inc.

**“Costs”** means all costs, expenses, disbursements, payments, charges, losses, demands, claims, liabilities, penalties, fines, damages, judgments, orders, sanctions, fees (including travel expenses, VAT, court fees and legal fees) and any other outgoings of whatever nature.

**“Default”** means an Event of Default or any event or circumstance specified in Clause 15 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**“Delivery Date”** means the date the FPSO has arrived at the designated location, is installed, commissioned and accepted by the Issuer under the EPCI Contract as ready to receive hydrocarbons, such date currently scheduled to be 25 September 2013 as per the EPCI Contract.

**“DSRA”** means the blocked debt service reserve account held by the Issuer with an Account Bank, as further described in Clause 13.4 (*Accounts and application of proceeds prior to an Event of Default*).

**“Earnings”** means all earnings payable under the Charter Contract.

**“Earnings Account”** means an account held by the Issuer with an Account Bank into which the Earnings shall be paid, as further described in Clause 13.4 (*Accounts and application of proceeds prior to an Event of Default*).

**“Encumbrance”** means any encumbrance, mortgage, pledge, lien, charge (whether fixed or floating), assignment by way of security, finance lease, sale and repurchase or sale and leaseback arrangement, sale of receivables on a recourse basis or security interest or any other agreement or arrangement having the effect of conferring security.

**“EPCI Contract”** means the contract for the Engineering, Procurement, Construction, Installation & Commissioning of the FPSO entered into between (i) the Issuer and (ii) the Contractor dated 15 July 2011 (as amended from time to time).

**“Escrow Account”** means a blocked account in the name of the Issuer, held with DNB Bank ASA, into which the net proceeds (or the gross proceeds as the case may be) of the Bonds shall be transferred.

**“Escrow Account Pledge”** means the pledge over the Escrow Account, in favour of the Bond Trustee (on behalf of the Bondholders), including a waiver of any set-off rights from the bank operating the account.

**“Event of Default”** means the occurrence of an event or circumstance specified in Clause 15.1.

**“Exchange”** means securities exchange or other reputable marketplace for securities, on which the Bonds are listed, or where the Issuer has applied for listing of the Bonds.

**“Finance Documents”** means:

- (i) this Bond Agreement;

- (ii) the Subordination Deed;
- (iii) the agreement between the Bond Trustee and the Issuer referred to in Clause 14.2;
- (iv) the Security Documents (including any notices, acknowledgements and other ancillary documentation relating thereto);
- (v) any documents executed in relation to the granting of any Security Interest to the Bond Trustee;
- (vi) any other document designated as a Finance Document by the Issuer and the Bond Trustee; and
- (vii) the Quiet Enjoyment Letter.

**"Financial Indebtedness"** means any indebtedness incurred in respect of:

- (i) moneys borrowed, including acceptance credit;
- (ii) any bond, note, debenture, loan stock or other similar instrument;
- (iii) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (iv) receivables sold or discounted (other than any receivables sold on a non-recourse basis);
- (v) any sale and lease-back transaction, or similar transaction which is treated as indebtedness under GAAP;
- (vi) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;
- (vii) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price, including without limitation currency or interest rate swaps, caps or collar transactions (and, when calculating the value of the transaction, only the mark-to-market value shall be taken into account);
- (viii) any amounts raised under any other transactions having the commercial effect of a borrowing or raising of money, whether recorded in the balance sheet or not (including any forward sale of purchase agreement);
- (ix) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institutions in respect of any underlying liability; and
- (x) (without double counting) any guarantee, indemnity or similar assurance against financial loss of any person in respect of any of the items referred to above.



**"Financial Statements"** means:

- (i) the unconsolidated annual audited accounts and financial statements of the Issuer; and
- (ii) the consolidated and unconsolidated annual audited accounts and financial statements of the Ultimate Parent,

in each case for any financial year, drawn up according to IFRS, such accounts to include a profit and loss account, balance sheet, cash flow statement and management commentary or report from the management and/or the board of directors of the relevant entity.

**"Floating Charge"** means an English law floating charge over all the assets of the Issuer.

**"FPSO"** means the FPSO OSX-3 which is under construction at the Yard under the EPCI Contract, and is expected to be constructed based on a VLCC (very large crude carrier) (currently owned by the Contractor) with IMO no. 8715027.

**"GAAP"** means the generally accepted accounting practice and principles in the country in which the Issuer, or, as the case may be, the Ultimate Parent, is incorporated including, if applicable, IFRS and guidelines and interpretations issued by the International Accounting Standards Board (or any predecessor and successor thereof), in force from time to time.

**"Group"** means the Ultimate Parent and its Subsidiaries from time to time (including the Issuer), and a **"Group Company"** means the Ultimate Parent or any of its Subsidiaries (including the Issuer).

**"Group Loan"** means any loan or loan stock made or, as the context may require, to be made available by the Issuer Parent to the Issuer.

**"Guarantee"** means each of the unconditional on-demand guarantees (*Norwegian "påkrevsgaranti"*) from the Guarantors guaranteeing the Obligors' obligations under the Finance Documents, including but not limited to any amount (including interest and expenses) outstanding under the Bond Agreement to the Bond Trustee and the Bondholders.

**"Guarantor(s)"** means the Ultimate Parent, the Issuer Parent and OSX Leasing.

**"IFRS"** means generally acceptable accounting principles (as in effect from time-to-time) as set out in the statements and opinions of the International Accounting Standards Board and/or its respective successors and which are applicable in the circumstances as of the date in question.

**"Initial Disbursement"** means the first disbursement from the Escrow Account.

**"Insurances"** means all the insurance policies and contracts of insurance (other than third party liability cover) entered into in order to comply with the terms of Clause 13.9 (b) which are from time to time in place or taken out or entered into by or for the benefit of the Issuer (whether in the sole name of the Issuer or in the joint names of the Issuer and any other person) in respect of the FPSO or otherwise in connection with the FPSO and all benefits thereunder (including claims of whatsoever nature and return of premiums).

**“Interest Payment Date”** means 20 March, 20 June, 20 September and 20 December each year and the Maturity Date. Any adjustment will be made according to the Business Day Convention.

**“ISIN”** means International Securities Identification Numbering system – the identification number of the Bonds.

**“Issue Date”** means 20 March 2012.

**“Issuer Account Pledge”** means the pledge(s) over the Earnings Account, DSRA, any Operating Account and Retention Account, in favour of the Bond Trustee (on behalf of the Bondholders), including an undertaking from the relevant Account Bank to waive any set-off rights.

**“Issuer’s Bonds”** means Bonds owned by the Issuer, any party or parties who has decisive influence over the Issuer, or any party or parties over whom the Issuer has decisive influence.

**“Issuer Parent”** means OSX 3 Holding B.V., (registration no. 54610559), incorporated in the Netherlands.

**“Managers”** means the managers for this Bond Issue, being Pareto Securities AS, Dronning Mauds gt. 3, NO-0115 Oslo, Norway and DNB Markets, a part of DNB Bank ASA, Stranden 2, Aker Brygge, N-0021 Oslo, Norway.

**“Management Agreement”** means any intra-Group Company agreement for (i) the management of the FPSO, (ii) the project management, (iii) the business management of the Issuer and (iv) related to the allocation of costs between the Issuer and any Group Company, in respect of (ii) above for the period up to and including the Delivery Date.

**“Mandatory Prepayment Event”** means any of the following events:

- (i) the FPSO is sold or otherwise disposed of (subject to Clause 13.5(d));
- (ii) the Issuer’s rights under the EPCI Contract is assigned, sold or disposed of;
- (iii) the EPCI Contract is cancelled;
- (iv) the Charter Contract is cancelled;
- (v) the Issuer Parent’s 100% direct ownership of the shares in the Issuer changes;
- (vi) the OSX Leasing’s 100% indirect ownership of the shares in the Issuer changes;
- (vii) the Ultimate Parent’s 100% indirect ownership of the shares in the Issuer changes;
- (viii) there is a Total Loss Event; or
- (ix) an Event of Default occurs.

**“Material Adverse Effect”** means a material adverse effect on:

- (i) the financial condition or operations of the Issuer;
- (ii) any of the Issuer's or any of the Guarantors' ability to perform and comply with any of its obligations under any Finance Document; or
- (iii) the validity, legality or lawfulness of any Finance Document.

**"Mortgage"** means the Liberian law mortgage over the FPSO (including all relevant equipment being legally part of the FPSO under Liberian law).

**"Maturity Date"** means 20 March 2015 or an earlier maturity date as provided for in this Bond Agreement (subject to the Business Day Convention).

**"Obligors"** means the Issuer and each of the Guarantors.

**"Operation Agreement"** means the operation and maintenance agreement entered or to be entered into between the Charterer and the Operator in respect of the operation and management of the FPSO.

**"Operating Account(s)"** means the operating account(s) held by the Issuer with the Account Bank as further described in Clause 13.4 (*Accounts and application of proceeds prior to an Event of Default*).

**"Operator"** means OSX Serviços Operacionais Ltda., a limited liability company whose registered office is situated at Praça Mahatma Gandhi, 14-13o. andar, Centro, Rio de Janeiro, R.J., Brazil.

**"OSX Leasing"** means OSX Leasing Group B.V., (registration no. 34366118), incorporated in the Netherlands.

**"Outstanding Bonds"** means the aggregate value of the total number of Bonds not redeemed or otherwise discharged.

**"Party"** means a party to this Bond Agreement (including its successors and permitted transferees).

**"Paying Agent"** means any legal entity as appointed by the Issuer and approved by the Bond Trustee who acts as paying agent on behalf of the Issuer with respect to the Bonds.

**"Payment Date"** means a date for payment of principal or interest.

**"Private Placement Memorandum"** means the private placement memorandum dated 12 March 2012.

**"Project Documents"** means:

- (i) the Operation Agreement;
- (ii) the Charter Contract;
- (iii) the EPCI Contract;

- (iv) the Charterer Parent Guarantee; and
- (v) any Management Agreement.

**"Quarter Date"** means each 31 March, 30 June, 30 September and 31 December.

**"Quarterly Financial Reports"** means:

- (i) the quarterly unaudited unconsolidated management accounts of the Issuer; and
- (ii) the quarterly unaudited consolidated and unconsolidated management accounts of the Ultimate Parent,

as of each Quarter Date, such accounts to include a profit and loss account, balance sheet, cash flow statement and management commentary or report from the management and/or board of directors of the relevant entity.

**"Quiet Enjoyment Letter"** means a quiet enjoyment letter to be issued by the Bond Trustee in favour of the Charterer, if so required by the Charterer, containing a covenant stating that the Bond Trustee may not interrupt the quiet use, possession and enjoyment of the FPSO by the Charterer, so long as no Owner Termination Event (as such term is defined in the Charter Contract) is continuing and except as required by any applicable law binding on the Trustee, with a reservation that the exercise by the Bond Trustee of its rights under any Finance Document will not constitute such an interruption.

**"Relevant Record Date"** means a date agreed upon between the Bond Trustee, the Paying Agent, Securities Register and the Issuer in connection with the repayment as set out in Clauses 10.2 (*Call Option*) and 10.4 (*Mandatory Redemption*).

**"Retention Account"** means the blocked account held by the Issuer with an Account Bank for the purpose of servicing interest on the Bonds, to be funded in accordance with Clause 13.4 (*Accounts and application of proceeds prior to an Event of Default*).

**"Securities Register Act"** means the Norwegian Act relating to Registration of Financial Instruments of 5 July 2002 No. 64.

**"Securities Register"** means the securities register in which the Bond Issue is registered.

**"Security Agent"** means the Bond Trustee, unless any other legal entity is appointed as collateral agent pursuant to Clause 17.4 (*Appointment of Security Agent*).

**"Security Documents"** means any document establishing, recording, confirming or preserving any security interest over any Security Interest relating to any Finance Document.

**"Security Interest"** means any Encumbrance or other security (hereunder any guarantee) created (or to be created) in favour of the Bond Trustee (on behalf of the Bondholders) as security for the obligations of the Obligors under any Finance Document, including but not limited to the following security:

- (i) the Guarantees;

- (ii) the Escrow Account Pledge;
- (iii) the Account Pledge;
- (iv) the Floating Charge;
- (v) the Share Charge;
- (vi) the Assignment of EPCI Contract;
- (vii) the Assignment of Insurances;
- (viii) the Assignment of Receivables;
- (ix) the Mortgage; and
- (x) the Assignment of Charter Contract.

**"Security Trustee"** means the Bond Trustee, in its capacity as security trustee pursuant to an appointment letter dated on or about the date hereof, unless any other legal entity is appointed as security trustee as provided for in Clause 17.4 (*Appointment of Security Agent and Security Trustee*).

**"Share Charge"** means the share charge granted by the Issuer Parent over all of the shares (100%) in the Issuer, together with letters of resignation (effective upon an Event of Default) from all board members as well as a covenant to obtain letters of resignation from future board members.

**"Subordination Deed"** means the subordination deed between the Issuer, the Bond Trustee (on behalf of itself and the Bondholders), the Issuer Parent and any other Group Company that has acceded to it pursuant to Clause 13.5(i), providing for the total subordination of Group Loans and other monetary claims against the Issuer to the rights of the Bondholders under the Finance Documents (including but not limited to limitations on repayment of principal, interests and any other amount (*inter alia* the maturity date and any interest payment date to be after all amounts outstanding under any Finance Document has been repaid), no right to accelerate for as long as the Bonds or any other amount is outstanding under any Finance Document and default restrictions) of all such claims.

**"Subsidiary"** means an entity over which another entity or person has a determining influence due to (i) direct and indirect ownership of shares or other ownership interests, and/or (ii) agreement, understanding or other arrangement. An entity shall always be considered to be the subsidiary of another entity or person if such entity or person has such number of shares or ownership interests so as to represent the majority of the votes in the entity, or has the right to vote in or vote out a majority of the directors in the entity.

**"Taxes"** means all present and future taxes, levies, imposts, duties, charges, fees, deductions and withholdings, and any restrictions and or conditions resulting in a charge together with interest thereon and penalties in respect thereof and "Tax" and "Taxation" shall be construed accordingly.

**“Technical Adviser”** means Crondall Energy Consultants, Okeanos BV or Det Norske Veritas (or affiliates), appointed by the Issuer.

**“Total Loss Event”** means an actual or constructive total loss of the FPSO.

**“Transfer of Title”** means the transfer of title to the FPSO from the Contractor to the Issuer.

**“Ultimate Parent”** means OSX Brasil S/A, (registration no. 09.112.685/0001-32), incorporated in Brazil.

**“US Securities Act”** means the U.S. Securities Act of 1933, as amended.

**“USD”** means US Dollars, being the legal currency of the United States of America.

**“Voting Bonds”** means the Outstanding Bonds less the Issuer’s Bonds.

**“Yard”** means Jurong Shipyard in Singapore.

## 1.2 Construction

In this Bond Agreement, unless the context otherwise requires:

- (a) headings are for ease of reference only;
- (a) words denoting the singular number shall include the plural and vice versa;
- (b) references to Clauses are references to the Clauses of this Bond Agreement;
- (c) references to a time is a reference to Oslo time unless otherwise stated herein;
- (d) references to a provision of law is a reference to that provision as it may be amended or re-enacted, and to any regulations made by the appropriate authority pursuant to such law, including any determinations, rulings, judgments and other binding decisions relating to such provision or regulation;
- (e) references to **“control”** means the power to appoint a majority of the board of directors of a person or to direct the management and policies of a person, whether through the ownership of voting capital, by contract or otherwise; and
- (f) references to a **“person”** shall include any individual, firm, partnership, joint venture, company, corporation, trust, fund, body corporate, unincorporated body of persons, or any state or any agency of a state or association (whether or not having separate legal personality).

## 2. THE BONDS

### 2.1 Binding nature of the Bond Agreement

- 2.1.1 The initial Bondholders have in the subscription agreements granted authority to the Bond Trustee to finalize and execute the Bond Agreement on the Bondholders behalf, therefore the Bondholders are, through their subscription, purchase or other transfer of Bonds bound by the

terms of the Bond Agreement and the other Finance Documents. All Bond transfers are subject to the terms of this Bond Agreement. All Bond transferees are, in taking transfer of Bonds, deemed to have accepted the terms of the Bond Agreement and the other Finance Documents and will automatically become parties to the Bond Agreement upon completed transfer having been registered, without any further action required to be taken or formalities to be complied with, see also Clause 18.1 (*The community of Bondholders*).

- 2.1.2 The Bond Agreement is available to anyone and may be obtained from the Bond Trustee or the Issuer. The Issuer shall ensure that the Bond Agreement is available to the general public throughout the entire term of the Bonds.

## 2.2 The Bonds

- 2.2.1 The Issuer has resolved to issue a series of Bonds in the maximum amount of USD 500,000,000 (U.S. Dollar five hundred million).
- 2.2.2 The Bonds will be in denominations of USD 1 each and rank pari passu between themselves.
- 2.2.3 The Bond Issue will be described as "9.25 per cent OSX 3 Leasing B.V. Senior Secured Callable Bond Issue 2012/2015".
- 2.2.4 The International Securities Identification Number (ISIN) of the Bond Issue will be NO 001 064 082.4.
- 2.2.5 The tenor of the Bonds is from and including the Issue Date to the Maturity Date.
- 2.2.6 The net proceeds from the Bond Issue shall be transferred to the Escrow Account on the Issue Date.
- 2.2.7 Notwithstanding Clause 2.2.6 above the gross proceeds instead of the net proceeds of the Bond Issue may be transferred to the Escrow Account on the Issue Date, provided that the Issuer has granted an irrevocable and unconditional payment instruction to the Bond Trustee and DNB Bank ASA to pay out any fees and costs (including legal costs) due and owing related to the Bond Issue, as evidenced in the form of an invoice from the Managers.

## 2.3 Purpose and utilization

The net proceeds from the Bond Issue (net of legal costs, fees, of the Managers and the Bond Trustee and any other agreed costs and expenses) shall exclusively be employed (i) to partly finance the remaining payments under the EPCI Contract, (ii) in respect of other costs directly related to the construction and delivery of the FPSO (including preparation costs as budgeted for in the Private Placement Memorandum) as further described in the Private Placement Memorandum and (iii) in respect of the first five interest payments under the Bond Issue. The employment of the net proceeds from the Bonds shall be evidenced to the reasonable satisfaction of the Bond Trustee in accordance with Clause 6.2.1(b).

## 3. LISTING

- 3.1.1 The Issuer is under no obligation to list the Bonds on an Exchange, but shall have the right to list the Bonds if it so desires.

- 3.1.2 If the Bonds are listed, the Issuer shall ensure that the Bonds remain listed until they have been discharged in full.

#### **4. REGISTRATION IN A SECURITIES REGISTER**

- 4.1.1 The Bond Issue and the Bonds shall prior to disbursement be registered in the Securities Register in accordance with the Securities Register Act and conditions of the Securities Register.
- 4.1.2 The Issuer shall promptly arrange for notification to the Securities Register of any changes of the terms and conditions of this Bond Agreement. The Bond Trustee shall receive a copy of any such notification.
- 4.1.3 The Issuer is responsible for the implementation of correct registration in the Securities Register. The registration may be executed by an agent for the Issuer provided that the agent is qualified according to relevant regulations.
- 4.1.4 The Bonds have not been registered under the US Securities Act, and the Issuer is under no obligation to arrange for registration of the Bonds under the US Securities Act or elsewhere other than in Norway under the Securities Register Act.

#### **5. PURCHASE AND TRANSFER OF BONDS**

- 5.1.1 Subject to the restrictions set forth in this Clause 5, the Bonds are freely transferable and may be pledged.
- 5.1.2 Bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable from time to time under local laws to which a Bondholder may be subject (due e.g. to its nationality, its residency, its registered address, its place(s) for doing business). Each Bondholder must ensure compliance with local laws and regulations applicable at own cost and expense.
- 5.1.3 The Bonds are not offered to and may not be subscribed by investors located in the United States except for "Qualified Institutional Buyers" (QIBs) within the meaning of Rule 144A under the US Securities Act. In the application agreement each person applying for the Bonds must confirm whether it is a "U.S. Person" as defined in Rule 902 of Regulation S under the United States Securities Act of 1933 (the "US Securities Act"), and if it is a "U.S. Person" it must confirm, *inter alia*, that it is a "qualified institutional buyer" ("QIB") as defined in, and in reliance on, Rule 144A under the US Securities Act.
- 5.1.4 Bondholders located in the United States are not permitted to transfer Bonds except (a) subject to an effective registration statement under the US Securities Act, (b) to a person that the Bondholder reasonably believes is a QIB within the meaning of Rule 144A that is purchasing for its own account, or the account of another QIB, to whom notice is given that the resale, pledge or other transfer may be made in reliance on Rule 144A, (c) outside the United States in accordance with Regulation S under the US Securities Act, and (d) pursuant to an exemption from registration under the US Securities Act provided by Rule 144 there under (if available).



5.1.5 For the avoidance doubt and notwithstanding the above, a Bondholder which allegedly has purchased the Bonds in contradiction to mandatory restrictions applicable may nevertheless utilize its voting rights under this Bond Agreement and shall be entitled to exercise its full rights as Bondholder hereunder in each case until such allegations have been resolved.

## 6. CONDITIONS PRECEDENT

### 6.1 Conditions Precedent for Issue Date

6.1.1 Issuance of the Bonds and disbursement of the net proceeds of the Bonds to the Escrow Account will be subject to the Bond Trustee having received the following, in form and substance satisfactory to it, at least two Business Days prior to the Issue Date:

- (a) this Bond Agreement duly executed by all parties thereto;
- (b) confirmation in writing from the Issuer that no Default has occurred or is likely to occur as a result of the issuance of the Bonds;
- (c) the agreement between the Bond Trustee and the Issuer related to expenses and fees set forth in Clause 14.2, duly executed;
- (d) in the event that the gross proceeds of the Bond Issue are greater than USD 400,000,000 but the net proceeds are less than USD 400,000,000, an irrevocable and unconditional payment instruction to the Bond Trustee and DNB Bank ASA to pay from the Escrow Account any fees and costs due and owing related to the Bond Issue;
- (e) certified copies of the constitutional documents of the Issuer and Issuer Parent;
- (f) certified copies of all necessary corporate resolutions of the Issuer to issue the Bonds and to execute the relevant Finance Documents (including any Security Documents);
- (g) a power of attorney from each of the Issuer and Issuer Parent to relevant individuals for their execution of the relevant Finance Documents, or extracts from the relevant register or similar documentation evidencing the individuals authorized to sign on behalf of each such party;
- (h) to the extent necessary, any governmental approvals, consents, waivers and/or public authorisations required for the Bond Issue;
- (i) Financial Statements in respect of the Ultimate Parent and Quarterly Financial Reports (in respect of the Ultimate Parent and the Issuer) for Q3 2011 (YTD) and 2010 (annual);
- (j) confirmation from the Paying Agent that the Bonds have been or will be registered in the Securities Register;
- (k) written compliance confirmation in accordance with Clause 7.3, duly executed by the Issuer;

- (l) documentation on the granting of authority to the Bond Trustee as described in Clause 2.1 (Binding nature of the Bond Agreement) and copies of any written documentation made public by the Issuer or the Managers in connection with the Bond Issue;
- (m) a copy of the Project Documents (other than the Operation Agreement), duly executed by the relevant parties;
- (n) the Escrow Account Pledge duly executed and perfected by all parties thereto (including all applicable notices, acknowledgements and consents from the Account Bank);
- (o) satisfactory documentation evidencing that the Issuer has a minimum total equity of no less than USD 222,000,000 (equalling approx. 20% of the total costs of the project as further described, and in accordance with the descriptions, in the Private Placement Memorandum), such equity to be in any form, including by way of share premium (Dutch: *agio stortingen*); and
- (p) a legal opinion from Allen & Overy with regard to Dutch law, a legal opinion from Kincaid Mendes Vianna Advogados with regard to Brazilian law, a legal opinion from Allen & Overy with regard to English law and a legal opinion from Bugge, Arentz-Hansen & Rasmussen with regard to Norwegian law and such further statements or legal opinions as reasonably required by the Bond Trustee.

6.1.2 The Bond Trustee may, in its sole discretion, waive the deadline or requirements for documentation as set forth in Clause 6.1.1.

6.1.3 Disbursement of the net proceeds of the Bonds to the Escrow Account is subject to the Bond Trustee's written notice to the Issuer, the Managers and the Paying Agent confirming that the documents listed in Clause 6.1.1 (to the extent applicable) have been controlled and that the required conditions precedent are fulfilled.

6.1.4 Subject to the conditions set out in Clause 6.1.1, and following receipt of confirmation from the Bond Trustee pursuant to Clause 6.1.4, the Managers shall on the Issue Date transfer the net proceeds from the Bond Issue to the Escrow Account.

## 6.2 Conditions Precedent for Initial Disbursement

6.2.1 Initial Disbursement is subject to the following:

- (a) a duly executed release notice from the Issuer in the form set out in Attachment 2 hereto, confirming, inter alia, that no Default has occurred, or is likely to occur as a result of the Initial Disbursement;
- (b) relevant invoices or other supporting documentation evidencing that the amount to be released shall be applied in accordance with the purpose of the Bond Issue as set out in Clause 2.3 (Purpose and utilization);
- (c) satisfactory evidence of title to the FSPO having been transferred to the Issuer, including transcript from the relevant registry;

- (d) a certificate in a form and content satisfactory to the Bond Trustee and signed by the Issuer and the Issuer Parent evidencing that any Group Loans to the Issuer were converted into equity as of the Issue Date;
- (e) proforma balance sheet dated on the Issue Date, duly certified by a director of the Issuer, showing that the Issuer had no other Financial Indebtedness as of the Issue Date, other than Financial Indebtedness incurred pursuant to the Finance Documents;
- (f) satisfactory documentation evidencing that the Accounts (except the Escrow Account) are opened;
- (g) a certificate from the Issuer certifying that there have been no additional costs related to the delivery of the FPSO compared to the project budget as set out in the Private Placement Memorandum that are not covered by equity;
- (h) the Subordination Deed duly executed;
- (i) certified copies of the constitutional documents of OSX Leasing and the Ultimate Parent;
- (j) certified copies of all necessary corporate resolutions to execute the Security Documents, the Guarantees and any other Finance Document (unless delivered under Clause 6.1.1);
- (k) a power of attorney from OSX Leasing and the Ultimate Parent to relevant individuals for their execution of the relevant Finance Documents, or extracts from the relevant register or similar documentation evidencing the individuals authorized to sign on behalf of each such party;
- (l) a report from an insurance advisor confirming that the Insurances are in compliance with the terms set out herein;
- (m) all Security Documents (except for the agreements establishing the Escrow Account Pledge) being executed and perfected in accordance with the terms of the Security Documents; and
- (n) all legal opinions (including legal opinion from Seward & Kissel, or such other counsel as approved by the Bond Trustee, relating to Liberian law) related to the execution and perfection of the Security Documents have been received in form and substance satisfactory to the Bond Trustee.

6.2.2 The Bond Trustee may, in its sole discretion, waive the deadline or requirements for documentation as set forth in Clause 6.2.1.

**6.3 Conditions Precedent for further disbursements from the Escrow Account**

6.3.1 Any further release from the Escrow Account is subject to the Bond Trustee receiving a duly executed release notice from the Issuer in the form set out in Attachment 2 hereto, confirming, inter alia, that no Event of Default has occurred, or is likely to occur as a result, and such

consent to release from the Bond Trustee shall be given as soon as reasonably practicable following notice from the Issuer, but in any event within 5 days of such notice.

6.4 **Delivery Date – additional documents**

At the Delivery Date, the Issuer shall deliver to the Bond Trustee such documents as required pursuant to 13.7 (*Delivery*).

7. **REPRESENTATIONS AND WARRANTIES**

7.1 The Issuer represents and warrants to the Bond Trustee (on behalf of the Bondholders) that:

(a) *Status*

The Issuer is a limited liability company, duly incorporated and validly existing under the law of the jurisdiction in which it is registered, and has the power to own its assets and carry on its business as it is being conducted.

(b) *Power and authority*

The Issuer has the power to enter into and perform, and has taken or will take all necessary corporate action to authorise its entry into, performance and delivery of this Bond Agreement and any other Finance Documents to which it is or will be a party, and the transactions contemplated by those Finance Documents.

(c) *Valid, binding and enforceable obligations*

Subject to legal reservations as to matters of law referred to in the legal opinions to be delivered to the Bond Trustee, this Bond Agreement and any other Finance Document constitute (or will constitute, when executed by the respective Obligors thereto) legal, valid and binding obligations of each Obligor, enforceable in accordance with their terms, and (save as provided for therein) no further registration, filing, payment of tax or fees or other formalities are necessary or desirable to render the said documents enforceable against the Issuer and for any Security Interest created, or to be created, by any Security Documents to constitute a valid, perfected and enforceable Security Interest in accordance with the terms and conditions of such Security Document.

(d) *Non-conflict with other obligations*

The entry into and performance by the Issuer of its obligations under the Bond Agreement and any other Finance Document to which it is a party, and the transactions contemplated thereby, do not and will not conflict with (i) any present law or regulation or present judicial or official order applicable to the Issuer under its jurisdiction of incorporation or under the jurisdiction of any of its assets; (ii) its articles of association, by-laws or other constitutional documents; or (iii) any document or agreement which is binding on the Issuer or any of its assets.

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(e) *No event of default*

No event of default exists under any document which is binding on the Issuer or any of its assets, and which may have a Material Adverse Effect.

(f) *Authorisations and consents*

All authorisations, consents, licenses or approvals of any governmental authorities required for the Issuer in connection with the execution, performance, validity or enforceability of this Bond Agreement or any other Finance Document, and the transactions contemplated thereby, have been or will at the relevant time be obtained and are or will be valid and in full force and effect. All authorisations, consents, licenses or approvals of any governmental authorities required for the Issuer to carry on its business as presently conducted and as contemplated by this Bond Agreement, have been or will be obtained and are or will be in full force and effect.

(g) *Litigation*

No litigation, arbitration or administrative proceeding of or before any court, arbitral body or agency is pending or, to the best of the Issuer's knowledge, threatened which could reasonably be expected to have a Material Adverse Effect.

(h) *Financial Statements*

The most recently audited Financial Statements and Quarterly Financial Reports fairly and accurately represent the assets and liabilities and financial condition as at their respective dates, and have been prepared in accordance with GAAP, consistently applied from one year to another.

(i) *No undisclosed liabilities*

As of the date of the most recently audited Financial Statements, the Issuer had no material liabilities, direct or indirect, actual or contingent, and there were no material anticipated losses from any unfavourable commitments not disclosed by or reserved against in the Financial Statements or in the notes thereto.

(j) *No Material Adverse Effect*

Since the date of the Quarterly Financial Statements, there has been no change in the business, assets or financial condition of the Issuer that is likely to have a Material Adverse Effect.

(k) *No misleading information*

All documents and information which have been provided to the subscribers or the Bond Trustee in connection with this Bond Issue are correct as at the date they were provided, and there has been no change in the Issuer's financial position which could have a Material Adverse Effect.

(l) *Environmental compliance*

The Issuer is in compliance with any relevant applicable environmental law or regulation and no circumstances have occurred which would prevent such compliance in a manner which has or is likely to have a Material Adverse Effect.

(m) *Intellectual property*

The Issuer has undisputed, valid and good title to its patents, trade marks, service marks, designs, business names, copyrights, design rights, inventions, confidential information and other intellectual property rights and interests (whether registered or unregistered) which it owns, and it has the benefit (and will exercise its rights in respect of) all of the intellectual property granted or licensed to it under the terms of the EPCI Contract.

(n) *No withholdings*

The Issuer is not, as at the date of this Bond Agreement, required to make any deduction or withholding from any payment which it may become obliged to make to the Bond Trustee (on behalf of the Bondholders) or the Bondholders under this Bond Agreement.

(o) *Pari passu ranking*

The Issuer's payment obligations under this Bond Agreement or any other Finance Document to which it is a party rank at least pari passu with the claims of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

(p) *Encumbrances*

No Encumbrances exist over any of the present assets of any Obligor in conflict with this Bond Agreement.

(q) *Project Documents*

Each Project Document is in full force and effect, and no default or event of default has occurred with respect to any such Project Document, which has a Material Adverse Effect.

(r) *Private Placement Memorandum*

The contents of the Private Placement Memorandum was up-to-date, accurate and correct in all material respects when made, and no event or circumstance which has a Material Adverse Effect has occurred since the date thereof.

(s) *Compliance with laws*

The Issuer shall enforce all its rights under the Charter Contract to ensure that the FPSO shall not be utilised in conflict with applicable laws and regulations which it is subject to from time to time.

- 7.2 The representations and warranties set out in Clause 7.1 are made on the execution date of this Bond Agreement, and shall be deemed to be repeated on the Issue Date, on the date of Initial Disbursement and on the date of each subsequent disbursement from the Escrow Account.
- 7.3 The Bond Trustee may prior to the Issue Date and each disbursement require a written statement from the Issuer confirming compliance with Clause 7.1.
- 7.4 In the event of misrepresentation, the Issuer shall indemnify the Bond Trustee for any economic losses suffered, both prior to the disbursement of the Bonds, and during the term of the Bonds, as a result of its reliance on the representations and warranties provided by the Issuer herein.

## 8. STATUS OF THE BONDS AND SECURITY

### 8.1 Ranking and priority

The Bonds shall be senior debt of the Issuer and secured on first priority basis by the Security Interests and the Bonds shall otherwise rank at least *pari passu* with all other obligations of the Issuer (save for such claims which are preferred by bankruptcy, insolvency, liquidation or other similar laws of general application) and shall rank ahead of subordinated debt.

### 8.2 The Security Documents

- 8.2.1 The Security Interests shall secure the Obligors' obligations under the Finance Documents, including but not limited to any amount outstanding under the Bond Agreement to the Bond Trustee and the Bondholders, interest and expenses.
- 8.2.2 The Issuer shall ensure that the Security Documents are duly executed by the Issuer and any other security provider in favour of the Bond Trustee (on behalf of the Bondholders) and that the Security Documents are legally valid, perfected, enforceable and in full force and effect from the Issue Date or the Initial Disbursement (as applicable) throughout the tenor of the Bonds. The Issuer shall execute and procure the execution of such further documentation as the Bond Trustee may reasonably require in order for the Bondholders to at all times maintain the security position envisaged hereunder (subject only to any restrictions imposed by applicable law and it being understood that customary limitation language will be included if so required).

## 9. INTEREST

- 9.1.1 The Issuer shall pay interest on the face value of the Bonds from, and including, the Issue Date at a fixed rate of 9.25 per cent per annum (the "Fixed Rate").
- 9.1.2 Interest payments shall be made quarterly in arrears on the Interest Payment Dates, the first Interest Payment Date being in June 2012.

- 9.1.3 The Bond Trustee shall at each Interest Payment Date release an amount equivalent to the relevant interest payment from the Retention Account.
- 9.1.4 The relevant interest payable amount shall be calculated based on a period from, and including, one Interest Payment Date to, but excluding, the next following applicable Interest Payment Date or, as the case may be, the Maturity Date.
- 9.1.5 The day count fraction (the "**Fixed Rate Day Count Fraction**") in respect of the calculation of the payable interest amount shall be "30/360", which means that the number of days in the calculation period in respect of which payment is being made divided by 360 (the number of days to be calculated on the basis of a year of 360 days with twelve 30-days months, unless (i) the last day of the calculation period is the 31st day of a month but the first day of the calculation period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (ii) the last day of the calculation period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).
- 9.1.6 The payable interest amount per Bond for a relevant calculation period shall be calculated as follows ("Fixed Rate" being the Fixed Rate for the relevant calculation period in accordance with Clause 9.1.1 above expressed as a %):

$$\text{Interest Amount} = \text{Face Value} \times \text{Fixed Rate} \times \text{Fixed Rate Day Count Fraction}$$

## 10. MATURITY OF THE BONDS AND REDEMPTION

### 10.1 Maturity

The Bonds shall mature in full on the Maturity Date, and shall be repaid by the Issuer at 100% of par value plus accrued and unpaid interests.

### 10.2 Call Option

10.2.1 The Issuer may redeem the entire Bond Issue (all or nothing (subject to any Cash Sweep Redemption resulting a partial redemption of the Bonds)) as follows:

- (a) at any time from and including the Interest Payment Date in June 2013 to, but not including, the Interest Payment Date in March 2014 at 103.00% of par value (plus accrued interests on redeemed amount); and
- (b) any time from and including the Interest Payment Date in March 2014 to, but not including, the Maturity Date at 102.00% of par value (plus accrued interests on redeemed amount).

10.2.2 Exercise of the Call Option shall be notified by the Issuer in writing to the Bond Trustee and the Bondholders and at least ten (10) Business Days prior to the settlement date of the Call Option.

10.2.3 On the settlement date of the Call Option, the Issuer shall pay to each of the Bondholders holding Bonds to be redeemed, in respect of each such Bond, the principal amount of such



Bond (including any premium as stated above) and any unpaid interest accrued up to the settlement date.

10.2.4 Bonds redeemed by the Issuer in accordance with this clause 10.2 shall be discharged against the Outstanding Bonds.

### 10.3 Change of Control

10.3.1 Upon the occurrence of a Change of Control Event, each Bondholder shall have a right of prepayment (a "Put Option") of its Bonds at a price of 100% of par value (plus accrued interest).

10.3.2 The Put Option must be exercised within sixty (60) days after the Issuer has given notification to the Bondholders of the Change of Control Event. Such notification shall be given as soon as possible and in any event within two (2) Business Days after a Change of Control Event has taken place.

10.3.3 The Put Option may be exercised by the Bondholders by giving written notice of the request to its Account Manager. The Account Manager shall notify the Paying Agent of the pre-payment request. The settlement date of the Put Option shall be fifteen (15) Business Days following the date when the Paying Agent received the prepayment request pursuant to Clause 10.3.2.

10.3.4 On the settlement date of the Put Option, the Issuer shall pay to each Bondholder holding Bonds to be pre-paid, the principal amount of each such Bond (at the price pursuant to Clause 10.3.1)) and any unpaid interest accrued up to and including the settlement date of the Put Option.

### 10.4 Mandatory Redemption

10.4.1 Upon a Mandatory Prepayment Event (other than a Total Loss Event) occurring, the Issuer shall (i) promptly in case an Event of Default has occurred and notified in accordance with the provisions of Clause 15, and otherwise (ii) within 30 days following the relevant Mandatory Prepayment Event, redeem 100% of the Outstanding Bonds at a price as follows:

- (a) if occurring anytime from Issue Date to, but not including, the Interest Payment Date in June 2013, at a price equivalent to the sum of:
  - (i) the present value on the Relevant Record Date of 103.00% of the par value due on the Interest Payment Date in June 2013;
  - (ii) the present value on the Relevant Record Date of the remaining coupon payments (less any accrued but unpaid interest) through and including the Interest Payment Date in June 2013;
  - (iii) accrued interests on the redeemed amount,

both calculated by using a discount rate of 50 basis points over the comparable U.S. Treasury Rate (i.e. comparable to the remaining duration of the Bonds until the Interest Payment Date in June 2013);

- (b) if occurring anytime from and including the Interest Payment Date in June 2013 to, but not including, the Interest Payment Date in March 2014, at a price equal to 103.00% of par value (plus accrued interest on redeemed amount);
- (c) if occurring anytime from and including the Interest Payment Date in March 2014 to, but not including, the Maturity Date, at a price equal to 102.00% of par value (plus accrued interest on redeemed amount),

(for the avoidance of doubt, the redemption price shall be determined based on the date the Mandatory Prepayment Event occurred and not based on the date the redemption is carried out).

- 10.4.2 Upon a Total Loss Event, the Issuer shall as soon as insurance proceeds are available redeem 100% of the Outstanding Bonds at 100% of par value (plus accrued interest on redeemed amount).
- 10.4.3 If the Bonds are redeemed according to this clause 10.4, the entire amounts on the Accounts, damages and other amounts received under the Project Documents, or any insurance proceeds may be used as partly payment for the redemption.
- 10.4.4 The Bond Trustee and the Bondholders shall be notified by the Issuer in writing about any mandatory redemption according to this clause 10.4, at least ten (10) Business Days prior to the settlement date of any such mandatory redemption. On the settlement date of a mandatory redemption, the Issuer shall pay to each of the Bondholders holding Bonds to be redeemed, in respect of each such Bond, the principal amount of such Bond (including any premium as stated above) and any unpaid interest accrued up to the settlement date of such mandatory redemption.
- 10.4.5 Bonds redeemed by the Issuer in accordance with this clause shall be discharged against the Outstanding Bonds.

#### 10.5 Cash Sweep Prepayment

- 10.5.1 Following the date on which the balance standing to the credit of the DSRA equals or exceeds the Cash Sweep Amount, and thereafter at least 10 Business Days prior to any Interest Payment Date the Issuer shall give the Bond Trustee and the Bondholders (through the Bond Trustee) ten (10) Business Days prior written notice (the "Cash Sweep Notice") to the Bond Trustee to release from the DSRA the entire amount on the DSRA to redeem Bonds at a price of 100% of par value (plus accrued interest on redeemed amount) (the "Cash Sweep Redemption").
- 10.5.2 The first Cash Sweep Redemption may not take place prior to the Interest Payment Date falling two years after the Issue Date.
- 10.5.3 The Cash Sweep Redemption shall be made (i) on the first Interest Payment Date after the date of the Cash Sweep Notice, or if less than ten (10) Business Days between the date of the Cash Sweep Notice and the first Interest Payment Date, (ii) on the next Interest Payment Date.
- 10.5.4 The Cash Sweep Redemption shall be for the full amount deposited on the DSRA on the date of the Cash Sweep Redemption.

10.5.5 Partial redemption must be carried out pro rata between the Bonds in accordance with the procedures of the Securities Register.

## **11. PAYMENTS**

### **11.1 Payment mechanics**

11.1.1 The Issuer shall, through the Paying Agent, pay all amounts due to the Bondholders under the Bonds and this Bond Agreements by crediting the bank account nominated by each Bondholder in connection with its securities account in the Securities Register.

11.1.2 Payment shall be considered to have been made once the amount has been credited to the bank which holds the bank account nominated by the Bondholder in question, but if the paying bank and the receiving bank are the same, payment shall be considered to have been made once the amount has been credited to the bank account nominated by the Bondholder in question, see however Clause 11.2 (*Currency*).

### **11.2 Currency**

11.2.1 Each Bondholder has to provide the Paying Agent (either directly or through its Account Manager) with specific payment instructions, including foreign exchange (USD) bank account details. Depending on the currency exchange settlement agreements between the Bondholders' bank and the Paying Agent, cash settlement may be delayed, in which case no Default shall arise as a direct consequence thereof and no default interest or other penalty shall accrue for the account of the Issuer.

11.2.2 Except as otherwise expressly provided, all amounts payable under this Bond Agreement and any other Finance Document shall be payable in the same currency as the Bonds are denominated in. If, however, a Bondholder has not given such instruction as set out in Clause 11.2.1, within 5 Business Days prior to a Payment Date, the cash settlement will be exchanged into NOK and credited to the NOK bank account registered with that Bondholder's account in the Securities Register. The exchange into NOK does not affect the amounts payable by the Issuer hereunder, and no Default shall arise as a direct consequence thereof and no default interest or other penalty shall accrue for the account of the Issuer.

11.2.3 Amounts payable in respect of costs, expenses, taxes and other liabilities shall be payable in the currency in which they are incurred.

### **11.3 Set-off and counterclaims**

11.3.1 The Issuer may not apply or perform any counterclaims or set-off against any payment obligations pursuant to this Bond Agreement or any other Finance Document.

### **11.4 Interest in the event of late payment**

11.4.1 In the event that payment of interest or principal is not made on the relevant Payment Date, the amount not paid when due shall bear interest from the Payment Date at an interest rate equivalent to the interest rate according to Clause 9 (*Interest*) plus 5.00 percentage points.

11.4.2 The interest charged under this Clause 11.4 (*Interest in the event of late payment*) shall be added to the defaulted amount on each respective Interest Payment Date relating thereto until the defaulted amount has been repaid in full.

11.4.3 The amounts not paid when due shall bear interest as stated above until payment is made, whether or not the Bonds are declared to be in default pursuant to Clause 15.1, cf. Clauses 15.2 - 15.4.

### 11.5 Irregular payments

11.5.1 In case of irregular payments, the Bond Trustee may instruct (at no cost or additional liability to the Issuer unless (i) such irregular payments are at the request of the Issuer or any Obligor or (ii) a Default is pending) the Issuer/any Obligor or Bondholders of other payment mechanisms than described in Clause 11.1 (*Payment mechanics*) or 11.2 (*Currency*) above. The Bond Trustee may also obtain payment information regarding Bondholders' accounts from the Securities Register or Account Managers.

## 12. ISSUER'S ACQUISITION OF BONDS

12.1.1 The Issuer has the right to acquire and own Bonds (Issuer's Bonds). The Issuer's Bonds may at the Issuer's discretion be retained by the Issuer, sold or discharged.

## 13. COVENANTS

### 13.1 General

13.1.1 The Issuer has undertaken the covenants in this Clause 13 to the Bond Trustee (on behalf of the Bondholders), as further stated below.

13.1.2 The covenants in this Clause 13 shall remain in force from the date of this Bond Agreement and until such time that no amounts are outstanding under this Bond Agreement and any other Finance Document, unless the Bond Trustee (or the Bondholders' Meeting, as the case may be), has agreed in writing to waive any covenant, and then only to the extent of such waiver, and on the terms and conditions set forth in such waiver.

### 13.2 Information Covenants

13.2.1 The Issuer shall

- (a) without being requested to do so, notify the Bond Trustee of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless the Issuer is aware that a notification has already been provided by another Obligor);
- (b) without being requested to do so, inform the Bond Trustee of any other event which may have a Material Adverse Effect;
- (c) without being requested to do so, inform the Bond Trustee if the Issuer intends to sell or dispose of all or a substantial part of its assets or operations, or change the nature of its business;

- (d) without being requested to do so, produce, in respect of the Issuer, Financial Statements and Quarterly Financial Reports and make them available on the website of the Ultimate Parent or a website relating to the Issuer in English language (in addition to sending them to the Bond Trustee) as soon as they become available, and not later than 90 days after the end of the financial year in respect of its Financial Statements and 60 days after the end of the relevant quarter in respect of its Quarterly Financial Statements;
- (e) up to and including the month Delivery Date occurs, provide to the Bond Trustee monthly updates on the progression of the construction of the FPSO, in a reporting form and content reasonably satisfactory to the Bond Trustee with any applicable commentaries from the management or the board of directors of the Issuer, supported by an opinion by the Technical Adviser regarding compliance with the budget, schedule and technical specifications set out in the EPCI Contract and the Private Placement Memorandum;
- (f) at the request of the Bond Trustee, report the balance of the Issuer's Bonds;
- (g) without being requested to do so, send a copy to the Bond Trustee of its notices to the Exchange (if listed) which are of relevance for the Issuer's liabilities pursuant to this Bond Agreement;
- (h) without being requested to do so, inform the Bond Trustee of changes in the registration of the Bonds in the Securities Register; and
- (i) within a reasonable time, provide such information about the Issuer's financial condition as the Bond Trustee may reasonably request.

13.2.2 The Issuer shall at the request of the Bond Trustee provide the documents and information necessary to maintain the listing and quotation of the Bonds on the Exchange (if listed) and to otherwise enable the Bond Trustee to carry out its rights and duties pursuant to this Bond Agreement and the other Finance Documents, as well as applicable laws and regulations.

13.2.3 The Issuer shall in connection with the issue of its Financial Statements and Quarterly Financial Reports under Clause 13.2.1(d), confirm to the Bond Trustee in writing its compliance with the covenants in Clause 13, the Ultimate Parent's compliance with the covenants set out in Clause 5 of the Guarantee granted by the Ultimate Parent, the Issuer Parent's compliance with the covenants set out in Clause 5 of the Guarantee granted by the Issuer Parent and OSX Leasing's compliance with the covenants set out in Clause 5 of the Guarantee granted by OSX Leasing. Such confirmation shall be undertaken in a compliance certificate, substantially in the format set out in Attachment 1 hereto, signed by the Chief Executive Officer or Chief Financial Officer of the Issuer. In the event of non-compliance, the compliance certificate shall describe the non-compliance, the reasons therefore as well as the steps which the Issuer has taken and will take in order to rectify the non-compliance.

13.2.4 The Bond Trustee may, and shall upon request, distribute the reports referred to in (d) and (e) above to the Bondholders and any other party requesting such reports, provided however that

the Bondholders have provided coverage for the Bond Trustee's costs related to such distribution (unless covered by the Issuer).

### 13.3 General Covenants

(a) *Pari passu ranking*

The Issuer's obligations under this Agreement and any other Finance Document shall at all times rank at least pari passu with the claims of all its other unsubordinated creditors save for those whose claims are preferred solely by any bankruptcy, insolvency, liquidation or other similar laws of general application.

(b) *Security*

The Issuer shall perform all acts which may be necessary to ensure that the Security Interests remain duly created, enforceable and perfected first priority security, at the expense of the Issuer or the relative security provider (as the case may be).

(c) *Project Documents*

- (i) The Issuer shall enforce any rights that it has to ensure that the project is to the best of its knowledge at all times operated and maintained in accordance with the Project Documents
- (ii) The Charter Contract shall always be directly between the Issuer and the Charterer.
- (iii) The Issuer shall not:
  - (A) transfer by way of assignment or otherwise dispose of (by operation of law or otherwise) any of its rights and interest under any Project Document other than as contemplated by the Bond Agreement;
  - (B) amend, supplement, modify or give any consent under any Project Document or exercise any material option thereunder, except for (i) variation orders within the project budget as set out in the Private Placement Memorandum, and/or (ii) other amendments to the extent that such amendments are fully pre-funded by equity or Group Loans (provided that the Group Loan(s) is subject to, and subordinated in accordance with the terms of, the Subordination Deed), and/or (iii) amendments not having any material negative impact on the value of the FPSO as contemplated pursuant to the Project Documents;
  - (C) agree to the cancellation or termination of any Project Document or take any legal or administrative action that seeks to rescind or terminate such Project Documents, except in the event that it constitutes a substitution of the said Project Document which is acceptable to the Bond Trustee acting reasonably; or

- (D) agree to or permit the assignment of any rights and interests under the Project Documents, save for as provided for under the Security Documents or the Project Documents.

#### 13.4 Accounts and application of proceeds prior to an Event of Default

(a) *General Account Covenants*

- (i) The Issuer shall open and maintain all its Accounts with an Account Bank, except for the Escrow Account which shall be maintained with DNB Bank ASA.
- (ii) The Issuer may open several Operating Accounts (each deemed to be an "**Operating Account**"), provided that each such operating account is pledged in favour of the Bond Trustee (including a waiver of any right to set-off).

(b) *Earnings and accounts*

- (i) All Earnings shall be paid directly from the Charterer into the Earnings Account, and the Issuer shall on a monthly basis, within five Business Days after receipt of such earnings (the "**Transfer Date**"), make the following transfers:
- (A) firstly; the Issuer shall, commencing on the Transfer Date falling in the 15th month after the Issue Date, transfer from the Earnings Account to the Retention Account an amount equal to 1/3 of the amount of interest due on the next Interest Payment Date;
- (B) secondly; the Issuer shall transfer from the Earnings Account to the Operating Account (a) its budgeted operating, general and administration expenses for the next calendar month from the relevant Transfer Date, (b) any shortfall from the previous month's transfer, (c) one month's estimated insurance costs (by way of calculating the periodical portion of the next insurance cash cost) and (d) an additional amount necessary to fill up the Operating Account with a buffer (the "**Operating Account Buffer**") of USD 1.000.000,00 at any time; and
- (C) finally; the Issuer shall transfer all remaining funds on the Earnings Account to the DSRA.
- (ii) For the avoidance of doubt, the monthly transfers to the Retention Account as set out under (i) (A) above, shall (subject to (iii) and (vi) of this clause 13.4) be made regardless of whether or not any earnings are payable in relation to the FPSO and whether or not the Charter Contract has started to run.
- (iii) If the Issuer has no revenues transferred to the Earnings Account during a certain period of time, the Issuer may use the amounts on the Operating Accounts or the Escrow Account to service the monthly transfers to the Retention Account. In this case, the Transfer Date shall be the first Business Day of each calendar month.

- (iv) Any amount standing to the credit of the Issuer in the Operating Account(s), shall be utilised by the Issuer in accordance with (iii) of this Clause 13.4 or for the purpose of funding the construction and delivery of the FPSO under the EPCI Contract or other project costs and expenses related to the FPSO.
- (v) Earnings Account and the Operating Account(s): The Earnings Account and the Operating Account(s) may be blocked in favour of the Bond Trustee (on behalf of the Bondholders) if an Event of Default occurs.
- (vi) Retention Account: The Retention Account shall be blocked in favour of the Bond Trustee, and may (subject to Clause 10.4 (Mandatory Redemption)) only be utilised to fund interest payments pursuant to Clause 9 (Interest).
- (vii) DSRA: The DSRA shall be blocked in favour of the Bond Trustee, and may (subject to Clause 10.4 (Mandatory Redemption)) only be utilised for redemption of the Bonds pursuant to Clause 10.5 (Cash Sweep Prepayment).

(c) *Funds on the Escrow Account*

- (i) Proceeds from the Initial Disbursement, in an amount equal to fifteen (15) months interest on the Bonds, shall be transferred from the Escrow Account to the Retention Account.
- (ii) Additional funds may be utilised in accordance with Clause 2.3 (Purpose and utilization), subject to Clause 6.2 (Conditions Precedent for Initial Disbursement) and 6.3 (Conditions Precedent for further disbursement).

(d) *Equity and proceeds of Group Loans*

- (i) Any cash equity granted to, or proceeds of Group Loans received by, the Issuer shall be transferred into an Operating Account and applied in accordance with (b)(iv) of this Clause 13.4. Notwithstanding the foregoing, if the net proceeds of the Bond Issue (net of fees and costs) are below USD 400,000,000, the Issuer shall transfer an amount to the Escrow Account so that the amount on the Escrow Account is USD 400,000,000.

### 13.5 Corporate and operational matters

(a) *Amendment of constitutional documents*

The Issuer shall not amend its constitutional documents in such way that which could have a Material Adverse Effect, it being understood that any amendment relating to issuance of new shares to the Issuer Parent in connection with conversion of debt to equity or otherwise, provided that such new shares are subject to the Share Charge or other security interest in favour of the Bond Trustee, shall be permitted.

(b) *Single-purpose company*

The Issuer shall remain as a single-purpose company owning and bareboat chartering the FPSO.



(c) *Continuation of business*

- (i) The Issuer shall not cease to carry out its business.
- (ii) The Issuer shall not make any material change to the general nature or scope of its business from that carried on at the date of this Bond Agreement, or as contemplated by this Bond Agreement.

(d) *Disposal of business*

The Issuer shall not be entitled to sell or otherwise dispose of all or a substantial part of its assets (including but not limited to the FPSO) or operations in connection with a sale to a third party or an internal reorganisation, unless the Outstanding Bonds are redeemed in accordance with Clause 10.4 (*Mandatory Redemption*), provided always that any such sales or disposals shall be permitted:

- (i) in order for the Issuer to keep the FPSO in good, safe and efficient state of repair;
- (ii) in connection with any required modifications to the FPSO; and
- (iii) where a material part of the FPSO is removed, provided that the part so removed is replaced promptly by a suitable part or item, which upon installation becomes the property of the Issuer and subject to a security interest in favour of the Trustee.

(e) *Transactions with shareholders, directors and affiliated companies*

- (i) The Issuer shall not engage directly or indirectly in any transaction with any Group Company (including without limitation any purchase, sale or exchange of assets or the rendering of any service) except in the ordinary course of business and pursuant to the reasonable requirements of the Issuer's business and upon fair and reasonable terms customary for such transactions that are not less favourable to the Issuer than those which might be obtained in an arm's length transaction at the time, and so that no payment under any such transaction may be deferred in a way that would constitute a Financial Indebtedness.
- (ii) All such transactions shall comply with all applicable provisions of applicable corporate law applicable to such transactions.

(f) *Corporate status*

The Issuer shall not change its type of organisation or jurisdiction of organisation.

(g) *Compliance with laws*

The Issuer shall carry on its business in accordance with acknowledged, careful and sound practices in all material aspects and comply in all material respects with all laws and regulations it may be subject to from time to time (including any environmental laws and regulations).

*(h) Litigation*

The Issuer shall, promptly upon becoming aware of them, send the Bond Trustee such relevant details of any:

- (i) material litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which are pending or, to the best of the Issuer's knowledge, threatened against the Issuer and which could reasonably be expected to have a Material Adverse Effect; and
- (ii) other events which have occurred or might occur and which may have a Material Adverse Effect, as the Bond Trustee may reasonably request.

*(i) Subordination of claims*

The Issuer shall procure that any claim under any Management Agreement (if applicable) or any other claim against the Issuer in respect of a Group Loan is subordinated to the rights of the Bondholders under the Finance Documents by way of accession by the relevant creditor to the Subordination Deed.

*(j) Manuals and technical records from the Operator*

The Issuer shall procure that the Operator will on or prior to the Delivery Date covenant to the Bond Trustee that, following an enforcement of the Mortgage, it will on demand hand over all manuals and technical records in respect of the FPSO to the Bond Trustee.

**13.6 Timing of Transfer of Title**

The Issuer shall ensure that the Transfer of Title takes place as soon as possible pursuant to the terms of the EPCI Contract.

**13.7 Delivery***(a) On Delivery Date*

On the Delivery Date, the Issuer shall:

- (i) provide evidence that all relevant Insurances have been taken out in accordance with the terms set out herein, including a report from an insurance advisor confirming that the Insurances are in compliance with the terms set out herein (if required by the Bond Trustee);
- (ii) provide the Bond Trustee with certified copies of customary delivery documents and any other delivery document reasonably required by the Bond Trustee; and
- (iii) provide evidence of compliance with the requirements of Clause 13.5(j) (*Manuals and technical records from the Operator*).

### 13.8 Preservation of equity, Security Interests and Financial Covenants

The Issuer shall not:

- (a) declare or make any dividend payment, repurchase of shares or make other capital distribution to its shareholders (including but not limited to total return swaps involving any shares issued by any party);
- (b) create or permit to subsist any Encumbrance over any of its assets or enter into arrangements having a similar effect except for:
  - (i) any Encumbrance contemplated by the Finance Documents;
  - (ii) any Encumbrance arising by operation of law or in the ordinary course of business or operation of the FPSO (including collateral in connection with credit purchases of goods and services);
  - (iii) any ship repairer's or outfitter's possessory lien in respect of the FPSO;
  - (iv) any lien on the FPSO for master's, officer's or crew's wages outstanding in the ordinary course of its trading which are not overdue;
  - (v) any lien on the FPSO for salvage; or
  - (vi) any contractor or subcontractor's possessory lien,provided that security provided in connection with a refinancing of the Bonds (all or nothing) where security must be provided for technical reasons before the Bonds have been redeemed shall be permitted;
- (c) incur or permit to remain outstanding, any Financial Indebtedness (whether secured or unsecured) other than:
  - (i) any Financial Indebtedness arising under the Bond Issue;
  - (i) derivative transactions in respect of currency hedging entered into in the ordinary course of business, up to a maximum total nominal value of USD 50,000,000.00,
  - (ii) other unsecured Financial Indebtedness not exceeding the aggregate amount of USD 3,000,000.00 at any time; or
  - (iii) any Group Loans, provided that any such Group Loan(s) is subject to, and subordinated in accordance with the terms of, the Subordination Deed,
  - (iv) Financial Indebtedness in respect of any refinancing of all the Bonds where such Financial Indebtedness arises prior to the redemption of the Bonds for the express purpose of, inter alia, redeeming the Bonds; and
  - (v) Financial Indebtedness arising in the ordinary course of business for working capital purposes and as part of the daily operation of the Issuer (including the

assumption of any indemnity or guarantee obligations relating to employment of the FPSO);

- (d) grant any loans, guarantees or other financial assistance or support to any Group Company and/or any third party, except for guarantees issued to third parties in the ordinary course of business (including guarantees relating to employment of the FPSO);
- (e) make any other financial or other arrangements concerning the FPSO and its employment (other than as expressly permitted under the Finance Documents), which is likely to have a Material Adverse Effect on the Issuer's ability to fulfil its obligations under the Bond Agreement; or
- (f) make any investments or capital expenditures, other than:
  - (i) acquisitions of assets in the ordinary course of business relating to the construction and employment of the FPSO and which are contemplated by the project budget (as set out in the Private Placement Memorandum); and
  - (ii) investments or capital expenditures solely related to the ownership in and operation of the FPSO provided, in each case, that to the extent not contemplated by the project budget, such investments or capital expenditures are fully pre-funded by equity or any Group Loans and that any such Group Loans are subject to, and subordinated in accordance with the terms of a Subordination Deed.

### 13.9 FPSO Covenants

#### (a) *Maintenance*

The Issuer shall enforce any rights that it may have to ensure that the project is to the best of its knowledge at all times operated and maintained in accordance with the Project Documents and appropriate industry standards, and shall ensure that all technical and operational management of the FPSO shall be carried out by the Charterer and the Operator and in accordance with industry standards applied by FPSO operators operating offshore Brazil.

#### (b) *Insurance*

- (i) The Issuer shall provide for reasonable and satisfactory maintenance of insurance of the FPSO and all relevant equipment related thereto at all times as set out in Attachment 3.
- (ii) The Issuer shall exercise its rights under the Project Documents in order that the FPSO is properly maintained according to any pre-agreed maintenance system.
- (iii) The Insurances, and any loss payable clause issued in respect of the Insurances or similar provisions therein, shall be in accordance with the Norwegian Marine Insurance Plan, latest version (as amended from time to time) or on London Terms or other insurance plan with at least equally favourable terms (in the reasonable opinion of the Issuer).

- (iv) The Issuer shall procure that the Bond Trustee (on behalf of the Bondholders) is noted as first priority mortgagee in the insurance contracts, together with the confirmation from the underwriters to the Bond Trustee that the notice of assignment with regards to the Insurances and the loss payable clauses are noted in the insurance contracts and that standard letters of undertaking confirming this are executed by the insurers.
- (v) The Issuer shall keep (and the Bond Trustee may effect, at the Issuer's expense), for the exclusive benefit of the Bondholders, a mortgagees' interest insurance for an amount equal to at least 120% of the amounts under the Outstanding Bonds.
- (vi) The Issuer shall exercise its rights under the Project Documents to require that the FPSO is always employed in conformity with the terms of the instruments of the Insurances (including any warranties expressed or implied therein) and comply with such requirements as to extra premium or otherwise as the insurers may prescribe.

(c) *Title*

From Initial Disbursement, the Issuer will hold legal title to and own the entire beneficial interest in the FPSO and the Insurances taken out in respect of the FPSO and assigned to the Bond Trustee, free of any and all Encumbrances except for those expressly permitted under this Bond Agreement.

(d) *Class, flag, name, registry*

From the Delivery Date the Issuer shall ensure that the FPSO maintains its class, flag and name, and that it remains registered in Liberia.

(e) *Operations in accordance with laws etc.*

The Issuer shall at all times exercise its rights under the Project Documents to require that the FPSO is operated in accordance with any laws, regulations, administrative decisions and/or other public authorities as applicable from time to time and jurisdiction to jurisdiction.

(f) *Inspection of the FPSO*

Upon the request of, and with thirty (30) days prior notice from, the Bond Trustee, the Issuer shall allow for a technical adviser appointed by the Bond Trustee to undertake during normal business hours a technical inspection of the FPSO, provided that such inspections are without interference to the daily operation of the FPSO. Such inspections shall be limited to one per calendar year and shall be at the expense of the Issuer, provided that on the occurrence and continuance of an Event of Default such inspections may be conducted at any time at the Issuer's expense.

#### 14. FEES AND EXPENSES

- 14.1 The Issuer shall cover all its own expenses in connection with this Bond Agreement and fulfilment of its obligations under this Bond Agreement, including preparation of this Bond

Agreement, preparation of the Finance Documents and any registration or notifications relating thereto, listing of the Bonds on the Exchange (if applicable), and the registration and administration of the Bonds in the Securities Register.

- 14.2 The expenses and fees payable to the Bond Trustee (and/or the Security Agent, as the case may be) shall be paid by the Issuer and are set forth in a separate agreement between the Issuer and the Bond Trustee. Fees and expenses payable to the Bond Trustee which, due to the Issuer's insolvency or similar, are not reimbursed in any other way may be covered by making an equivalent reduction in the payments to the Bondholders.
- 14.3 The Issuer shall cover all public fees in connection with the Bonds and the Finance Documents. Any public fees levied on the trade of Bonds in the secondary market shall be paid by the Bondholders, unless otherwise provided by law or regulation, and the Issuer is not responsible for reimbursing any such fees.
- 14.4 In addition to the fee due to the Bond Trustee pursuant to Clause 14.2 and normal expenses pursuant to Clauses 14.1 and 14.3, the Issuer shall, on demand, cover extraordinary expenses incurred by the Bond Trustee in connection with the Bonds, as determined in a separate agreement between the Issuer and the Bond Trustee.
- 14.5 The Issuer shall pay any stamp duty and other public fees in the Netherlands accruing in connection with issuance of the Bonds or any of the Finance Documents (including the Security Documents), but not in respect of trading of the Bonds in the secondary market. The Issuer is responsible for, and shall deduct before payment to the bondholders at source, any applicable withholding tax payable pursuant to law.

## 15. EVENTS OF DEFAULT

- 15.1 The Bonds may be declared by the Bond Trustee to be in default upon occurrence of any of the following events (each of which being an "Event of Default") if:

(a) *Non-payment*

The Issuer fails to fulfil any payment obligation due under this Bond Agreement or any Finance Document when due, unless (i) it is caused by a technical or administrative error or in the opinion of the Bond Trustee it is obvious that such failure will be remedied and (ii) payment in full is received, within 5 – five – Business Days following the original due date.

(b) *Breach of other obligations*

- (i) The Issuer or any Obligor fails to duly perform any other covenant or obligation pursuant to this Bond Agreement or any other Finance Document (including the Security Documents and the Guarantees);
- (ii) the Charterer fails to duly perform any other covenant or obligation pursuant to the Charter Contract; or

- (iii) the Charterer Parent (for so long as the Charterer Parent Guarantee is in full force and effect in accordance with its terms) fails to duly perform any other covenant or obligation pursuant to the Charterer Parent Guarantee,

unless, the failure to comply is capable of remedy and is remedied within 15 – fifteen – Business Days after notice thereof is given to the Issuer by the Bond Trustee.

(c) *Cross default*

If for any Obligor, the Charterer or the Charterer Parent, provided the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) to (iv) below exceeds the following thresholds: (a) for the Issuer or the Issuer Parent, a total of USD 3,000,000, or the equivalent thereof in other currencies, (b) for OSX Leasing a total of USD 15,000,000, or the equivalent thereof in other currencies, (c) for the Ultimate Parent, a total of USD 30,000,000, or the equivalent thereof in other currencies, (d) for the Charterer, the greater of USD 10,000,000, or the equivalent thereof in other currencies or 5% of its net equity, and (e) for the Charterer Parent (for so long as the Charterer Parent Guarantee is in place), a total of USD 60,000,000, or the equivalent thereof in other currencies;

- (i) any Financial Indebtedness is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described);
- (ii) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor as a result of an event of default (however described); or
- (iii) any creditor becomes entitled to declare any Financial Indebtedness is due and payable prior to its specified maturity as a result of an event of default (however described),

unless such cross default is capable of remedy and is remedied within 15 – fifteen – Business Days of such cross default occurring.

(d) *Misrepresentations*

Any representation, warranty or statement (including statements in compliance certificates) made under this Bond Agreement, any other Finance Document or in connection therewith is or proves to have been incorrect, inaccurate or misleading in any material respect when made or deemed to have been made, unless such misrepresentation, warranty or statement is capable of remedy and is remedied within 15 (fifteen) Business Days after notice is given to the Issuer by the Bond Trustee.

(e) *Insolvency*

In the event of, for any Obligor, the Charterer or the Charterer Parent (for so long as the Charterer Parent Guarantee is in place), any corporate action, legal proceedings or other procedures is taken in relation to:

- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than solvent liquidation or reorganisation;
- (ii) a composition, compromise, assignment or arrangement with any creditor, having an adverse effect on the Issuer's or the Guarantors' ability to perform its payment obligations hereunder or any of the Charterer's or Charterer Parent's ability to perform its payment obligations under the Charter Contract or Charterer Parent Guarantee (as the case may be);
- (iii) the appointment of a liquidator (other than in respect of a solvent liquidation), receiver, administrative receiver, administrator, compulsory manager or other similar officer of any of its assets; or
- (iv) enforcement of any security over any of its assets.

This Clause 15.1(e) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 35 Business Days of commencement.

*(f) Creditors' process*

Any Obligor has a substantial proportion of its assets impounded, confiscated, attached or subject to distraint, or is subject to enforcement of any security over any of its assets and in each case which is not discharged within 35 Business Days of such event occurring.

*(g) Dissolution, appointment of liquidator or analogous proceedings*

Any Obligor is resolved to be dissolved or a liquidator, administrator or the like is appointed or requested to be appointed in respect of the Obligor.

*(h) Litigation*

There is pending any litigation, arbitration or administrative proceedings against any Group Company which is a party to a Project Document or any Obligor, which could reasonably be expected to have a Material Adverse Effect.

This Clause 15.1(h) shall not apply to any litigation, arbitration or administrative proceedings which are frivolous or vexatious and are discharged, stayed or dismissed within 35 Business Days of commencement.

*(i) Material Adverse Effect*

Any other event or series of events occurs in relation to any Obligor which, in the reasonable opinion of the Bond Trustee, after consultations with the Issuer, is likely to have a Material Adverse Effect.



*(j) Repudiation*

Any Obligor repudiates this Bond Agreement or another Finance Document, or evidences an intention to repudiate this Bond Agreement or another Finance Document.

- 15.2 In the event that one or more of the circumstances mentioned in Clause 15.1 occurs and is continuing, the Bond Trustee can, in order to protect the interests of the Bondholders, declare the Outstanding Bonds including accrued interest and expenses to be in default and due for immediate payment.

The Bond Trustee may at its discretion, on behalf of the Bondholders, take every measure necessary to recover the amounts due under the Outstanding Bonds, and all other amounts outstanding under the Bond Agreement and any other Finance Document.

- 15.3 In the event that one or more of the circumstances mentioned in Clause 15.1 occurs and is continuing, the Bond Trustee shall declare the Outstanding Bonds including accrued interest and costs to be in default and due for payment if:

- (a) the Bond Trustee receives a demand in writing with respect to the above from Bondholders representing at least 1/5 of the Outstanding Bonds, and the Bondholders' Meeting has not decided on other solutions; or
- (b) the Bondholders' Meeting has decided to declare the Outstanding Bonds in default and due for payment.

In either case the Bond Trustee shall on behalf of the Bondholders take every measure necessary to recover the amounts due under the Outstanding Bonds. The Bond Trustee can request satisfactory security for any possible liability and anticipated expenses, from those Bondholders who requested that the declaration of default be made pursuant to sub clause (a) above and/or those who voted in favour of the decision pursuant to sub clause (b) above.

- 15.4 In the event that the Bond Trustee pursuant to the terms of Clauses 15.2 or 15.3 declares the Outstanding Bonds to be in default and due for payment, the Bond Trustee shall immediately deliver to the Issuer a notice demanding payment of interest and principal due to the Bondholders under the Outstanding Bonds including accrued interest and interest on overdue amounts and expenses. Declaration of default shall be deemed as a mandatory prepayment situation and the Outstanding Loan shall be repaid at the same prices as set out in Clause 10.3.

## **16. BONDHOLDERS' MEETING**

### **16.1 Authority of the Bondholders' meeting**

- 16.1.1 The Bondholders' Meeting represents the supreme authority of the Bondholders' community in all matters relating to the Bonds. If a resolution by or an approval of the Bondholders is required, resolution of such shall be passed at a Bondholders' Meeting. Resolutions passed at Bondholders' Meetings shall be binding upon and prevail for all the Bonds.

## 16.2 Procedural rules for Bondholders' meetings

16.2.1 A Bondholders' Meeting shall be held at the request of:

- (a) the Issuer;
- (b) Bondholders representing at least 1/10 of the Outstanding Bonds;
- (c) the Exchange, if the Bonds are listed; or
- (d) the Bond Trustee.

16.2.2 The Bondholders' Meeting shall be summoned by the Bond Trustee. A request for a Bondholders' Meeting shall be made in writing to the Bond Trustee, and shall clearly state the matters to be discussed.

16.2.3 If the Bond Trustee has not summoned a Bondholders' Meeting within 10 – ten – Business Days after having received such a request, then the requesting party may summons the Bondholders' Meeting itself.

16.2.4 Summons to a Bondholders Meeting shall be dispatched no later than 10 – ten – Business Days prior to the Bondholders' Meeting. The summons and a confirmation of each Bondholder's holdings of Bonds shall be sent to all Bondholders registered in the Securities Register at the time of distribution. The summons shall also be sent to the Exchange for publication (if listed).

16.2.5 The summons shall specify the agenda of the Bondholders' Meeting. The Bond Trustee may in the summons also set forth other matters on the agenda than those requested. If amendments to this Bond Agreement have been proposed, the main content of the proposal shall be stated in the summons.

16.2.6 The Bond Trustee may restrict the Issuer to make any changes of Voting Bonds in the period from distribution of the summons until the Bondholders' Meeting, by serving notice to it to such effect.

16.2.7 Matters that have not been reported to the Bondholders in accordance with the procedural rules for summoning of a Bondholders' Meeting may only be adopted with the approval of all Voting Bonds.

16.2.8 The Bondholders' Meeting shall be held on premises designated by the Bond Trustee. The Bondholders' Meeting shall be opened and shall, unless otherwise decided by the Bondholders' Meeting, be chaired by the Bond Trustee. If the Bond Trustee is not present, the Bondholders' Meeting shall be opened by a Bondholder, and be chaired by a representative elected by the Bondholders' Meeting.

16.2.9 Minutes of the Bondholders' Meeting shall be kept. The minutes shall state the numbers of Bondholders represented at the Bondholders' Meeting, the resolutions passed at the meeting, and the result of the voting. The minutes shall be signed by the chairman and at least one other person elected by the Bondholders' Meeting. The minutes shall be deposited with the Bond Trustee and shall be available to the Bondholders.

16.2.10 The Bondholders, the Bond Trustee and – provided the Bonds are listed - representatives of the Exchange, have the right to attend the Bondholders' Meeting. The chairman may grant access to the meeting to other parties, unless the Bondholders' Meeting decides otherwise. Bondholders may attend by a representative holding proxy. Bondholders have the right to be assisted by an advisor. In case of dispute the chairman shall decide who may attend the Bondholders' Meeting and vote for the Bonds.

16.2.11 Representatives of the Issuer have the right to attend the Bondholders' Meeting. The Bondholders' Meeting may resolve that the Issuer's representatives may not participate in particular matters. The Issuer has the right to be present under the voting.

### 16.3 Resolutions passed at Bondholders' meetings

16.3.1 At the Bondholders' Meeting each Bondholder may cast one vote for each Voting Bond owned at close of business on the day prior to the date of the Bondholders' Meeting in accordance with the records registered in the Securities Register. Whoever opens the Bondholders' Meeting shall adjudicate any question concerning which Bonds shall count as the Issuer's Bonds. The Issuer's Bonds shall not have any voting rights.

16.3.2 In all matters, the Issuer, the Bond Trustee and any Bondholder have the right to demand vote by ballot. In case of parity of votes, the chairman shall have the deciding vote, regardless of the chairman being a Bondholder or not.

16.3.3 In order to form a quorum, at least half (1/2) of the Voting Bonds must be represented at the meeting, see however Clause 16.4 (*Repeated Bondholders' meeting*). Even if less than half (1/2) of the Voting Bonds are represented, the Bondholders' Meeting shall be held and voting completed.

16.3.4 Resolutions shall be passed by simple majority of the Voting Bonds represented at the Bondholders' Meeting, unless otherwise set forth in Clause 16.3.5.

16.3.5 In the following matters, a majority of at least 2/3 of the Voting Bonds represented at the Bondholders' Meeting is required:

- (a) amendment of the terms of this Bond Agreement regarding the interest rate, the tenor, redemption price and other terms and conditions affecting the cash flow of the Bonds;
- (b) transfer of rights and obligations of this Bond Agreement to another issuer (Issuer); or
- (c) change of Bond Trustee.

16.3.6 The Bondholders' Meeting may not adopt resolutions which may give certain Bondholders or others an unreasonable advantage at the expense of other Bondholders.

16.3.7 The Bond Trustee shall ensure that resolutions passed at the Bondholders' Meeting are properly implemented.

16.3.8 The Issuer, the Bondholders and the Exchange shall be notified of resolutions passed at the Bondholders' Meeting.

**16.4 Repeated Bondholders' meeting**

16.4.1 If the Bondholders' Meeting does not form a quorum pursuant to Clause 16.3.3, a repeated Bondholders' Meeting may be summoned to vote on the same matters. The attendance and the voting result of the first Bondholders' Meeting shall be specified in the summons for the repeated Bondholders' Meeting.

16.4.2 When a matter is tabled for discussion at a repeated Bondholders' Meeting, a valid resolution may be passed even though less than half (1/2) of the Voting Bonds are represented.

**17. THE BOND TRUSTEE****17.1 The role and authority of the Bond Trustee**

17.1.1 The Bond Trustee shall monitor the compliance by the Issuer of its obligations under this Bond Agreement and applicable laws and regulations which are relevant to the terms of this Bond Agreement, including supervision of timely and correct payment of principal or interest, inform the Bondholders, the Paying Agent and the Exchange of relevant information which is obtained and received in its capacity as Bond Trustee (however, this shall not restrict the Bond Trustee from discussing matters of confidentiality with the Issuer), arrange Bondholders' Meetings, and make the decisions and implement the measures resolved pursuant to this Bond Agreement. The Bond Trustee is not obligated to assess the Issuer's financial situation beyond what is directly set forth in this Bond Agreement.

17.1.2 The Bond Trustee may take any step necessary to ensure the rights of the Bondholders in all matters pursuant to the terms of this Bond Agreement. The Bond Trustee may postpone taking action until such matter has been put forward to the Bondholders' Meeting.

17.1.3 Except as provided for in Clause 17.1.5 the Bond Trustee may reach decisions binding for all Bondholders concerning this Bond Agreement, including amendments to the Bond Agreement and waivers or modifications of certain provisions, which in the opinion of the Bond Trustee, do not have a Material Adverse Effect on the rights or interests of the Bondholders pursuant to this Bond Agreement.

17.1.4 Except as provided for in Clause 17.1.5, the Bond Trustee may reach decisions binding for all Bondholders in circumstances other than those mentioned in Clause 17.1.3 provided prior notification has been made to the Bondholders. Such notice shall contain a proposal of the amendment and the Bond Trustee's evaluation. Further, such notification shall state that the Bond Trustee may not reach a decision binding for all Bondholders in the event that any Bondholder submit a written protest against the proposal within a deadline set by the Bond Trustee. Such deadline may not be less than five (5) Business Days following the dispatch of such notification.

17.1.5 The Bond Trustee may not reach decisions pursuant to Clauses 17.1.3 or 17.1.4 for matters set forth in Clause 16.3.5 except to rectify obvious incorrectness, vagueness or incompleteness.

17.1.6 The Bond Trustee may not adopt resolutions which may give certain Bondholders or others an unreasonable advantage at the expense of other Bondholders.

17.1.7 The Issuer, the Bondholders and the Exchange shall be notified of decisions made by the Bond Trustee pursuant to this clause 17.1 unless such notice obviously is unnecessary.

17.1.8 The Bondholders' Meeting can decide to replace the Bond Trustee without the Issuer's approval, as provided for in Clause 16.3.5.

#### 17.2 Liability and indemnity

17.2.1 The Bond Trustee is liable only for direct losses incurred by Bondholders or the Issuer as a result of negligence or wilful misconduct by the Bond Trustee in performing its functions and duties as set forth in this Bond Agreement. The Bond Trustee is not liable for the content of information provided to the Bondholders on behalf of the Issuer.

17.2.2 The Issuer is liable for, and shall indemnify the Bond Trustee fully in respect of, all losses, expenses and liabilities incurred by the Bond Trustee as a result of negligence by the Issuer (including its directors, management, officers, employees, agents and representatives) to fulfil its obligations under the terms of this Bond Agreement and any other Finance Documents, including losses incurred by the Bond Trustee as a result of the Bond Trustee's actions based on misrepresentations made by the Issuer in connection with the establishment and performance of this Bond Agreement and the other Finance Documents.

#### 17.3 Change of Bond Trustee

17.3.1 Subject to the prior written consent of the Issuer, change of Bond Trustee shall be carried out pursuant to the procedures set forth in Clause 16 (*Bondholders' meeting*). The Bond Trustee shall continue to carry out its duties as bond trustee until such time that a new Bond Trustee is elected.

17.3.2 The fees and expenses of a new Bond Trustee (as agreed between such new Bond Trustee and the Issuer) shall be covered by the Issuer pursuant to the terms set out in Clause 14 (*Fees and expenses*), but may be recovered wholly or partially from the Bond Trustee if the change is due to a breach by the Bond Trustee duties pursuant to the terms of this Bond Agreement or other circumstances for which the Bond Trustee is liable.

17.3.3 The Bond Trustee undertakes to co-operate so that the new bond trustee receives without undue delay following the Bondholders' Meeting the documentation and information necessary to perform the functions as set forth under the terms of this Bond Agreement.

#### 17.4 Appointment of Security Agent and Security Trustee

17.4.1 The Bond Trustee may act as Security Agent or Security Trustee (as the case may be) or may appoint a bank or other institution to act as Security Agent or Security Trustee (on terms no more onerous to the Issuer than what would be the case if the Bond Trustee acted as Security Agent or Security Trustee) for the Bond Issue. Each of the Bondholders appoints the Security Agent to act as its attorney in fact and agent to execute an appointment letter appointing the Bond Trustee or any other Security Agent appoint in accordance with this Clause 17.4. to act as security trustee on behalf of the Bondholders.

- 17.4.2 The main functions of the Security Agent and Security Trustee may include holding Security Interests on behalf of or in trust for, the Bondholders, as the case may be, and monitoring compliance by the Issuer and other relevant parties of their respective obligations under this Bond Agreement and/or the Security Documents with respect to the Security Interests.
- 17.4.3 Before the appointment of a Security Agent or Security Trustee other than the Bond Trustee, the Issuer shall be given the opportunity to state its views on the proposed Security Agent or Security Trustee, but the final decision as to appointment shall lie exclusively with the Bond Trustee.
- 17.4.4 The functions, rights and obligations of the Security Agent and Security Trustee may be determined by a Securities Agent agreement to be entered into between the Bond Trustee and the Security Agent or Security Trustee (as the case may be), which the Bond Trustee shall have the right to require any Obligor and any other parties to any Security Document to sign as a party, or, at the discretion of the Bond Trustee, to acknowledge.
- 17.4.5 Any changes to this Bond Agreement necessary or appropriate in connection with the appointment of a Security Agent or Security Trustee shall be documented in an amendment to this Bond Agreement, signed by the Bond Trustee.
- 17.4.6 If so desired by the Bond Trustee and the Security Agent or the Security Trustee (as the case may be), any or all of the Security Documents shall be amended, assigned or re-issued, so that the Security Agent or the Security Trustee is the holder of the relevant Security Interest (on behalf of the Bondholders). The costs incurred in connection with such amendment, assignment or re-issue shall be for the account of the Issuer.

## **18. MISCELLANEOUS**

### **18.1 The community of Bondholders**

- 18.1.1 By virtue of holding Bonds, which are governed by this Bond Agreement (which pursuant to Clause 2.1.1 is binding upon all Bondholders), a community exists between the Bondholders, implying, inter alia, that
- (a) the Bondholders are bound by the terms of this Bond Agreement;
  - (b) the Bond Trustee has power and authority to act on behalf of the Bondholders;
  - (c) the Bond Trustee has, in order to administrate the terms of this Bond Agreement, access to the Securities Register to review ownership of Bonds registered in the Securities Register; and
  - (d) this Bond Agreement establishes a community between Bondholders meaning that;
    - (i) the Bonds rank *pari passu* between each other;
    - (ii) the Bondholders may not, based on this Bond Agreement, act directly towards the Issuer and may not themselves institute legal proceedings against the Issuer, however not restricting the Bondholders to exercise their individual rights derived from the Bond Agreement;

- (iii) the Issuer may not, based on this Bond Agreement, act directly towards the Bondholders;
- (iv) the Bondholders may not cancel the Bondholders' community; and
- (v) the individual Bondholder may not resign from the Bondholders' community.

## 18.2 Application of proceeds following an Event of Default

18.2.1 On receipt of monies from the enforcement of any Security Document, insurance proceeds or otherwise, as the case may be, such proceeds or monies shall be applied as follows and in the order mentioned:

- (a) firstly; in respect of all costs and expenses whatsoever incurred by the Bond Trustee, and the Issuer will indemnify the Bond Trustee for all costs and expenses in any event (the "Trustee Expenses");
- (b) secondly; in or towards payment of all sums outstanding pursuant to the Finance Documents; and
- (c) finally; the balance (if any), shall be paid to the Issuer.

## 18.3 Limitation of claims

18.3.1 All claims under the Bonds and this Bond Agreement for payment, including interest and principal, shall be subject to the time-bar provisions of the Norwegian Limitation Act of May 18, 1979 No. 18.

## 18.4 Access to information

18.4.1 The Bond Agreement is available to anyone and copies may be obtained from the Bond Trustee or the Issuer. The Issuer shall ensure that the Bond Agreement is available in copy form to the general public until all the Bonds have been fully discharged.

18.4.2 The Bond Trustee shall, in order to carry out its functions and obligations under the Bond Agreement, have access to the Securities Register for the purposes of reviewing ownership of the Bonds registered in the Securities Register.

## 18.5 Amendments

18.5.1 All amendments of this Bond Agreement shall be made in writing, and shall unless otherwise provided for by this Bond Agreement, only be made with the approval of the Parties.

## 18.6 Notices, contact information

18.6.1 Written notices, warnings, summons etc. to the Bondholders made by the Bond Trustee shall be sent via the Securities Register with a copy to the Issuer and the Exchange. Information to the Bondholders may also be published at the web site [www.stamdata.no](http://www.stamdata.no).

18.6.2 The Issuer's written notifications to the Bondholders shall be sent via the Bond Trustee, alternatively through the Securities Register with a copy to the Bond Trustee and the Exchange.

18.6.3 The Issuer and the Bond Trustee shall ensure that the other party is kept informed of changes in postal address, e-mail address, telephone and fax numbers and contact persons.

**18.7 Dispute resolution and legal venue**

18.7.1 This Bond Agreement and all disputes arising out of, or in connection with this Bond Agreement between the Bond Trustee, the Bondholders and any Obligor, shall be governed by Norwegian law.

All disputes arising out of, or in connection with this Bond Agreement between the Bond Trustee, the Bondholders and any Obligor, shall be exclusively resolved by the courts of Norway, with the District Court of Oslo as sole legal venue.

This Clause 18.7 is for the benefit of the Bond Trustee only. As a result, the Bond Trustee shall not be prevented from taking proceedings relating to a dispute in any other courts with jurisdiction. To the extent allowed by law, the Bond Trustee may take concurrent proceedings in any number of jurisdictions.

\*\*\*\*\*

This Bond Agreement has been executed in two originals, of which the Issuer and the Bond Trustee retain one each.

**Issuer**

.....

By:

Position:

**Bond Trustee**

.....

By:

Position:

*[Handwritten signature]*  
*OLA ØYGÅRD*

*e*



**Attachment 1****COMPLIANCE CERTIFICATE**

Norsk Tillitsmann ASA  
P.O. Box 1470 Vika  
N-0116 Oslo  
Norway

Fax: + 47 22 87 94 10  
E-mail: mail@trustee.no

[•]

Dear Sirs,

**9.25 PER CENT OSX 3 LEASING B.V. SENIOR SECURED CALLABLE BOND ISSUE  
2012/2015**

We refer to the Bond Agreement for the above mentioned Bond Issue made between Norsk Tillitsmann ASA as Bond Trustee on behalf of the Bondholders, and the undersigned as Issuer under which a Compliance Certificate shall be issued. This letter constitutes the Compliance Certificate for the period [PERIOD].

Capitalised words and expressions are used herein as defined in the Bond Agreement.

With reference to Clause 13.2.3 we hereby certify that:

1. all information contained herein is true and accurate and there has been no change which would have a material adverse effect on the financial condition of the Issuer since the date of the last accounts or the last Compliance Certificate submitted to you;
2. the covenants set out in Clause 13 are satisfied;
3. the covenants set out in Clause 5 of each of the Guarantees granted by each of the Ultimate Parent, the Issuer Parent and OSX Leasing respectively are satisfied;
4. all relevant Security Interest is established in accordance with the Bond Agreement; and
5. the following Group Loans are outstanding:
  - (a) [amount, creditor]

Copies of latest nonconsolidated [annual audited/quarterly unaudited] accounts of the Issuer are enclosed.

Yours faithfully,

03570

OSX 3 Leasing B.V.

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*Name of authorized person*

Enclosure: [*copy of any written documentation*]

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**Attachment 2**

**RELEASE NOTICE - ESCROW ACCOUNT**

Norsk Tillitsmann ASA  
P.O. Box 1470 Vika  
N-0116 Oslo  
Norway

Fax: + 47 22 87 94 10  
E-mail: mail@trustee.no

[•]

Dear Sirs,

**9.25 PER CENT OSX 3 LEASING B.V. SENIOR SECURED CALLABLE BOND ISSUE  
2012/2015**

We refer to the Bond Agreement for the above mentioned Bond Issue made between Norsk Tillitsmann ASA as Bond Trustee on behalf of the Bondholders, and the undersigned as Issuer.

Capitalised words and expressions are used herein as defined in the Bond Agreement.

We hereby give you notice that we on *[date]* wish to draw an amount of *[currency and amount]* from the Escrow Account applied pursuant to the purpose set out in the Bond Agreement, and request you to instruct the bank to release the above mentioned amount.

We hereby represent and warrant that (i) no event has occurred or is likely to occur which constitutes a Default, and that (ii) we repeat the representations and warranties set out in the Bond Agreement as being still true and accurate at the time hereof.

Yours faithfully,

OSX 3 Leasing B.V.

\_\_\_\_\_  
*Name of authorized person*

\* \* \*

03572

**Representations and warranties from the Guarantors**

We refer to the Guarantees issued in connection with the above mentioned Bond Agreement and Bond Issue.

We hereby represent and warrant that (i) no event has occurred or is likely to occur as a result of the disbursement requested above which constitutes an Event of Default, and that (ii) we repeat the representations and warranties set out in the Guarantees as being still true and accurate at the time hereof.

Yours faithfully,

as Ultimate Parent  
OSX Brasil S/A

as OSX Leasing  
OSX Leasing Group B.V.

as Issuer Parent  
OSX 3 Holding B.V.

\_\_\_\_\_  
*Name of authorized person*

\_\_\_\_\_  
*Name of authorized person*

\_\_\_\_\_  
*Name of authorized person*

Enclosure: *[copy of any written documentation evidencing the use of funds]*

**Attachment 3****Insurances before the Delivery Date**

Construction All Risk (CAR) – in place since arrival of the hull to be converted into the OSX-3 FPSO at the Jurong Shipyard
Hull & Machinery – from Provisional Completion
Protection & Indemnity (P&I) – from transfer of title to the OSX-3 FPSO to the Issuer

**Insurances after the Delivery Date**

Hull and machinery insurance against fire and usual marine risks (including excess liabilities)
War and usual dispossession risks (including war protection and indemnity risks and terrorism risks)
Protection and indemnity risks (including pollution liability risks) for the highest amount customarily available in the market for vessels of similar age, size and type as the OSX-3 FPSO (but in relation to liability for oil pollution, for an amount not less than seven hundred and fifty million Dollars (USD 750,000,000) in a protection and indemnity association or club, which is a member of the 'International Group of P&I Clubs'
All other insurances which are required by applicable law and/or international market practice for the operation of the OSX-3 FPSO

# ***Plan Support Agreement - (PSA)***

celebrado entre o Grupo OSX e o Grupo OGX, datado de  
24.12.2014

**PLAN SUPPORT AGREEMENT**

Entered into

**ÓLEO E GÁS PARTICIPAÇÕES S.A. - In Judicial Reorganization,  
OGX PETROLEO E GÁS S.A. – In Judicial Reorganization,  
OGX INTERNATIONAL GMBH - In Judicial Reorganization,  
OGX AUSTRIA GMBH - In Judicial Reorganization**

**OSX 1 LEASING B.V.,  
OSX 2 LEASING B.V.,  
OSX WHP 1 & 2 LEASING B.V.,**

**OSX BRASIL S.A. - In Judicial Reorganization  
OSX LEASING GROUP B.V.,  
OSX 2 HOLDING B.V.,  
OSX 3 HOLDCO B.V.,  
OSX 3 HOLDING B.V.,  
OSX 3 LEASING B.V.,  
OSX SERVIÇOS OPERACIONAIS LTDA. - In Judicial Reorganization  
OSX CONSTRUÇÃO NAVAL S.A. - In Judicial Reorganization  
OSX GMBH**

And, as intervening parties  
**CERTAIN HOLDERS OF BONDS ISSUED BY OGX AUSTRIA GMBH**

Dated December 24, 2013

*ab*

**PLAN SUPPORT AGREEMENT**

This Plan Support Agreement (the "Agreement") is entered into on December 24, 2013, by and between:

(i) **ÓLEO E GÁS PARTICIPAÇÕES S.A. – IN JUDICIAL REORGANIZATION** (formerly known as OGX PETRÓLEO E GÁS PARTICIPAÇÕES S.A.), a publicly-held company, duly organized and existing under the laws of Brazil, with headquarters at Rua do Passeio, nº 56, 10º, 11 and 12 floors, Rio de Janeiro, Brazil, enrolled with the National Corporate Taxpayers' Register of the Ministry of Finance under CNPJ/MF No. 07.957.093/0001-96, herein represented pursuant to its bylaws ("OGP");

(ii) **OGX PETROLEO E GÁS S.A. – IN JUDICIAL REORGANIZATION**, a privately-held company, duly organized and existing under the laws of Brazil, with headquarters at Mahatma Gandhi Square 14-19 floor, Rio de Janeiro, Brazil, enrolled with the National Corporate Taxpayers' Register of the Ministry of Finance under CNPJ/MF No. 08.926.302/0001-05, herein represented pursuant to its bylaws ("OGX P&G");

(iii) **OGX INTERNATIONAL GMBH – IN JUDICIAL REORGANIZATION**, a company duly organized and existing under the laws of Austria, with headquarters at Schwärzenbergplatz 5/Top Nr.2/3, 1030, Vienna, Austria enrolled with the Austrian Commercial Registry under No. FN335513, herein represented pursuant to its bylaws ("OGX International"),

(iv) **OGX AUSTRIA GMBH – IN JUDICIAL REORGANIZATION**, a company duly organized and existing under the laws of Austria, with headquarters at Schwärzenbergplatz 5/Top Nr.2/3, 1030, Vienna, Austria enrolled with the Austrian Commercial Registry under No. FN335512 and with the National Corporate Taxpayers' Register of the Ministry of Finance under CNPJ/MF No. 16.885.474/0001-06, herein represented pursuant to its bylaws ("OGX Austria") and, together with OGP, OGX P&G and OGX International, the "OGX Group";

(v) **OSX 1 LEASING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands, herein represented pursuant to its bylaws ("OSX1");



(vi) **OSX 2 LEASING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands, herein represented pursuant to its bylaws ("OSX2");

(vii) **OSX WHP 1 & 2 LEASING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands, herein represented pursuant to its bylaws ("WHP1&2");

(viii) **OSX 3 HOLDCO B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands, herein represented pursuant to its bylaws ("OSX 3 HOLDCO");

(ix) **OSX 3 HOLDING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands ("OSX 3 HOLDING");

(x) **OSX 3 LEASING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands ("OSX3");

(xi) **OSX BRASIL S.A. - IN JUDICIAL REORGANIZATION**, a company duly incorporated and validly existing in accordance with the laws of the Federative Republic of Brazil, whose registered office is at Praia do Flamengo 66, bloco A, 11 and 12 floors, part, Rio de Janeiro, registered with the Brazilian tax authority under registered number CNPJ 09.112.685/0001-32, herein represented pursuant to its bylaws ("OSX");

(xii) **OSX LEASING GROUP B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, offices 209/210, 2514 JG, the Hague, the Netherlands ("OSX Leasing");

(xiii) **OSX 2 HOLDING B.V.**, a company duly incorporated and validly existing in accordance with the laws of the Netherlands, whose registered office is at Haagsche Hof, Parkstraat 83, 2514 JG, the Hague, the Netherlands, herein represented pursuant to its bylaws ("OSX 2 Holding");

all

(xiv) **OSX SERVIÇOS OPERACIONAIS LTDA. - IN JUDICIAL REORGANIZATION**, a company duly incorporated and validly existing in accordance with the laws of the Federative Republic of Brazil, whose registered office is at Praia do Flamengo 66, bloco A, 11 and 12 floors, part, Rio de Janeiro, registered with the Brazilian tax authority under registered number CNPJ 11.437.203/0001-66, herein represented pursuant to its bylaws ("OSX Serviços")

(xv) **OSX CONSTRUÇÃO NAVAL S.A. - IN JUDICIAL REORGANIZATION** a privately-held company, duly organized and existing under the laws of Brazil, with headquarters at Praia do Flamengo 66, bloco A, 11 and 12 floors, part,, Rio de Janeiro, Brazil, enrolled with the National Corporate Taxpayers' Register of the Ministry of Finance under CNPJ/MF No. 11.198.242/0001-58, herein represented pursuant to its bylaws ("OSX Naval")

(xvi) **OSX GMBH**, a company duly incorporated and validly existing in accordance with the laws of Austria, whose registered office is at Schwarzenbergplatz 5/Top Nr. 2/3, 1030, Vienna, Austria, herein represented pursuant to its bylaws ("OSX GMBH", and together with OSX1, OSX2, WHPI&2, OSX 3 HoldCo, OSX 3 Holding, OSX3, OSX, OSX Leasing, OSX 2 Holding, OSX Serviços and OSX Naval, the "OSX Entities") and.

(xvii) **AS INTERVENING PARTIES WITH RIGHTS UNDER SECTION IV AND SECTION 8.7 HEREOF AND OBLIGATIONS UNDER SECTION 4.3(ii) HEREOF, CERTAIN HOLDERS OF BONDS ISSUED BY OGX AUSTRIA GMBH**, who are party to the Plan Support Agreement with the OGX Group to be executed concurrently herewith (the "PSA"), attached hereto as Exhibit I ("Consenting Noteholders"); *provided* that the Consenting Noteholders shall not have any obligations or liabilities under this Agreement nor make any representations under this Agreement, nor shall the attachment of the PSA to this Agreement confer any rights, liabilities or benefits to any of the Parties to this Agreement with respect to or under the PSA, except with respect to the settlement and release provisions set forth in Section 4.3(ii) hereof. For the avoidance of doubt, notwithstanding any other provision of this Agreement, each Consenting Noteholder that is an investment manager has signed this Agreement solely in its capacity as agent for the funds it manages, and any liabilities or obligations of such Consenting Noteholder under (and subject to the terms of) this Agreement shall be liabilities or obligations (under and subject to the terms of this Agreement) solely of such managed funds, and not of the investment manager.

**RECITALS****WHEREAS:**

(A) Certain companies of the OSX Entities and of the OGX Group have entered into an Agreement for Strategic Cooperation on February 26, 2010 for the purpose of creating a long-term strategic cooperation among them aiming at the supply by the OSX Entities of marine production facilities to meet the OGX Group demand (the "Strategic Cooperation Agreement");

(B) OSX1 and OGX P&G, as parties, and OSX and OSX Leasing, as alternative payers, have entered into a Bare Boat Charter Agreement in respect of one 135,000 DWT Floating Production Storage Offloading ("FPSO") Vessel Hull No. HN 1716 ("FPSO 1"), on February 26, 2010, as amended on June 17, 2010, August 30, 2010, October 25, 2010, January 3, 2011 and June 29, 2011 ("FPSO 1 Charter");

(C) OSX2 and OGX P&G, as parties, and OSX-2 Holding B.V., as alternative payer, have entered into a Bare Boat Charter Agreement in respect of OSX-2 FPSO Vessel ("FPSO 2"), on March 23, 2012 ("FPSO 2 Charter" and together with the FPSO Charter 1, the "Charter Agreements");

(D) Pursuant to the Strategic Cooperation Agreement, OGX P&G issued a Request for an MPF (as such term is defined therein) two well-head platforms ("WHP1" and "WHP2") to be used in oil exploration and production offshore in Brazil and OSX Leasing and OGX P&G, as parties, OSX GmbH, as alternative payer, and OGP, as lease guarantee, entered into a term sheet for the lease of WHP1 and WHP2 on May 17, 2011, the day rates and other conditions of which were agreed in relation to WHP2 in the project implementation and indemnity agreement entered into between OGX P&G, OGP, Petronas Brasil E&P Ltda., OSX and certain affiliated companies on 7 May 2013 and the Settlement Agreement (as defined in (F) below) (such documentation together in so far as it relates to WHP2, the "WHP2 Lease");

(E) OGP entered into Deeds of Guarantee and Indemnity on September 29, 2010 and March 23, 2012 pursuant to which OGP guarantees to OSX1 and OSX2, respectively, the prompt performance and discharge of OGX P&G's liabilities, obligations, warranties, duties, indemnities and undertakings to OSX1 and OSX2 under or in connection with the FPSO 1 Charter and FPSO 2 Charter;

(F) OGX P&G, OSX and OSX Leasing entered into a settlement agreement on 28 June 2013 (the "June Settlement Agreement"), pursuant to which the parties thereto

agreed to cancel certain orders for fixed and floating platforms (including OSX-4, OSX-5, WHP1, WHP3, and WHP4) placed by OGX P&G pursuant to the Strategic Cooperation Agreement and resolved to amend the terms of the Charter Agreements, the WHP2 lease agreement, and the Bare Boat Charter Agreement ("FPSO 3 Charter") in respect of OSX-3 FPSO Vessel ("FPSO 3") entered into between OGX P&G, OSX3 and OSX 3 Holding on 6 March 2012;

(G) Pursuant to the PSA, OGX Group has agreed to use best efforts to enter into an agreement with certain OSX Entities and certain holders of senior secured callable bonds issued by OSX 3 Leasing B.V. for, among other things, the amendment to the terms of FPSO 3 Charter on the terms set forth in Exhibit II hereto attached (the "OSX-3 Support Agreement");

(H) Due to changes in its oil and gas portfolio, as previously announced, the OGX Group has no need or use for FPSO 1, FPSO 2 or WHP 2 (other than a short term use for FPSO 1 until decommissioning of the Tubarão Azul field in 2014), and given its economic and financial situation, OGX P&G has failed to pay the amounts owed to the OSX Entities, arising from the charter and operational services related to FPSO 1 and FPSO 2;

(I) OSX1 and OSX2 notified OGX P&G and its controlling shareholder, OGP, on October 29, 2013 and November 8, 2013, respectively (each a "Charter Termination Notice"), terminating the respective Charter Agreements by reason of certain events of default by OGX P&G thereunder and notifying OGX P&G and OGP of certain amounts claimed against them under the Charter Agreements by reason of such events of default and termination of the Charter Agreements;

(J) WHP1&2 notified OGX P&G and its controlling shareholder, OGP, on November 8, 2013 ("WHP1&2 Acceptance of Repudiation Notice" and together with the Charter Termination Notices, the "Termination Notices"), accepting OGX's repudiation and/or renunciation of the WHP2 Lease and notifying OGX P&G and OGP of certain amounts claimed against them under the WHP2 Lease by reason of such repudiation and/or renunciation,

(K) On October 30, 2013, the OGX Group filed for judicial reorganization ("Judicial Reorganization") pursuant the terms of article 47 and following articles of Law N. 11,101/05 ("LEF") in progress before the 4th Corporate Court of the Judicial District of the City of Rio de Janeiro ("Bankruptcy Court"), case No. 0377620-56.2013.8.19.0001. On November 21, 2013, Bankruptcy Court granted the processing order to the Judicial Reorganization;

(L) On November 11, 2013, OSX filed for judicial reorganization ("OSX Judicial Reorganization") pursuant to LFR in progress before Bankruptcy Court, case No. 0392571-55.2013.8.19.0001.

(M) On November 28, 2013, OGX P&G confirmed the termination of the Charter Agreements;

(N) On December 24, 2013 the OGX Group and the Consenting Noteholders entered into the PSA, whereby among other terms and conditions the OGX Group undertook to present in the Judicial Reorganization for all legal purposes, a judicial reorganization plan substantially in the form attached hereto as Exhibit III and as modified, amended or supplemented in accordance with the PSA ("Plan"), and the OGX Group granted the Consenting Noteholders (together with their successors, assignees, transferees, and their respective affiliates and designees, the "Eligible DIP Lenders") the right, in each such Consenting Noteholder's sole discretion, to provide financing to the OGX Group on the terms and subject to the conditions substantially set forth in a debtor-in-possession credit agreement, attached hereto as Exhibit IV (together with all related collateral and other agreements and other ancillary documents and legal opinions, each as amended or supplemented from time to time in accordance with the PSA, the "DIP Financing Agreement"). The Plan, the PSA, the DIP Financing Agreement, the OSX-3 Support Agreement and the Controlling Shareholder PSA, together with all other ancillary agreements and documents contemplated herein or thereby, and each as modified, amended or supplemented from time to time in accordance with the PSA (if applicable), or pursuant to its terms are hereinafter referred to as the "Plan Related Documents";

(O) on December 24, 2013 the OGX Group and Mr. Eike Fuhrken Batista, Centennial Asset Mining Fund LLC and Centennial Asset Brazilian Equity Fund LLC (collectively, the "Controlling Shareholders") have entered into a Plan Support Agreement, included elsewhere in this Agreement as Exhibit V hereto (the "Controlling Shareholders PSA"), whereby among other terms and conditions the Controlling Shareholders agreed to support the Judicial Reorganization;

(P) The Plan Related Documents followed extensive, good faith and arms-length negotiations among the parties with respect to a number of issues, including the amount and priority of claims held by the OSX Entities against the OGX Group and potential claims and causes of action against the OSX Entities with respect to the June Settlement Agreement.

(Q) As a key condition to the PSA, Plan and any DIP Financing, and in consideration for the release and allowance of claims as set forth herein, the OSX Entities and the OGX Group have reached agreement on terms to settle all amounts

owed by the OGX Group to the OSX Entities in connection with (1) the termination of the FPSO 1 Charter, (2) the termination of the FPSO 2 Charter and (3) the termination of the WHP Lease and related agreements, and agree to jointly submit and cause the inclusion of such agreed amount to the list of creditors filed by OGX Group (the "Agreed Creditor List") at the Judicial Reorganization (replacing the existing creditors' list by the Agreed Creditor List) and to adhere to the Plan and comply with the affirmative and negative covenants set out herein and perform those obligations set out herein prior to, concurrent with and subsequent to the filing, deliberation and approval of the Plan according to the LFR and its confirmation by the Bankruptcy Court, pursuant article 58 and following articles of the LFR;

(R) The approval of the Plan, with the adherence and support of the OSX Entities, is an important step towards the successful debt restructuring of the OGX Group and, consequently, to the successful debt restructuring of the OSX Entities; and

**THE PARTIES HERETO RESOLVE**, in consideration of the aforementioned assumptions and mutual representations, covenants and agreements set forth herein, to enter into this Agreement, which shall be governed by the following terms and conditions, which they hereby acknowledge to be binding upon them for all legal purposes.

#### **SECTION I – Conditions to Effectiveness**

1.1. Without prejudice to the validity of this Agreement, the parties hereto (the "Parties") acknowledge and agree that this Agreement shall become effective and binding upon each of the Parties immediately following or concurrently with the PSA becoming effective upon each of the parties thereto, either by complying with all the PSA conditions described in Section 1 thereof or by its waiver in writing.

#### **SECTION II – Commitment of the OSX Entities**

2.1. Unless and until this Agreement is terminated, each one of the OSX Entities undertakes on an irrevocable and irreversible basis, as applicable, to:

- (a) adhere to the Plan and submit the Agreed Claim in the Claimed Amount (each as defined below) to be incorporated in the Agreed Creditor List to be filed by OGX Group at the Judicial Reorganization;
- (b) use its best efforts to enter into the OSX-3 Support Agreement;

- (c) subject to OSX Entities' creditors rights, not sell, assign, transfer, convey, pledge, hypothecate or otherwise dispose of, directly or indirectly, or enter into any agreement to do the foregoing (each such transfer, a "Transfer"), all or any portion of its Agreed Claim;
- (d) without prejudice to paragraph (g)(A) below, if any OSX Entity is entitled to vote on the Plan each OSX Entity entitled to vote shall then vote its respective claims and/or interests, whether or not part of the Claimed Amount (as defined below) in favor of the Plan in accordance with the applicable procedures set forth in the LFR, and timely vote its claims and/or interests or return a duly executed ballot or other form of assent in connection therewith;
- (e) without prejudice to paragraph (g)(A) below, in order to duly exercise the voice and voting rights referred to in paragraph (c) above, each OSX Entity agrees to attend any and all creditors' meeting(s) or, should any of the OSX Entities choose to be represented by counsel at the creditors' meeting (the "Creditors' Meeting"), timely submit the relevant proxy to the judicial administrator of the Judicial Reorganization, pursuant to the applicable provisions of the LFR;
- (f) take all reasonable measures and perform all reasonable acts required so that none of the companies under its direct and/or indirect control prevents, delays or otherwise impairs the confirmation and/or implementation of the Plan in the Judicial Reorganization, provided that no OSX Entity shall be required to make any payment, incur any liability, breach any contract or withhold any information from its creditors in order to comply with this obligation;
- (g) vigorously contest any objections or challenges to this Agreement in the OSX Judicial Reorganization and any other applicable proceeding;
- (h) each OSX Entity shall not (A) pursue any voting rights in any general meeting of creditors under the Judicial Reorganization in view of the limitation established in article 43 of LFR, including to vote the Plan; (B) object to the Plan or the acceptance, approval and implementation of the Plan; (C) initiate any legal proceedings that are inconsistent with, or that would prevent, frustrate or impede, the approval, confirmation or implementation of the Plan or the transactions outlined therein; (D) vote for, propose, encourage, participate or cause in the formulation of any other restructuring or liquidation of the OGX Group or their assets (with the sole exception of the Plan and the other Plan Documents) under applicable bankruptcy or insolvency laws (an "Alternative Plan"); (E) enter into any letter of intent, memorandum of understanding, agreement in principle or other agreement to undertake any action prohibited by the foregoing clause (D); (F) solicit or direct any person to undertake any action prohibited by clauses (A) through (E) of this Section 2(d); (G) assert any claim against any member of the OGX

Group in the Judicial Reorganization, other than the Agreed Claim, or assert any amount or priority for the Agreed Claim other than the amount and priority set forth in this Agreement and in the Agreed Creditor List; (H) file any motions, objection and/or appeals aiming to dispute, challenge, reject, limit, make unfeasible or otherwise impair the validity, effectiveness and enforceability of the Claimed Amount, Agreed Claim and/or the approval or implementation of the Plan and/or the confirmation of the Plan by the Bankruptcy Court; or (I) initiate any legal proceedings or take any other actions (directly or indirectly) that are inconsistent with, or that would prevent, frustrate or impede the binding nature, enforceability and/or enforcement of the June Settlement Agreement; *provided* that for the avoidance of doubt, nothing herein shall prevent any OSX Entity from engaging in any discussions, entering into any agreements, or taking any other action with respect to the manner or form of implementation of any actions contemplated by the Plan or matters to be effectuated after (i) the date the court in the Judicial Reorganization enters an order confirming the Plan and granting the Judicial Reorganization pursuant to Article 58 of the LFR or (ii) the date this Agreement is terminated.

2.2 Notwithstanding the foregoing, nothing in this Agreement (including without limitation this Section 2) shall be construed to limit any OSX Entity's rights (A) with respect to any breach by the OGX Group or any third parties of their respective obligations under the Plan Related Documents or other applicable contract, or to pursue claims under applicable contract or law against any such breaching party for such breach; (B) under applicable law to appear and participate as a party in interest in any matter to be adjudicated in any case under the LFR or under the laws of any other applicable jurisdiction concerning the OGX Group in any matter to be adjudicated in the Judicial Reorganization or any other proceeding, including without limitation to object to claims asserted or other actions commenced by any third party (other than the Consenting Noteholders) against the OGX Group, so long as such appearance and the positions advocated in connection therewith under this clause (B) are reasonably (i) consistent with this Agreement, the Agreed Creditor List and otherwise in furtherance of the Judicial Reorganization and are not for the purpose of, and could not reasonably be expected to have the effect of, hindering, delaying or preventing the consummation of the Judicial Reorganization, or (ii) for the purposes of contesting whether any matter, fact, or thing, is a breach of, or inconsistent with, or to otherwise enforce, this Agreement or the other Plan Related Documents; or (C) to claim against the OGX Group in relation to charter and operation payments and any liabilities, obligations, claims, costs, expenses and indemnities for goods and services provided after the commencement of the Judicial Reorganization and solely to the extent permitted under and subject to contractual arrangements relating thereto, for (i) payments or breaches under the FPSO 3 Charter (as contemplated in the OSX 3 Support Agreement), or (ii) payment for temporary use of FPSO 1 during 2014 and certain disconnection and



demobilization costs in respect thereto, subject to the charter rates, term, and limits set forth in Schedule I hereto (the "FPSO I Summary").

### SECTION III – Commitment of the OGX Group

3.1 Unless and until this Agreement is terminated, each one of the OGX Group undertakes on an irrevocable and irreversible basis, as applicable, to (i) support and complete the Judicial Reorganization and all transactions contemplated under the Plan Related Documents; (ii) take any and all necessary and appropriate acts and actions in furtherance of the Judicial Reorganization and the transactions contemplated under the Plan Related Documents (including, to the extent applicable, negotiating in good faith with the other parties thereto each of the definitive agreements and documents reasonably necessary or desirable to effectuate the transactions contemplated by the Plan Related Documents or the Judicial Reorganization); (iii) take no action to impede or frustrate the rights of the OSX Entities to participate in the Judicial Reorganization or any other proceeding; (iv) not initiate any legal proceedings that are inconsistent with, or that would prevent, frustrate or impede, the approval, confirmation or implementation of the Plan or the transactions outlined therein; (v) file the Plan in the Judicial Reorganization, schedule and complete the creditors' meeting and obtain the entry of the confirmation order by the dates contemplated in the PSA, and otherwise complete the restructuring and all transactions contemplated under the Plan Related Documents within any time-frames outlined in any other Plan Related Document, as applicable; (vi) use best efforts to obtain any and all required governmental, regulatory and/or third-party approvals for the Judicial Reorganization and timely implementation of the Plan, including without limitation the approvals of the National Petroleum Agency (*Agência Nacional do Petróleo*) ("ANP") and Brazilian Antitrust Agency ("CADE"); (vii) take no actions (directly or indirectly) that are inconsistent with this Agreement or any of the other Plan Related Documents, or with the expeditious confirmation and consummation of the Plan; (viii) promptly notify the OSX Entities in writing of the occurrence of any Termination Event under the PSA or this Agreement or event that, with the passage of time or giving of notice, would constitute a Termination Event under the PSA or this Agreement; (ix) not initiate any legal proceedings or take any other actions (directly or indirectly) that are inconsistent with, or that would prevent, frustrate or impede the binding nature, enforceability and/or enforcement of the June Settlement Agreement; and (x) promptly notify the OSX Entities in writing of the satisfaction of either of the conditions set out in paragraphs (a) and (b) of Clause 1.1.1; *provided* that for the avoidance of doubt, nothing herein shall prevent any member of the OGX Group from engaging in any discussions, entering into any agreements, or taking any other action with respect to the manner or form of implementation of any actions contemplated by the Plan or matters to be effectuated after (i) the date the court in the Judicial Reorganization enters an order confirming the Plan and granting the Judicial

Reorganization pursuant to Article 58 of the LFR or (ii) the date this Agreement is terminated.

3.2 Notwithstanding the foregoing, nothing in this Agreement (including without limitation this Section 3) shall be construed to limit OGX Group's rights (A) with respect to any breach by the OSX Entities or any third parties of their respective obligations under the Plan Related Documents or other applicable contract, or to pursue claims under applicable contract or law against any such breaching party for such breach; (B) under applicable law to appear and participate as a party in interest in any matter to be adjudicated in any case under the LFR or under the laws of any other applicable jurisdiction concerning the OSX Entities in any matter to be adjudicated in the OSX Judicial Reorganization or any other proceeding, including without limitation to object to claims asserted or other actions commenced by any third party against the OSX Entities, so long as such appearance and the positions advocated in connection therewith under this clause (B) are reasonably (i) consistent with this Agreement, and otherwise in furtherance of the Judicial Reorganization and are not for the purpose of, and could not reasonably be expected to have the effect of, hindering, delaying or preventing the consummation of the Judicial Reorganization, or (ii) for the purposes of contesting whether any matter, fact, or thing, is a breach of, or inconsistent with, or to otherwise enforce, this Agreement or the other Plan Related Documents; or (C) to claim against any of the OSX Entities in relation to charter and operation payments and any liabilities, obligations, claims, costs, expenses and indemnities for goods and services provided after the commencement of the Judicial Reorganization and solely to the extent permitted under and subject to contractual arrangements relating thereto, for (i) payments or breaches under the FPSO 3 Charter (as contemplated in the OSX 3 Support Agreement), or (ii) payment for temporary use of FPSO 1 in accordance with the FPSO 1 Summary.

#### **SECTION IV- Settlement of Claimed Amount**

4.1 Claimed Amount. For settlement purposes, pursuant to article 840 of the Brazilian Civil Code, in consideration of the mutual concessions and benefits established in this Agreement, including subject to the terms of this Agreement, a release of any and all claims or causes of action held by the Consenting Noteholders against any of the Parties with respect to the June Settlement Agreement, the Parties hereby agree that the total amount owed by the OGX Group to the OSX Entities is **US\$ 1,500,000,000.00** (the "Claimed Amount"), which shall be an unsecured claim *pari passu* with other unsecured claims in the Judicial Reorganization (the "Agreed Claim"), split among each of OSX1, OSX2 and WHPI&2, as follows:

(a) **US\$ 414,012,787** to OSX1;

(b) US\$ 557,349,243 to OSX2; and

(c) US\$ 528,637,970 to WHP1&2.

4.2 The Claimed Amount was calculated in agreement among the Parties, in the case of OSX1 and OSX2, based on the respective Charter Agreements and reflects the updated outstanding amount of each loan agreements, as increased by the losses, costs and expenses listed in Exhibit VI to this Agreement, and in the case of WHP1&2, based on the WHP Lease and related documents and reflects the sum of costs, expenses, fees and penalties paid or incurred by OSX Entities in connection with the WHP2 wellhead platform, also listed in Exhibit VI to this Agreement.

4.3 As of the effective date of this Agreement, (i) each of the OSX Entities and the OGX Group agrees that (a) the Claimed Amounts represent the totality of the Termination Sum pursuant to the Charter Agreements and that there are no other amounts due in connection with the termination of the Charter Agreements and the repudiation and/or renunciation of the WHP2 Contract, including any rights to recover any other loss, damage, expense or liability together with all costs, expenses and disbursements (including, without limitation, legal fees and expenses) incurred in exercising its rights or remedies under the Charter Agreements and WHP2 Contract, (b) each OSX Entity hereby waives any right to seek, file or assert any claim other than the Agreed Claim against the OGX Group in the Judicial Reorganization, (c) each OSX Entity hereby releases any priority or claim that it purports to have with respect to all or any portion of the Claimed Amount; (d) upon delivery of the respective established compensation under the Plan, each OSX Entity hereby fully and irrevocably releases the Claimed Amount against OGX Group without need for any further action or notice and (e) in any circumstance the Agreed Claim is expressly subordinated in all respects and for all legal purposes to the payment in full of all claims under the DIP Financing Agreement; and (ii) each Consenting Noteholder agrees that upon full implementation of the Plan in all its terms and conditions and subject to compliance by the OSX Entities with their material obligations under this Agreement, each Consenting Noteholder shall be deemed to have fully and irrevocably released any claims and causes of action against the OGX Group or the OSX Entities related in any way to the June Settlement or the OSX Claims, without need for any further action or notice.

4.4 The applicable OSX Entities and the OGX Group hereby agree and acknowledge that as of the effective date of this Agreement, the Strategic Cooperation Agreement will be terminated, without need for any further action or notice.

4.5 Each of the OSX Entities irrevocably acknowledges and agrees that (1) it shall not Transfer all or any part of the Agreed Claim, and (2) in light of the financial condition of the OSX Entities, it has determined not to exercise any rights to subscribe to convertible debentures or any other debt instrument that would be provided on a pro rata basis to unsecured creditors of the OGX Group under the Plan or Plan Related Documents ("Subscription Rights"), and each OSX Entity hereby agrees that under no circumstances shall it Transfer or exercise any Subscription Rights;

Section 4 will survive a termination of this Agreement that is pursuant to Section 6.1(i) hereof. The Consenting Noteholders shall have the rights to intervene and enforce this Section 4.

#### **SECTION V – Representations and Warranties of the OSX Entities**

5.1 For the purposes of this Agreement, each of the OSX Entities, to the best of its knowledge, represents and warrants as of the date hereof, as follows:

- (i) that it is a company duly organized and existent under the laws of their respective jurisdiction;
- (ii) that all corporate, legal and/or regulatory authorizations required for the execution and formalization of this Agreement were duly obtained; and
- (iii) that this Agreement and all instruments related hereto represent valid and enforceable obligations and, in each such OSX Entity's view, in its best interest, except as may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and as may be limited by equitable principles of general applicability.

## SECTION VI – Term and Termination

6.1 This Agreement shall become effective and binding upon the Parties after the implementation of the conditions set forth in clause 1.1. and shall remain valid, effective and in force until the earliest of: (i) the PSA, the Plan and the Plan Related Documents have been fully consummated and implemented in accordance with its respective terms and conditions; (ii) the termination in full of the PSA, other than the automatic expiration of such agreement on the Confirmation Date; (iii) if the Plan has not received the acceptance of the requisite creditors at the Creditors' Meeting pursuant to the criteria set forth in articles 45 and 58 of the LFR, by the date contemplated in the PSA, provided that if the PSA has not been terminated in full in accordance with its terms, this Agreement shall continue in place and in effect as long as the PSA remains in effect; or (iv) with respect to any Consenting Noteholder, the termination of the PSA with respect to such Consenting Noteholder, provided that any termination under this clause (iii) shall constitute a termination of this Agreement by and solely with respect to such Consenting Noteholder, and in such case this Agreement will otherwise remain in effect with respect to the other Parties hereto. For the avoidance of doubt, any present or future claim for breach of this Agreement that may have already arisen prior to such termination shall survive termination and all rights and remedies of the aggrieved Party or Parties with respect to such breach shall be neither waived nor prejudiced in any way by any such termination.

## SECTION VII – Specific Performance

7.1 In the event of noncompliance with this Agreement, the non-defaulting party shall be entitled to seek the specific performance and other remedies established herein or otherwise available at law. Each of the OSX Entities hereby expressly acknowledge the Consenting Noteholders authority to seek specific performance of this Agreement without need to post any bond.

## SECTION VIII – General Provisions

8.1 Irrevocability. This Agreement is executed on irrevocable and irreversible basis subject to its termination pursuant to clause 6.1.

8.2 Cooperation. If, at any time, any other appropriate or advisable action that is reasonable is required for the purposes hereof, as soon as reasonably possible, each Party shall adopt, or cause its competent directors or officers to adopt, all those actions which are reasonable and considered necessary, appropriate and/or advisable.

8.3 Entire Agreement. This Agreement constitutes the entire agreement and understanding among the Parties with respect to all matters agreed upon herein and supersedes all prior agreements, understandings, representations or warranties, negotiations and discussions, either oral or in writing, among the Parties in relation to the matters set forth herein and prevails over any other conflicting term, any sentence, request or acknowledgment on any prior understanding among the Parties during the term hereof. No modification of or amendment to this Agreement shall be binding upon the Parties, unless it is made in writing and executed by the duly authorized representatives of each Party.

8.4 Exhibits. The Plan, the Plan Related Documents, the Controlling Shareholders PSA and the PSA are included elsewhere in this Agreement as exhibits hereto. Each Party represents and warrants that it has read and understood the Agreement, the Plan, the Plan Related Documents, the Controlling Shareholder PSA and the PSA in all their terms and conditions.

8.5 Representation by Legal Counsel. Each Party hereto acknowledges that it has been represented by counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of law or any legal decision that would provide any Party hereto with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived. The provisions of this Agreement shall be interpreted in a reasonable manner to give effect to the intent of the Parties hereto.

8.6 Severability. If any provision hereof is considered invalid or unenforceable by any court of competent jurisdiction, the other provisions hereof shall remain in full force and effect, except if any such invalid or unenforceable provision (i) is critical to any of the Parties, for purposes of execution hereof and/or substantially affects the position of any Party with respect to the other Party and (ii) cannot be replaced for another similar valid and enforceable provision. Any provision hereof that is considered partially invalid or unenforceable shall remain in full force and effect in relation to the portion that was not considered invalid or unenforceable. The Parties shall negotiate in good faith and use their best efforts to substitute an invalid or unenforceable provision for a similar valid and enforceable provision.

8.7 Amendment; Waiver. No amendment, waiver, rescission or termination hereof, not expressly set forth herein, or of any of this Agreement's terms or conditions, shall be binding upon the Parties unless it is confirmed in writing executed by each party hereto. No waiver by any Party with respect to any term or condition hereof or any default hereunder shall affect the right of said Party to subsequently executing any such term or condition or exercise any right or legal remedy in the event of any other default,

either similar or not. For the avoidance of doubt, no waiver or amendment to Section IV hereof, or this last sentence of Section 8.7, shall be effective unless executed by each Consenting Noteholder.

8.9 Novation. Any concession or waiver of the breach by any of the Parties of any obligation hereunder shall be considered as mere forbearance and shall not give rise to novation, usable precedent, implicit amendment to its terms, waiver of rights, or rights acquired from another party.

8.10 Succession. This Agreement will be valid and binding upon the Parties and their heirs, successors, administrators, and representatives of any kind.

8.11 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Federative Republic of Brazil.

8.12 Jurisdiction. The Parties, pursuant article 111 of Brazilian Code of Civil Procedure, agree during the course of the Judicial Reorganization to submit to the Bankruptcy Court any dispute or controversy related to or arising from the interpretation, execution and/or fulfillment of any clause of this Agreement, with the express waiver of the jurisdiction of any other court, however privileged it may be. After the conclusion of the Judicial Reorganization, the Parties agree to submit to one of the Corporate Courts of the City of Rio de Janeiro any dispute or controversy related to or arising from the interpretation, execution and/or fulfillment of any clause of this Agreement, with the express waiver of the jurisdiction of any other court, however privileged it may be.

8.13 No Admissions. This Agreement, the Plan and the other Plan Related Documents are part of a proposed settlement of claims and disputes among the Parties and are the product of good faith, arm's length negotiations among the Parties and their respective representatives. Pursuant to all applicable rules of evidence, this Agreement and all negotiations relating hereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce the terms of this Agreement, the Plan and the other Plan Related Documents.

8.14 Specific Enforcement. The commitments and obligations assumed hereunder by each of the Parties shall be subject to specific enforcement, in conformity with articles 461 and 632 et. seq. of the Code of Civil Procedure. To this end, the Parties acknowledge that this Agreement, duly executed by the two (2) undersigned witnesses, constitutes an extrajudicial execution instrument for all purposes and effects of article 585, item II, of the Code of Civil Procedure.

8.15 Notices. All notices, notifications, communications, court summons relating hereto shall be sent by one party to the other in writing, by mail or fax at the addresses below:

*If to the OGX Group:*

Praça Mahatma Gandhi, 14-19th Floor  
Rio de Janeiro, Rio de Janeiro  
Brazil  
20031-100  
Att.: Paulo Narcélio Simões Amaral and Darwin Corrêa

*If to the OSX Entities:*

Praia do Flamengo 66, Bloco A, 11th and 12th Floors  
Rio de Janeiro, Rio de Janeiro  
Brazil  
CEP 22210-903  
Att.: Legal Manager

AND



Haagsche Hof, Parkstraat 83, offices 209/210  
2514 JG, the Hague  
The Netherlands  
Att.: Flavia Kaczelnik


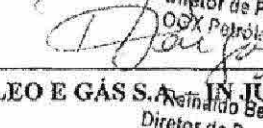
IN WITNESS WHEREOF, the Parties enter into this instrument together with the two undersigned witnesses, for all legal purposes.


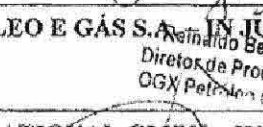
Rio de Janeiro, December 24, 2013.

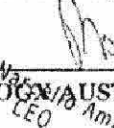
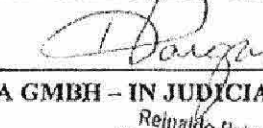


[Signature page of the Plan Support Agreement dated December 24, 2013]


  
 Paulo Marcello Amaral  
 OGX PETROLEO E GÁS PARTICIPAÇÕES S.A. - IN JUDICIAL REORGANIZATION,  
 Diretor de Produção  
 OGX Petróleo e Gás

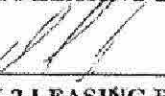

  
 Paulo Marcello Amaral  
 OGX PETROLEO E GÁS S.A. - IN JUDICIAL REORGANIZATION,  
 Diretor de Produção  
 OGX Petróleo e Gás

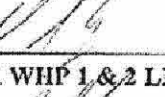

  
 Paulo Marcello Amaral  
 OGX INTERNATIONAL GMBH - IN JUDICIAL REORGANIZATION,  
 Diretor de Produção  
 OGX Petróleo e Gás

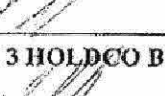

  
 Paulo Marcello Amaral  
 OGX AUSTRIA GMBH - IN JUDICIAL REORGANIZATION,  
 Diretor de Produção  
 OGX Petróleo e Gás


[Signature page of the Plan Support Agreement dated December 24, 2013]


  
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OSX 1 LEASING B.V.,

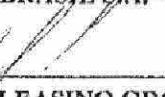
  
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OSX 2 LEASING B.V.,


  
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OSX WHP 1 & 2 LEASING B.V.,

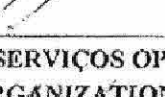
  
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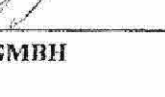
  
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OSX BRASIL S.A. - IN JUDICIAL REORGANIZATION,

  
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OSX LEASING GROUP B.V.,

  
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OSX 2 HOLDING B.V.,

  
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OSX SERVIÇOS OPERACIONAIS LTDA. - IN JUDICIAL REORGANIZATION,

  
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OSX CONSTRUÇÃO NAVAL - IN JUDICIAL REORGANIZATION,

  
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OSX GMBH

[Signature page of the Plan Support Agreement dated December 24, 2013]


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OSX 1 LEASING B.V.,

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OSX 2 LEASING B.V.,

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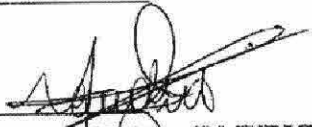
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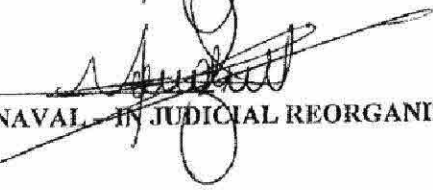
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OSX BRASIL S.A. - IN JUDICIAL REORGANIZATION,

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OSX LEASING GROUP B.V.,

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OSX 2 HOLDING B.V.,  


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OSX SERVIÇOS OPERACIONAIS LTDA - IN JUDICIAL REORGANIZATION,

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OSX CONSTRUÇÃO NAVAL - IN JUDICIAL REORGANIZATION,  


\_\_\_\_\_  
OSX GMBH

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## **Contrato FMM-CEF**

(Contrato de Financiamento nº 0385.755-63), celebrado entre  
Caixa Econômica Federal e OSX Construção Naval em 14.06.2012

CONTRATO DE FINANCIAMENTO Nº  
0385.755-63 MEDIANTE ABERTURA  
DE CRÉDITO, QUE ENTRE SI FAZEM  
A CAIXA ECONÔMICA FEDERAL –  
CAIXA E A OSX CONSTRUÇÃO NAVAL  
S.A., COM INTERVENIÊNCIA E  
GARANTIA DE TERCEIROS, NA  
FORMA ABAIXO:

Por este instrumento, as partes adiante nominadas e qualificadas, representadas na forma indicada ao final deste instrumento, têm, entre si, justo e contratado a concessão de financiamento, consoante as seguintes cláusulas e condições.

#### CLÁUSULA PRIMEIRA – DAS PARTES

**I – AGENTE FINANCEIRO – CAIXA ECONÔMICA FEDERAL**, instituição financeira sob a forma de empresa pública unipessoal, dotada de personalidade jurídica de direito privado, criada por autorização do Decreto-lei nº 759, de 12 de agosto de 1969, alterado pelo Decreto-lei nº 1.259, de 19 de fevereiro de 1973, e constituída pelo Decreto nº 66.303, de 06 de março de 1970, regendo-se pelo Estatuto aprovado pelo Decreto nº 6.473 de 05 de junho de 2008, publicado no Diário Oficial da União em 06 de junho de 2008, com sede no Setor Bancário Sul, Quadra 4, Lote 3/4, em Brasília-DF, CNPJ/MF 00.360.305/0001-04, por seu representante abaixo assinado, doravante designada simplesmente **CAIXA**.

**II – BENEFICIÁRIA – OSX CONSTRUÇÃO NAVAL S.A.**, sociedade por ações, de capital fechado, com sede na cidade do Rio de Janeiro, Estado do Rio de Janeiro, na Praça Mahatma Gandhi, nº 14, parte, inscrita no CNPJ sob o nº 11.198.242/0001-58, por seu representante abaixo assinado;

e, comparecendo, ainda, como intervenientes e garantidores:

**III – OSX BRASIL S.A.**, doravante denominada **OSX BRASIL**, sociedade por ações, de capital aberto, com sede na cidade do Rio de Janeiro, Estado do Rio de Janeiro, na



Praça Mahatma Gandhi, nº 14, parte, inscrita no CNPJ sob o nº 09.112.685/0001-32, por seus representantes abaixo assinados;

**IV – Sr. EIKE FUHRKEN BATISTA** brasileiro, separado judicialmente, engenheiro, portador da cédula de identidade RG nº 5.541.921-2, emitida pelo IFP/RJ, inscrito no CPF sob o nº 664.976.807-30, com escritório na Praça Mahatma Gandhi, 14, 22º andar, Rio de Janeiro, RJ, doravante denominado **GARANTIDOR PESSOA FÍSICA**;

## CLÁUSULA SEGUNDA – DAS EXPRESSÕES E SIGNIFICADOS

Cada expressão abaixo tem, para efeito deste **CONTRATO**, o significado seguinte:

**I – "Completion Físico do Projeto"**: Para os propósitos deste Contrato o "**Completion Físico do Projeto**" ocorrerá após o cumprimento das condições a seguir enumeradas, devendo a **CAIXA** manifestar-se sobre o adimplemento das mesmas, após o exame dos documentos apresentados:

i) apresentação à **CAIXA**, de declaração da Sociedade Brasileira de Engenharia Naval – SOBENA, atestando a conclusão do Projeto dentro das especificações técnicas previamente enviadas pela **BENEFICIÁRIA** à **CAIXA**, inclusive quanto à infraestrutura necessária ao adequado funcionamento da UCN Açú;

ii) Celebração do instrumento de garantia previsto na **CLÁUSULA DÉCIMA SEGUNDA**, item 1; e

iii) Constituição pela **BENEFICIÁRIA** da Conta de Reserva de Serviço da Dívida, na qual deverá ser acumulado saldo mínimo equivalente a 3 (três) prestações mensais vincendas da dívida, o qual será mantido até a liquidação do Financiamento.

**II - "Completion Operacional do Projeto"**: ocorrerá quando da conclusão pela **BENEFICIÁRIA**, em termos satisfatórios à **CAIXA**, de 5 (cinco) encomendas dentre os equipamentos seguintes:

a) Construção ou integração completa de plataformas de produção de petróleo (fixas ou flutuantes); ou

4



b) Construção de sondas de perfuração; ou

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c) Construção de embarcações de transporte marítimo de grande porte (acima de 40 mil Toneladas de Porte Bruto); ou

d) Construção de Pipe Laying Support Vessels.

**III - "GARANTIDOR PESSOA FÍSICA": Sr. Eike Fuhrken Batista**

**IV - "Índice de Cobertura do Serviço da Dívida" ou "ICSD":**

ICSD = [(+) EBITDA (-) Impostos Pagos (-) Investimentos (+) Empréstimos (+) Aporte (+/-) Variação de Capital de Giro (+) Caixa Acumulado] / [(+) Amortização da Principal (+) Pagamento de Juros];

(i) Sendo:

1. EBTIDA = Resultado Operacional antes dos juros, imposto de renda, depreciação e amortização (LAJIDA);
2. Impostos Pagos = desembolsos referentes aos pagamentos de Imposto de Renda e Contribuição Social;
3. Variação do Capital de Giro = (Necessidade de Capital de Giro no período "t") menos (Necessidade de Capital de Giro no período "t-1"), onde:

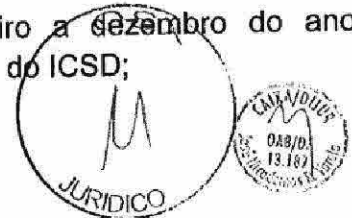
▪ Necessidade de Capital de Giro no período =

• (+) Ativo Circulante menos Disponibilidade

• (-) Passivo Circulante menos Empréstimos e Financiamentos de Curto Prazo.

▪ "t" corresponde ao período de janeiro a dezembro do ano de apuração do ICSD;

▪ "t-1" corresponde ao período de janeiro a dezembro do ano imediatamente anterior ao de apuração do ICSD;



4. Caixa Acumulado: somatória dos caixas excedentes em cada período.  
O caixa excedente é o caixa que resulta de: Entradas de caixa no Projeto (-) Obrigações do Projeto.

V – “BENEFICIÁRIA”: OSX CONSTRUÇÃO NAVAL S.A.

VI – “CONTA VINCULADA” – conforme definida na **CLÁUSULA DÉCIMA TERCEIRA** abaixo.

VII – “CONTAS CENTRALIZADORAS” – conforme definida na **CLÁUSULA DÉCIMA TERCEIRA**, parágrafo segundo, item 1 alínea “b” abaixo.

VIII – “CONTA CENTRALIZADORA ESTRANGEIRA” - conforme definida na **CLÁUSULA DÉCIMA TERCEIRA**, parágrafo segundo, item 1 alínea “a” abaixo.

IX – “CONTA CENTRALIZADORA LOCAL” - conforme definida na **CLÁUSULA DÉCIMA TERCEIRA**, parágrafo segundo, item 1 alínea “b” abaixo.

X – “CONTA DE DESPESAS” - conforme definida na **CLÁUSULA DÉCIMA TERCEIRA**, parágrafo segundo, item 2 abaixo.

XI – “CONTA RESERVA DO SERVIÇO DA DÍVIDA” – conforme definida na **CLÁUSULA DÉCIMA TERCEIRA**, parágrafo segundo, item 4 abaixo.

XII – “CONTA ARRECADADORA DOS AFRETAMENTOS” - conforme definida na **CLÁUSULA DÉCIMA TERCEIRA**, parágrafo terceiro abaixo.

XIII – “CONTA DE LIVRE MOVIMENTAÇÃO” (também denominada **CONTA DE CONSTRUÇÃO** durante a fase de implantação do Projeto) – conforme definida na **CLÁUSULA DÉCIMA TERCEIRA**, parágrafo segundo, item 10 abaixo.

XIV – “CONTRATO”: É o presente contrato de financiamento celebrado entre a **BENEFICIÁRIA** e **CAIXA**.

XV – “FINANCIAMENTO”: significa o financiamento com recursos oriundos do Fundo da Marinha Mercante – FMM, priorizado pelo Conselho Diretor do Fundo da Marinha Mercante – CDFMM que, neste caso será repassado à **BENEFICIÁRIA**, pela **CAIXA** e pelo **BNDES**, na proporção de 50% para cada **AGENTE FINANCEIRO**.

XVI – “PROJETO”: implantação da Unidade de Construção Naval do Aço – UCN AÇO, um estaleiro com capacidade de processamento de aço de 180.000 toneladas por ano,







**PODER JUDICIÁRIO DO ESTADO DO RIO DE JANEIRO**

**COMARCA DA CAPITAL  
TERCEIRA VARA EMPRESARIAL**

**Termo de encerramento de volume**

Processo nº 0392571-55.2013.8.19.0001

Nesta data encerrei o 18<sup>º</sup> volume dos autos acima mencionado, a partir da folha nº 3600

Rio de Janeiro, 10 de Julho de 2014